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SID J. WHITE

JUN 15 1998

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA

IN RE:

Family Law Rules of Procedure

Case No. 89,955

_____ /

Comment to Proposed Family Law Rule Form 12.901

COMES NOW the undersigned attorney to request the court consider a comment to the proposed family law rule presently being proposed or reviewed by this Honorable Court, and says:

1. The separate forms for the financial affidavits are confusing and difficult to use in present form.
2. The financial affidavit form for individuals with incomes above \$50,000 is missing the section regarding children of the present relationship.
3. The instructions as to checking a box if a party wants to receive an asset is confusing and may ultimately mislead the court. When parties are requesting an equitable division, they may seek an interest in all of the assets, or half interest in an asset. The box provides no explanation as to a division of an asset.
4. While dividing assets and liabilities into separate sections makes sense, it does not assist the court in dividing the assets and liabilities so that mortgages or liens will be distributed to the person receiving the asset.
5. The information required in the income and expense sections of both financial affidavit forms is almost identical. It seems logical to have a single form used by all litigants.
6. The undersigned attorney has developed an integrated form for both income levels, which is in substantial conformity with the rule. The form is attached as Exhibit A. I developed this form using Microsoft Excel software so that the sections addressing income, expenses, etc. will be totaled automatically when completed by my staff. The form can be easily adapted to a Microsoft Word or WordPerfect format, should this be useful to the court.
7. Different asset and liabilities charts may be used for incomes above and below \$50,000, if the need for additional information is desired.

WHEREFORE the undersigned attorney would request the court consider using a single financial affidavit in all family law cases in a format that is not only user-friendly for attorneys and pro-se litigants, but is also functional, contains mathematical calculations, and is easy for the judiciary to review in trial for purposes of evaluating the parties' financial status and distributing the marital estate.

RUBINSTEIN & HOLZ, P.A.
Post Office Box 368
Fort Myers, Florida 33902
(941) 332-3400

By:



Rana Holz
Florida Bar No. 902100

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT, IN AND FOR LEE COUNTY, FLORIDA

Case No.:

[name]

Petitioner,

and

[name]

Respondent.

FAMILY LAW FINANCIAL AFFIDAVIT

I, {full legal name}, being sworn, certify that the following information is true:

Date of Birth: _____

Social Security Number: _____

Occupation: _____

Employment: _____

Business Address: _____

Business Phone: _____

Pay rate: \$ {insert amount} every week/every other week /twice a month/monthly/other frequency:

Check here if unemployed and attach a sheet describe your efforts to find employment, how soon you expect to be employed, and the pay you expect to receive.

Check here if you are expecting to become unemployed or change jobs soon, and attach a sheet describing the change you expect and why and how it will affect your income.

Check here if you currently have more than one job. List the information above for the second job(s) on a separate sheet and attach it to this affidavit.

Check here if you are retired. Date of retirement:

List Name, address, phone number of Employer from whom retired:

LAST YEAR'S GROSS INCOME:	Your Income	Other Party's Income (if known)
YEAR: _____	\$ _____	\$ _____

SECTION I. PRESENT MONTHLY GROSS INCOME:

All amounts must be MONTHLY. See the instructions with this form to figure out money amounts for anything that is NOT paid monthly. Attach more paper, if needed. Items included under "other" should be listed separately with separate dollar amounts.

- | | | | |
|---|--|---|-------|
| 1 | Monthly gross salary or wages | 1 | _____ |
| 2 | Monthly bonuses, commissions, allowances, overtime, tips, and similar payments | 2 | _____ |
| 3 | Monthly business income from sources such as self-employment, partnerships, close corporations, and/or independent contracts (gross receipts minus ordinary and necessary expenses required to produce income) (Attach sheet itemizing such income and expenses) | 3 | _____ |
| 4 | Monthly disability benefits/SSI | 4 | _____ |
| 5 | Monthly Workers' Compensation | 5 | _____ |
| 6 | Monthly Unemployment Compensation | 6 | _____ |
| 7 | Monthly pension, retirement, or annuity payments | 7 | _____ |

