

# WHAT IS THE DISCLOSURE STAGE IN THE LITIGATION PROCESS?

We find clients often confuse the disclosure exercise with formal exchange of witness and expert evidence, which follow after disclosure. Disclosure is simply the process by which each party is required to disclose to the other party the documents which exist and are relevant to the dispute.

The meaning of “document” is not confined to paper or original but extends to electronically stored information such as emails (including deleted items), databases, backup tapes, hard drives and the meta data (i.e history of the document).

Each party is required to undertake a reasonable and proportionate search for relevant documents. What constitute a reasonable and proportionate search is determined by reference to the nature, complexity and value of the dispute.

As soon as a dispute arises we advise our clients to preserve all the relevant documents. The requirement to disclose documents extends to documents within a party’s control. Control means physical possession or where a party has the right to possession or inspection. This may therefore include documents held by subsidiary companies or professional agents.

It can be seen that the disclose exercise is often an onerous and time consuming stage of the litigation process. The usual order is for the parties to provide what is called Standard Disclosure. This effectively requires each party to disclose documents relied upon including those which adversely affect your case or support the other party’s case.

The disclosure exercise encourages the parties to place all their “cards on the table”. Any failure to provide proper disclosure can lead to costs sanctions and proceedings for contempt of court. Relevant documents must be disclosed even if confidential (save documents subject to legal advice or litigation privilege).

Once all relevant documents which fall within the meaning of standard disclosure have been collated a list is produced in standard format and this is exchanged with the other party. Each party



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then has 7-14 days to inspect the other side’s documents. The list of documents will include a disclosure statement signed by the party providing disclosure. The disclosure statement confirms the extent of the search undertaken and certifies the maker of the statement understood the duty of disclosure and has complied with that duty. Proceedings for contempt of court can be brought against a party who makes a disclosure statement without any honest belief in its truth. The disclosure obligations continue throughout the life of the litigation. Hence if any relevant document surfaces after service of the list of document it must be disclosed to the other party.

Any further information or advice contact Harminder Sandhu at [hsandhu@hawkinshatton.co.uk](mailto:hsandhu@hawkinshatton.co.uk) or on **01384 216840**.

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## DISPENSING A NEW FUTURE

One of the largest independent dispensing pharmacies in the Midlands, Droitwich Pharmacy Ltd, has been acquired by MSA Global Holdings Ltd. The pharmacy is in the top 10 percent, dispensing in excess of 20,000 scripts per month.

MSA Global Holdings Ltd has several subsidiaries including S&K Holdings Limited (a property investment company), Veenak International Limited (a well-known pharmaceutical import, export and wholesale company), GlobenGen Laboratories Limited (a pharmaceutical authorisation company) and Flintlow Limited (an independent pharmacy retail chain). Operating from the UK, this diverse pharmaceutical company has a reach in over 5 continents and has been expanding its revenue consistently over the last five years.

This acquisition will allow Flintlow Limited to continue its growth within the pharmaceutical retail sector as part of its goal of increasing their retail chain.

Droitwich Pharmacy was first established in 1978, the business had been operating as a registered pharmacy in Droitwich Spa, Worcestershire for over 30 years. MSA Global are looking to utilise their own experience and knowledge to build on the established name and reputation of Droitwich Pharmacy.

MSA Global Holdings were represented by Colin Rodrigues and Ruth Murday of our firm following over 15 years of working with the Group. Colin Rodrigues and Ruth Murday were instrumental in ensuring the deal completed within the tight deadline. The complexities around tax were addressed with the assistance of Clement Keys Chartered Accountants, based in Birmingham, who are the auditors for the Group. Together



Left to right, Shan Hassam, MSA Global Holdings Ltd, Ruth Murday, Hawkins Hatton, Surinder Pal and Abbas Kanani, both of MSA Global Holdings Ltd

HH and Clement Keys worked as a team to give holistic practical commercial advice to the Group, overcoming many difficult obstacles.

Colin Rodrigues commenting on the deal stated that “The acquisition will strengthen the base of the Group and enable it to continue its strategic growth within the pharmaceutical sector”.

Shan Hassam, Group Director of MSA Global Holdings commented “Having a legal background I was always aware that such deals could be complex and fraught with difficulties, but with a technically great and commercially astute advisory team behind me, I knew the deal would end in success.”

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# A WESTON BULL MARKET DINNER



More than eighty professionals from across the West Midlands attended our Bull Market Dinner at Weston Park in Staffordshire.

It was the fourth annual dinner that Hawkins Hatton held at Weston Park and as in previous years, the evening was a huge success.

Weston Park, located in the Midlands, the birthplace of the Industrial Revolution, provided the guests with elegant surroundings in which to evaluate and celebrate the current economic recovery of the UK.

Colin Rodrigues, our corporate partner, said: "It was an opportunity for us to share an enjoyable evening with friends old and new.

Given the theme of the dinner, I was pleased to hear from my discussions with the accountants and bankers present that everyone is keen to continue to work together towards a balanced recovery based on exports, with a bias towards manufacturing."

