

Section Quarterly Report

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From The Mississippi Bar

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MESSAGE FROM THE EDITOR

The Family Law Section has formed a committee chaired by Richard C. Roberts III of Jackson, and co-chaired by Leigh Berry of Columbia, to create a “new and improved” UCCR 8.05 form. Annette Herrin (Hattiesburg), Harold O. Grissom, Jr. (Gulfport), Jennifer Boydston (Jackson) and Michele Biegel (Jackson) also serve on the committee.

In addition to a new 8.05 form, the committee has proposed the use of standard forms for requests (and responses to requests) for production of documents. These three (3) documents (the “new and improved” 8.05, the form for requests for production, and the form for responses to requests for production) are attached hereto. The Committee is actively soliciting input from the bench and bar. Comments should be directed (by e-mail) to: jennifer@rcrobertslaw.com ; or (by snail mail) to: The Law Offices of Richard C. Roberts III, Attn: Committee to Revise 8.05, P. O. Box 55882, Jackson, MS 39296-5882.

Revisions to the 8.05 were the topic of discussion during the 2007 Annual Meeting of the Family Law Section. The Committee hopes to make a formal recommendation for adoption of the final version of these forms at this year’s Annual Meeting in July.

Finally, we review all of the cases handed down this quarter in *Abstracts*.

D.C. and S.G. v. D.C.

Supreme Court

February 28, 2008

- This case involves post-divorce allegations by Mother of Father’s sexual abuse of their minor daughter, Father’s suit for custody, and the flight by Mother with the parties’ two children prior to trial. Mother and the children remain at large.
- Supreme Court dismissed the appeal, applying the fugitive dismissal rule.

In re Spencer

Supreme Court

February 28, 2008

- This is a companion case to D.C. and S.G. v. D.C., reported above.
- Nothing in Rule 11 or the Litigation Accountability Act supports awarding attorney’s fees and expenses in excess of those actually incurred.
- Under both Rule 11 and the Litigation Accountability Act, a claim or defense is frivolous when, objectively speaking it is made without hope of success.
- An attorney’s *negligent* failure to obey UCCR 1.05 (pertaining to attendance at trial) need not also be *willful* to constitute contempt of court. UCCR 1.05 states that negligent **or** willful failure to obey the rule shall be punishable by contempt.
- It is not a violation of the Due Process Clause to hold contempt hearings in youth court abuse proceedings out of the public eye, under the circumstances of this case (alleged contemnor/attorney had independent counsel, did not object to the private nature of the hearing, was permitted to call witnesses, testified in her own behalf, and no incarceration was imposed).
- Verbal gag order providing “the parties themselves will be enjoined from disclosing any information to third parties and that injunction would go toward their agents as well”, and a written order providing “neither the parties, nor their attorneys, nor their agents shall discuss the proceedings in this Court with any person not directly associated with the parties or their attorneys” were too vague to enforce, and did not “give fair notice to men of common intelligence of the conduct which would offend these orders.”
- Where attorney/contemnor made misrepresentations in person to the chancellor in order to obtain court approval for the issuance of trial subpoenas (in a child abuse case), but did not submit to the court for approval the actual subpoenas (which disclosed information the attorney/contemnor had previously been ordered to not disclose), the resulting judgment of contempt is one of constructive, rather than direct, contempt.
- Where there is doubt whether contempt is constructive or direct, it should be regarded as constructive.
- “[I]t appears from this case that the chancellor instigated and prosecuted this contempt charge. It was improper for the chancellor to sit in judgment where she had substantial personal involvement in the prosecution of this charge.”

Dudley v. Harris

Court of Appeals

January 8, 2008

- Appeal of custody case dismissed for lack of jurisdiction. Final decree entered September 8, 2006. The deadline for filing the appeal was thirty days later, October 8. Since that day was a Sunday, the deadline was extended to October 9 (MRAP 26).
- Appellant signed the *Notice of Appeal* on October 6. The *Notice* was filed with the Supreme Court on October 10, a day after the filing deadline.
- Although the *Notice* should have been filed with the clerk of the trial court, filing with the Supreme Court would have constituted timely filing if it had been filed by October 9 (MRAP 4(a)).
- Appellee did not raise the issue of the untimely appeal. The Court of Appeals could, and did raise the issue because an appellate court is required to note its own lack of jurisdiction. The Court can suspend mandatory dismissal in criminal cases, but not in civil cases (MRAP 2(a)).

Dorsey v. Dorsey

Court of Appeals

January 8, 2008

- During the marriage, Husband's father gave Husband ownership of a business by giving him the company's stock. Wife claimed the company became marital property because (1) she performed clerical and bookkeeping services for the company, and was not compensated; and (2) she used her personal funds to pay company expenses and debts.
- The chancellor found that Wife's personal funds were used to pay some business debts, but that the amounts were easily traceable and had not become so commingled as to have become unidentifiable. Since the Wife failed to prove that the personal and business expenses were so interwoven as to transmute the company into marital property, the business was found to be Husband's separate property.
- Similarly, during the marriage the Husband was given a lot from a business owned by his brothers. Wife claimed the lot was marital property because (1) she used her personal funds to pay taxes on it; and (2) the parties' children rode across the lot on four wheelers. The chancellor disagreed, finding no proof that marital funds were used to pay taxes, and no corroborating testimony established the frequency and use of the land.
- The Court of Appeals affirmed, finding that when separate and marital property are mixed to such a degree that the elements cannot be distinguished (i.e., that the separate element cannot be traced), then the entire property is considered marital property. In this case, the payment of one year's property taxes was both minimal and easily traceable.
- Chancellor correctly found that Husband's expert had the more accurate and reliable approach for determining the value of stock in a closely held business. Husband's expert used the net asset approach. Wife's expert used an income/market approach, which factors in an assumption that the business customers would continue to patronize the business even if the owner left the company. This approach improperly includes goodwill, which should not be considered when valuing a business for purposes of dividing marital assets.

