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Utah Court of Appeals

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Nolan J. Olsen; Attorney for Defendant/Appellee.

Robert H. Copier; Attorney for Plaintiff/Appellant.

Recommended Citation

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UTAH COURT OF APPEALS
BRIEF

UTAH
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DOCKET NO. 930060

IN THE UTAH COURT OF APPEALS

ALLAN LESLIE MCKAY,	:	
	:	APPELLEE'S BRIEF
Plaintiff/Appellant,	:	
	:	
vs.	:	
	:	
MARY ANN MCKAY,	:	Appeal No. 930060-CA
	:	
Defendant/Appellee.	:	Priority 15

APPEAL FROM A FINAL ORDER OF THE THIRD DISTRICT COURT,
SALT LAKE COUNTY, JUDGE STIRBA PRESIDING.

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FILED
Utah Court of Appeals

AUG 16 1993


Mary T. Noonan
Clerk of the Court

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ALLAN LESLIE MCKAY,	:	
	:	APPELLEE'S BRIEF
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TABLE OF CONTENTS

STATEMENT OF THE CASE	1
STATEMENT OF ISSUE	1
DETERMINATIVE LAW	2
STATEMENT OF THE CASE	4
STATEMENT OF THE FACTS	4
SUMMARY OF THE ARGUMENT	5
ARGUMENT	7
I. BECAUSE MR. MCKAY FAILED TO COMPLY WITH THE UTAH RULES OF APPELLATE PROCEDURE, THE DISTRICT COURT'S JUDGMENT SHOULD BE AFFIRMED.	7
II. THE DISTRICT COURT PROPERLY FOUND THAT THERE WAS A SUBSTANTIAL CHANGE OF CIRCUMSTANCES SINCE THE ENTRY OF THE DIVORCE DECREE IN THIS MATTER. ACCORDINGLY, MODIFICATION OF SUCH DECREE AWARDING MRS. MCKAY ALIMONY IN THE AMOUNT OF \$500 WAS NOT AN ABUSE OF DISCRETION.	8
III. THE TRIAL COURT DID NOT ABUSE ITS DISCRETION IN AWARDING MRS. MCKAY DELINQUENT CHILD SUPPORT IN THE AMOUNT OF \$914.00.	13
IV. THE TRIAL COURT DID NOT ABUSE ITS DISCRETION IN AWARDING MRS. MCKAY ATTORNEY FEES.	15
V. MRS. MCKAY IS ENTITLED TO ATTORNEY FEES ON APPEAL.	17
CONCLUSION	18

ADDENDUM:

1. Findings of Fact and Conclusions of Law
2. Order Modifying Decree of Divorce
3. Affidavit of Attorney's Fees
4. Memorandum Decision
5. Plaintiff's Answers to Defendant's Interrogatories

TABLE OF AUTHORITIES

CASES:

<u>Eames v. Eames,</u> 735 P.2d 395 (Utah App. 1987)	1, 13
<u>English v. English,</u> 565 P.2d 409 (Utah 1977)	12
<u>Koulis v. Standard Oil Co.,</u> 746 P.2d 1182 (Utah App. 1987)	8
<u>Morgan v. Morgan,</u> 213 Utah Adv. Rep. 22, 27 (Utah App. 1993)	2
<u>Muir v. Muir,</u> 841 P.2d 736 (Utah App. 1993)	15
<u>Scharf v. BMG Corp.,</u> 700 P.2d 1068 (Utah 1985)	14
<u>Schindler v. Schindler,</u> 776 P.2d 84 (Utah App. 1989)	14
<u>Steele v. Bd. of Review,</u> 845 P.2d 960 (Utah App. 1993)	5, 7, 8
<u>Throckmorton v. Throckmorton,</u> 767 P.2d 121 (Utah App. 1988)	1, 8
<u>Trees v. Lewis,</u> 738 P.2d 612 (Utah 1987)	7
<u>Watson v. Watson,</u> 837 P.2d 1, 3 (Utah App. 1992)	1, 7, 11, 12, 14, 17
<u>White River Shale Oil Corp. v. Public Serv. Comm'n,</u> 700 P.2d 1088 (Utah 1985)	8
<u>Woodward v. Fazzio,</u> 823 P.2d 474 (Utah App. 1991)	13

RULES:

Utah R. App. P. 24(a)(7) (1993) 3, 5, 7, 8
Utah R. App. P. 24(k) (1993) 3

STATUTES:

Utah Code Ann. § 30-3-3 (1991) 2, 15
Utah Code Ann. § 78-2a-3(2)(a) 1

STATEMENT OF JURISDICTION

The Court of Appeals has jurisdiction pursuant to Utah Code Ann. § 78-2a-3(2)(a).

STATEMENT OF ISSUES

1. Issue: Did the district court abuse its discretion in finding a substantial change of circumstances since the entry of the parties' decree and awarding Mrs. McKay alimony in the amount of \$500?