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8	Monthly Social Security benefits	8	_____
9	Monthly alimony actually received		
	9a. From this case:		
	9b. From other case(s):		_____
		Add 9a and 9b	9 \$ -
10	Monthly interest and dividends	10	_____
11	Monthly rental income (gross receipts minus ordinary and necessary expenses required to produce income) (Attach sheet itemizing such income and expense items)	11	_____
12	Monthly income from royalties, trusts, or estates	12	_____
13	Monthly reimbursed expenses and in-kind payments to the extent that they reduce personal living expenses	13	_____
14	Monthly gains derived from dealing in property (not including nonrecurring gains)	14	_____
15	Any other income of a recurring nature (list source):	15	_____
16		16	_____
17	PRESENT MONTHLY GROSS INCOME (Add lines 1-16)	17	\$ -

PRESENT MONTHLY DEDUCTIONS

18	Monthly federal, state, and local income tax (corrected for filing status and allowable dependents and income tax liabilities)	18	_____
	a. Filing Status _____		
	b. Number of dependents claimed _____		
19	Monthly FICA or self-employment taxes	19	_____
20	Monthly Medicare payments	20	_____
21	Monthly mandatory union dues	21	_____
22	Monthly mandatory retirement payments	22	_____
23	Monthly health insurance payments (including dental insurance), excluding portion paid for any minor children of this relationship	23	_____
24	Monthly court-ordered child support actually paid for children from another relationship	24	_____
25	Monthly court-ordered alimony actually paid		
	25a. from this case: \$		
	25b. from other case(s): \$		
		Add 25a and 25b	25 \$ -
26	TOTAL DEDUCTIONS ALLOWABLE UNDER SECTION 61.30 FLORIDA STATUTES (Add lines 18 through 25)	26	\$ -
27	PRESENT NET MONTHLY INCOME (Subtract line 26 from line 17)	27	\$ -

SECTION II. AVERAGE MONTHLY EXPENSES

Proposed/Estimated Expenses. If this is a dissolution of marriage case and your current expenses do not reflect what you will actually have to pay after your marriage ends, you should write "estimate" next to each amount that is proposed/estimated.

HOUSEHOLD:

1	Monthly mortgage or rent payments	1	_____
2	Monthly property taxes (if not included in mortgage)	2	_____

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT, IN AND FOR LEE COUNTY, FLORIDA

Case No.:

3	Monthly insurance on residence (if not included in mortgage)	3	_____
4	Monthly condominium maintenance fees and homeowner's association fee	4	_____
5	Monthly electricity	5	_____
6	Monthly water, garbage, and sewer	6	_____
7	Monthly telephone	7	_____
8	Monthly fuel oil or natural gas	8	_____
9	Monthly repairs and maintenance	9	_____
10	Monthly lawn care	10	_____
11	Monthly pool maintenance	11	_____
12	Monthly pest control	12	_____
13	Monthly misc. household	13	_____
14	Monthly food and grocery items	14	_____
15	Monthly meals outside home	15	_____
16	Monthly cable t.v.	16	_____
17	Monthly alarm service contract	17	_____
18	Monthly service contracts on appliances	18	_____
19	Monthly maid service	19	_____
20	Other:	20	_____
21	_____	21	_____
22	_____	22	_____
23	_____	23	_____
24	_____	24	_____
25	SUBTOTAL (add lines 1 through 24)	25	\$ _____ -

AUTOMOBILE:

26	Monthly gasoline and oil	26	_____
27	Monthly repairs	27	_____
28	Monthly auto tags and emission testing	28	_____
29	Monthly insurance	29	_____
30	Monthly payments (lease or financing)	30	_____
31	Monthly rental/replacements	31	_____
32	Monthly alternative transportation (bus, rail, car pool, etc.)	32	_____
33	Monthly tolls and parking	33	_____
34	Other:	34	_____
35	SUBTOTAL (add lines 26 through 34)	35	\$ _____ -

EXPENSES FOR CHILD(REN) COMMON TO BOTH PARTIES:

36	Monthly nursery, babysitting or day care	36	_____
37	Monthly school tuition	37	_____
38	Monthly school supplies and books, fees	38	_____
39	Monthly after school activities	39	_____
40	Monthly lunch money	40	_____
41	Monthly private lessons/tutoring	41	_____
42	Monthly allowance	42	_____
43	Monthly clothing/uniforms	43	_____
44	Monthly entertainment (movies, birthday, parties, etc.)	44	_____
45	Monthly health insurance	45	_____
46	Monthly medical, dental, prescription (unreimbursed only)	46	_____

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT, IN AND FOR LEE COUNTY, FLORIDA