- On the day of trial of divorce suit, Husband filed a motion to compel and motion for continuance, based on Wife's failure to supply bank statements as requested in discovery. The court denied Husband's motions, noting that the case had been docketed for a two-day trial by agreement two months earlier. The chancellor limited Wife's proof to the information in the bank statements she did supply to Husband.
- MRCP 37(a) provides that a party, *upon reasonable notice* ... may apply for an order compelling discovery. *Boutwell v. Boutwell*, 829 So.2d 1216 (Miss. 2002) (motion to compel filed two business day prior to trial did not afford reasonable notice) Husband's filing of the motions on the day of trial did not provide Wife with reasonable notice. The chancellor did not abuse her discretion in denying the motions.
- Chancellor did not err in denying Husband's claim for adultery, where his sole evidence was a private investigator's report that he had observed Wife off and on for a year, and that Wife spent three consecutive nights at another man's (Mr. Miller) apartment. Wife had in discovery previously denied spending the night at Miller's apartment. At trial, she admitted spending the night, but testified that another woman was present at Mr. Miller's apartment on each of these three nights, that Mr. Miller was sick the whole time she was there, and that she did not sleep in the same room as Mr. Miller.
- The private investigator did not observe Wife and Mr. Miller being affectionate to each other. Husband testified he had never seen Wife being affectionate with another man, but later said he'd seen Wife holding hands with Mr. Miller, driving with him, and going to a restaurant together. The chancellor found Wife had adulterous opportunity, but that adulterous inclination had not been proved by clear and convincing evidence. Wife presented a reasonable theory of innocence with Husband did not disprove. The chancellor did not err in denying the divorce.
- In Wife's claim for separate maintenance, Chancellor did not err in finding that Wife was not at fault in the separation, where overwhelming evidence showed that Husband wanted to leave and harbored no desire to reconcile, even though Wife nagged him, told him to leave, transferred assets into her sole name and falsely accused him of having affairs.
- In separate maintenance case, Chancellor did not err in awarding attorney's fees to Wife, even though Wife earned \$4,100/month and had a \$20,000 bank account. The parties' significant disparity in income justified the award. Wife was not required to liquidate her savings account when the separate maintenance award barely covered her monthly expenses.

Schmidt v. Burmudez**Court of Appeals January 15, 2008**

- In modification of custody suit, Mother moved away from Mississippi. She asked for the case to be transferred to Tennessee, claiming Father had changed his residence to Memphis. [see 28 U.S.C.A. 1738A(d); MCA 93-27-202] The trial court properly denied the motion, finding that Father maintains a residence in Memphis simply to keep his job with the Memphis Police Department, and that he considers Mississippi to be his domicile.
- Mother claimed the chancellor should have recused himself because he was biased against her. Quoting at length from the trial transcript, the Court of Appeals noted that the chancellor berated, badgered, threatened, insulted and belittled Mother, and that his conduct was inexcusable. However, all of his findings (except on the visitation issue, discussed below) were supported by substantial evidence. Therefore, the Court could not find that the chancellor's improper conduct affected Mother's substantial

rights.

- Court committed harmless error where it improperly refused to designate witness as an expert, but allowed witness to give expert testimony.
- Mother waived failure to comply with MRE 706 where she did not object to testimony of court-appointed expert, and did not demand that the court inform him of his duties in writing.
- Court did not err in failing to hold separate contempt hearing where evidence at trial clearly established her contempt (failure to allow visitation).
- Court modified visitation and awarded Father custody. It denied Mother any visitation until she petitioned the court for such, with the petition to be joined by a third-party who agreed to supervise same. Court of Appeals reversed, finding there was no need to require a third-party to join a petition, since the chancery court could simply order supervised visitation, and replace any unsatisfactory supervisor of visitation. In view of the child's loving relationship with Mother, the Court of Appeals remanded the issue of visitation generally, for the chancellor to revisit whether Mother's visitation should be supervised.
- Court did not err in modifying visitation where, after the original custody decree was entered, Mother repeatedly frustrated Father's visitation, falsely accused him of child abuse, and the four-year-old child became violent and suffered severe psychiatric problems.

Potter v. Greene

Court of Appeals January 15, 2008

- Chancellor did not err in changing custody from Mother to Father where: 1) Mother repeatedly interfered with Father's visitation; 2) Mother made allegations of child abuse which, after a lengthy investigation were determined to be unsubstantiated; 3) Mother repeatedly coached the child concerning the abuse allegations; and 4) Mother alienated daughter from Father.
- Chancellor met requirement that he set forth a summary of the GAL's recommendations and his reasons for not following them when he noted that he greatly respected the GAL's judgment and recommendation, but determined it was in the child's best interests for custody to be modified.

R.L. v. G.F.

Court of Appeals January 22, 2008

- Father's appeal of TPR. Court did not err in terminating Father's parental rights, where evidence showed he had no contact with child for more than two years. Father claimed he had been denied visitation, but the Court of Appeals rejected this, finding Father had taken no steps to enforce those rights.
- TPR decree does not forgive child support which accrued before the obligor's rights were terminated.