Standard of Review: "Absent a showing of a clear and prejudicial abuse of discretion, [this court] will not interfere with an alimony or property award [in subsequent modifications of an earlier decree.]" Throckmorton v. Throckmorton, 767 P.2d 121, 122 (Utah App. 1988) (citing Gardner v. Gardner, 748 P.2d 1076, 1078 (Utah 1988); Eames v. Eames, 735 P.2d 395, 397 (Utah App. 1987)).

2. Issue: Did the trial court abuse its discretion in awarding Mrs. McKay delinquent child support in the amount of \$914.00?

Standard of Review: "In reviewing child support awards, '[this court] accords substantial deference to the trial court's findings and give it considerable latitude in fashioning the appropriate relief.'" Watson v. Watson, 837 P.2d 1, 3, (Utah App. 1992) (quoting Woodward v. Woodward, 709 P.2d 393, 394 (Utah

1985)).

3. Issue: Did the trial court abuse its discretion in awarding Mrs. McKay attorney fees in the mount of \$2,789.00.

Standard of Review: "Both the decision to award attorney fees and the amount of such fees are within the sound discretion of the [trial] court." Morgan v. Morgan, 213 Utah Adv. Rep. 22, 27 (Utah App. 1993) (quoting Crouse v. Crouse, 817 P.2d 836, 840 (Utah App. 1991)).

4. Issue: Is Mrs. McKay entitled to attorney fees on appeal?

DETERMINATIVE LAW

A. Statutes

1. Utah Code Ann. § 30-3-3 (1991):

Award of costs, attorney and witness fees -- Temporary Alimony

(1) In any action filed under Title 30, Chapter 3,4, or 6, and in any action to establish an order of custody, visitation, child support, alimony, or division of property in a domestic case, the court may order a party to pay the costs, attorney fees, and witness fees, including expert witness fees, of the other party to enable the other party to prosecute or defend the action. The order may include provision for costs of the action.

(2) In any action to enforce an order of custody, visitation, child support, alimony, or division of property in a domestic case, the court may award costs and attorney fees upon determining that the party substantially prevailed upon the claim or defense. The court, in its discretion, may award no fees or limited fees against a party if the court finds the party is impecunious or enters in the record the reason for not awarding fees.

B. Rules

Rule 24(a)(7) Utah R. App. Proc. (1993):

A statement of the case. The statement shall first indicate briefly the nature of the case, the course of proceedings, and its disposition in the court below. A statement of the facts relevant to the issues presented for review shall follow. All statements of fact an references to the proceedings below shall be supported by citations to the record.

Rule 24(k) Utah R. App. Proc. (1993):

Requirements and sanctions. All briefs under this rule must be concise, presented with accuracy, logically arranged with proper headings and free from burdensome, irrelevant, immaterial or scandalous matter. Briefs which are not in compliance may be disregarded or stricken, on motion or sua sponte by the court, and the court may assess attorney fees against the offending lawyer.

STATEMENT OF THE CASE

On or about November 24, 1980, Appellant, Allan Leslie McKay, filed a complaint for divorce. (R. at 2) Said divorce was granted and a decree was entered on April 21, 1981. (R. at 19). Subsequent to the decree, Appellee, Mary Ann McKay, became permanently and totally disabled and therefore was unable to work. Accordingly, on December 19, 1991, Mrs. McKay filed a Petition to Modify with the District Court seeking an increase in alimony from \$1 per year to \$500 per month. (R. at 186) On December 28, 1992, the court entered an order granting such Petition to Modify and awarded Mrs. McKay \$500 per month alimony. (R. at 295).

STATEMENT OF THE FACTS

Allen Leslie McKay and Mary Ann McKay were married on May 27, 1966 in Jackson, Michigan. (R. at 2). The parties had four children. (R. at 2). On November 25, 1980, Mr. McKay filed a complaint for divorce with the district court. (R. at 2). The court granted said divorce on April 21, 1981 and entered findings of fact, conclusions of law and decree, awarding Mrs. McKay custody of the children and child support in the amount of \$110 per month per child. (R. at 17). Mrs. McKay was also awarded alimony in the amount of \$1.00 per year. (R. at 18). In January, 1986, Mrs. McKay became ill, (R. at 376) and was ultimately

rendered disabled (R. at 364-365). Accordingly, on December 19, 1991, Mrs. McKay filed a Petition to Modify the original decree, seeking an increase in alimony. (R. at 315). On January 27, 1993, the District Court entered findings of fact, conclusions of law, and order, granting Mrs. McKay's Petition to Modify awarding her alimony in the amount of \$500 per month (R. at 320); delinquent child support in the amount of \$914.00 (R. at 321); and attorney fees (R. at 321). The Court also terminated Mrs. McKay's child support. (R. at 321). Mr. McKay appeals from that final order and judgment.

SUMMARY OF THE ARGUMENT

1. In this appeal, Mr. McKay fails to comply with the Utah Rules of Appellate Procedure. Specifically he fails to provide this court with the relevant facts of this case with citations to the record as required under Utah Rule of Appellate Procedure 24(a)(7). In fact, Mr. McKay's brief fails to provide this court with any citations to the record. Accordingly, this court "will assume the correctness of the judgment." Steele v. Bd. of Review, 845 P.2d 960, 962 (Utah App. 1993) (citations omitted); see generally Rule 24(k) Utah R. App. Proc. ("Briefs which are not in compliance may be disregarded or stricken, on motion or sua sponte by the court, and the court may assess

attorney fees against the offending lawyer.").

