

What Is a Fiduciary Duty? How an OC Divorce Attorney Handles Hidden Assets

When you get married, you are not just entering a romantic partnership; you are entering a financial one. In California, spouses have a "fiduciary duty" to each other. This is the highest duty of trust and good faith recognized by law. It means you are legally required to be 100% honest and transparent about all community finances. You cannot hide assets, lie about income, or rack up debt without your spouse's knowledge. When a divorce begins, this duty does not end. In fact, it becomes even more critical. When a spouse breaches this duty, you need an [OC divorce attorney](#) to hold them accountable. This is a core part of the legal protection offered by firms like JOS FAMILY LAW.

The "fiduciary duty" is most important during the "Financial Disclosure" phase of a divorce. Both parties are legally required to exchange a complete, sworn inventory of all assets, debts, income, and expenses. This is not optional.

What happens when one spouse "forgets" to list a bank account, a stock portfolio, or a hidden side business? This is called a "breach of fiduciary duty." Your attorney's job is to become a financial detective. This is why "discovery" is so important. Your lawyer can:

- **Send Subpoenas:** Legally demand records from banks, employers, and financial institutions.
- **Take Depositions:** Question your spouse under oath.
- **Hire a Forensic Accountant:** This is a "financial CSI" who can trace money, analyze business books, and find hidden income.

If your attorney finds that your spouse has intentionally hidden an asset, the penalties are severe. The court does not take this lightly. Under Family Code 1101, the judge can award you 50% of the hidden asset, *plus* the other 50% as a penalty. That is right: you can be awarded *100%* of the asset your spouse tried to hide. The judge can also order your spouse to pay 100% of your attorney's fees for having to find it.

This is why "doing it yourself" in a divorce is so dangerous. A DIY service cannot send a subpoena. It cannot hire a forensic accountant. It cannot take a deposition. If you *suspect* your spouse is hiding something, you are powerless to prove it on your own. You are simply accepting their lies.

Even if an asset is missed by "accident," that breach of duty can still be fixed. You have the right to a full and accurate accounting. The search for a good lawyer is not just about filing paperwork; it is about hiring a protector who can ensure you are not being financially cheated. Your spouse has a legal duty to be honest. Your attorney's job is to make sure they are.

If you suspect your spouse is not being truthful about your finances, you need an experienced advocate. To get a consultation and protect your financial rights, contact the team at JOS FAMILY LAW.