

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

DISTRICT COURT DIVISION

COUNTY OF _____

_____ -CVD- _____

Plaintiff,

)
)

vs.

)

Defendant,

)

)

EQUITABLE DISTRIBUTION
AFFIDAVIT OF

Date of marriage: _____

Date of separation: _____

Social Security #: _____

THE ABOVE-NAMED PARTY, being duly sworn and under oath, states as follows:

1. I am filing with the Court, as required by its Rules, this affidavit for its use in entering a final judgment of equitable distribution.
2. I have read and understand the Instructions which are contained in this Affidavit.
3. In this Affidavit I have made a full and complete disclosure of: all marital property, separate property, and debts known to me and existing on the date of separation; all divisible property and other property acquired since the date of separation; and all property disposed of since the date of separation. I further warrant to the Court that I have not intentionally furnished any false information to the Court. I understand that providing a false Affidavit to the Court could serve as a basis for setting aside a judgment in this proceeding as well as permitting the Court to impose sanctions against me.
4. I have provided to the opposing party copies of the documents listed in Part VI of this Affidavit.

This the ____ day of _____, 20 ____ ..

(Signature)

Sworn to and subscribed before me
this ____ day of _____, 20 ____ .

(Signature of Officer)

(Title)

INSTRUCTIONS TO PARTIES**1. IMPORTANT. READ THESE INSTRUCTIONS CAREFULLY.**

- Failure to follow these instructions may result in your Affidavit not being allowed into evidence by the Court.

2. PURPOSE AND ORGANIZATION OF AFFIDAVIT.

- The main purpose of this Affidavit is to identify each party's contentions about the following matters:
 - Which items of property are MARITAL PROPERTY (these are to be listed in Part I)
 - Whether there is any DIVISIBLE PROPERTY (these are listed in Part II)
 - Which items of property are the SEPARATE PROPERTY of a party (these are listed in Part III)
 - What DEBTS existed on the date of separation and whether they were marital debts or non-marital debts (these are listed in Part IV).
 - What property has been sold or otherwise disposed of after the date of separation (these are listed in Part V)
 - If a party desires an unequal distribution, what DISTRIBUTIONAL FACTORS exist (See Part VII).
- A second purpose of this Affidavit is to identify documents which each party has provided to the other party (See Part VI).

3. FILING AND SERVICE.

- The ORIGINAL of this Affidavit must be filed with the Clerk of Superior Court, 800 East Fourth Street, Charlotte, NC 28202.
- A copy of this Affidavit must be served upon the opposing party (or that party's attorney, if the party is represented), either by delivery in person or by mail.
 - You must sign a certificate of service indicating the date and manner of service; a form is attached as the last page of the Affidavit.

4. DUE DATE.

- You must file and serve this Affidavit on or before seven (7) days prior to the date set for the initial pretrial conference, unless that day is a Saturday, Sunday, or legal holiday, in which case the due date is the next business day.

5. PROCEDURE AND FORMAT.

- The information in your Affidavit must be typed or computer generated.
- You must sign the cover sheet in the presence of a notary public.
- You must complete Part I (Schedules A-L), and Parts II, III, IV, V, and VI. Note that there are several alternatives to Schedule G.
- Complete Part VII (Summary and Schedules M-O) only if you are seeking an unequal distribution.