2. The district court did not abuse its discretion in finding a substantial change of circumstances since the entry of the divorce decree and awarding Mrs. McKay alimony in the amount of \$500. Such findings were well supported since Mrs. McKay had been rendered totally disabled and unable to work since the entry of the decree. Further, the evidence at trial demonstrated that Mr. McKay's income had increased substantially since the entry of such decree. Finally, Mrs. McKay is no longer receiving child support. Taken collectively, these factors constitute a substantial change in circumstances that justify modification of the original decree.

3. The trial court did not abuse its discretion in awarding Mrs. McKay delinquent child support in the amount of \$914.00. The uncontroverted evidence at trial demonstrated that Mr. McKay was delinquent in his child support in the amount of \$914.00. Accordingly, the trial court properly awarded such amount.

4. The trial court did not abuse its discretion in awarding Mrs. McKay attorney fees in the amount of \$2,789.00. The evidence at trial demonstrated that Mrs. McKay was without the ability to pay attorney fees, that Mr. McKay was able to bear such fees, and that such fees were reasonable.

5. If Mrs. McKay prevails in this appeal, she is entitled to reasonable attorney fees for such appeal. "Ordinarily, when fees in a divorce have been awarded below to the party who then prevails on appeal, fees will also be awarded to that party on appeal." Watson v. Watson, 837 P.2d 1, 8 (Utah 1992) (citations omitted).

ARGUMENT

I. BECAUSE MR. MCKAY FAILED TO COMPLY WITH THE UTAH RULES OF APPELLATE PROCEDURE, THE DISTRICT COURT'S JUDGMENT SHOULD BE AFFIRMED.

Rule 24(a)(7) of the Utah Rules of Appellate Procedure provides:

A statement of the case. The statement shall first indicate briefly the nature of the case, the course of proceedings, and its disposition in the court below. A statement of the facts relevant to the issues presented for review shall follow. All statements of fact and references to the proceedings below shall be supported by citations to the record.

Rule 24(a)(7) Utah R. App. Proc. (1993) (emphasis added).

In Steele v. Bd. of Review, 845 P.2d 960 (Utah App. 1993), this court stated "[i]f a party fails to provide a statement of the facts along with a citation to the record where those facts are supported, we will assume the correctness of the judgment. Id. at 962. (citing Fackrell v. Fackrell, 740 P.2d 1318, 1319 (Utah 1987); Trees v. Lewis, 738 P.2d 612, 612-13 (Utah

1987); White River Shale Oil Corp. v. Public Serv. Comm'n, 700 P.2d 1088, 1089 n.1 (Utah 1985); Koulis v. Standard Oil Co., 746 P.2d 1182, 1184 (Utah App. 1987).

In the case at bar, Mr. McKay fails to comply with the briefing requirements under Rule 24(a)(7) of the Utah Rules of Appellate Procedure. Specifically, Mr. McKay does not provide this court with a statement of relevant facts and citations to the record to support such facts. Further, Mr. McKay even fails to provide record citations to his recitation of the course of proceedings in this action as required by that rule. Accordingly, the trial court's judgment should be affirmed. See Steele v. Bd. of Review, 845 P.2d at 962.

II. **THE DISTRICT COURT PROPERLY FOUND THAT THERE WAS A SUBSTANTIAL CHANGE OF CIRCUMSTANCES SINCE THE ENTRY OF THE DIVORCE DECREE IN THIS MATTER. ACCORDINGLY, MODIFICATION OF SUCH DECREE AWARDING MRS. MCKAY ALIMONY IN THE AMOUNT OF \$500 WAS NOT AN ABUSE OF DISCRETION.**

"[T]he threshold requirement for relief [in a petition for modification of a divorce decree] is a showing of a substantial change of circumstances occurring since the entry of the decree and not contemplated by the decree itself. Throckmorton v. Throckmorton, 767 P.2d 121, 124 (Utah App. 1988) (quoting Naylor v. Naylor, 700 P.2d 707, 710 (Utah 1985)). "'A relative change in the income and expenses of the parties, if

comparatively significant can amount to a substantial change in circumstances' justifying a modification of a prior alimony award. Throckmorton, 767 P.2d at 124 (quoting Jeppson v Jeppson, 684 P.2d 69, 70 (Utah 1984)).

In the instant case, the evidence before the District Court demonstrated that there had been a substantial change of circumstances since the entry of the divorce decree and not contemplated by such decree. First, it is undisputed that since the time of the entry of the divorce decree, Mrs. McKay had been rendered disabled and unable to work. In fact, contrary to Mr. McKay's assertion on appeal, Mr. McKay stipulated to the same at trial. Without objection by Mr. McKay's trial counsel, the court stated:

The Court: Now, counsel met with the Court briefly in chambers before the trial began. And Miss Allen [Mr. McKay's trial counsel] indicated that they did stipulate that they were not disputing that Mrs. McKay was disabled and also receiving Social Security Benefits.

Transcript of hearing at 8.