Lewis v. Lewis**Court of Appeals February 5, 2008**

- One year after Mother granted full custody of children in the divorce, Father sued for modification of custody.
- Improved stability in non-custodial parent's home did not warrant modification of custody.

Webb v. Webb**Court of Appeals February 5, 2008**

- *Albright* factor "age of child" slightly favors mother of 18 month old son. However, the tender years doctrine is less controlling, especially if the child is a boy. The chancellor's erroneous conclusion on this issue is not manifest error warranting reversal.
- Chancellor did not err in finding *Albright* factor "moral fitness of the parents" favored Father, even though he viewed pornography (but never around children), and took business clients to topless bar 4-5 times per year. Mother permitted her lover to be around children in her home.
- Concurring opinion by Justice Carlton, joined by Chief Justice King and Justices Irving, Griffis, Barnes and Ishee:
- When marriage was in trouble, Husband offered Wife \$22,000 to do with as she pleased if she would quit her job and return home. Wife was a nurse having an affair with a doctor.
- Wife's decision to keep her job was irrelevant to an *Albright* analysis. Although the chancellor did not err in his custody decision, he should not have referenced Wife's decision as part of that analysis. He also called Wife "a loose woman", and interrupted her testimony about her adulterous relationship to say that "humans should be a step above wild animals." These comments were inappropriate and unnecessary to the *Albright* analysis. The child's best interest is the polestar consideration, not marital fault.

Cossitt v. Cossitt**Court of Appeals February 19, 2008**

- Order required Father to pay greater of \$400 per month or 22% of his AGI, and to immediately report to Mother and the Court "if his income increases to a point where he shall increase his monthly child support..." When Father's income increased, he voluntarily increased his child support, but did not report his increased income to the court.
- Mother sued Father for contempt for his failure to report his income increase. The evidence at trial showed Father's income was highly variable but that he'd missed no payments. Held, chancellor did not err in refusing to find Father in contempt.
- Father was also ordered to provide his pay stubs to Mother. He did so, but first used "white-out" to obliterate the deposit dates of his pay checks. He did not alter/obliterate the date or amounts of his pay checks. Held, chancellor did not err in refusing to find Father in contempt.

- Father was also ordered to provide health insurance for the children, and to pay 75% of their medical expenses if he was unable to do so. Husband was not able to afford health insurance until his wife became eligible to obtain coverage at work. At that time, he insured the children. Prior to that time, Mother insured the children, and Father reimbursed her for about of her premiums. In the meantime, Father paid 75% of the children’s medical expenses when they were not insured. Held, the chancellor did not err if refusing to find Father in contempt, noting it was “important” that chancellor had ordered Father to reimburse Mother for the remainder of premiums paid by her.
- Where each former spouse sent the other emails with profane language, chancellor properly found Wife had unclean hands and refused to find Husband in contempt for violating injunction in divorce that neither party would molest/harass the other.
- Divorce required each parent to pay one-half of all reasonable and necessary costs of a college education, provided that each child maintains a 2.0 grade point average. Each child earned a GPA lower than 2.0 after the first semester, so the chancellor relieved Father from any further duty to provide for college.
- The chancellor was affirmed. “While the divorce judgment did not explicitly set a specific time period in which the girls could maintain a 2.0 grade point average, it is a reasonable interpretation to use the semester grades as the appropriate time period.” The chancellor also did not err in excluding football tickets, parking tickets, lock-out charges, clothing, personal expenses, hair care, and sorority dues” from the college expenses. “While these expenses may be a part of the ‘college experience,’ they are by no means *necessary* to a college education.” (Emphasis in the original)

Hunt v. Asanov

Court of Appeals February 26, 2008

- This is the parties’ second appeal. Their first is reported at *Asanov v. Hunt*, 914 So.2d 769 (Miss.Ct.App. 2005).
- Russia entered a child support order, directing Father to pay one-third of his income. Mother sought to enroll and enforce the order. The chancellor instead issued a bench opinion directing Father to pay \$625 per month, effective December 1, 2001. But on December 6, 2001, the chancellor issued an order *nunc pro tunc* recognizing and enrolling the Russian order (which did not provide a specific dollar amount Father was ordered to pay). No issue was made of the orders on appeal, and Father paid \$625 per month. The parties sought a clarification or reconciliation of the two orders, but the chancellor refused to rule. Thus, both Father and Mother were left to guess what Father was supposed to pay.
- In 2002, Father requested a modification, and was granted an order that he pay child support of \$625 per month.
- Although Father paid \$625 per month, Mother sued for enforcement of the Russian order, noting that in the intervening years, the total of Father’s \$625 monthly payments were \$64,000 less than the total of one-third of Father’s income.
- Held: It is entirely reasonable that Father thought he was ordered to pay \$625. Therefore, any mistake in failing to comply with the child support order was not sufficiently “knowing” for the court to find he willfully or deliberately violated the court order.

Powell v. Powell**Court of Appeals March 4, 2008**

- Relocation of custodial parent *alone* does not constitute MCIC. However, MCIC may be established where custodial parent's relocation is one of several supporting factors.
- Chancellor failed to consider the totality of the circumstances in determining whether a MCIC occurred. Case remanded for chancellor to review: Mother's nomadic relocation and sporadic employment, reluctance to tell Father about daughter's rape or to provide counseling for her, unstable cohabitation with man on whom she pulled a gun during an argument, and children's difficulties in adjusting to frequent relocations.
- To determine whether a MCIC "occurred since the original decree, it is often necessary that post-divorce circumstances be measured against pre-divorce circumstances. Thus, it is necessary to consider the conditions existing at the time of the original decree."
- Chancellor correctly included in his analysis the frequency of the parties' relocations prior to their divorce.