- If you do not understand what is meant by the terms “Marital Property,” “Separate Property, or “Divisible Property,” you should seek legal advice about these terms. You are responsible for understanding the differences in these types of property.
 - If you do not have enough room on a Schedule to list all items of property or debts, use Schedule L or attach an additional page to this Affidavit.
 - If you want to make comments about an item, footnote it on the Schedule or attach a separate page of comments.
 - If you or your spouse own a partial interest in an asset (with one or more third parties), indicate the percentage or amount of your interest.
 - You must complete the Summary Sheet with the totals from each Schedule.
 - Instead of using the terms “Plaintiff” and “Defendant,” use the terms “Husband” and “Wife.”
6. **DEFINITIONS.** As used in this Affidavit, the following words and abbreviations have the following meanings:
- (a) “E.D.” means equitable distribution.
 - (b) “DOM” means the date of your marriage to the opposing party.
 - (c) “DOS” means the date of your separation from the opposing party (when you stopped living together).
 - (d) “Net Value” and “Net FMV” mean fair market value, reduced by the amount of any debt which is a lien on the item of property.
 - (e) “Real estate” includes land and all buildings and other things permanently attached to the land and includes all properties in which you and/or your spouse had some ownership interest (the residence, rental property, commercial or business property, vacation property, time shares, etc.).
 - (f) “Transportation” means all types of motor vehicles (automobiles, trucks, motorcycles, vans, boats, airplanes, jet skis, etc.).
 - (g) “Accounts” means all accounts maintained by you and/or your spouse, either individually or jointly with each other or with other persons, in all banks, credit unions, stock brokerage firms, mutual funds, and other financial institutions. It includes checking accounts, savings accounts, certificates of deposit, money market accounts, stock brokerage accounts, and dividend reinvestment accounts.
 - (h) “Collections” means and includes artwork, gold and other precious metals, firearms, coin collections, and other types of collectibles (figurines, models, trading cards, etc.)
 - (i) “Household Goods” means furniture, antiques, prints and wall hangings, appliances, electronics, linens, books, china, silver, crystal, kitchen utensils and cookware, outdoor furniture, sporting goods, tools, lawn and garden equipment, and all other items of personal property in or about the residence and/or office used by one or both of the parties.
 - (j) “Retirement Benefits” means all vested benefits under qualified and non-qualified retirement plans, including pension plans, IRA accounts, 401(k) plans, profit sharing plans, deferred compensation plans, and ESOPs.
 - (k) “Business Interests” means all ownership interests in closely-held business entities, such as corporations, partnerships, limited liability companies, etc.

- (l) "Disposition" means and refers to assets which have been sold, transferred, given away, consumed, or exchanged for other property. It includes withdrawal of funds from accounts, cashing in life insurance policies, rollovers or distributions of retirement benefits, and obtaining loans against assets.
7. **DISCLOSURE OF DOCUMENTS.** You are required to serve on the opposing party with your Affidavit copies of the following documents, to the extent they are in your possession or under your control. **DO NOT ATTACH THESE DOCUMENTS TO THE ORIGINAL AFFIDAVIT WHICH IS FILED WITH THE COURT.** In Part VI, you must list the documents you are providing.
- (a) **REAL ESTATE:**
 - (i) Deeds
 - (ii) Promissory Notes
 - (iii) Deeds of Trust
 - (iv) Amortization Schedules
 - (v) Statements showing mortgage balance on DOS
 - (vi) Appraisals
 - (b) **TRANSPORTATION**
 - (i) Certificates of Title
 - (ii) Notes or other Loan Documents (If money owed on vehicle on DOS)
 - (iii) Statements showing loan balance on DOS (If money owed on DOS)
 - (c) **ACCOUNTS** - Statements for the periods of time closest to DOS (both before and after)
 - (d) **LIFE INSURANCE POLICIES** - Annual Statement of Policy Value for periods of time closest to DOS (both before and after)
 - (e) **RETIREMENT BENEFITS** - Statements for periods of time closest to DOS (both before and after)
 - (f) **DEBT** - Statements for periods of time closest to DOS (both before and after)

SUMMARY

NOTE: This page is a summary of the values given in the rest of the Affidavit. Complete this page after the rest of the Affidavit has been completed.