Further, there was adequate evidence at trial that Mr. McKay's income had increased significantly since the entry of the decree. At the time of the original decree, Mr. McKay's income

was approximately \$20,000 per year.¹ As demonstrated by Mr. McKay's income tax returns, and a point that he does not dispute², his income for the year 1989 was \$36,472.65, his income for 1990 was \$36,690.00 and his income for the year 1991 was \$33,681.89. While such increase may not, by itself, constitute a substantial change, when considered with the other factors in this case, it is dispositive of such issue. See Throckmorton, 767 P.2d at 124.

Finally, Mrs. McKay's income and expenses have changed significantly. First, Mrs. McKay is not employed as a result of her permanent and total disability. See R. at 237. Further, she is no longer receiving child support. See R. at 321. Finally, as a result of her disability, she incurs medical expenses of \$150.00 per month exclusive of medicare. See R. at 239. In fact, the only income Mrs. McKay is receiving is from Social Security and disability compensation. See R. at 237.

Considering the foregoing factors collectively, it is

¹ While the initial decree is silent as to plaintiff's income at the time of the parties' divorce there is sufficient evidence in the record that plaintiff's income was approximately \$20,000 at the time of such divorce. In plaintiff's answer to defendant's interrogatories plaintiff admits that his 1981 gross wages were approximately \$20,000 and his 1982 gross wages were \$21,875.93. (R. at 79.) Further, based on the court's award of child support in the initial decree of \$110 per month based solely on plaintiff's income, it is clear that plaintiff's income has increased substantially since the time of the divorce.

² See Appellant's brief at 10.

abundantly clear that there has been a substantial change of circumstances since the entry of the divorce decree in this matter. First, Mrs. McKay has been rendered totally disabled and thus unable to procure gainful employment. Second, there has been a significant change in Mr. McKay's income. Finally, Mrs. McKay's income has decreased inasmuch as she is only receiving Federal and State disability compensation. Accordingly, the District Court did not abuse its discretion in finding a substantial change in circumstances.

Therefore, the issue becomes whether the trial court's award of \$500 per month in alimony was an abuse of discretion. See Throckmorton, 767 P.2d at 124. "In formulating alimony awards, the trial court has broad discretion, and its decisions will not be overturned absent an abuse of discretion or manifest injustice." Watson v. Watson, 837 P.2d 1, 3 (Utah App. 1992) (citing Schindler v. Schindler, 776 P.2d 84,90 (Utah App. 1989))

In awarding alimony, appellate courts require the trial court to consider each of the following three factors: (1) the financial conditions and needs of the receiving spouse; (2) the ability of the receiving spouse to produce a sufficient income for him or herself; and (3) the ability of the responding spouse to provide support. If these three factors have been considered, [the court of appeals] will not disturb the trial court's alimony award unless such a serious inequity has resulted as to manifest a clear abuse of discretion. The ultimate test of an alimony award is whether the party receiving alimony will be able to

support him or herself "as nearly as possible at the standard of living . . . enjoyed during the marriage [and to prevent the spouse from becoming a public charge]. English v. English, 565 P.2d 409, 411 (Utah 1977).

Watson v. Watson, 837 P.2d at 3 (emphasis added).

In the case at bar, the court's findings properly consider the relevant factors for awarding alimony. First, as to the financial needs of Mrs. McKay, the findings provide:

6. That defendant has income from social security in the sum of \$363.80 and disability from the State of Utah in the sum of \$587.02. A gross income of \$950.82 and defendant has net income of \$733.98.

7. That defendant's present minimum living expenses the sum of \$1,372.00 [monthly].

Further, as to Mrs. McKay's ability to produce a sufficient income, it was undisputed and, in fact, stipulated to by the parties that Mrs. McKay was disabled, which term connotes inability to work. Based on such evidence and stipulation the court found:

9. That defendant has been disabled and has not been employed or employable since 1987.

Finally, the court considered Mr. McKay's ability to provide support. The uncontroverted evidence before the District Court was that Mr. McKay's income for the year 1989 was \$36,472.65, his income for 1990 was \$36,690.00 and his income for the year 1991 was \$33,681.89. Based on that evidence the court

found:

15. That Plaintiff has the income and ability to provide alimony to the defendant.

Therefore, because the District Court in its findings properly considered the requisite factors in formulating the alimony award in this case, the court did not abuse its discretion in making such award.³ Accordingly, the alimony award should be upheld.

III. THE TRIAL COURT DID NOT ABUSE ITS DISCRETION IN AWARDING MRS. MCKAY DELINQUENT CHILD SUPPORT IN THE AMOUNT OF \$914.00.

In his brief, Mr. McKay challenges the trial court's finding number eighteen relating to delinquent child support as follows:

Findings 18 through 21 are also legally insufficient in that portions thereof read like conclusions of law rather than findings of fact contrary to Woodward v. Fazzio, 823 P.2d 474 (Utah App. 1991).