Kumar v. Kumar**Court of Appeals March 11, 2008**

- Cruel and inhuman treatment is not condoned if the parties continue to cohabit. It may be condoned if they resume their relationship after a separation.
- Chancellor erred in denying Wife a divorce on grounds of HC&IT, where evidence showed that Husband physically abused her 2-3 times per year throughout their lengthy marriage, Husband hit her while pregnant, struck her in the face, pinned her to the ground with his hands on her throat, struck her with a belt, injured Wife so that she could not sleep on her right side, verbally harassed her, threatened to kill her on three occasions, spent \$50,000 in one year at a casino, kept a girlfriend, transmitted a STD to Wife and created a sense of fear in Wife that Husband might abuse her at any time.
- To prevail on a Rule 59(e) motion (to alter/amend judgment; for new trial), the movant must show: (1) an intervening change in controlling law; (2) availability of new evidence not previously available; or (3) need to correct clear error of law or to prevent manifest injustice.
- Requests for admissions deemed admitted are conclusively established unless the court permits the admission's withdrawal or amendment. MCA 93-5-7 ("admissions made in the answer shall not be taken as evidence") is inapplicable to requests for admissions.
- Trial court considers 3 factors in deciding whether to set aside a default judgment: (1) the cause of the default; (2) whether the defendant has a colorable defense to the claim; and (3) any prejudice to the plaintiff that would result if the judgment was vacated.
- Chancellor did not err in setting aside Husband's default in divorce suit. The chancellor found that Husband wanted to reconcile with Wife at the time, and did reconcile for a year, that he might have a meritorious defense, and that Wife would not be prejudiced since she would in any event have to prove her grounds for divorce.

- After 15-year marriage, the spouses filed joint bill for divorce, and a PSA prepared by Husband's attorney. Wife was pro se. Two months later, the court entered final decree of divorce. On the same day, the parties executed an amended PSA that awarded all property to Husband.
- According to Wife, she and Husband continued to live together. Husband contended she "was merely a frequent visitor." Five years after the divorce (when the parties actually separated, according to Wife), Husband sought to enforce the amended PSA. Wife filed a motion to set aside the divorce or for equitable distribution of marital property. The chancellor denied Wife's suit and she appealed.
- Wife's motion to set aside the divorce was filed under MRCP 60, but was untimely filed. One who proceeds under MRCP 60(b)(5) or (6) "must do so within a reasonable time." The allegations raised in Wife's motion could have been submitted much earlier. The chancellor did not err in dismissing her motion.
- Failure of the divorce decree to specifically find the agreed distribution of the marital estate is "adequate and sufficient" is not fatal. The reviewing appellate court must view the actual agreement and the provisions it contains to determine whether the agreement is adequate and sufficient.
- Failure of the parties to file UCCR 8.05 does not require the appellate court to set aside a divorce judgment for subsequent equitable distribution (distinguishing *Kalman v. Kalman*, 905 So.2d 760 (Miss.Ct.App. 2004) on the basis that, unlike the present case, *Kalman* involved the concealment of \$2.6 million in assets).
- "There is no requirement that one must necessarily prove fraud to prove overreaching. Instead, an analysis of whether an agreement is the product of overreaching involves: (a) a determination that an agreement is so one-sided and unfair that it could never be considered 'adequate and sufficient,' and (b) a determination that an agreement resulted from an inequality of bargaining power or other circumstances such that there was no meaningful choice on the part of the disadvantaged party."
- The Court of Appeals found the amended PSA was not the product of overreaching. The Husband received practically all of the marital property and all of the marital debt; gave the Wife \$33,000 from the \$55,000 in proceeds from the sale of the parties' convenience store [apparently, one of the largest assets in the marital estate]; and Wife failed to demonstrate an inequality of bargaining power.

McIntosh v. McIntosh**Court of Appeals March 25, 2008**

- Where Wife stole checks from Husband, did not use money he gave her to pay the rent, returned items to stores for cash, was involved in a shoving match with Husband shortly after he had been so ill she thought he was having a heart attack, forged Husband's name on savings bonds, cashed them and pretended to help him look for them afterward, and Husband's mental and physical health has deteriorated as a result of Wife's "antics", chancellor did not err in awarding Husband divorce on grounds of HC&IT.
- Wife's claim for separate maintenance properly denied where she failed to prove that Husband refused to support her that during their separation Husband paid the majority of household bills, and Husband testified he was "willing to pay anything."

- Although chancellor did not include Husband's PERS account in the equitable distribution, Wife waived the error by not informing the chancellor (through a motion to amend the final judgment) that he had failed to consider the account.
- Chancellor erred in granting a stay of the final judgment of divorce more than ten days after its entry, where no post-trial motions were filed. The chancellor lost jurisdiction of the case after the ten-day period expired.
- A stay of the final judgment of divorce should not be entered without requiring the movant to post a supersedes bond pursuant to MRAP 8(b)(1) and MCA 11-51-31.
- A temporary order terminates when a final order is entered.