PART I - MARITAL PROPERTY

Schedule/Category	DOS Net FMV
A. Real Estate	
B. Transportation	
C. Accounts	
D. Other Investments Held by Owner	
E. Jewelry	
F. Collections	
G. Household Goods	
H. Retirement Benefits	
I. Life Insurance Policies	
J. Business Interests	
K. Active Increase in Separate Property	
L. Other Items	
TOTAL NET FMV	

PART II - DIVISIBLE PROPERTY

CATEGORY	
TOTAL NET FMV	

PART III
SEPARATE PROPERTY

CATEGORY	
1. Husband's separate property - TOTAL NET FMV	
2. Wife's separate property - TOTAL NET FMV	

PART IV
DEBT

CATEGORY	
1. Total marital debt	
2. Total non-marital debt	

**PART I
MARITAL PROPERTY
SCHEDULE A**

REAL ESTATE

DESCRIPTION OF PROPERTY	DOS FMV	DOS LOAN BALANCE	DOS NET VALUE	WHO HAS POSSN (H OR W)	PROPOSED DISTRIB. (H OR W)
1.					
2.					
3.					
4.					

SCHEDULE B
TRANSPORTATION

DESCRIPTION OF PROPERTY (YEAR/MAKE/MODEL)	DOS FMV	DOS LOAN BAL.	DOS NET VALUE	WHO HAS POSSN (H OR W)	PROPOSED DISTRIB. (H OR W)
1.					
2.					
3.					
4.					

SCHEDULE C
ACCOUNTS

DESCRIPTION OF PROPERTY (Institution, Type Account, Account No., Etc.)	DOS NET FMV	OWNER (H, W, OR JT)	PROPOSED DISTRIB. (H OR W)
1.			
2.			
3.			
4.			
5.			
6.			
7.			

SCHEDULE D
STOCKS, BONDS, OTHER INVESTMENTS HELD BY OWNER

DESCRIPTION OF PROPERTY (Stock: Name of Company, number of shares, value per share) (Bonds: Name of Issuing Company, Face Amount, Maturity Date)	DOS NET FMV	OWNER (H, W, OR JT)	PROPOSED DISTRIB. (H OR W)
1.			
2.			
3.			
4.			
5.			
6.			

SCHEDULE E
JEWELRY

DESCRIPTION OF PROPERTY	DOS NET FMV	WHO HAS POSSN (H OR W)	PROPOSED DISTRIB. (H OR W)
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

**SCHEDULE F
COLLECTIONS**

DESCRIPTION OF PROPERTY	DOS NET FMV	WHO HAS POSSN (H OR W)	PROPOSED DISTRIB. (H OR W)
1.			
2.			
3.			
4.			
5.			
6.			
7.			

**SCHEDULE G
HOUSEHOLD GOODS**

DESCRIPTION OF PROPERTY	DOS NET FMV	WHO HAS POSSN (H OR W)	PROPOSED DISTRIB. (H OR W)
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			
16.			
17.			
18.			
19.			
20.			
21.			
22.			
23.			

**SCHEDULE G
HOUSEHOLD GOODS**

DESCRIPTION OF PROPERTY	DOS NET FMV	WHO HAS POSSN (H OR W)	PROPOSED DISTRIB. (H OR W)
24.			
25.			
26.			
27.			
28.			
29.			
30.			
31.			
32.			
33.			
34.			
35.			
36.			
37.			
38.			
39.			
40.			
41.			
42.			
43.			
44.			
45.			

