

## **Instructions for the Financial Information Form**

You have asked our offices to assist you in mediating a property settlement agreement. This agreement is much like a contract that will be submitted to the court to be incorporated into the Decree of Dissolution. Unlike child support, alimony (if awarded in the original Decree), custody time and parenting time, which all can be modified subsequent to court Decree under proper circumstances, a property settlement agreement cannot be later modified by the court, only enforced. It is important when drafting the agreement that it addresses all debts and assets of the parties regardless if they are in joint or separate names. The court will look to the agreement when determining your rights and responsibilities regarding debts and assets. If a debt or asset is simply not addressed in the agreement, this may cause significant problems post-divorce.

We ask for detailed information in the financial information form so we can make sure that all debts and assets are identified and that we have enough specific information that there is no confusion or concerns regarding the identity of the debts and assets.

You and your spouse may want to complete the form jointly, if you are in agreement as to what are the debts and assets of the marriage and their values, as well as what are the non-marital debts and assets. Couples, who are in dispute over these issues, may choose to complete separate financial information forms. In this case, we will discuss where your differences are and work on how to reach a resolution on those matters. For example, if you and your spouse are deeply divided over the value of the marital home, we may discuss methods in determining the value so that issue can be resolved in mediation. If you and your spouse are in agreement on most issues as to their values and identification, we can simply fill out the same form and note your differences therein so we can discuss them in mediation.

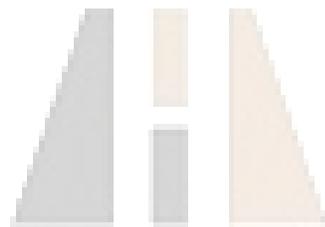
If you are unaware of certain debts or assets to the marriage and believe that your spouse has this information, you should identify that on the form as well, so we can discuss this at our mediation session. It is helpful to fill the form out as completely as possible, even noting the information you do not have, so we can work on problem solving these matters.

As you'll note, throughout the form we often suggest that you attach supporting documents to the form. We do this for several reasons. One reason is it often gives us identifying information about the debts and assets for purposes of drafting the agreement. Another reason is it provides information to share so that both parties have verification and a spouse who may not be very well informed of the financial situation, can proceed in mediation with greater assurance. If either party has any questions or concerns regarding the validity of the information in the form, that should be raised and addressed in mediation. We can then discuss what information needs to be obtained/disclosed so that both parties feel that they are fully informed of all the debts and assets to be addressed in the agreement.

Do note that the income information and the monthly living expense form do not need to be completed, unless alimony is an issue.

Often in the mediation process we will work out a spreadsheet of a proposed division of debts and assets to show the net value of the marital estate that each party will be receiving. Under the principle of equitable distribution, which the courts apply, debts and assets are to be divided “equitably” between the parties. That is not necessarily equally, but typically it is not much different. The spreadsheets are for illustration purposes, to assist you in thinking through possible resolutions of the divisions of debts and assets for your family. As you can see from the spreadsheet, typically we do not have the parties share debt obligations or assets post-divorce. To do so is quite challenging.

The division of debts and assets of a marriage, and determining what is marital and a non-marital can be complicated legal issues. As a mediator, I am not able to give you legal guidance and advice. I encourage you to seek counsel with an attorney. Parties without legal assistance should seek out guidance and advice through the available information on the internet and any other resources that are available to them. Many of our clients have found the book “Divorce in Nebraska” to be a helpful resource. We have several copies in our offices, and are happy to loan you a copy. We will charge your account \$15 to cover the cost of the book. If you return the book to our offices when your case is resolved, we will then credit your account for the same amount. Let Tracy or myself know if you would like a book.



Mary Kay Hansen  
Law & Mediation, PC LLO

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