Case No.: _____

47	Monthly psychiatric/psychological/counselor	47	_____
48	Monthly orthodontic	48	_____
49	Monthly vitamins	49	_____
50	Monthly barber/beauty parlor	50	_____
51	Monthly non-prescription medications	51	_____
52	Monthly cosmetics/toiletries and sundries	52	_____
53	Monthly gifts from children to others (other children, relatives, teachers, etc.)	53	_____
54	Monthly camp and/or other summer activities	54	_____
55	Monthly clubs (Boy/Girl Scouts, etc.)	55	_____
56	Monthly visitation expense (for nonresidential parent)	56	_____
57	Monthly Miscellaneous	57	_____
58	Other:	58	_____
59	Other:	59	_____
60	Other:	60	_____
61	SUBTOTAL (add lines 36 though 60)	61	\$ _____

MONTHLY EXPENSES FOR CHILD(REN) FROM ANOTHER RELATIONSHIP (other than court-ordered child support)

62	Expense:	62	_____
63	Expense:	63	_____
64	Expense:	64	_____
65	Expense:	65	_____
66	SUBTOTAL (add lines 62 though 65)	66	\$ _____

MONTHLY INSURANCE

67	Health insurance, excluding portion paid for any minor child(ren) of this relationship	67	_____
68	Life insurance	68	_____
69	Dental insurance	69	_____
70	Other:	70	_____
71	Other:	71	_____
72	SUBTOTAL (add lines 67 though 71)	72	\$ _____

OTHER MONTHLY EXPENSES NOT LISTED ABOVE:

73	Monthly dry cleaning and laundry	73	_____
74	Monthly clothing	74	_____
75	Monthly medical, dental, and prescription (unreimbursed only)	75	_____
76	Monthly psychiatric, psychological, and counselor (unreimbursed only)	76	_____
77	Monthly non-prescription medications, cosmetics, toiletries, and sundries	77	_____
78	Monthly grooming	78	_____
79	Monthly gifts	79	_____
80	Monthly pet expenses	80	_____
81	Monthly club dues and membership	81	_____
82	Monthly sports and hobbies	82	_____
83	Monthly entertainment	83	_____
84	Monthly periodicals/books/tapes/CD's	84	_____
85	Monthly vacations	85	_____
86	Monthly religious organizations	86	_____

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT, IN AND FOR LEE COUNTY, FLORIDA

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87	Monthly bank charges/credit card fees	87	_____
88	Monthly education expenses	88	_____
89	Other (include any usual and customary expenses not otherwise mentioned in the items listed above):	89	_____
90	Other:	90	_____
91	Other:	91	_____
92	Other:	92	_____
93	Other:	93	_____
94	SUBTOTAL (add lines 73 though 93)	94	\$ _____ -

MONTHLY PAYMENTS TO CREDITORS: (only when payments are currently made by you on outstanding balances - full balance to be listed in Section III) **NAME OF CREDITOR(s):**

95	_____	95	_____
96	_____	96	_____
97	_____	97	_____
98	_____	98	_____
99	_____	99	_____
100	_____	100	_____
101	_____	101	_____
102	_____	102	_____
103	_____	103	_____
104	_____	104	_____
105	_____	105	_____
106	_____	106	_____
107	_____	107	_____
108	SUBTOTAL (add lines 95 though 107)	108	\$ _____ -

TOTAL MONTHLY EXPENSES: (add lines 25, 35, 61, 66, 72, 94 and 108) \$ _____ -

SUMMARY		
TOTAL PRESENT MONTHLY NET INCOME	\$	-
TOTAL MONTHLY EXPENSES	\$	-
SURPLUS/DEFICIT	\$	-

SECTION III: ASSETS AND LIABILITIES: My Schedule of Assets and Liabilities is attached hereto and incorporated herein by reference

SECTION IV: CHILD SUPPORT GUIDELINES WORKSHEET (Florida Family Law Form 12.901(g), Child Support Guidelines Worksheet, MUST be filed in all cases in which the parties have a minor child in common, INCLUDING modifications of child support.) [one only]

A Child Support Guidelines Worksheet IS being filed in this case. The parties have one or more minor children in common or one of the parties is requesting a modification of a previous court order regarding child support.

