SUPREME COURT OF ARKANSAS

In re Supreme Court Committee on Child Support—Affidavit of Financial Means

2016 Ark. 315 (2016) · Decided September 15, 2016

OPINION

PER CURIAM.

Cite as 2016 Ark. 315 SUPREME COURT OF ARKANSAS Opinion Delivered September 15, 2016 IN RE SUPREME COURT COMMITTEE ON CHILD SUPPORT—AFFIDAVIT OF FINANCIAL MEANS PER CURIAM The Supreme Court Committee on Child Support proposed a new Affidavit of Financial Means to the court, revised and updated to provide more pertinent information to the parties and the courts in matters involving family support than the current affidavit provides.

By per curiam dated April 14, 2016, the court published the proposed affidavit for written comments due to the court by May 20, 2016. The court requested that the committee review the comments submitted and, taking those into consideration, to make a final recommendation to the court.

The committee's final recommendation is to adopt the proposed affidavit with one change suggested in the comments, to add lines at the bottom of each page for the litigants and, if represented, their attorneys, to initial.

The court accepts the committee's recommendation and adopts the new affidavit, with that one change, effective October 10, 2016. The new Affidavit is attached. RECOMMENDATION TO THE SUPREME COURT OF ARKANSAS FROM THE SUPRE,ME COURT COMMITTEE ON CHILD SUPPORT IN RE: ADMINISTRATIVE ORDER NO. IO--AFFIDAVIT OF FINANCIAL MEANS TNTRODUCTION The Supreme Court Committee on Child Support proposed a new Affidavit of Financial Means to the Court, revised and updated to provide more pertinent information to the parties and the courts in matters involving family support than the current affidavit provides.

By per curiam order dated April 14, 2076,the Court published the proposed affidavit for comment, with written comments due to the Clerk of the Court on May 20,2016. The Clerk received four letters in response. The Court requested that the Committee review the comments and make a final recommendation, taking those comments into consideration. DISCUSSION The Committee met on June 24,2016, to review the comments.

Of the four letters submitted, three of them supported the proposed affidavit, with one suggestion made for a formatting issue, In the fourth letter, the writer commented positively to one change and made seven suggestions for other changes.

The Committee discussed each and every suggestion' Some were for changes the Committee had discussed specifically in the drafting stage. Some were for changes to things the Committee had done by design or had opted not to do.

The Committee adopted one of the suggestions: putting lines at the bottom of each page for the litigant and the attorney, if he or she is represented, to initial, The affidavit was amended accordingly. I{ECOMMENDATION AfteL consiclerìrrg the Comrnents submitteclto the Court, the Committee rcspectfully recommerrcls that the Court approve and aclopt the attached Affidavit of llinarlcial Means, âs amenclecl, Tliank you.

Rcspectfr,rl ly subn'ritted, Mackie Pielcc Circuit Judge Chair of Child Support Committce D 2 IN THE CIRCUIT COURT OF COUNTY, ARKANSAS (Domestic Relations Division) Division Plaintiff V Case No. DR Defendant AFFIDAVIT OF FINANCIAL MEANS Name:, being duly sworn, says under penalty of perjury, that he/she has prepared or approved this financial statement, and that the following information and attachments (including income verification as required by page 7) are complete, true, and correct.

Date Signature Subscribed and sworn to before me on this day of 20 Notary Public My commission expires MY INCOME 1 How often are you paid? _ weekly _ bi-weekly (every two weeks-26 times a year) _ monthly _ bi-monthly (twice a month-24 times a year) _ other -Explain (attach an exhiþit if necessary) 2.* Net Pay: (Take-home after allowable deductions) $ *Complete worksheet on next page to determine Net Pay for calculating child support Page 1 of 7 Ini t iaf s Ini t iaf s NET PAY WORKSHEET (lf more than one employer, fill out and attach multiple copies of this worksheet) EMPLOYER Address: Telephone #: 3.

Gross Wages per pay period $ ALLOWABLE DEDUCTIONS UNDER STATE LAW A. Federal lncome Taxes Withheld $ B. State lncome Taxes Withheld $ C. F.l.C.A. (Social Security) or Railroad Retirement $ D. Medicare: $ E. Health lnsurance (only the porlion paid for children in fhis case $ as required by page 7) F. Court-ordered child supportfor other children not $ involved in this current case.

