MARITAL PROPERTY OPINION

Bench Card Checklist

Case: _____ Judge: _____ [redacted] _____

THE FOUR-STEP PROCESS (Abdullahi v. Zanini, 241 Md. App. 372 (2019))

Step 1 (DEFINE): Completed — property interests identified during trial. The bench card picks up at Step 2.

Step 2: CLASSIFY — Is each item marital or non-marital? (FL §8-201(e))

For EVERY item on the Joint Statement (9-207), make a finding. Use the table below.

#	Asset / Liability	H Value	W Value	M / NM	Basis for Classification
1				☐ M ☐ NM	
2				☐ M ☐ NM	
3				☐ M ☐ NM	
4				☐ M ☐ NM	
5				☐ M ☐ NM	
6				☐ M ☐ NM	
7				☐ M ☐ NM	
8				☐ M ☐ NM	

M = Marital (§8-201(e)(1)-(2)) | NM = Non-Marital (§8-201(e)(3): pre-marriage, gift, inheritance, traceable)

☐ **Mixed-character assets identified?**: Source of funds traced? Active vs. passive appreciation addressed?

☐ **Tenancy by entirety property addressed?**: §8-201(e)(2) — marital unless excluded by agreement

Step 3: VALUE — What is each item of marital property worth?

☐ **Competing valuations resolved?**: State which value adopted and why _____

☐ **Date of valuation stated?**: _____

☐ **Valuation method noted?**: (Appraisal / Expert / Stipulation / Market comp / Other)

☐ **Business valuation methodology addressed?**: (Cap of earnings / Asset-based / Market / Other)

☐ **Personal goodwill deducted or rejected?**: Finding: _____

Step 4: DISTRIBUTE — Would division by title be unfair? If so, make a monetary award.

Address ALL 11 factors below. A finding on each factor is virtually appellate-proof.

FL §8-205(b) FACTORS — Monetary Award Determination

☐ **1. Contributions**: Monetary: _____ Nonmonetary: _____

☐ **2. Value of property interests**: H total: $_____ W total: $_____ Disparity: $_____

☐ **3. Economic circumstances**: At time of award: H: _____ W: _____

☐ **4. Estrangement circumstances**: _____

☐ **5. Duration of marriage**: Married: _____ Separated: _____ Total: _____ years

☐ **6. Age of each party**: H: _____ W: _____

☐ **7. Physical/mental condition**: H: _____ W: _____

☐ **8. How/when property acquired**: Effort by each party: _____

☐ **9. NM contribution to TBE property**: §8-201(e)(3) property used: _____

☐ **10. Alimony / family use awards**: Alimony awarded? ☐ Y ☐ N Family use? ☐ Y ☐ N (avoid double-counting)

☐ **11. Other factors:** _____

MONETARY AWARD CONCLUSION: After considering the above factors, the Court finds it fair and equitable that _____ receive a monetary award of $_____ because _____

_____

DISSIPATION CHECK (Omayaka v. Omayaka, 417 Md. 643 (2011))

☐ **Dissipation alleged?:** ☐ By H against W ☐ By W against H ☐ Not alleged

☐ **Timing satisfied?:** Marriage undergoing irreconcilable breakdown? (Sharp v. Sharp, 58 Md. App. 386 (1984))

☐ **Prima facie case established?:** Spending/depletion with principal purpose of reducing funds for equitable distribution

☐ **Burden shifted?:** After prima facie showing, spender must show expenditures were appropriate (Omayaka at 656-57)

☐ **Finding on dissipation:** ☐ Found ☐ Not found

☐ **Amount of dissipated assets:** $_____ Treated as extant marital property? ☐ Y ☐ N (Sharp at 399)

Finding: _____

ALIMONY INTERSECTION CHECK (Double-Counting Avoidance)

If both a monetary award and alimony are at issue, address sequencing and overlap:

☐ **Property distribution addressed BEFORE alimony?:** (Recommended sequencing)

☐ **Factor 10 cross-reference:** §8-205(b)(10): Did you account for alimony award in monetary award analysis?

☐ **Factor 11(b) cross-reference:** §11-106(b)(11)(b): Did you account for monetary award in alimony analysis?

☐ **No double-counting:** Same asset not used to justify both a larger monetary award AND higher alimony

☐ **Retirement division coordinated?:** QDRO needed? ☐ Y ☐ N CSRS/TSP addressed? ☐ Y ☐ N

ATTORNEY'S FEES (FL §8-214)

☐ **Fees requested?:** ☐ By H ☐ By W ☐ Not requested

☐ **Financial resources/needs of both parties considered?:** §8-214(c)(1)

☐ **Substantial justification considered?:** §8-214(c)(2)

☐ **Mandatory fees triggered?:** Absence of substantial justification + no good cause to contrary = SHALL award (§8-214(d))

☐ **Fees payable to?:** ☐ Party ☐ Directly to attorney (§8-214(f))

BEFORE YOU FILE / RULE

☐ **Every 9-207 item addressed?:** No asset or liability left unresolved

☐ **Rule 2-522(a) satisfied?:** Brief statement of reasons for the decision and basis for damages

☐ **Oral ruling structured?:** If ruling from bench: numbered factors, stated findings, conclusion on the record

☐ **Written opinion advisable?:** When factual issues are complicated and there are significant assets + monetary award = advisable to write

☐ **Order language complete?:** Divorce granted; alimony; property distribution; dissipation; fees; QDRO; costs

BENCH TIP: When ruling from the bench, number the §8-205(b) factors aloud as you address each one. This mirrors the written checklist and creates a clean record. Some judges prepare this card in advance, then read their findings into the record factor by factor.

"Give them a good map." — Your opinion is a roadmap through your thought process. The parties are the immediate audience, but appellate judges will see it too.