ALTERNATIVE SCHEDULE G**IN LIEU OF LISTING HOUSEHOLD GOODS, I WARRANT AS FOLLOWS
(MARK ONE OF THE FOLLOWING):**

- _____ 1. BOTH PARTIES HAVE CONFERRED AND AGREED TO OBTAIN A NON-BINDING APPRAISAL OF ALL HOUSEHOLD GOODS, WITHIN 30 DAYS OF THE INITIAL PRETRIAL CONFERENCE. THE CHOICE OF APPRAISER AND ALLOCATION OR COST HAVE BEEN AGREED BETWEEN THE PARTIES.
- _____ 2. SAME AS 1, EXCEPT THAT THE FOLLOWING ISSUE(S) ARE SUBMITTED FOR THE COURT TO DECIDE AT THE INITIAL PRETRIAL CONFERENCE:
- _____ A. CHOICE OF APPRAISER
- _____ B.. WHO SHOULD PAY HOW MUCH OF THE APPRAISER'S FEE
- _____ 3. BOTH PARTIES HAVE AGREED TO PARTICIPATE IN A BINDING AUCTION OF HOUSEHOLD GOODS WITHIN 30 DAYS OF THE INITIAL PRETRIAL CONFERENCE, WITH EACH ITEM BEING DISTRIBUTED TO THE HIGHER BIDDER, PER THE ATTACHED PROCEDURE OR OTHER PROCEDURE SET FORTH IN A SEPARATE STIPULATION.
- _____ 4. ALL HOUSEHOLD GOODS HAVE BEEN PREVIOUSLY DIVIDED TO MY SATISFACTION AND NO VALUES FOR HOUSEHOLD GOODS SHALL BE INCLUDED, IN EITHER MY SHARE OR MY SPOUSE'S SHARE, FOR PURPOSES OF EQUITABLE DISTRIBUTION.
- _____ 5. I WILL ACCEPT WHATEVER MY SPOUSE LISTS FOR HOUSEHOLD GOODS, THEIR VALUE, AND DISTRIBUTION.

AUCTIONS OF HOUSEHOLD GOODS

If the parties to an Equitable Distribution proceeding agree to participate in a binding auction instead of listing their household goods on their Equitable Distribution Affidavits, the following rules shall apply unless the parties enter into a written stipulation regarding a different procedure to be followed:

- (1) The auction shall occur within thirty (30) days of the date scheduled for the Initial Pretrial Conference.
- (2) The parties shall jointly prepare a list of all items of household goods to be auctioned. To the extent possible, items shall be listed by their location in the former marital residence. If a party claims that an item is separate property, such contention shall be noted on the list. If the parties dispute the existence of the item of property, the dispute shall be noted on the list.
- (3) Both parties must attend the auction. If a party is represented by an attorney, the attorney or a representative of the attorney (e.g., a paralegal) must attend the auction.
- (4) The auction shall begin with the first item on the list, and shall proceed in the order in which items have been listed.
- (5) The parties shall flip a coin to determine which party is to have the first bid on the first item on the list. Thereafter, the first bid shall be rotated on each successive item.
- (6) All bids after the initial bid must increase by at least \$10.00 on each item on which the initial bid is less than \$100.00, and by \$25.00 on each item on which the initial bid is at least \$100.00.
- (7) There shall be a 30-second time limit for making a bid. Failure to bid within the time limit results in an allocation of the item to the other party at the previous bid.
- (8) When there are no more bids on an item, the item shall be deemed to have been “purchased” by and distributed to the party making the last and highest bid, at a net fair market value equal to the amount of such bid.
- (9) The list of household goods shall contain a column for each party, and as items are bid off, the amount of the last and highest bid shall be recorded in the column of the party making such bid.
- (10) This auction process shall determine the net fair market value of each item of property as of the date of separation, and shall determine the party to whom the item of property is to be distributed.
- (11) If there are disputes as to whether items of property are separate property or marital property, the Court shall resolve such disputes at trial.
- (12) If there are disputes as to whether all items of marital property have been identified and listed, the Court shall resolve such disputes at trial and, if necessary, value and distribute items of marital property which are not contained on the list used in the auction process. In addition, if there is no bid on an item which is included on the list of household goods, the Court shall value and distribute the item, unless the parties agree otherwise.

**(13) SCHEDULE H
RETIREMENT BENEFITS**

**PLANS WITH ACCOUNT BALANCES
(IRA Accounts and Defined Contribution Plans such as:
401(k) Plans, Profit-Sharing Plans, and Retirement Savings Plans)**

DESCRIPTION OF ASSET (Including Name of Plan, Type of Plan, and Account No.)	DOS NET FMV	PROPOSED DISTRIB. (H OR W)
1.		
2.		
3.		
4.		