(For example, children from a previous relationship or marriage): G TOTAL Allowable Deductions $ 3.H Subtract TOTAL Allowable Deductions from Gross Wages = NET PAY $ THE FINAL NUMBER IN THIS BOX BELONGS ON PAGE 1 UNDER "NET PAY" lf you pay support for children nof involved in this case in a form other than þavro ll deduction, then you should attach the ch¡ld support order and proof of ment as an exh¡b¡t to this affidavit Any other deductions from your paycheck do not figure into your net pay under Arkansas law regarding child support.

Some examples of payroll deductions that you mav not subtract from your income for calculating child support include: pension plans, union dues, 401(k) payments, loan repayments, charitable contributions, life insurance, and health insurance payments that cover you or your spouse.

However, the court may consider these expenses, particularly if they are significant, so you should reflect them in the proper place in the pages to follow' Page 2 of 7 Ini t ial- s Initials OTHER INCOME Other income Amount: Source Frequency 4 Bonuses or incentive pay not 4.1 reflected on page 2: 4.2 Other court-ordered income such as alimony/child support paid to you: 4.3 Payments from a settlement or annuity: 4.4 Regular gifts from relatives or friends: 4.5 lnvestment income such as rent payments to you: 4.6 Stock dividends or bond payments: 4.7 Regular payments to you or on your behalf from a Trust: 4.8 Other: 4.9 TOTAL OTHER INCOME: $ OTHER AVAILABLE FUNDS 5 ASSET AMOUNT SOURCE Cash on hand, and in bank 5.1 accounts: 5.2 Trust fund assets held on your behalf: 5.3 Stocks, bonds, mutual funds 5.4 Other (i.e.

401-K, retirement, etc) 5.5 TOTAL: $ Page 3 of 7 rni t ia1 s rni t iaÌ s MY CURRENT MONTHLY EXPENSES * 6 Expense: Amount: Expense: Amount: a Health lnsurance Rent/house payment $ n $ b Gas, water, trash, & $ o Non-covered medical $ electricity (including medicine) c. Telephone $ p Life insurance $ d lnternet $ q Car payment $ e Media Services, i.e $ r Car lnsurance $,Cable/Satellite, etc. f Child care $ S Car fuel and $ maintenance g Food $ t Lawn care $ h Union dues $ u Charitable giving $ Pension plan $ V Household Expenses $ 401(k) payments $ W Dry cleaning $ J k. Garnishments $ X Other $ Cigarettes $ v Other: $ m Alcohol $ z. $ TOTAL * Place a check mark by all expenses which you are not currently paying.

Page 4 of 7 Tni t ia1 s Ini t i-al- s MINOR CHILDREN 7 Number of children: a Number of minor children I have with opposing party # b Number of other minor children I have # c. Names of minor children involved in this case: AGE I 2 3 4 CREDITORS & DEBTS 8 Debts in the names of BOTH PARTIES are: Creditor: Total amount owed Monthly payment: a $ $ b $ $ c. $ $ d $ $ e $ $ f $ $ g $ $ Totals: $ $ Page 5 of 7 Ini t iaI s lni t iaI s L Debts only in my name: Creditor: Total amount owed: Monthly payment a $ $ b $ $ c $ $ d $ $ e $ $ Totals $ $ '10.

Debts only in the name of the other party: Creditor: Total amount owed Monthly payment: a $ $ b $ $ c $ $ d $ $ e $ $ Totals $ $ 11. SUMMARY OF ABOVE DEBT TABLES Summary of Debts: Total Owed: Total Monthly Payments: a Joint Debts: $ $ b My Debts: $ $ c Other Party's Debts: $ $ Page 6 of 7 Ini t ial- s Ini t ial- s ACKNOWLEDGEMENT OF RESPONSIBILITIES AND CONSEQUENCES l, understand that I must comply with the following, I acknowledge and agree to each provision by initialinq each paraqraph below. _Both parties must complete and exchange this seven-page affidavit by providing to opposing counsel or pro se litigants within five days before hearing. _Both parties must supply the original notarized affidavit to the court. lf I am employed, I must attach copies of my last three paystubs to this affidavit. lf I am self-employed, I must attach copies of my last two federal and state tax returns, including all schedules, to this affidavit.

Before each court hearing where financial matters are at issue, I will review this document and provide updated information to the other party and to the court. Iunderstand that the cost of dependent health insurance coverage is the difference Ue¡,veen self-only and self with dependents or family coverage or the cost of adding the child(ren) to existing coverage.

I understand that failing to comply with these provisions, or deliberately attempting to mislead the court or the opposing party, may result in my being held in contempt of cou11, being fined, being ordered to pay attorney's fees, and/or being sentenced up to 6 months in fail, and that serious violations can result in prosecution for felony perjury- punishable by 3 to '10 years in prison.