However, this court has stated:

To mount a successful attack on the trial court's factual findings, an appellant must marshal all the evidence in support of the

³ Furthermore, although the purpose of alimony is to "enable the receiving spouse to maintain as nearly as possible the standard of living enjoyed during the marriage and to prevent the spouse from becoming a public charge[,]" Eames v. Eames, 735 P.2d 395, 397 (Utah App. 1987), because of Mrs. McKay's disability and resulting inability to procure employment, even with the alimony awarded her by the district court she will be unable to maintain that standard of living enjoyed during the parties' marriage. Moreover, because of her disability, Mrs. McKay has effectually become a charge of the state.

trial court's findings and then demonstrate that, even viewing the evidence in the light most favorable to the findings, the evidence is insufficient to support the findings, Scharf v. BMG Corp., 700 P.2d 1068, 1070 (Utah 1985) or that its findings are otherwise clearly erroneous. A finding is clearly erroneous, when, even though there is evidence to support it, the reviewing court is "left with the definite and firm conviction that a mistake has been committed."

Watson v. Watson, 837 P.2d 1, 6 (citing State v. Walker, 743 P.2d 191, 193 (Utah 1987); Schindler v. Schindler, 776 P.2d 84, 88 (Utah App. 1989).

In the instant case, it is clear that Mr. McKay has not marshalled all the evidence in support of the finding relating to delinquent child support and demonstrated that such evidence was insufficient to support the finding. In fact, the uncontroverted testimony of Mrs. McKay at trial was that Mr. McKay was delinquent in his child support. She testified as follows:

Q: [By Mr. Olsen] It's true, is it not, that even though the twins were still in high school and turned 18 in August, Mr. McKay paid no child support t for that entire year that they were seniors in high school for those boys?

A: [By Mrs. McKay] To the best of my knowledge, no, unless he gave money to them.

Q: But he paid you nothing? He cut it down form the \$500 to \$125 even though they were in high school for nine months.

A: That's correct. And the Divorce Decree prior to the time it was modified said that he

would pay "X" amount of dollars to the time they turned 18 or graduated, whichever came later. And the three boys were all going to be well over their 18th birthday when they graduated but not yet 19.

See Transcript at 380.

Therefore, because Mr. McKay did not marshal all the evidence in support of the court's finding relating to delinquent child support, that finding should be upheld. See Watson 837 P.2d at 7. Moreover, even if the court reviews Mr. McKay's challenge to the finding, the evidence in the record, particularly Mrs. McKay's testimony, shows that the court's finding regarding the delinquent child support is not clearly erroneous.

IV. THE TRIAL COURT DID NOT ABUSE ITS DISCRETION IN AWARDING MRS. MCKAY ATTORNEY FEES.

The District Court has discretion to award attorney fees in a divorce action. See Utah Code Ann. § 30-3-3 (1991). Section 30-3-3 also allows for fees in modification proceedings and appeals. Muir v. Muir, 841 P.2d 736, 741 (Utah App. 1993) (citing Maughan v. Maughan, 770 P.2d 156, 162 (Utah App. 1989)).

"In order to award attorney fees, the trial court must find (1) the requesting party is in need of financial assistance; (2) the requested fees are reasonable; and (3) the other spouse has the ability to pay." Muir, 841 P.2d at 741 (citations omitted).

In the case at bar, the trial considered the relevant

factors in awarding attorney fees and made findings with respect to the same. First, based on the uncontroverted evidence that Mrs. McKay was disabled and unable to work, the trial court found that Mrs. McKay was in need of financial assistance. The court found:

6. That defendant has income from social security in the sum of \$363.80 and disability from the State of Utah in the sum of \$587.02. A gross income of \$950.82 and defendant has net income of \$733.98.

7. That defendant's present minimum living expenses are the sum of \$1,372.00.

9. That defendant has been disabled and has not been employed or employable since 1987.

Further, the court, based on Mr. Olsen's testimony (Transcript at 37) and an affidavit of attorney fees submitted by Mr. Olsen (R. at 280), found that the requested attorney fees were reasonable. The court found:

23. That defendant requested that she be granted judgment against plaintiff for reasonable attorney fees and the Court having taken that issue under advisement and defendant's counsel having submitted an Affidavit as to said attorney fees and plaintiff's counsel having responded to said Affidavit and the Court having issued its Memorandum Decision on the 10th day of December, 1992, and the Court findings that defendant should be granted judgment against plaintiff for reasonable attorney fees in the sum of \$2,789.00 for the use and benefit of defendant's counsel herein.

Finally, the court determined that Mr. McKay had the ability to pay attorney fees, finding that:

8. That plaintiff's income for 1989 was \$36,472.65 and plaintiff's income for 1990 was \$36,690 and plaintiff's income for 1991 was \$33,681.89.

Therefore, because the district court considered (1) Mrs. McKay's need of financial assistance; (2) the reasonableness of the requested fees; and (3) Mr. McKay's ability to pay reasonable attorney fees, the court did not abuse its discretion in awarding Mrs. McKay attorney fees in the amount of \$2,789.00.

