

# FINANCIAL AFFIDAVITS

By K. Dean Kantaras and Jennifer H. Cavill

In most family law matters, parties are required to prepare, file and serve on the other party a Financial Affidavit. The Financial Affidavit is a sworn document which details all of a party's monthly gross income, monthly deductions, monthly net income, monthly expenses, and assets and liabilities. If a party earns under \$50,000.00, he or she can complete the short form Financial Affidavit. However, if a party's individual income is above \$50,000.00 per year, he or she is required to complete the standard Financial Affidavit. Financial Affidavits are required in all family law cases involving requests for permanent financial relief. The only circumstances in which a Financial Affidavit is not required are when no financial relief is requested, such as alimony, child support, attorney's fees etc.; when a petition for a simplified dissolution of marriage is filed, there are no minor children, and both parties have waived the Financial Affidavit requirement; or when there are no minor children, there are no support issues and all other financial issues, such as equitable distribution, have been resolved by written agreement filed with the Court.

Financial Affidavits are valuable and necessary documents, since they provide the Court with a snapshot of each party's current financial situation. In fact, Florida Family Law Rule of Procedure 12.285 makes the filing of Financial Affidavits a mandatory requirement. In order for the Court to grant a request for alimony and/or attorney's fees, the Court must first make findings of the requesting party's need for alimony and/or attorney's fees and the payor's ability to pay. Need and ability to pay are based upon the parties' net incomes. Child support is also calculated within the child support guidelines based upon the parties' net incomes. The Court must determine the parties' respective net incomes by finding the parties' gross incomes and subtracting the allowable deductions. The Court cannot make such



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findings unless the parties present relevant evidence for same. This is where the family law Financial Affidavit should provide clear numbers required for each finding.

Financial Affidavits also provide a quick reference for all of a party's assets and liabilities and the value of each. It is imperative to receive a Financial Affidavit and related financial documents prior to attending mediation or attempting to otherwise reach a settlement, to ensure you have all the necessary information to make an informed decision in the matter.

Considering the importance of Financial Affidavits in matters involving permanent financial relief, the filing of a false Financial Affidavit may result in numerous negative outcomes including, but not limited to, sanctions from the Court, the fraudulent party may be ordered to pay the other party's attorney's fees, and/or any Final Judgment entered in reliance on a false Financial Affidavit may be subject to being set aside. Furthermore, there is no time

limit to request a Final Judgment be set aside due to a false Financial Affidavit. However, inadvertent failure to include information on a Financial Affidavit can easily be remedied by filing an Amended Financial Affidavit and providing the backup documentation as required by Florida Family Law Rule 12.285.

Credibility with the Court is of the utmost importance. Financial Affidavits are an important tool since they provide a current financial snapshot of a party's current circumstances. However, credibility with the Court can easily and quickly be tarnished by the filing of incomplete, sloppy or misleading Financial Affidavits. Therefore, it is necessary to ensure that your Financial Affidavit is complete and accurate and updated whenever there is a change in financial circumstances. ■■■

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