**PLANS WITH MONTHLY OR OTHER PAYMENTS
(Pension Plans and Other Defined Benefit Plans)**

DESCRIPTION	DOS NET VALUE	PROPOSED DISTRIB. (H OR W)
1. First Plan: Participant (H or W): • Name of Plan: _____ • Date of birth: _____ • Date employment began: __ • Date participation began: __ • Is participant still participating: _____ • If not, date participation ended: _____ • Total accrued benefit as of DOS: \$ _____ per _____ (month, week, etc.)		
2. Second Plan: Participant (H or W): • Name of Plan: _____ • Date of birth: _____ • Date employment began: __ • Date participation began: __ • Is participant still participating: _____ • If not, date participation ended: _____ • Total accrued benefit as of DOS: \$ _____ per _____ (month, week, etc.)		

SCHEDULE I
LIFE INSURANCE POLICIES (WITH CASH VALUE)

DESCRIPTION (Company, Policy No., Face Amount)	DOS NET CASH VALUE	POLICY OWNER (H OR W)	PROPOSED DISTRIB. (H OR W)
1.			
2.			
3.			
4.			
5.			
6.			

SCHEDULE J
BUSINESS INTERESTS

DESCRIPTION OF PROPERTY (Name of Business, Type of Business Organization, i.e, Whether Partnership, Corporation, etc.)	AMOUNT OR PERCENTAGE OF OWNERSHIP	DOS NET FMV	OWNER (H, W, OR JT.)	PROPOSED DISTRIB. (H OR W)
1.				
2.				
3.				
4.				

SCHEDULE K
ACTIVE INCREASE IN VALUE OF SEPARATE PROPERTY

DESCRIPTION OF PROPERTY AND OWNER	NATURE OF CONTRIBUTION TO INCREASE IN VALUE (MONETARY OR LABOR)	NET FMV DOM OR DATE OF ACQUISITION	NET FMV DOS	AMOUNT OF ACTIVE INCREASE IN VALUE
1.				
2.				
3.				

SCHEDULE L
OTHER ITEMS NOT LISTED ABOVE
(Panther PSLs, Tax Refunds, Security Deposits, Frequent Flyer Miles, etc.)

DESCRIPTION	DOS NET FMV	WHO HAS POSSN (H OR W)	PROPOSED DISTRIB. (H OR W)
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

PART II

DIVISIBLE PROPERTY

- a. All appreciation and diminution in value of marital property and divisible property of the parties occurring after the date of separation and prior to the date of distribution, except that appreciation or diminution in value which is the result of post-separation actions or activities of a spouse shall not be treated as divisible property.

DESCRIPTION OF ITEM AND SUMMARY OF CONTENTIONS	NET VALUE AT PRESENT	PROPOSED DISTRIB. (H OR W)
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		

- b. All property, property rights, or any portion thereof received after the date of separation but before the date of distribution that was acquired as a result of the efforts of either spouse during the marriage and before the date of separation, including, but not limited to, commissions, bonuses, and contractual rights.

DESCRIPTION OF ITEM AND SUMMARY OF CONTENTIONS	NET VALUE AT PRESENT	PROPOSED DISTRIB. (H OR W)
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		

c. Passive income from marital property received after the date of separation, including, but not limited to, interest and dividends.

DESCRIPTION OF ITEM AND SUMMARY OF CONTENTIONS	NET VALUE AT PRESENT	PROPOSED DISTRIB. (H OR W)
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		

d. Increases in marital debt and financing charges and interest related to marital debt.

