

## Making your Case for Spousal Support

*Many states and provinces consider your marital standard of living and your pre-divorce lifestyle as major factors in awarding spousal support. Here's how to make sure the financial documents you create will work for you and not against you.*

**By Michelle M. Smith, CFP®, CDFA™**



You're in your lawyer's office. Your head is swirling with new jargon, terminology, and concepts. You feel as though you've been catapulted into a new country – learning a new language for a trip you didn't want to take in the first place.

As if that wasn't bad enough, your lawyer hands you a thick, stapled document and asks you to go home, complete it, and to return it as quickly as possible. This document is a balance sheet, of sorts. You're asked to list your assets, your liabilities, your valuables – such as jewelry and antiques – and then you're asked to reconstruct and list all of your expenses – for you and for your children.

Maybe you were in charge of the household finances (which will make this task a little easier), but maybe your spouse took care of the bills during your marriage. Either way, the task seems daunting, time consuming, exasperating, and overwhelming.

Make no mistake about it: this is the single most important document you will file in your divorce. Depending on the state or province you live in, it may be known as a Statement of Net Worth, a Financial Affidavit, a Financial Statement, or a Case Information Statement.

This document should be like the foundation of a house: well designed and solid with structural integrity. Instead, it is often fraught with mistakes and inaccuracies that will harm someone's credibility as well as opening the door for prolonged negotiations about what that person's "needs" really are.

So how do you make sure you do this right – especially if you have little or no experience working with this kind of document? How do you make sure it works *for* you and not *against* you?

The focus of this article is on a particular section of this document that lists your expenses (or the budget). This is absolutely crucial if you expect to be paying or receiving spousal support, since many states and provinces consider the marital standard of living and your pre-divorce lifestyle as *major factors* in awarding spousal support.

## **Choosing the Time Period**

Sometimes, the last year does not accurately reflect your marital reality. Before or during your separation, you may have spent significantly more – or less – than usual. Maybe you didn't vacation as you normally did. Maybe you lost a lot of weight due to the stress and had abnormally high clothing expenses for your new size. Maybe you went on a few revenge shopping sprees. Regardless, don't get caught in what I witness in the courtroom all the time: producing a statement of expenses that can be torn to shreds because the numbers are wrong, can't be proven, or reflect a time period not typical of the marital standard.

## **Documents You'll Need**

Basically, you'll need any document that records how and where you spend your money. The more detail and precision in pinpointing and allocating expenses, the stronger your case. Here are a few examples of some of the most important documents:

1. **Credit-card statements**

1. TIP: Make a copy of the statements and write on the copy. If your credit-card company provides year-end summary statements – where the information for all 12 months appears in one concise booklet – use this instead of the monthly statements. Next to the charges, write the purpose of the charge. I highly recommend that you create codes for recurring items. For example, if there is a charge from “Bed, Bath & Beyond,” and it was for sheets for the summer house, the code could be “VH” for Vacation Home. Other useful and easy codes could be “W” for the Wife’s expenses, “H” for the Husband’s expenses, and “K” for your Kids’ expenses.

2. **Checking account statements with actual cancelled checks or scanned copies of checks**

1. TIP: on top of the copies of the checks, write a description of what the expense was for. Do the same for any debits in the account from a debit card associated with the checking account.

3. **Explanation of Benefits Statements from your Insurance Company**

1. These statements help to pin down the elusive category of “unreimbursed medical.” I find this is one of the biggest categories where people make frequent mistakes. An easy way to quantify exactly what your annual out-of-pocket expenses are for you and the kids is to download or request the EOB (Explanation of Benefits) statements; these statements clearly show the “Patient Responsibility” amount, which is what you had to pay out-of-pocket. Don’t forget the annual deductible as an out-of-pocket expense – as well as any co-pays you paid in cash.
2. TIP: The EOBs won’t be very helpful if you or your spouse do not submit all your medical claims in a timely fashion. If this is the case, be sure to

call all doctors, dentists, therapists, etc. and request all invoices for the time period of your analysis.

4. **Credit Reports**

1. Pulling credit reports – for yourself and for your spouse – is a must to verify liabilities, credit score, mistakes, and potential hidden accounts.
2. Obtain copies of loan applications (including auto leases).

5. **Passports**

1. Not all foreign countries stamp passports, but copies of each of your passports can be useful to verify or discover travel.

6. **Tax Returns**

1. I prefer to obtain the actual filed tax return from the government rather than using a client's working copy. In the USA, taxpayers can pay \$39.00 to the IRS and download Form 4506 from [www.IRS.gov](http://www.IRS.gov). In Canada, you can register for an "epass" with the CRA (for information about setting up an account, see [www.cra-arc.gc.ca/esrvc-srvce/tx/ndvdl/myccnt/menu-eng.html](http://www.cra-arc.gc.ca/esrvc-srvce/tx/ndvdl/myccnt/menu-eng.html)). The "View Returns" service allows you to view and print general or detailed information about your income tax and benefit returns – including assessments and reassessments for the current year or five prior years. You can also appoint a representative (such as your accountant or CDFA™) to access your account on your behalf.

7. **Copies of Gift Tax Returns**

8. **Frequent Flyer and Membership Rewards Point Balances**

9. **Tough and Often Inaccurately Represented Categories**

1. Cash/ATM Withdrawals: Cash withdrawals can be a money hemorrhage. Walk yourself through a typical day, a typical week, a typical season of holiday tips (for example) that you pay in cash, and make a note of these items. Starting a cash journal for a few weeks will help you get a handle on your cash expenditures.
2. Gifts: My clients never realize how much they spend on gifts. I have them list all the people for whom they buy presents, the occasions, and how much they usually spend on the gift. When you're completing this list,

don't forget your children's teachers, birthday gifts for your children's friends, and gifts for special occasions such as weddings, graduations, and bar and bat mitzvahs.

3. The Superstore Category: Long ago, I would query my clients and spend wasteful time on exactly what items they could remember purchasing in stores such as Wal-Mart, Target, etc. Since almost anything can be purchased in these stores, I now list expenses in the "Superstores" category as "Miscellaneous/Other".
4. Expenses paid from a business account: Don't forget the corporate or business credit-card records! In the past, you and/or your spouse may have used the company card to pay for personal expenses; these expenses now need to be included in your analysis.

## The Bottom Line

This analysis may very well be the most important step you take in asking for and justifying a support request, but it requires analysis that is "bullet-proof." If you will be the one paying support, an accurate analysis will give you some peace of mind that the support amount is fair – based upon your pre-divorce lifestyle.

Don't be afraid to call for professional help in creating these documents. A Certified Divorce Financial Analyst™ (CDFA™) can help you to reconstruct and prove your marital standard of living – which could make all the difference to the amount of support you'll be receiving or paying.

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*Michelle Smith (CFP®, CDFA™) is recognized and respected for her focus on guiding clients through the financial transition of divorce. Based in Manhattan, she is the advisor of choice for many high-profile divorce cases. Her background includes 20 years of experience in financial planning and investments, and 85% of her practice is devoted to divorce-related financial analysis. Michelle is also a Regional Director for the Institute for Divorce Financial Analysts™ (IDFA™).*

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