A Child Support Guidelines Worksheet IS NOT being filed in this case. There are no minor children common to the parties in this case or, if this case involves a modification of a previous court order, child support is not an issue

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT, IN AND FOR LEE COUNTY, FLORIDA

Case No.:

SECTION V: OATH, NOTARY AND CERTIFICATE OF SERVICE

STATE OF FLORIDA

COUNTY OF LEE

I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this affidavit and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

Signature of Party

Name:

Address:

Phone/Fax:

This Financial Affidavit was acknowledged before me this ____ day of _____ by [the above named affiant], () who is personally known to me or () who has produced a drivers license as identification and who did take an oath.

NOTARY PUBLIC—STATE OF FLORIDA

[Print, type, or stamp commissioned name of notary.]

I CERTIFY THAT THE FAMILY LAW FINANCIAL AFFIDAVIT WAS: ____ mailed; _____ telefaxed and mailed; or ____ hand delivered; to _____ on _____, 19____.

RUBINSTEIN & HOLZ, P.A.

Attorneys for [name]

Post Office Drawer 368

Fort Myers, FL 33902

Ph (941) 332-3400, Fax (941) 332-5078

By: _____

Alan J. Rubinstein - Florida Bar #092783

Rana Holz - Florida Bar #902100

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT, IN AND FOR LEE COUNTY, FLORIDA

Case No.:

SECTION III: ASSETS AND LIABILITIES

INSTRUCTIONS:

STEP 1: In column A, list a description of each separate item owned by you (and/or your spouse, if this is a petition for dissolution of marriage). If there is a mortgage or lien on an asset, identify the bank or lienholder in Column A.

STEP 2: In column B, write what you believe to be the current fair market value of all items listed.

STEP 3: In column C list any liability associated with an asset, or list separate debts or liabilities such as loans or credit card.

STEP 4: In Column D, for each item in Column A, subtract the item in Column C from Column B. (Ex: A: House with mortgage at XYZ Bank, B: \$75,000, C:35,000, D = \$40,000.)

STEP 5: If this is a petition for dissolution of marriage, put percentage you are requesting of the item be divided to you (100%, 50%, etc.). If you believe an item is "nonmarital," meaning it belongs to only one of you and should not be divided. You should indicate to whom you believe the item belongs (ie., "Husband" or "wife"). Typically, you will only use Column E if property was owned by one spouse before the marriage. See the instructions with this form and section 61.075(1), Florida Statutes, for definitions of "marital" and "nonmarital" assets and liabilities.

#	COLUMN A - DESCRIPTION OF ASSET OR LIABILITY	SOURCE OF INFORMATION	COLUMN B - FAIR MARKET VALUE	COLUMN C - LIABILITY	COLUMN D - EQUITY	COLUMN E % or Nonmarital
1	Cash (on hand)				\$ -	
2					\$ -	
3	Cash (in banks or credit unions)				\$ -	
4					\$ -	
5	Stocks, Bonds, Notes				\$ -	
6					\$ -	
7	Real Estate (home) and mortgage				\$ -	
8					\$ -	
9	(Other)				\$ -	
10					\$ -	
11	Automobiles and car loan				\$ -	
12					\$ -	
13	Other personal property				\$ -	
14					\$ -	
15	Retirement plans (Profit Sharing, Pension, IRA, 401(k)s, etc.)				\$ -	
16					\$ -	
17					\$ -	
18					\$ -	
19	Other Property				\$ -	

#	COLUMN A - DESCRIPTION OF ASSET OR LIABILITY	SOURCE OF INFORMATION	COLUMN B - FAIR MARKET VALUE	COLUMN C - LIABILITY	COLUMN D - EQUITY	COLUMN E % or Nonmarital
20					\$ -	
21					\$ -	
22					\$ -	
23					\$ -	
24	Charge/credit card accounts				\$ -	
25					\$ -	
26					\$ -	
27					\$ -	
28					\$ -	
29					\$ -	
	Subtotal Assets and Liabilities		\$ -	\$ -	\$ -	

CONTINGENT ASSETS AND LIABILITIES						
INSTRUCTIONS: If you have any POSSIBLE assets (income potential, accrued vacation or sick leave, bonus, inheritance, etc.) or POSSIBLE liabilities (possible lawsuits, future unpaid taxes, debts assumed by another), you must list them here.						
30					\$ -	
31					\$ -	
32					\$ -	
33					\$ -	
34					\$ -	
35					\$ -	
36					\$ -	
	Subtotal Contingent Assets and Liabilities		\$ -	\$ -	\$ -	
	Total Assets & Liabilities, Including Contingent Assets and Liabilities		\$ -	\$ -	\$ -	