

## EQUITABLE DISTRIBUTION AFFIDAVIT INSTRUCTIONS

Filling out the Equitable Distribution Affidavit is a very important part of your case. Making a mistake can really cause problems.

The law of Equitable Distribution is printed in the North Carolina General Statutes, Chapter 50, sections 50-20 and 50-21. There are also cases that have been decided that interpret the statutes. In addition, this county's judges go by Rules called the Twenty-Second Judicial District Rules of District Civil Court. A copy of those Rules can be found in your county's Clerk of Superior Court's office. Many times, getting a legal opinion can be helpful.

On the attached Short Forms, fill in the County that your lawsuit is filed in and then the File Number that the Clerk of Court has given to your case. Next, fill in the names of the Plaintiff and the Defendant in the space provided on the Form 22I/22S. Below each name, put your Social Security number and your spouse's Social Security number in the space beside "SSN." [These are the only things that the Clerk is authorized to help you with -- you are on your own for the rest of the form].

If you are only filing the Short Forms, check off the boxes beside **both Equitable Distribution Inventory Affidavit** [Form 22I] and **Short Form Equitable Distribution Affidavit** [Form 22S]. If you are filling out the Long Form Affidavit, check only the box beside **Equitable Distribution Inventory Affidavit** [Form 22I].

In the blank beside **Date of Separation**, put the last day that you and your spouse lived together as husband and wife.

Then, fill out the Columns as indicated by the Column letter and title, as follows:

1. **No.** "No." stands for "Number". Number the assets down the page. Since both sides use the same numbers, this makes it easier for the judge to find assets.
2. **Description of Asset or Name of Creditor.** List everything you owned as of the date of the separation., but be reasonable about details. List all the items, vehicles, bank accounts, debts, insurance cash values, pension plans, and other assets. Write the description clearly enough so that someone who doesn't know you will know what you're talking about. For example, if it's a car, what year and model? If it's a sofa, what room was it in? If it's a debt, who do you owe (who is the "creditor")?
3. **M/S** Is the item "Marital" or "Separate" property? Sometimes, this can be a hard question requiring a legal opinion.

Generally, the property that you got while you were married and living together is Marital. So usually if the item or debt was acquired while you were married and before you separated, you would put an **M** (for "Marital").

Property that you had prior to marriage is "Separate" and gets an **S**. Property that you acquired by gift from someone other than your spouse or by inheritance is generally Separate as well.

If you have questions, getting legal advice is frequently advisable.

4. **FMV** stands for Fair Market Value. What was the item worth on the day you separated? (*Not its value today, not the value on the day you got your divorce, but*

*the value on the day you separated).*

On some assets, such as houses, business interests, and pension plans, it is good to have an appraisal done if there is a dispute about value.

5. **Debt/Lien** How much was owing as of the day (or month) you separated? Where the debt is secured by a particular asset, list the debt beside the asset. Statements from your lender (or "creditor") usually show this "payoff" or "balance" amount.

Some debts, such as credit cards, are unsecured and should be listed on a separate line. For that, list the creditor under the **Description** column, put a zero in the **FMV** column, and the amount you owed under the **Debt/Lien** column.

6. **Net FMV** Simply subtract **Debt/Lien** from **FMV** for this. Some people call this the "equity" that a thing, such as a house, has.
7. **To H/W**. Which person, the **H**usband or the **W**ife, should the court give the item or debt to? Put an **H** or **W** in this column according to who you want to get the item or the debt.

NORTH CAROLINA  
\_\_\_\_\_ COUNTY

GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
FILE NO. \_\_\_\_\_

**Party Filing Affidavit:**

\_\_\_\_\_  
SSN: \_\_\_\_\_  
Plaintiff

Plaintiff       Wife  
 Defendant     Husband

\_\_\_\_\_  
**Equitable Distribution Inventory Affidavit**  
[Form 22I]

\_\_\_\_\_  
SSN: \_\_\_\_\_  
Defendant

**Short Form Equitable Distribution Affidavit**  
[Form 22S]

**Date of Separation:** \_\_\_\_\_

The undersigned party, pursuant to 22 Local Rule \_\_\_\_\_, deposes and says that the following items constitute all property claimed by the party to be marital property and all property claimed by the party to be separate property, the estimated date-of-separation fair market value and applicable debt or lien of each item of marital and separate property, and the proposed distribution of each:

No.	Description of Asset or Name of Creditor	M/S	FMV	Debt/Lien	Net FMV	To H/W
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						

No.	Description of Asset or Name of Creditor	M/S	FMV	Debt/Lien	Net FMV	To H/W
14						
15						
16						
17						
18						
19						
20						
21						
22						
23						
24						
25						
<b>TOTALS</b>						

(If applicable) The parties have more than 25 assets which are shown on the attached pages.

The undersigned party contends that an equal division would be    would not be (check one) equitable. Attached to this Affidavit are the undersigned party's contentions as to why an unequal division would be equitable, if so contended (attach a page showing why you should get more than one half of the marital assets if you think that would be equitable).