V. MRS. MCKAY IS ENTITLED TO ATTORNEY FEES ON APPEAL.

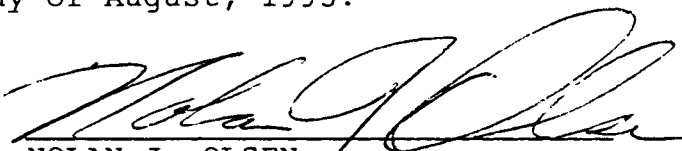
This court has held: "[o]rdinarily, when fees in a divorce have been awarded below to the party who then prevails on appeal, fees will also be awarded to that party on appeal." Watson v. Watson, 837 P.2d 1, 8 (Utah App. 1992) (quoting Bell v. Bell, 810 P.2d 489, 494 (Utah App. 1991)).

Therefore, if Mrs. McKay prevails in this appeal, she is entitled to reasonable attorney fees to be determined by the district court on remand. Id.

CONCLUSION

Because Mr. McKay failed to comply with the briefing requirements set forth in Rule 24(a)(7) of the Utah Rules of Appellate Procedure, the judgment of the district court should be upheld. In the alternative, the evidence before the district court supported its finding of a substantial change of circumstances since the entry of the divorce decree in this case. Based on that finding, the trial court did not abuse its discretion in modifying the divorce decree and awarding Mrs. McKay alimony in the amount of \$500. Further the trial court did not abuse its discretion in awarding Mrs. McKay delinquent child support in the amount of \$914.00. Finally, the trial court did not abuse its discretion in awarding Mrs. McKay attorney fees in the amount of \$2,789.00, and since attorney fees were awarded at trial, Mrs. McKay is entitled to attorney fees if she prevails in this appeal.

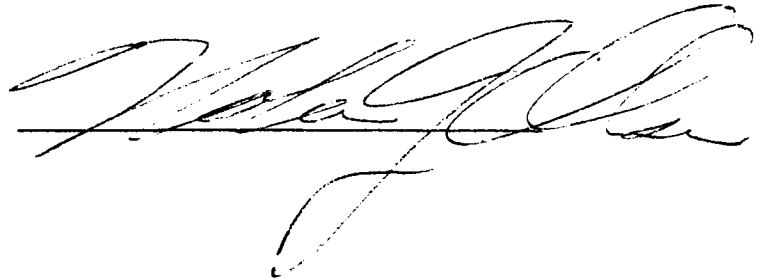
DATED this 13th day of August, 1993.


NOLAN J. OLSEN
Attorney for Defendant/Appellee

CERTIFICATE OF MAILING

I hereby certify that on the 13 day of August,
1993, I mailed two (2) true and correct copies of the foregoing
BRIEF OF APPELLEE, postage prepaid thereon, addressed to the
following:

Robert H. Copier
Attorney at Law
243 East 400 South, Suite 200
Salt Lake City, Utah 84111

A handwritten signature in black ink, appearing to read "Robert H. Copier", written over a horizontal line.

ADDENDUM:

1. Findings of Fact and Conclusions of Law
2. Order Modifying Decree of Divorce
3. Affidavit of Attorney's Fees
4. Memorandum Decision
5. Plaintiff's Answers to Defendant's Interrogatories

186 E3

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City Utah
OCT 2, 1992
Court

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

ALLAN LESLIE MCKAY,	:	
	:	
Plaintiff,	:	FINDINGS OF FACT AND
	:	CONCLUSIONS OF LAW ON
vs.	:	ORDER MODIFYING DECREE
	:	OF DIVORCE
	:	
MARY ANN MCKAY,	:	Civil No. D80-4670
	:	
Defendant.	:	Honorable Anne M. Stirba

The above-entitled matter having come on to be heard on the 8th day of October, 1992, before the Honorable Anne M. Stirba, plaintiff appearing in person and by his attorney, Jane Allen, and defendant appearing in person and by her attorney, Nolan J. Olsen, and plaintiff and defendant having presented evidence and testified in the above matter, and the court having been fully advised in the premises now makes the following:

FINDINGS OF FACT

1. That plaintiff and defendant were married in May of 1986.
2. That four children were born of the marriage, three of whom have reached majority, and there is one minor child, to-wit: Donald Allan McKay, born October 24, 1977.
3. That pursuant to the Decree of Divorce and modification thereof, defendant was awarded \$1.00 per year alimony and \$500.00 per month child support.

4. That plaintiff and defendant stipulated that defendant is presently disabled and not capable of employment and that said disability was not contemplated by the Decree of Divorce.

5. That defendant is presently paying medicare insurance in the sum of \$31.80, Public Employees Medical Insurance in the sum of \$164.43, and defendant expends approximately \$150.00 per month on medicines and doctor and dental bills.

6. That defendant has income from social security in the sum of \$363.80 and disability from the State of Utah in the sum of \$587.02. A gross income of \$950.82 and defendant has net income of \$733.98.

7. That defendant's present minimum living expenses are the sum of \$1,372.00.

8. That plaintiff's income for 1989 was \$36,472.65 and plaintiff's income for 1990 was \$36,690.00 and plaintiff's income for 1991 was \$33,681.89 and plaintiff's income for the year 1980 was the sum of \$20,000.00, an approximate increase of 41% to 45%.