Date Signature I certify that I have reviewed this affidavit with my client and advised him or her of the importance of providing true, correct, complete answers and the required exhibits. Date Attorney Form Revised t2016 Page 7 of 7 Judge Robert Herzfelcl.Søfine County Circuit Court Phone: 501-303- 1584 4úi (Division Fax: 303-l5tl5 j ud gcherzf'eld @ grnail.cotn 22"'t Ju[icíaf cDistrict of,4rfrgnsas $,,, p rì r i, i, iìT9',ilJlif I l. i ¡il:ì fJ,'i'f ¡,¿n, 0,., CF Zúlb ÁpR l9 p t, 0l Stacey Pectol Clerk of the Supreme Court ii;AC[\' F [CTOL, CLERK FB tu ffiÐ ATTN: Adrninistrative Order Nulnber l0 AP R 1 I 2016 625 Marsh¿ill Street, LittleRock, AR7220I S TACEY }TE.CTOL CLE fiK RE: Draft Affirlavit of F'inancial Means Dear Ms, Pectol, I an-r writing i1 stro¡g supporl of the new draft Affidavit of Financíal Means (AFM) that is up for conrment until lvlay 20th.

It was clearly clralled with pracricality, clarity, arrd ease of r.rse in rmnd, As a Circuit Juclge who hears primarily dornestic cases, I can attest that the nerv draft addresses allof the conceltls I have had over the years. I'll list some highlights below: l. Moving the nolarized signature lo the lront page soryes multiple purposes.

First, approximately half of the AI'Ms submittcd to rnc are not notarizcd. Putting it on thc front makcs it morc likely to be completed. Secon<l, clarifying on the fro¡t page that this document is swom under oath gives even more incentive to take it seriously and plovidc correct information. 2.

The old form was very confusing as to proper deductions and coming up with the true nel iucome, The new clraft ¡rakes it much simpler to calcuiate, oflers clear instructions, and puts the accurate net income unambiguously front and center. 3 T¡e modenrizatio¡ of'the "monthly expcnscs" pagc has bccn sorely nccdcd (i.c., thc old form rcfcrs to "firc insurance"), and will provide a much rnore accurate picture of actual expenscs.

The addition of cigarcttes and alcohol as separate categories is siqnificant ¿rs well. 4. The Acknorvledgement section on page 7 will be valuable in ensuring that the parties provide appropriate supporling documentation and take the necessary time to fill out the paperwork honestly and completely. _5. Req¡iring attorneys to certily they have golìe over the forrr with their clients and advised theln of the impofiauce of thc ibrm will drarnatically improve data quality a.s well as the prepøredrcess oJ'attorneys J'or triaM can't tell you how many tirnes I have watched the blood drain from attorneys' faces because they were so surprised by their client's answers or, conversely, at how inaccurately their clients had fìlled out the form.

6. By way of slightly improving thc form, it appcars that at somc point in drafting, there was a margin issue which, presumably, could easily be corrected rvhere the table of debts bleeds over o¡ìto page 7. I suggest lhat this be conected fot'ease of ttse as well as professional appearance. Thank you for working on this very practical approach, and I look foru'ard to seeing the tlew forms in court. il i.l. r l i(l ('lircuit Jr.rclgc -l2l No¡'llr i\4¡rin llertlorr, ¿\.R 72015 Tnp L ANCASTER Lruø FINVT, PLLC 4r j Nourr+ Mrrnxnr Sr ATTOI{N tys Ar tyfiPl'r.,. iìf CtIVå-0 Ttr-: (5or)176.2224 ['.O Box rz95 (5or)778'6r86 Beu ron, AIì 7zor.9 Jerr.ircrM. r.ancasrer.'iioiìÎ'!t,r,oil¿;lrntæ Clirrtt¡n W. Lancaster LoriD.r.roward /lJllr ÄpR 2l p l: I I SIAC[\'PICiOL, CLERK April 20, 2016 Ms. Staccy Pectol, Clerl< ffi D Supleme Court of Arkansas.¿\ttn; Aclmin, Orcler No. l0 625 Marshall St. FM fl Little Rook, A,R 72201 2 1 201ñ APR oL RY l'-ill.S"l (:l.ASS tNl,1/1. $'iA 1:.;Ç:'(Pec'f CLE RK I{u IN RI' ADI\{IN.

