

To: Robertson + Easterling Clients and Potential Clients

From: M. Craig Robertson, Esq. and Matthew S. Easterling, Esq.

Re: How to Complete the 8.05 Financial Declaration

In Mississippi, every party to a domestic relations case where there are economic issues must provide a detailed statement of their assets, liabilities and income called an “8.05” after its Uniform Chancery Court Rule number. I recommend that you read the rule where you can also find the forms. http://courts.ms.gov/rules/msrulesofcourt/uniform_chancery_rules.pdf The long form is not being commonly used at this time, so I will spend time talking about each section of the short form which we have been using my entire career with little change. The key to properly completing the 8.05 is to be consistent and to use historical data wherever possible. In our office, we prefer for our clients to neatly complete the 8.05 by hand so that we can use their handwritten notations to put the document in our system for later review by one of our attorneys and you, before being edited and finalized. Not only is the 8.05 relevant for your current legal dispute, it will also be used as the baseline for future financial modifications, so spend as much time as it takes to make it as accurate as possible.

General Information

The general information section is relatively straightforward. You should use your current address. I would recommend that you only provide the last four digits of your social security number. While you will rarely see 8.05s filed these days, they are always put into evidence and they become a part of the record in your case. Also, while the statement only asks for the name of your “Minor Children”, I would recommend that you include the names of all of your children from all relationships if you provide financial support for them in any way.

Income Statement

The income statement creates a great deal of confusion for some people. If you have one job and you are given a W-2 at the end of the year, you can usually ascertain most of the information from the year-to-date portion of your most recent paycheck stub and by doing a little division. You should report your income only. If you are a stay home parent and you are not receiving an income, simply report your income as zero. If you are self-employed and/or your income varies greatly from month to month, you may need to use your last several years’ tax returns to create an average. A good snapshot of one’s income can be ascertained using the social security earnings statement periodically mailed to participants and available online. <http://www.socialsecurity.gov/mystatement/> This will usually not assist a person in completing the Income Statement on the 8.05, but it can certainly be used to show a snapshot of income over a long period of time –which is often useful to show income trends.

People often confuse the “Itemized Monthly Deductions” on the 8.05 as to how child support is computed. Essentially, the person obligated to pay child support can deduct the actual federal, state and local taxes, social security contributions and mandatory retirement and disability contributions. Usually, only government employees have mandatory retirement and disability contributions. The purpose of the Income Statement and calculation of New Monthly Pay on the 8.05 is to determine cash flow, not to calculate child support. If your income situation is overly complex, we may employ an accountant to help us with the Income Statement, but for most people this is not necessary. It is important to accurately report income. Your integrity is worth more than the little bit of money you may possibly save or gain by falsifying your 8.05.

Expense Statement

Probably the most important section of the 8.05 is the Expense Statement. The expense statement is where you report to the Court what you spend or what you need each month. While we want to report these expenditures accurately, most people will eventually have to adjust their budget if they are setting up or maintaining a separate household, although when completing the 8.05 is not the time to adjust one's budget. If expenses are more than your income, it is okay for now, although lifestyle changes are common after a family law dispute.

It is important for you to be able to reasonably substantiate an expenditure based on historical billing statements, bank statements, check registries or other means. With that said, for example, if your electricity bill usually runs around \$175 and you live in a 2500 square foot house, most reasonable people will not question the expenditure and it is okay to make an estimate. However, if your cellular telephone bill runs \$700 per month, you will need to be prepared to prove the expenditure with billing statements from your service provider with reasonable explanation for the extraordinary expense.

Many people are confused by the multiple columns on the 8.05 which are labeled "Self" and "Children." Remember, consistency and provability is the key to completing one's 8.05. In the new form, much of this was clarified with "Pre-Separation" and "Current" columns and by breaking out the monthly expenses for children in a more detailed fashion. If the new form is easier for you to complete than the old form, we can certainly use it. The columns labeled "As of _____" can be used to show the changes in "Pre-Separation" and "Current" expenses or in some cases, "Current" versus "Expected Future" expenses. In many cases, we only use one column and simply put the current date in the blank at the top.