9. That defendant has been disabled and has not been employed or employable since 1987.

10. That plaintiff agreed to pay the orthodontist obligation on the minor child, Donald Allan McKay.

11. That plaintiff is remarried and plaintiff's wife earns in excess of \$17,000.00 per year.

12. That plaintiff and his present wife own a home, new truck and automobile and that plaintiff is presently paying a payment on his present wife's pickup in the sum of \$488.00 per month.

13. That defendant has been receiving food from the LDS church during the past several years and defendant's mother has been paying her mortgage payment until recently. That defendant's mother now has a lien on her home for said mortgage payments and

is unwilling or unable to continue assisting defendant.

14. That defendant has need for assistance from plaintiff to provide her a frugal life style.

15. That plaintiff has the income and ability to provide alimony to the defendant.

16. That \$500.00 is a reasonable sum to be awarded to defendant as alimony.

17. That plaintiff should be ordered to pay the remaining orthodontic obligations as well as Dr. Wilson.

18. That plaintiff is delinquent on his child support in the sum of \$914.00 and judgment should be granted defendant for said sum.

19. That the minor child, Donald Allan McKay, is presently residing with the plaintiff and should be allowed to temporarily reside with the plaintiff for a period of six months and in the event said minor child makes a determination to live with plaintiff, then the custody of said child should be made permanent.

20. That the child support shall be terminated as of October 1, 1992.

21. That the Recovery Services should be ordered to terminate support for said minor child.

22. That the Court determines that the defendant does not have sufficient income to pay plaintiff child support.

23. That defendant requested that she be granted judgment against plaintiff for reasonable attorney fees and the Court having taken that issue under advisement and defendant's counsel having submitted an Affidavit as to said attorney fees and plaintiff's counsel having responded to said Affidavit and the Court having issued its Memorandum Decision on the 10th day of December, 1992, and the Court finds that defendant should be granted judgment against plaintiff for reasonable attorney fees in

the sum of \$2,789.00 for the use and benefit of defendant's counsel herein.

From the foregoing Findings of Fact, the court makes the following:

CONCLUSIONS OF LAW

1. That there has been a substantial change of circumstances in that defendant is no longer receiving child support, defendant is disabled and no longer has the ability to produce income, and without assistance the defendant would become a public charge.

2. That the Decree of Divorce should be modified as follows:

a. That plaintiff should be ordered to pay to defendant the sum of \$500.00 per month as alimony commencing in October, 1992. That said alimony at defendant's request should be paid through the Clerk of the Court.

b. That the plaintiff should be awarded the temporary care, custody and control of the minor child, Donald Allan McKay, for a period of six months at which time if the child determines to continue to live with the plaintiff, permanent custody should be awarded to the plaintiff.

c. That the child support being paid by plaintiff to defendant through the Recovery Services should be terminated forthwith.

d. That no child support is to be paid by defendant to plaintiff.

e. That plaintiff waives child support from the defendant during the six month temporary change of custody period and until further order of the Court.

3. That defendant should be awarded judgment against plaintiff for the sum of \$914.00 delinquent child support.

4. The defendant should be awarded judgment against

plaintiff for the sum of \$2,789.00 as reasonable attorney fees for the use and benefit of her counsel in this action.

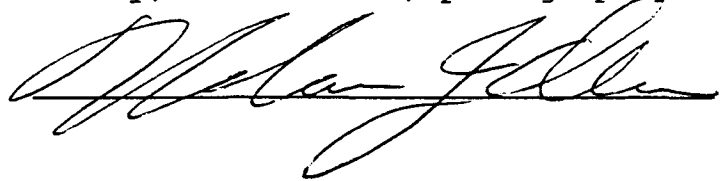
DATED this 28th day of December, 1992.

BY THE COURT:


DISTRICT COURT JUDGE

CERTIFICATE OF MAILING

I hereby certify that on the 14 day of December 1992, I mailed a true and correct copy of the foregoing FINDINGS OF FACT, to: Jane Allen, Attorney for Plaintiff, 310 S. Main Street, Suite 1305, Salt Lake City, Utah 84111, postage prepaid thereon.



request should be paid through the Clerk of the Court.

b. That plaintiff be and he is hereby awarded the temporary care, custody and control of the minor child, Donald Allan McKay, for a period of six months at which time if the child determines to continue to live with the plaintiff, permanent custody should be awarded to the plaintiff.

c. That plaintiff be and he is hereby ordered to pay the balance due on the orthodontic obligation for the minor child, Donald Allan McKay, as well as the balance due Dr. Wilson.

d. That the child support being paid by plaintiff to defendant through the Recovery Services should be terminated forthwith.

e. That defendant shall pay no child support to plaintiff.

f. That plaintiff waives child support from the defendant during the six month temporary change of custody period and until further order of the Court.

g. That defendant be and she is hereby awarded judgment against plaintiff for the sum of \$914.00 delinquent child support.

2. That defendant be and she is hereby awarded judgment against plaintiff in the sum of \$2,789.00 as attorney fees for the use and benefit of defendant's counsel herein.