IN THE CHANCERY COURT
 OF _____ COUNTY, MISSISSIPPI
 _____ JUDICIAL DISTRICT

 VS

PLAINTIFF
 CAUSE NO. _____
 DEFENDANT

RULE 8.05 FINANCIAL STATEMENT AFFIDAVIT

I, *(full legal name)* _____, being sworn, certify that the following information is true:

SECTION I. GENERAL INFORMATION

1. Date of Birth: _____
2. Physical Address: _____
3. Mailing Address: _____

4. A. Minor Children (below the age of 21) or a full-time student above the age of 21:

Name	Date of Birth	Child Support Order in effect? (Yes or No)	Amount of Monthly Child Support Order Payment

B. Adult Children being supported by you

Name	Date of Birth	Child Support Order in effect? (Yes or No)	Amount of Monthly Child Support Order Payment

5. Are you subject to and/or a party in any litigation or other court proceedings? (Bankruptcy, Class Action, Worker's Compensation, Personal Injury, etc.) If yes, please provide the style of the action including cause number and a brief description of the nature thereof. _____

SECTION II. INCOME

1. My occupation is: _____

2. I am currently: all that apply]

_____ **a. Unemployed**

1. Describe your efforts to find employment, how soon you expect to be employed, and the pay you expect to receive: _____

2. Provide a statement of your employment history and earnings from the inception of the marriage, or from the date of divorce, which ever is applicable on a separate sheet paper and attach it to this form. Label the attachment "Employment History".

_____ **b. Employed by:** _____

1. Address: _____

2. City, State, Zip Code: _____

3. Telephone Number: _____

4. My position is: _____

5. Pay rate: \$_____ () every week () every other week () twice a month () monthly

_____ 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 self-employed, own an interest in a business or farm, receive income from rental property, or report income or expenses on Schedule C, Schedule E, or Schedule F of your tax return.

Complete Exhibit "A" attached hereto.

_____ Check here if you are expecting to become unemployed or change jobs soon, describe the change you expect and why and how it will affect your income:

_____ **c. Retired.** Date of retirement: _____

1. Employer from whom retired: _____

2. Address: _____

3. City, State, Zip Code: _____ Telephone Number: _____

4. Are you receiving retirement pay or benefits from this employer? _____ yes _____ no

_____ d. Is there any information which you think would be helpful for the Court to know about your employment? (If so, give comments here). _____

LAST YEAR'S GROSS INCOME FROM TAX RETURN:

Year _____

Your Income

\$ _____

Other Party's Income (if known)

\$ _____

LAST YEAR'S ADJUSTED GROSS INCOME

FROM TAX RETURN:

Year _____

Your Income

\$ _____

Other Party's Income (if known)

\$ _____

LAST YEAR'S TAX REFUND

FROM TAX RETURN:

Year _____

Federal Refund

\$ _____

State Refund

\$ _____

OUTSTANDING TAX LIABILITIES

FROM TAX RETURN:

Year _____

Federal

\$ _____

State

\$ _____

Does the IRS or the State of Mississippi currently have a tax lien on any items of property? _____

If yes, please state the total amount of the tax lien and the items encumbered. _____

PRESENT MONTHLY GROSS INCOME:

All amounts must be MONTHLY. See the instructions with this form to calculate 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.	Bonuses, commissions, allowances, overtime, tips, and similar payments	2. _____
3.	Average monthly business income for previous 6 months 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	4. _____

5.	Monthly Workers' Compensation	5. _____
6.	Monthly Unemployment Compensation	6. _____
7.	Monthly pension, retirement, or annuity payments	7. _____
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 each item and amount)	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 such as cars, travel, gas, phone, etc. (●Attach sheet itemizing each item and amount)	13. _____
14.	Monthly income from property such as CRP payments or subsidies	14. _____
15.	Public Assistance (Welfare, AFDC Payments, Etc.)	15. _____
16.	Severance Pay	16. _____
17.	Monthly Investment Income	17. _____
18.	Other: _____	18. _____
19.	Other: _____	19. _____
20.	Other: _____	20. _____
21.	PRESENT MONTHLY GROSS INCOME (Add lines 1-20) TOTAL:	21. _____

PRESENT MONTHLY DEDUCTIONS:

All amounts must be MONTHLY. See the instructions with this form to calculate money amounts for anything that is NOT paid monthly.

22.	Present Monthly Federal Income Tax. a. Anticipated Filing Status: _____ b. Previous Filing Status: _____ c. Anticipated Number of Dependents claimed _____ d. Previous Number of Dependents claimed _____ e. Current Number of Exemptions claimed _____ f. Previous Number of Exemptions claimed _____	22. _____
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23.	Present Monthly State Income Tax a. Anticipated Filing Status: _____ b. Previous Filing Status: _____ c. Anticipated Number of Dependents claimed _____ d. Previous Number of Dependents claimed _____ e. Current Number of Exemptions claimed _____ f. Previous Number of Exemptions claimed _____	23. _____
24.	Monthly FICA or self-employment taxes	24. _____
25.	Monthly Medicare payment	25. _____
26.	Monthly mandatory union dues	26. _____
27.	Monthly mandatory retirement payments	27. _____
28.	Monthly court-ordered child support actually paid for children from another relationship	28. _____
29.	Monthly court-ordered alimony actually paid 28a. From this case: \$ _____ 28b. From other case(s): _____ Add 28a and 28b	29. _____
30.	Other Mandatory Monthly Deductions.	30. _____
31.	TOTAL MONTHLY DEDUCTIONS: (Add lines 22 through 29)	31. _____
32.	PRESENT NET MONTHLY INCOME (Total Gross Income minus Total Monthly Deductions)	32. _____

