



ALL IN THE FAMILY

Legal blog on all aspects of Family Law and Divorce in Massachusetts and Rhode Island

Familiarize Yourself with Rule 411 – Automatic Restraining Order

BY ROBIN M. LYNCH NARDONE • SEPTEMBER 4, 2024

Every divorce matter in Massachusetts subjects both parties to Probate and Family Court Supplemental Rule 411, entitled “Automatic Restraining Order.” Rule 411 provides that neither party “shall sell, transfer, encumber, conceal, assign, remove or in any way dispose of any property, real or personal, belonging to or acquired by either party.” The Rule becomes effective as to the Plaintiff (the person who filed the Complaint for Divorce) immediately upon the filing of the Complaint and applies to the Defendant once the Defendant has notice of the divorce matter through the service of a Summons and copy of the Complaint. The rule applies to both parties throughout the course of the litigation and until the court issues a Judgment of Divorce.

Rule 411 does not restrict every use of assets. The rule allows for parties to continue to spend assets as follows: (a) as required for reasonable expenses of living; (b) in the ordinary and usual course of business; (c) in the ordinary and usual course of investing; (d) for payment of reasonable attorney’s fees and costs in connection with the action; (e) written agreement of both parties; or (f) by order of the court.

In addition to preventing the sale, transfer or disposal of assets, Rule 411 prohibits taking on any debts that would burden the other party’s credit, including use of joint credit cards outside of normal spending and accessing a home equity line of credit or second mortgage. The rule goes on to provide that neither party can change the beneficiary of any life insurance policy, pension or retirement plan, and neither party can remove a party or child from coverage under an existing medical, dental, automobile or disability insurance policy. All insurance coverage must remain in full force and effect while the divorce is pending the same as it existed at the time the divorce complaint was filed.

It is critical that parties to a divorce not run afoul of Rule 411 as doing so subjects that party to being held in contempt of court, which can come with orders further restricting use of assets and obligating a party to pay the other’s legal fees incurred in bringing the violation to the attention of the court. A claim of lack of knowledge of the rule is not a defense to being held in contempt. The rule is printed right on the face of the Summons and every party is subject to it, whether they read the Summons or not. When in doubt, be sure to check with your legal counsel as to whether you are permitted to take a particular step relating to assets, debts and insurance if you are involved in a divorce.