\_\_\_\_\_ (Signature)  
 Name (Typed or Neatly Printed)

Sworn to and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
 Notary Public  
 My Commission Expires:\_\_\_\_\_

**CERTIFICATE OF SERVICE**

I certify that service of the foregoing Affidavit was made upon the opposing party by deposit of a true copy of same in the United States Mail, postage prepaid, addressed to the opposing party or to the opposing party's attorney of record, to wit:

\_\_\_\_\_

*(Name)*

\_\_\_\_\_

*(Street Address or PO Box)*

\_\_\_\_\_

*(City, State, Zip)*

This the \_\_\_\_ *(day)* of \_\_\_\_\_ *(month)*, 2\_\_\_\_.

\_\_\_\_\_ *(Signature)*

Typed Name of Party Whose Affidavit is Being Sent to the Opposing Party or Attorney

\_\_\_\_\_

Street or PO Box

\_\_\_\_\_

City, State, Zip

Additional Page \_\_\_\_ of \_\_\_\_ (total pages)

No.	Description of Asset or Name of Creditor	M/S	FMV	Debt/Lien	Net FMV	To H/W
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
	<b>TOTALS</b>					

NORTH CAROLINA  
\_\_\_\_\_ COUNTY

GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
FILE NO. \_\_\_\_\_

\_\_\_\_\_  
Plaintiff

**Short Form Pretrial Order**  
[Form 22PTS]

\_\_\_\_\_  
Defendant

**THIS MATTER COMING ON TO BE HEARD** upon pre-trial conference before the undersigned Presiding Judge upon pleadings seeking a determination of marital property and an equitable distribution of such property as shall be determined to be marital; **and it appearing that:**

1. The parties have reached agreement on certain facts and on certain issues and have delineated the areas of agreement and disagreement;
2. By their signatures affixed hereto, each party stipulates that he or she agrees with the facts and issues classified as agreed upon and stipulates that the facts and issues classified as being in dispute are accurately reflected and that there are no other issues to be determined by the Court;
3. Each party, by signing this Pre-Trial Order, warrants and avows that he or she has disclosed the existence of all property, both separate and marital, to which he or she may have claim at the date of valuation of marital property, regardless of to whom such property may be titled or in whom actual ownership may be designated. Said disclosure has been full and honest and is free from taint of fraud;

**IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED** and stipulated as follows:

4. The Court has jurisdiction over the parties and subject matter of this action.
5. Plaintiff and Defendant were married on \_\_\_\_\_.
6. The names and birthdates of all children born of the marriage are as follows:
  - a. \_\_\_\_\_
  - b. \_\_\_\_\_
7. The date of the parties' separation is \_\_\_\_\_.
8. The date of the parties' divorce is \_\_\_\_\_.
9. The parties contend that an equal division  would be  would **not** be (check one) equitable.

10. The parties agree that the Short Form Pretrial Order is appropriate in this case.
11. Attached hereto is a listing of all of the assets and liabilities listed in the following order:
  - a. Parties agree the listed item is marital, listed in the following order:
    - i Parties agree on value and distribution [Schedule A if separate Schedule].
    - ii Parties agree on distribution, but **disagree** on value [Schedule B if separate Schedule].
    - iii Parties agree on value, but **disagree** on distribution [Schedule C if separate Schedule].
    - iv Parties **disagree** on both value and distribution [Schedule D if separate Schedule].
  - b. Parties cannot agree whether the listed item is marital or separate, listed in the following order [Schedule E if separate Schedule].
    - i Parties agree on value and distribution.
    - ii Parties agree on distribution, but **disagree** on value.
    - iii Parties agree on value, but **disagree** on distribution.
    - iv Parties **disagree** on both value and distribution.
  - c. Parties agree the listed item is separate [Schedule S if separate Schedule].
12. Attached hereto is a list of WIFE's contentions why equal division is not an equitable division and additional issues to be submitted to the Court [Schedule F].
13. Attached hereto is a list of HUSBAND's contentions why equal division is not an equitable division and additional issues to be submitted to the Court [Schedule G].
14. Copies of all appraisals and other expert witness reports ordered by the court or agreed upon by the parties are admissible into evidence without further foundation or authentication are attached hereto as additional Exhibits.
15. The Presiding Judge shall rule on the following:
  - a. Whether each item is marital or separate, if there is no agreement.
  - b. The value of each item, if there is no agreement.
  - c. The distribution of each item, if there is no agreement.
  - d. Which contentions of either party supporting an unequal distribution have been proved, and which should be given weight?
  - e. An equitable division, if there is no agreement.
  - f. The manner of payment of a distributive award, if any.
  - g. Any issues raised in the Supplemental Schedules attached hereto.

This the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Judge Presiding

CONSENTED TO:

\_\_\_\_\_  
Plaintiff

\_\_\_\_\_  
Defendant



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Plaintiff's Attorney

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Defendant's Attorney





No.	Description of Asset or Name of Creditor	Wife M/S	Hus M/S	Wife FMV DOS	Husband FMV DOS	Wife Debt	Hus Debt	Wife Net FMV	Hus Net FMV	Wife Dist	Hus Dist
19											
Jdg											
20											
Jdg											
21											
Jdg											
22											
Jdg											
23											
Jdg											
24											
Jdg											
25											
Jdg											
	<b>TOTALS</b>										

Expansion Sheets attached *(check if applicable)*