In my opinion, when using the old form, it may be best to omit the column for "Children." However, in some instances it may make sense to use the column to highlight for the Chancellor or the other party why we may be requesting a deviation from the child support guidelines. We will need to use a consistent percentage for any fixed items that may vary based on the presence or absence of children, such as the expenditure for the mortgage, taxes, utilities, cable television, lawn and related items one would be consuming whether or not they have kids.

Finally, if you are married and the 8.05 is being completed as it relates to a dispute concerning a former marriage or relationship, it may be necessary to remove certain expenditures which exist because of your current marriage that are no direct benefit or responsibility for you. Your spouse's automobile is a good example of one such expenditure. Obviously, there will be items you and your new spouse share, and it is okay to list these things on your 8.05, possibly including a footnote that this expense is being shared. Again, consistency is the key to completing the 8.05.

The worksheet below will assist you in completing the Expense Statement section. All expenses must be stated on a monthly basis. If an expense is paid annually (i.e. property taxes), simply divide by 12. If an expense is paid weekly (i.e. child care) multiply by 4.3 to calculate the monthly average.

Rent and/or Mortgage Payments (residence – including vacation home)

Primary Residence

1st mortgage payment (balance \$ _____) _____
2nd mortgage payment (balance \$ _____) _____

Vacation Home

1st mortgage payment (balance \$ _____) _____
2nd mortgage payment (balance \$ _____) _____

TOTAL.....(to line 1) \$ _____

Real Property Taxes (residence; primary and secondary) (If separate)

Primary Residence

City real estate taxes..... _____
County real estate taxes _____
Other real estate taxes _____

Vacation Home

City real estate taxes..... _____
County real estate taxes _____
Other real estate taxes _____

TOTAL.....(to line 2) \$ _____

Real Property Insurance (residence; primary and secondary) (If separate)

Primary Residence

Homeowner's insurance _____
Renter's insurance _____
Flood, earthquake and other insurance _____

Vacation Home

Homeowner's insurance _____
Renter's insurance _____
Flood, earthquake and other insurance _____

TOTAL.....(to line 3) \$ _____

Maintenance (residence; primary and secondary)

Primary Residence

Ordinary maintenance, upkeep & repairs _____
Major repairs _____
Appliance repair & replacement _____
Furnishings & fixtures, repair & replacement (including small _____
appliances, cooking utensils, broken dishes/glasses)
Pool Maintenance _____
Window Cleaning _____
Decorating _____
Furniture _____

Fresh flowers/houseplants & care _____
Security _____
Contracts for servicing _____
Hardware store items (small tools, repair items, etc.) _____
Vacation Home
 Ordinary maintenance, upkeep & repairs _____
 Major repairs _____
 Appliance repair & replacement _____
 Furnishings & fixtures, repair & replacement (including small _____
 appliances, cooking utensils, broken dishes/glasses)
 Pool Maintenance _____
 Window Cleaning _____
 Decorating _____
 Furniture _____
 Fresh flowers/houseplants & care _____
 Security _____
 Contracts for servicing _____
 Hardware store items (small tools, repair items, etc.) _____

TOTAL.....(to line 4) \$ _____

Food and Household Supplies

Food products _____
Beverages _____
Paper goods _____
Household & cleaning supplies (not including "laundry & cleaning" category) _____

TOTAL.....(to line 5) \$ _____

Utilities & Telephone

Water and sewer (including tap charge if applicable)
 Primary residence _____
 Secondary residence _____

TOTAL.....(to line 6) \$ _____

Electricity

 Primary residence _____
 Secondary residence _____

TOTAL.....(to line 7) \$ _____

Gas

 Primary residence _____
 Secondary residence _____

TOTAL.....(to line 8) \$ _____

Telephone

Cellular telephone..... _____
Primary residence (basic service including long distance charges) _____
Secondary residence (basic service including long distance charges)..... _____