ORDER NO. 10 AI'FIDAVIT OF' IìINANCIAI, MEANS PER C]tJRIUM OPINION APRIL 14,2016 Deal N{s Pcctol I arl writing Loday to cxprcss my grcrat support of the.,:li¿rnges to the Affidavit of Financial lvleans ("Alìlv{") as r-ecerrtly revisecl ancl submitted for comments as per the above-stylecl opinion. I ar.n a faill, ns\^, attorney, having hecn in plactice a little ovor two)/ears, with a small fiul in Benton.

ApproxunaÍely759'oofthewoklcloisinclornesticreiatiorrs,adoption,anclguardianshipcases. I anr a lì'equent user of the AFM ancl vcry familiar with its use in both settlement negotiations ar-rcl cou11 Jrroceedings. I supporl the changes to the AFM for lnany reasons. Firstly, moving the signature and notary area to the front makes it easy to scc if the person has actually compietecl that porlion. lvlany times. peopie fill out Lhe AIrM anC then lail to sign the document, which causes issucs if not caught before co Lrrt, Next, the revisìons to the "lvfy Incomo" section, remor,'ing the second "allowable dedlrotions" ancl "other cleciuctions" sections clears up that substantiaì1y. lvfan¡,, many times in practice pcople nlan¿lge to clouble up on the deductions, in part I believe, because those two sections al'e listecl tr.vicc in the ciocument.'Ihis is so incredibly confr,rsing for clients, so this revision helps greatly!

Aclclitictrrally, putting thc "Nc! Pay Worksheet" on the,âecond pagc ìs a wondelful change. ln the olcì r'elsion, it rvas scvcral pages bacli in the document, which always lead to confusion. I his nervly-placecl and r.:lcarly-dcline¿itecl worksbeet is clsar to understand, defrnes lhe coutt-olde.red chilcl support -scction uiccl¡,, anci lias an explanation s;cctiou at the lrottom ol the ¡lage that nrakes rt vcry cleil'wha1 is nnd i>- not incltrciecl in pa¡, ancl pa;'::oll dccltrctions,

*,wr",,.T'he Lanc¿rs terLarvÞ-irm.com TrrE L ANCASTER Lnw F IRM pflc ìruw -fhèl ¡n.nîterl ^wflirnr.cñnl l\4ovipg ahcacj to Page 3, the "L)thel lucorne" sectioit gives good exaurples ol'what rnight be incl¡decl.

The olcl fbrm clicl not have these, which caùsed people to sometjmes forget about them or even intentíonally leave them or"rt ancl plead ignoránce, Income is different from other funds avail¿rble to a person, so making those sections separa-te is a great slep to even more clarity. Adclitionally, rnaking the "My Current Monthly Expenses" table on Page 4lat'ger makes it so mr"rch easier to complete.

Thc current form cranls the same table onto half a page, which makes the numbers so small that it's difficult to conrplete the tahle where it is legibJe. I r,vas pleased, well, to see that the informational table about the parties was removecl (fbrmerly as on p,rg. 4 of 7 in the olcl version). Sontetimes these panies lrave been divorced flor years, separated for:-yea,:s, or they are parties who u,ould never havc known the int'ormation about the other party atait.'fakingtliissectionoutjustsavesmetime,andtruly,thissectic¡nwasalmostneverusedin nry practice Also, ihanging thc clebt sections cln Page 7 to "rny n¿ìme" attd "ltame ol the other pafly" instead o1' "Plaintitl" ancl "l)cfeucl¿int" clears these sec,fit)ns up quite nicerly, A lot of tirnes, even with the parties narne s listccl on the case, the parly cornpleting the form still does not lcnow who the Plaintiff ancl Defend¿rut arel I.-i1ally, the last page is. in rny opinion, the best cha-nge macle to the docr-tment.

Clients rarely urnclerit¿rncl that the rJc¡cumcnt is necessary to set r:hild supporL and spottsal support. They sometimes f'eel like the court is just being nosy, thç other party's attorney is asking intrusive qr.re.stions by sencling an AltrM with intcu'ogatories, and that this pcrrsonal ínforrnation cannot possibly be needecl fãr the courl to just set support.

Ilaving this information on the back easily txplain-s the reasons the AFM is r-rccdecl ancl lcts the party knor,v that the other party has to complete onã as we.ll T'his explanation section also clearỳ tells the client that three paystttbs or t\ryo tffx retums, as applicable, ate to bc subtlittcd with thc form as well, As a famity larv ancl plobate practítioner, I wholehearterlly suppoil the changes nrade in this ncw version o1'the AIìM, 'Lhank you for your tinre ancl for allorving the conun¡¡nt period, If you should have any other questions ln this regar.cì, please do not hesltate to give nrc ¿r cal1.