DESCRIPTION OF ITEM AND SUMMARY OF CONTENTIONS	NET VALUE AT PRESENT	PROPOSED DISTRIB. (H OR W)
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		

TOTAL NET VALUE OF ALL DIVISIBLE PROPERTY \$ _____

["a" plus "b" plus "c" minus "d"]

PART III

SEPARATE PROPERTY

DESCRIPTION OF ASSET	OWNER AND DOS NET VALUE		WHO HAS POSSN (H OR W)
	HUSBAND	WIFE	
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			

PART IV

DEBTS

DEBT (NAME OF CREDITOR AND ACCT. NO., AND, IF DEBT IS SECURED, THE COLLATERAL)	DOS AMT. OWED	DEBTOR (H OR W OR JT)	CLASSIFICATION		POST-SEPARATION PAYMENTS		PROPOSED DISTRIB. (H OR W)
			MARITAL AMOUNT	NON-MARITAL AMOUNT	BY HUSBAND	BY WIFE	
1.							
2.							
3.							
4.							
5.							
6.							
7.							

PART V

POST-SEPARATION DISPOSITION OF PROPERTY

ITEM OF PROPERTY	Date of Disposition	Type of Disposition	Amount of Benefit to Each Party	
			to Husband	to Wife
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				

PART VI
DISCLOSURE OF DOCUMENTS

I have provided the opposing party copies of the documents listed below:

PART VII
DISTRIBUTIONAL FACTORS

Instructions:

- **Complete this Part VII ONLY if you want an unequal distribution.**
- **Mark all factors which you believe are applicable and entitle you to an unequal distribution.**
- **Summarize the factual basis for your contentions about each factor which you check.**

FACTORS	Mark "X" IF APPLIES	CONTENTIONS
1. The income, property, and liabilities of each party at the time the division of property is to become effective;		
2. Any obligation for support arising out of a prior marriage;		
3. The duration of the marriage and the age and physical and mental health of both parties;		
4. The need of a parent with custody of a child or children of the marriage to occupy or own the marital residence and to use or own its household effects;		
5. The expectation of nonvested pension, retirement, or other deferred compensation rights, which is separate property;		
6. Any equitable claim to, interest in, or contribution made to the acquisition of marital property by the party not having title, including efforts, expenditures, contributions, and services, or lack thereof, as a spouse, parent, wage earner or homemaker;		
7. Any direct contribution made by one spouse to help education or develop the career potential of the other spouse;		

FACTORS	Mark "X" IF APPLIES	CONTENTIONS
8. Any direct contribution to an increase in value of separate property which occurs during the course of the marriage;		
9. The liquid or nonliquid character of the marital property;		
10. The difficulty of evaluating any component asset or interest in a business or profession, and the economic desirability of retaining such asset or interest intact and free from any claim or interference by the other party;		
11. The tax consequences to each party;		
11a. Acts of either party to maintain, preserve, develop, or expand, or to waste, neglect, devalue or convert such marital property, after separation of the parties and before the time of distribution; and		
12. Any other factor, which the court finds to be just, and proper.		

SCHEDULE M

**YOUR GROSS INCOME AT PRESENT TIME
(MONTHLY AVERAGE)**

TYPE OF INCOME	GROSS AMOUNT
Salary and Wages	
Bonuses and Commissions	
Retirement/Social Security	
Disability/Workers Comp.	
Rents	
Dividends and Interest	
Profit from Business	
Other (list):	
TOTAL	

SCHEDULE N

YOUR DEBTS AND LIABILITIES AT PRESENT TIME

Name of Creditor and Account No.	Balance Owed
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	

SCHEDULE O

**PROPERTY ACQUIRED AFTER DATE OF SEPARATION
(Having Value of \$500.00 or More)**

ITEM OF PROPERTY	COST	NET VALUE AT PRESENT
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		

CERTIFICATE OF SERVICE

I certify that on this date I served a copy of this **EQUITABLE DISTRIBUTION AFFIDAVIT** upon the opposing party by:

[check one]

_____ hand delivery to opposing party or that party’s counsel (by leaving it at the attorney’s office with a partner or employee) at the address shown below;

_____ depositing it in the exclusive care and custody of the United States Postal Service with sufficient first-class postage affixed thereto and addressed to the person(s) at the address shown below:

This _____ day of _____, 20_____.

Party/Attorney