Directions and Information for Form CAFC040

Statement of Property and Debt and Proposed Separation Agreement

1. Protect Yourself from Identity Theft

This document is placed in a court file, which is an open document available to the public. In listing your bank or other accounts, or your credit card or other debt, do not include the entire account number. You should include only enough information to distinguish your account from other accounts owned by you and your spouse. For example, in listing a credit card number, you should include only the last four digits of the account, such as xxxx-xxxx-xxxx-1234.

2. Do I have to file this form?

Yes. You must file Form CAFC040 with either your *Petition for Dissolution of Marriage* or your *Respondent's Answer to Petition for Dissolution of Marriage*, even if it is not signed by both parties. You should not file these directions with the court.

3. What does Form CAFC040 cover?

There are two parts to this document. Part One is your division of property and debt. You must list all of your marital and nonmarital property and marital debt on one of the four tables. Part Two pertains to spousal support or "maintenance" (formerly known as alimony). This document does not have anything to do with child support or custody. Issues addressing child support and custody are contained in a parenting plan.

4. Do we have to list our property even if we've already divided it?

Yes, all property and all debt must still be included on one of the tables.

5. What property should I list on this form?

All property and marital debt must be divided in a dissolution of marriage proceeding. Your dissolution of marriage may not be final unless this is done. This includes the following types of property and debt:

Real estate, motor vehicles, bank accounts, pension and retirement plans and profit sharing plans, stocks, bonds or other securities, life insurance, cash on hand, household goods, personal goods, trust interests, businesses or partnerships, debts owed to you or your spouse by others, any interests in pending litigation or suits to be filed, farm equipment, animals or crops, interests in contracts made and not performed, and any other assets.

6. Do I have to list property even if my spouse's name is not on it?

Yes, you must list all property owned by you alone, by your spouse alone, and by you and your spouse together. You must list property even if it is not in joint names. Any property in which either you or your spouse claim **any** interest whatsoever **must** be listed.

In many instances, you will not be able to sell your property or receive your retirement unless you prove that these items were listed in your *Judgment and Decree of Dissolution of Marriage*.

7. What is marital property?

§452.330, RSMo defines “marital property.” Usually marital property is property acquired by either spouse on or after the date of the marriage of the parties other than property acquired by gift, inheritance, or in exchange for nonmarital property. This means that all wages earned on or after the date of the marriage are marital property. All property owned by the parties is presumed to be marital property.

Nonmarital property can be converted to marital property by placing a spouse’s name on an account or title. Also, a marital interest can be acquired in nonmarital property by the contribution of marital assets to the increase in value of the nonmarital property. Finally, income from nonmarital property during the marriage of the parties is marital property.

8. What is nonmarital property?

“Nonmarital property” is property that was acquired prior to the marriage or property that was acquired on or after the date of the marriage by gift, inheritance, or in exchange for nonmarital property. Nonmarital property is sometimes also called “separate property.” Additionally, some state teacher retirement benefits are considered nonmarital. §169.572, RSMo.

9. Can property be marital and nonmarital?

Yes. If an item of property is partly marital and partly nonmarital, then it should be listed under both the marital and nonmarital sections. For example, if one party had earned pension benefits for five years prior to the marriage and continued to earn the same pension benefits for five years during the marriage, one-half or 50% of the pension and retirement benefits are marital and one-half or 50% are nonmarital. In that situation, the pension and retirement benefits would be listed both under marital and nonmarital property.

10. What is “fair market value?”

This is the amount someone would pay for this item of property today. It is not what the property cost when you purchased it. A ten-year-old automobile has a value far less than the amount you paid for the automobile.

11. Do I have to list property that either of us is buying at the present time?

Yes. You must list all property that either you or your spouse is purchasing by making monthly payments. So, even if you owe money on your car or home, it still must be listed. Actually, it must be listed twice: once as an item of property and once as a debt secured by the property.

12. Do I have to list property I owned before the marriage?

Yes. This is normally nonmarital property, but under some circumstances it may be considered marital property.

13. Do I have to list property my spouse owned before the marriage?

Yes. Just as you had to list property you owned before the marriage, you should also list property your spouse owned before the marriage. Once again, this is normally nonmarital property, but under some circumstances it may be considered marital property.

14. I don't know what my spouse owns so how can I list it?

You should hire a lawyer to assist you. A lawyer has the ability to assist you in locating the assets of your spouse.

15. Do I have to list property I acquired after we separated?

Yes. You are still married, so any property or debt that you have acquired since your separation has to be included.

16. What happens if I don't list all the property and marital debt?

Your dissolution of marriage may not be final, and your spouse will be able to come back in the future and try and get this item of property. You will not be able to receive your pension or sell your property without proof that your *Judgment and Decree of Dissolution of Marriage* listed the property.

17. Should I list my pension even though I can't receive any benefits now?

Yes. You must list all pension plans in which you or your spouse participate. They should be listed even if you can't receive any benefits for a long time.

18. Do I have to list every last dish and towel?

No. You do not need to list property if it is of minimal value. If the item of property is worth less than $100.00, you may omit it from your list.

19. What if I acquire some property or debt after I file my case?

If you acquire any additional property or debt during the time this case is pending, you must notify the court of that fact immediately.

20. What if I need more space on the tables?

You may make copies of any of the four tables if you need additional room for more property or debt. When you have listed all the property and debt, you should number the pages. Make sure you enter "Not Applicable" or "N/A" in each box under "Item of Property" or "Item of Debt" that you do not fill. This is very important because someone could alter this document after you have signed it.

21. What if I don't agree with my spouse's proposed separation agreement?

You must take appropriate actions to protect your interests. **Consult a lawyer**. Do not fail to respond if you have been served with these papers as the court may proceed without any further notice to you.