S it Lccrcly, Lori D, Howalcl Associafe AttorneY Seln T I(eith Keiiirh, Ndill,ero Victoria Hirsis lJltrtrr¡t Arlcllei,v Ì iVl illcr St.:plrerr \\r lJLrtler lFl,r"l tl e ir', S,c[-l n e i cil e r Cc<rl r.lc'\'1. Ìo¿¿cll.[oltl [:. lìlrrrrt:is Y r¡,!;¿' \/ r i\4rrr¡' Kristin Whitc.Scllncìtlcr 1.. l)¿rrvlili PaW [fl fu,,,,',,,,, rr K¿rtclyn it4rtsrrrr fvl Eril e r [-, Birlin.r: ç'r¡l:lor^APPIALS i\4¿r v [j. l)rrclilc¡, Tonr.1, Keith Ol (.ttrtrrrcl lolb APll 25 P. l: 4b.lcnnl Iì, l:ruqli;nlrrlì Aprir 2-0,2016 5 IACT Y PTCTOL, CLERK Stacy Pectol FM F,"-mff} Clerk, Suprenre Court of AR Attn: Admirt.

Order No, L0 APR 25 2016 1ustice Blc.lg. 625 MarshallSt, STACËY PECTOL Little Rock, AR72207 CLËRK Dear Ms. Pectol I have had an opportunity to review the proposed revised Affidavit of Finarlcial Means, and I wlrole heartedly support the revisions. This clears up many of the previous AFM's less than clear instructions to the clients that are filling these out. ln particular, the acknowledgment of understanding what they are providing with the listed potentialconsequences willmake this a more meaningful document and will cause the attorneys providing this ìnformation to lre more thorough, Sincerely, Maly M, White Schnciclcr' Keith, \4ì ller, Ì3utler, Schneicler & Pawlik, PLLCI | |.) \\r t rrÌ1,'t 5i..j',' ''..' l:;it,cilcvl llr',,\ I{,jll)'0 I i', \\ \\j 2ìr l.iìllr¡l ll(vi ((ll'!

1,rv 9;í lt)!), ii:,jl¿iïl:ÂÉ-"*iL 5 Zûtb ¡{/ry -3 p f: lb:i i,'\ù[y pECT0L, CLTRK lØ.ay 2,2016 FE H.- ffi r¡ltrw Ð MA)r 03 ZOIO Stacel, Pectol, Clerk, Supreme Coutt of Arkansas -;..., ':,:r ì1,.,,. I.lrrsticc Building 625 Marshall Street Littlc Rock, AR12207 RE: Adrninistrative Order l0 Dear Clelk Pectol Ilavirig reviewed the Proposed Affidavit to replace the cument Affìdavit of Financial Meaus, I have the following cornments: 1.

Shouldn't the net pay include the "other income" f'rom page two trefore the total amount of net income is transferred to pagc one? 2. On the list r¡f Creditors and Debts, could you include a space for the last four cligits of the account numbel? 3. Also on the iist of Creditots ancl Debts. coulcl you provicle some sugge stions such as Mortgage, Studelit Loans, Medical Bills, Credit Carcls, Bank Loans, Collections Accounts?

I lincl that rny clients remetnbel'their debts more easily if I ask for thern by type. 4. At some place, you lnay need to inquire whether the debt was incun'ed cìuring the man'iage, Just having whose name the clebt is in does not help deterrnine whether or not a ciebt is a marital debt. at Thc bo11om of cvcry pagc (rnostl)'fbr the lar.vycrs 5. I q,ourld rccolnnrend a line l'oL initials becausc we hnve this documenl for cvery ciient and they all look alil<c - es¡recially rvhen thc¡'iust h¿rvc nurrbers rvlitten in). ó.

I rvor"rld recommend PLAIN DNCil.,lSII in tlic Respon,sibilitìcs ¿inr-l Coti.seqLtcnccs sectiotl 5l I N, Mople, Secrcy AR 72143 ' 50 I -2/9-02'22 fox 50 I -2 7 I -022 iJ' emclil: c crlcf u lle,-'r(iÐ holmloil. corn LHTTER TO PECTOL/page two 7. I likecl the clesign of the Income worksheet, and I like the Res¡ronsibilities ard Consequences section, g. IwouldrecommenclmovingtheNotaryboxtotheendoftheclocumentbecauseit'sjust confusing at the beginning, Thank you for allowing an opportunity to comment on the fonn.

Carla Fuller ARBAR 90086