TOTAL.....(to line 9) \$ _____

Cable television

Primary residence _____
Secondary residence _____

TOTAL.....(to line 9a) \$ _____

Laundry and Cleaning

Laundry supplies (not included in "Food & Household Supplies") _____
Dry cleaning (include clothing, draperies, winter coats, fur storage)..... _____
Uniform service..... _____

TOTAL.....(to line 10) \$ _____

Clothing (Determine average monthly expenses whether or not paid for by cash, credit or credit card, being sure to include Christmas and back to school)

Yourself _____
Children..... _____

TOTAL.....(to line 11) \$ _____

Insurance (not including real estate and auto insurance)

Life..... _____
Health/hospitalization (portion attributable to children is \$ _____) _____
Dental..... _____
Accident _____
Disability..... _____
Other _____

TOTAL.....(to line 12) \$ _____

Medical (not paid by insurance)

Co-pays..... _____
Prescription drugs _____
Vitamins/nonprescription drugs..... _____
Outstanding Dr. bills requiring monthly payments (divide balance by 12) _____
Anticipated Dr. bills..... _____
Corrective lenses/contacts _____
Counseling, psychologist, psychiatrist, etc

TOTAL.....(to line 13) \$ _____

Dental (not paid by insurance)

Regular office visits and cleaning (not covered by insurance) _____
Anticipated extensive dental work _____
Orthodontics _____
Other (specify) _____

TOTAL..... (to line 14) \$ _____

Child care (not provided by employer)

Babysitting _____
In-home care _____
Daycare _____
After school care _____
Diaper service _____

TOTAL..... (to line 15) \$ _____

Children's Allowance..... (to line 16) \$ _____

Payment of Child Support and/or Spousal Support

This marriage: Child support..... _____
Spousal support _____

Prior marriage: Child support..... _____
Spousal support _____

TOTAL..... (to line 17) \$ _____

School expenses

Kindergarten fees..... _____
Private school tuition _____
Building fund fees _____
Other school fees _____
Books and supplies..... _____
School lunches _____
School bus _____
School insurance _____
Uniforms _____
School activities (field trips, band, sports, gifts for children and teachers,
photographs, annual, locker rentals, etc.)..... _____
Summer camps _____
College expenses.....
 Tuition..... _____
 Allowance..... _____
 Room and board _____

Travel to and from college _____
Books _____
Registration fees _____
Apartment expense _____
Other (specify) _____

TOTAL (divide by 12 for monthly amount) (to line 18) \$ _____

Entertainment

Vacations and trips (including hotel and travel accommodations) _____
Unreimbursed business entertainment _____
Social obligations/recreation (including clubs/fraternal organizations) _____
Dinner parties _____
Meals out of home _____
Movies/plays/cultural and sports events _____
Hobbies/sports _____
Boats, trailers and other recreational vehicles _____
Personal property taxes on boats and other vehicles _____

TOTAL..... (to line 19) \$ _____

Incidentals

Beauty/barber _____
Cosmetics _____
Cigarettes _____
Stationary _____
Film and camera supplies _____
Jewelry _____
Gifts (birthday, graduation, wedding, baby, etc.) _____
Bank service fees and check charges _____
Safety deposit box rent _____
Post Office Box rental _____
Accounting fees & tax return preparation _____
Other (specify) _____

TOTAL..... (to line 20) \$ _____

Transportation other than vehicle

Parking & tolls _____
Public transportation _____
Auto club dues _____
Other (specify) _____

TOTAL..... (to line 21) \$ _____

Auto gasoline & oil (to line 22) \$ _____

Auto repairs, tuning, tire replacement, & other maintenance (to line 23) \$ _____

Auto insurance (to line 24) \$ _____

Auto registration & inspection (car tag & inspection fees) (to line 25) \$ _____

Auto payments

<u>Owed To</u>	<u>Balance</u>	<u>Monthly Payment</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
TOTAL.....		(to line 26) \$ _____

Church and Charitable Donations (to line 27) \$ _____

Subscriptions

Magazines	_____
Newspaper	_____
TOTAL.....	(to line 28) \$ _____

Pet Expenses

Pet food.....	_____
Grooming	_____
Shots	_____
Checkups.....	_____
Other (specify) _____	_____
TOTAL.....	(to line 29) \$ _____

