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HOW TO COMPLETE YOUR DOMESTIC RELATIONS FINANCIAL AFFIDAVIT

Enclosed is a blank Domestic Relations Financial Affidavit for you to complete. This form is required by the Court in all domestic relations cases. (The opposing party in your case will also be required to prepare a Financial Affidavit.)

The purpose of the Affidavit is to summarize your *current* income, assets, and expenses for the Court and for the opposing party. The Affidavit will be used throughout your case for settlement discussions, at mediation, at any hearings, or at trial. If your financial situation changes during the course of your case, we will ask you to update your financial information so that we can provide your updated financial Affidavit to the court. You are required to submit this form under oath, so please be sure it is as complete and accurate as possible.

The basic format of this Financial Affidavit is determined by statute. We are allowed to vary the content somewhat by adding categories (if necessary) so long as it is substantially similar and does not omit the required information. The enclosed form is for your use as a draft.

Here are instructions for each section of the Financial Affidavit:

Sections 1 and 2 require you to provide your *basic information* such as name, marital information, your children (if any), and your employment.

Section 3 is simply a *summary* of certain other information on the form. *You do not need to complete this section.* We will calculate all of the sub-totals after we have determined that all of the information that you have provided is as accurate as possible.

Section 4 relates to your *income*. It is divided into three subsections:

Subsection 4(A) requires you to itemize your *gross income*, from every source.

Subsection 4(B) requires you to list your *benefits of employment*, if any. Some of these benefits may be in a finite amount and others will not. For example, your employer may provide you with a cell phone, or your employer may instead pay you an extra \$45.00 per month to allow you to pay for such a phone. Regardless of how the benefit is provided to you, please list as much information as possible regarding each benefit.

Subsection 4(c) requires you to list your *net monthly income*. Be careful! Your “net monthly income”, as defined by the Court, is your gross income, minus *only* state and federal taxes and FICA. Most people have additional deductions taken from their pay, so please check very carefully to make sure that the net monthly income figure you provide does not include the deductions for health, life, or disability insurance, or parking, retirement contributions, etc. (Those expenses will be covered elsewhere on the form.)

Section 5 requires you to itemize all of your *average monthly expenses*, or budget.

Throughout this Affidavit, including this Section, you should attempt to be as accurate as possible. If this is a divorce case, the budget should be completed assuming your spouse does not live with you, so you should not include his or her expenses in your separate calculations.

Keep in mind that the budget is a combination of your historical spending patterns and an estimate of your future needs. Please remember that your expense budget should reflect your standard of living and not necessarily the amount of money you have had available for a particular expense.

Here are a few tips for calculating your expenses:

First, keep in mind that we are talking about *monthly* figures. A month is more than four weeks! To convert an annual expense to a monthly expense, divide by twelve; to convert a weekly expense to a monthly expense, multiply by fifty-two and then divide by twelve; and, to convert a quarterly expense to a monthly expense, divide by three.

You may find that it is helpful to review your check register, bank statements, and credit card statements in determining your expenses. To the extent possible, please give exact figures rather than estimates. Do not round off figures. Also, with regard to mortgage payments, please indicate whether your insurance and property tax payments are escrowed or not.

If you work out of your home, list your business expenses on a separate sheet and we will properly reflect these expenses on your Affidavit in the income portion.

Most people have higher electric bills in the summer than in the winter — try to provide an average year round figure. Most utility companies will provide a twelve (12) month average for your residence upon request. You can contact your electric and natural gas providers to obtain that information.

You are also required to list payments to creditors. This includes student loans, car payments, monthly credit card payments, etc. List all installment loans *except* mortgages and other payments stated elsewhere in the budget. Do not list your credit card payments if you pay off your entire balance each month; these are theoretically included in your estimation of monthly expenses.

Section 6 regards your *assets*. Please list *all* assets, including those in your name, your spouse's name, or in joint names. If applicable, please provide us with the names of financial institutions, account numbers, and other similar identifying information.

Keep in mind that some of your assets have debt associated with them. We need to know the fair market value of the asset, as well as the debt associated with the asset. Many assets will have values that fluctuate on a daily basis (e.g., retirement accounts, stocks, etc.); in such circumstances, it is helpful if you will give a value as of a certain date, stating that specific date on the Affidavit (i.e., the value shown on the most recent statement).

For some of the assets listed, stating the present fair market value is not an exact science. For example, items such as furniture and collectibles (unless a recent appraisal is available or we have instructed you to obtain an appraisal) should be determined according to your best estimate of the resale value of the items, not their purchase price. You can group miscellaneous items into general categories (such as furnishings), unless you own a particularly valuable item that should be listed separately.

In divorce cases, an asset will be considered the non-marital asset of you or your spouse if it was owned separately prior to this marriage, inherited, or received as a gift from someone other than your spouse.

Some assets may be part marital and part non-marital, and there are specific rules which will govern what portion will be considered marital and what portion will be considered non-marital. Please provide as much information about such assets as you can so that we can properly attribute values to such mixed assets. (If your case is not a divorce proceeding, you can ignore the columns marked “Separate Asset of Husband” and “Separate Asset of Wife”.)

Value is subjective and, unless we have instructed you otherwise, you are not required to obtain appraisals or prospective sales prices from real estate agents or other appraisers. Valuing business interests is a much more difficult task, better reserved for expert witnesses.

If you have submitted a personal financial or net worth statement, or if you have recently applied for a loan, then these documents can be a good source for values. If your opinion of the value of an asset is different than that shown on your financial statement or loan application, then make a note (for our use only) as to the reason for the difference so that we can discuss this with you.

Documentation:

The following documents will be helpful to us in presenting your case and refining your Financial Affidavit:

- Real estate deeds and closing statements
- Personal financial statements
- Personal property inventories
- Photographs of property (house and contents)
- Property appraisals (including yearly tax assessments and notices)
- Last year’s tax return
- Bank account and credit card account statements
- Current pay stubs or evidence of income
- Last year’s W-2s and 1099s

Next Steps:

Once you have prepared an informal draft of this Affidavit, we will review it and prepare a formal draft for review. Once you have reviewed this formal draft and made any necessary revisions, you will be required to sign it before a notary public (i.e. - remember, this is a sworn statement that you are making to the court).

As always, please feel free to call or e-mail us if we can be of any assistance in helping you to complete this Affidavit.