SECTION III. MONTHLY EXPENSES

HOUSEHOLD:		PRE-SEPARATION	CURRENT:	PROPOSED/ ESTIMATED EXPENSES:
1.	Monthly mortgage or rent payments	1. _____	1. _____	1. _____
2.	Monthly property taxes (if not included in mortgage)	2. _____	2. _____	2. _____
3.	Monthly insurance on residence (if not included in mortgage)	3. _____	3. _____	3. _____
4.	Monthly homeowners' association fees	4. _____	4. _____	4. _____
5.	Monthly electricity	5. _____	5. _____	5. _____
6.	Monthly water, garbage, and sewer	6. _____	6. _____	6. _____
7.	Monthly telephone a. Land line b. Cell phone	7. _____	7. _____	7. _____
8.	Monthly residence gas	8. _____	8. _____	8. _____
9.	Monthly repairs and maintenance	9. _____	9. _____	9. _____
10.	Monthly lawn care	10. _____	10. _____	10. _____

11.	Monthly pest control	11. _____	11. _____	11. _____
12.	Monthly misc. household supplies	12. _____	12. _____	12. _____
13.	Monthly food	13. _____	13. _____	13. _____
14.	Monthly meals outside home	14. _____	14. _____	14. _____
15.	Monthly cable t.v.	15. _____	15. _____	15. _____
16.	Monthly internet service	16. _____	16. _____	16. _____
17.	Monthly alarm service contract	17. _____	17. _____	17. _____
18.	Monthly service contracts on appliances	18. _____	18. _____	18. _____
19.	Monthly maid service	19. _____	19. _____	19. _____
20.	Monthly dry cleaning and laundry	20. _____	20. _____	20. _____
21.	Monthly clothing	21. _____	21. _____	21. _____
22.	Monthly medical, dental, and prescription (only those not covered by insurance or otherwise reimbursed)	22. _____	22. _____	22. _____
23.	Monthly psychiatric, psychological, or counselor (only those not covered by insurance or otherwise reimbursed)	23. _____	23. _____	23. _____
24.	Monthly nonprescription medications, cosmetics, toiletries, and sundries	24. _____	24. _____	24. _____
25.	Monthly grooming	25. _____	25. _____	25. _____
26.	Monthly gifts	26. _____	26. _____	26. _____
27.	Monthly pet expenses	27. _____	27. _____	27. _____
28.	Monthly club dues and membership	28. _____	28. _____	28. _____
29.	Monthly sports and hobbies	29. _____	29. _____	29. _____
30.	Monthly entertainment	30. _____	30. _____	30. _____
31.	Monthly tolls and parking	31. _____	31. _____	31. _____
32.	Monthly periodicals/newspapers/magazines/books /tapes/CDs	32. _____	32. _____	32. _____
33.	Monthly vacations	33. _____	33. _____	33. _____
34.	Monthly education expenses	34. _____	34. _____	34. _____
35.	SUBTOTAL	35. _____	35. _____	35. _____
	VEHICLES AND BOATS			
36.	Monthly gasoline and gas	36. _____	36. _____	36. _____
37.	Monthly repairs	37. _____	37. _____	37. _____

38.	Monthly tags	38. _____	38. _____	38. _____
39.	Monthly insurance for each vehicle	39. _____	39. _____	39. _____
	a. _____ b. _____ c. _____			
40.	Monthly payments (lease or financing)	40. _____	40. _____	40. _____
41.	Monthly alternative transportation (bus, rail, car pool, etc.)	41. _____	41. _____	41. _____
42.	Monthly tolls and parking	42. _____	42. _____	42. _____
43.	Other: _____	43. _____	43. _____	43. _____
44.	SUBTOTAL	44. _____	44. _____	44. _____
	MONTHLY EXPENSES FOR CHILDREN (In addition to the amount please indicate with "M" or "F" if the expense is normally paid by Mother or Father.)			
45.	Monthly nursery, babysitting, or day care	45. _____	45. _____	45. _____
46.	Monthly school tuition	46. _____	46. _____	46. _____
47.	Monthly school supplies, books, fees and field trips	47. _____	47. _____	47. _____
48.	Monthly after school activities (School sponsored: Math, Drama, etc.)	48. _____	48. _____	48. _____
49.	Monthly lunch money	49. _____	49. _____	49. _____
50.	Monthly private lessons or tutoring (music, dance, tennis, etc.)	50. _____	50. _____	50. _____
51.	Monthly allowances (spending money, gas money, etc.)	51. _____	51. _____	51. _____
52.	Monthly clothing and uniforms	52. _____	52. _____	52. _____
53.	Monthly entertainment (movies, parties, etc.)	53. _____	53. _____	53. _____
54.	Monthly medical dental, prescriptions (nonreimbursed only)	54. _____	54. _____	54. _____
55.	Monthly psychiatric/psychological/counselor	55. _____	55. _____	55. _____
56.	Monthly orthodontic	56. _____	56. _____	56. _____
57.	Monthly beauty parlor/barber shop	57. _____	57. _____	57. _____
58.	Monthly nonprescription medication	58. _____	58. _____	58. _____
59.	Monthly cosmetics, toiletries, and sundries	59. _____	59. _____	59. _____