Yard Expenses

Yard service	_____
Fuel/oil for law equipment	_____
Fertilizers.....	_____
Plants/shrubs	_____
Other (specify) _____	_____
TOTAL.....	(to line 30) \$ _____

Maid Service (to line 31) \$ _____

Retirement Contributions (other than withheld from paycheck)..... (to line 32) \$ _____

Pest Control..... (to line 33) \$ _____

****Please make sure that all amounts are MONTHLY amounts.****

Statement of Assets

The Statement of Assets is critical in divorce cases, but it is not as important in post-divorce modification cases and other situations wherein the Court will not be making a division of assets. If the Court will not be making a division of assets and the item does not represent a relevant expense or an income source, it may be okay to simply list a description of the item and write the phrase "Not at Issue" where details are requested. If you do not know what an asset is worth, it is not a good idea to speculate. You can make an educated guess as to the value of an asset if you have a reasonable basis to support your estimation, but if you do not know, simply put "Unknown." A reasonable estimation can be based upon a current appraisal or on the purchase price if the item was recently purchased. For motor vehicles, values can easily be obtained online at <http://www.kbb.com/> or <http://www.edmunds.com/> or <http://www.nadaguides.com/>. Be consistent when describing the condition of the vehicles and print the final results. Expensive lawn equipment, golf carts, ATVs, boats, jet skis and other big ticket items can be listed under "Other Personal Property." In a divorce case, the value of an asset is the "fair market value"—what a reasonable price would be if both buyer and seller were fully informed and neither was under pressure to buy or sell. It is important to list all assets, whether or not you believe the item is marital property. Outstanding balances for real estate, motor vehicles and other financed items should be taken from the most recent account statements, if available. If recent account statements are not available, put "Unknown" before you make an uneducated guess.

I recommend listing household items on a separate sheet of paper and including the phrase "List to Be Provided" under personal property on the 8.05. While artwork, antiques, jewelry and certain items of personal property do hold their value or appreciate, most regular household items do not. It is a mistake to list items of household goods and write the purchase price. Often times, simply making an inventory of items of personal property will suffice. If your personal property is so valuable that we will need a more precise valuation, we can retain a professional to complete it for us.

For checking and savings accounts, use your most recent statement to determine balances. We obviously want to know about all accounts, but for the purposes of your 8.05, only list those that are at least jointly in your name. For accounts that are used for household expenditures or have balances that greatly vary throughout the month, put "Varies" where the form asks for the account balance. For Investment accounts, use the most recent statement available, because market prices can change from day to day. If your account is extremely volatile, you may want to access your account online to get the most precise balance available. There is also a space to list details about life insurance. The face amount means the payment upon death and the "cash value" means the amount one could cash out –these are not the same thing.

Finally, use the "All Other Assets" to list other valuable assets that are not listed in other places, such as business interests, cash on hand and other items not specifically requested in the old 8.05 form. Again, if you do not have a good way to estimate the value of an asset, it is best to simply state "Unknown."

Liabilities

The liabilities section of the 8.05 has some redundant information because you list monthly payments on this section of the 8.05 as well as under the Expense Statement. It is important to use your account statements to list the current balance due.

Acknowledgement of Truthfulness and Final Thoughts

The Acknowledgement of Truthfulness is where you are executing your 8.05 declaring that it is true and correct. There is no reason to sign your draft 8.05. You will be presented with a final copy of the document after it has been reviewed by one of our attorneys and edited. When we do provide the document to the opposing party or counsel, an attorney in our office will execute the Certificate of Compliance which is located on the following page. We will also need to report your employment history and a copy of your most recent Federal and State Tax Returns in full form as filed for the most recent tax year to which you have a statement.

We are hopeful that this Memorandum will be a good starting point as you are working through the process of completing your 8.05. If you have any questions about this or any other aspect of your case, please contact someone from our office and we will get you back on the right track.