60.	Monthly gifts from child(ren) to others (other children, relatives, teachers, etc.)	60. _____	60. _____	60. _____
61.	Monthly cost of annual gifts to children (Christmas, Birthday, etc.)	61. _____	61. _____	61. _____
62.	Monthly camp or summer activities	62. _____	62. _____	62. _____
63.	Monthly clubs (4-H, Girl Scouts/Boy Scouts, etc.)	63. _____	63. _____	63. _____
64.	Monthly access expenses (for nonresidential parent)	64. _____	64. _____	64. _____
65.	Monthly travel expenses for visitation with minor children	65. _____	65. _____	65. _____
66.	Other: _____	66. _____	66. _____	66. _____
67.	SUBTOTAL	67. _____	67. _____	67. _____
MONTHLY EXPENSES FOR CHILD(REN) FROM ANOTHER RELATIONSHIP: (other than court-ordered child support)				
68.	_____	68. _____	68. _____	68. _____
69.	_____	69. _____	69. _____	69. _____
70.	_____	70. _____	70. _____	70. _____
71.	SUBTOTAL	71. _____	71. _____	71. _____
MONTHLY INSURANCE:				
72.	Health/ Medical insurance a. Insured Premium \$ _____ b. Insured plus spouse Premium \$ _____ c. Family Premium \$ _____	72. _____	72. _____	72. _____
73.	Life insurance	73. _____	73. _____	73. _____
74.	Dental Insurance a. Insured Premium \$ _____ b. Insured plus Spouse Premium \$ _____ c. Family Premium \$ _____	74. _____	74. _____	74. _____
75.	Disability Insurance	75. _____	75. _____	75. _____
76.	Optical Insurance	76. _____	76. _____	76. _____
77.	Other: _____	77. _____	77. _____	77. _____
78.	SUBTOTAL	78. _____	78. _____	78. _____
OTHER MONTHLY EXPENSES NOT LISTED ABOVE:				
79.	Other: _____	79. _____	79. _____	79. _____
80.	Other: _____	80. _____	80. _____	80. _____

81.	Other: _____	81. _____	81. _____	81. _____
82.	Other: _____	82. _____	82. _____	82. _____
83.	SUBTOTAL	83. _____	83. _____	83. _____
84.	TOTAL MONTHLY EXPENSES: (Add All Subtotals)	84. _____	84. _____	84. _____
SUMMARY				
85.	TOTAL PRESENT MONTHLY NET INCOME (from line 32 of SECTION I. INCOME)	85. \$ _____	85. \$ _____	85. \$ _____
86.	TOTAL MONTHLY EXPENSES (from line 84 above)	86. \$ _____	86. \$ _____	86. \$ _____
87.	SURPLUS (If line 85 is more than line 86, subtract line 86 from line 85. This is the amount of your surplus. Enter that amount here.)	87. \$ _____	87. \$ _____	87. \$ _____
88.	(DEFICIT) (If line 86 is more than line 85, subtract line 85 from line 86. This is the amount of your deficit. Enter that amount here).	88. (\$ _____)	88. (\$ _____)	88. (\$ _____)

SECTION IV. ASSETS

A. REAL ESTATE The value of the real estate may be an estimate or a recent appraisal. If values are acquired from an appraisal, attach to this 8.05 Financial Statement Affidavit a copy of the appraisal. Attach additional sheets if necessary.

1. Address/Description:
 Primary Use (Example: primary residence, rental property, etc.):
 Date Acquired:
 Original Cost: \$
 County Assessed Value (County Tax Appraisal): \$ _____
 Current Fair Market Value: \$ _____
 Appraisal _____ yes _____ no
 Appraisal Attached? _____ yes _____ no
 Estimate: _____ yes _____ no
 Mortgage Balance: \$ _____
Equity (Fair Market Value minus Mortgage Balance) \$ _____
 Titled in the Name of: _____
 Comments: _____

2. Address/Description:
 Primary Use (Example: primary residence, rental property, etc.):
 Date Acquired:
 Original Cost:\$
 County Assessed Value (County Tax Appraisal) \$ _____
 Current Fair Market Value: \$ _____

Appraisal _____ yes _____ no
 Appraisal Attached? _____ yes _____ no
 Estimate: _____ yes _____ no
 Mortgage Balance: _____ \$
Equity (Fair Market Value minus Mortgage Balance) \$

Titled in the Name of: _____
 Comments: _____

3. Address/Description:
 Primary Use (Example: primary residence, rental property, etc.):
 Date Acquired:
 Original Cost: \$
 County Assessed Value (County Tax Appraisal) \$ _____
 Current Fair Market Value: _____ \$
 Appraisal _____ yes _____ no
 Appraisal Attached? _____ yes _____ no
 Estimate: _____ yes _____ no
 Mortgage Balance: _____ \$
Equity (Fair Market Value minus Mortgage Balance) \$

Titled in the Name of: _____
 Comments: _____

TOTAL EQUITY: _____

B. MOTOR VEHICLES (Cars, Trucks, RV's, Boats, Tractors, 4-Wheelers, Motorcycles, etc.) The appropriate value for motor vehicles is the NADA value or a value from a similar source such as Kelly's Blue Book (www.kbb.com) or Edmond's Blue Book (www.edmonds.com). If values are acquired from these or similar sources, attach to this 8.05 Financial Statement Affidavit a copy of the printout of the assessment. Attach additional sheets if necessary.

1. Registered in the name of:
 Year: _____ Model: _____ Mileage: _____
 How Cost Paid:
 Value: \$ _____
 Loan Balance: \$ _____
Equity: \$ _____
 Printout Attached? _____ Yes _____ No

2. Registered in the name of:
 Year: _____ Model: _____ Mileage: _____
 How Cost Paid:
 Value: \$ _____
 Loan Balance: \$ _____
Equity: \$ _____
 Printout Attached? _____ Yes _____ No

3. Registered in the name of:
 Year: _____ Model: _____ Mileage: _____
 How Cost Paid:
 Value: \$ _____
 Loan Balance: \$ _____
Equity: \$ _____

Printout Attached? _____ Yes _____ No

4. Registered in the name of:
 Year: _____ Model: _____ Mileage: _____
 How Cost Paid:
 Value: \$ _____
 Loan Balance: \$ _____
Equity: \$ _____
 Printout Attached? _____ Yes _____ No

TOTAL EQUITY: _____

C. OTHER PERSONAL PROPERTY The value of personal property should be the fair market value. Fair market value is the price at which the item could be sold to a willing buyer, under no compulsion to buy. When valuing an item consider the present condition (wear and tear, etc.) Examples of fair market value may be obtained from flea markets, garage sales, pawn shops, etc. **Fair market value is not the replacement value or purchase price.** Attach additional sheets if necessary.

ITEM	VALUE
Furniture and Household Furnishings	
Tools	
Collectibles (art, coins, dolls, cars, etc.)	
Crystal, Silver, China, Gold	
Jewelry	
Sporting Equipment (guns, skis, golf clubs, etc.)	
Entertainment Equipment (televisions, stereo, pool table, etc.)	
Electronics (computers, digital cameras, printers, etc.)	
Lawn equipment	
Musical Instruments	
Other:	
Other:	
TOTAL VALUE	\$

D. FINANCIAL ACCOUNTS: List all checking accounts, savings accounts, money market accounts, passbook accounts, credit union accounts, etc. in which you have an interest

NAME(S) ON ACCOUNT	FINANCIAL INSTITUTION OR BANK NAME	TYPE OF ACCOUNT	LAST FOUR(4) DIGITS ON THE ACCOUNT	BALANCE 90 DAYS PRIOR TO DATE OF COMPLAINT FILED	CURRENT BALANCE AS OF _/_/

TOTAL CHECKING/ SAVINGS					\$

E. OTHER INVESTMENTS List all IRAs, stocks, CD's, mutual funds, pension plans, bonds, 401(k), PERS, Deferred Compensation, etc.

NAME(S) ON INVESTMENT	NAME OF FINANCIAL INSTITUTION, BROKERAGE FIRM, ETC.	TYPE OF INVESTMENT	LAST FOUR (4) DIGITS ON THE ACCOUNT	BALANCE 90 DAYS PRIOR TO DATE OF COMPLAINT FILED	CURRENT BALANCE AS OF ___/___/___
TOTAL OTHER INVESTMENTS					\$

F. CASH/CASH EQUIVALENTS AND OTHER ITEMS OF VALUE

	AMOUNT
Money in your possession (on hand)	
Money in banks, deposit boxes, etc. not listed above	
Money in personal or business safes, lock boxes, etc.	
Money being held for you by a third person or entity	
Other Cash:	
Other Cash:	
TOTAL CASH	\$

G. LIFE INSURANCE

PERSON INSURED	OWNER OF POLICY	COMPANY	COVERAGE AMOUNT	LOANS	CASH VALUE	LAST FOUR (4) DIGITS OF POLICY	BENEFICIARY

	TOTAL CASH VALUE					\$	

H. FUTURE ASSETS If you have the right to receive assets or income in the future, such as accrued vacation, sick leave, bonus, income from a trust(s), etc. you must list them here.

FUTURE ASSETS	Possible Value
TOTAL FUTURE ASSETS	\$ _____ -

I. ALL OTHER ASSETS (You are required to list all assets of value in which you have an interest that you have not listed elsewhere on this form)

DESCRIPTION OF ASSET	VALUE
Notes (Money owed to you in writing)	
Loans (Money owed to you not evidenced by a writing)	
Business Interest	
Patents, Copyrights, etc.	
Oil and Gas Interests	
Country Club and other Membership Interests (Hunting Clubs, etc.)	
Timber Rights	
Gold, Precious Metals	
Other:	
Other:	
TOTAL OTHER ASSETS	\$

SUMMARY

TOTAL ASSETS: \$ _____
 (ADD Total from previous Sections A through I).

SECTION V. LIABILITIES

- A. LIABILITIES** List all creditors including creditors of your spouse. Include all mortgage(s), car loans, credit cards, personal loans, medical providers, credit union loans, judgments, charge accounts, etc.
 (Include also under 35-40 on Page 4 of Exhibit "A")

	CREDITOR	LAST FOUR (4) DIGITS OF ACCOUNT	PURPOSE/ REASON FOR DEBT	WHOSE NAME IS LISTED ON THE DEBT	CURRENT BALANCE DUE	MONTHLY PAYMENT DUE	WHO PAYS
1							
2							
3							
4							
5							
6							
7							
8							
9							
	TOTAL LIABILITIES				\$	\$	

- B. CONTINGENT LIABILITIES** If you have any future liabilities such as tax payments, judgments, pending lawsuits, etc. you must list them here.

DESCRIPTION OF CONTINGENT LIABILITIES	Contingent Amount Owed
TOTAL CONTINGENT LIABILITIES	\$ _____

SUMMARY

TOTAL LIABILITIES: \$ _____
(ADD Total from previous Sections A through I).

ACKNOWLEDGMENT OF TRUTHFULNESS

I hereby affirm that the above and foregoing statements made in this 8.05 Form and attachments thereto are true and correct as therein stated to the best of my knowledge, information and belief.

Dated: _____

Signature of Party

Printed Name: _____

Address: _____

City, State, Zip: _____

Telephone Number: _____

Fax Number: _____