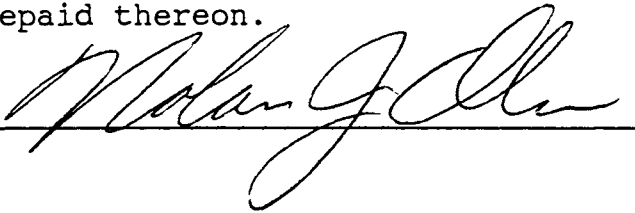
DATED this 28th day of December, 1992.

BY THE COURT


DISTRICT COURT JUDGE

CERTIFICATE OF MAILING

I hereby certify that on the 14 day of December 1992, I mailed a true and correct copy of the foregoing ORDER MODIFYING DECREE OF DIVORCE, to: Jane Allen, Attorney for Plaintiff, 310 S. Main Street, Suite 1305, Salt Lake City, Utah 84111, postage prepaid thereon.



FILED IN CLERK'S OFFICE
Salt Lake County Utah

NOV 06 1992

[Signature]
Clerk 3rd Dist Court

NOLAN J. OLSEN
Utah State Bar No. 2464
OLSEN & OLSEN
Attorneys for Defendant
8138 South State Street
Midvale, Utah 84047
Telephone: 255-7176

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

ALLAN LESLIE MCKAY,	:	
	:	AFFIDAVIT
Plaintiff,	:	
	:	
vs.	:	
	:	
MARY ANN MCKAY,	:	Civil No. D80-4670
	:	
Defendant.	:	Honorable Anne M. Stirba

STATE OF UTAH)
 : ss
COUNTY OF SALT LAKE)

NOLAN J. OLSEN, being first duly sworn, deposes and says:

1. That I am the attorney for the defendant in the above entitled matter.
2. That I have represented the defendant since November, 1991.
3. That attached hereto marked Exhibit "A" is the time expended on this matter, including time, cost and fees.
4. That affiant charges \$135.00 per hour and that the time spent on this matter was all reasonable and necessary.
5. That all time is not included, to-wit: discussion and consultation with minor child and other family members.
6. That defendant request judgment against plaintiff

for the sum set forth in Exhibit "A".

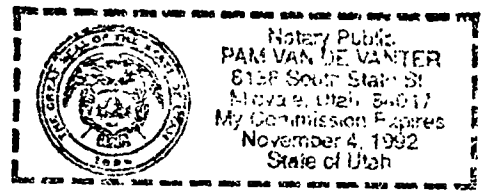
DATED this 16 day of October, 1992.

Nolan J. Olsen
NOLAN J. OLSEN

SUBSCRIBED AND SWORN to before me this 16 day of October 1992.

Pam Van De Vanter
NOTARY PUBLIC
Residing At: *Salt Lake County*

My Commission Expires:
11/4/92



MARY MCKAY
 5553 West Planada Way
 Kearns, Utah 84118

		Hours	Amount
11/25/91	Consultation	1.0	\$ 135.00
11/26/91	Petition to Modify Decree	1.0	135.00
11/26/91	Costs including service		37.50
12/23/91	Reply to Crosspetition	1.0	135.00
12/23/91	Request for documents and letter	.5	67.50
12/18/91	Consultation	.5	67.50
01/31/92	Consultation	.5	67.50
02/03/92	Letter	.5	67.50
02/03/92	Answers to Interrogatories and Certificate	2.0	270.00
02/25/92	Letter and Affidavit for Order to Show Cause and Order to Show Cause	.5	67.50
02/26/92	6 copies		.60
02/26/92	6 copies		.60
03/24/92	Consultation	.5	67.50
03/26/92	Answers to 2nd Set of Interrogatories and Certificate	1.5	197.50
03/26/92	Request for Documents and Certificate	.3	40.50
03/26/92	Letter and Certificate for Trial	.5	67.50
04/09/92	Consultation	.5	67.50
04/13/92	Readiness for Trial Cert.	.5	67.50
04/17/92	Letter	.5	67.50
04/17/92	7 copies		.70
04/30/92	2 copies		.20
06/01/92	15 copies		1.50
05/04/92	Pre-trial with Commissioner Peuler and preparation	2.5	337.50
05/04/92	Letter	.5	67.50
06/11/92	Letter	.5	67.50
07/10/92	Letter	.5	67.50
08/04/92	Notice of Pre-trial	.5	67.50
09/04/92	Preparation for Pre-trial		

	hearing with Judge Stirba	2.0	270.00
09/21/92	Trial brief	2.0	270.00
10/07/92	Preparation for Trial	2.0	270.00
10/08/92	Trial	4.0	540.00
10/09/92	Findings of Fact and Conclusions of Law	<u>2.0</u>	<u>270.00</u>
	TOTAL HOURS, FEES AND COSTS:	<u>28.3</u>	<u>3,868.00</u>

CLERK OF DISTRICT COURT
Salt Lake County Utah

DEC 10 1992
[Signature]
Dist. Court

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

ALLAN LESLIE MCKAY,	:	MEMORANDUM DECISION
Plaintiff,	:	CASE NO. D-80-4670
vs.	:	
MARY ANN MCKAY,	:	
Defendant.	:	

The above-entitled matter came before the Court for trial on September 4, 1992. At the conclusion of the trial petitioner's counsel requested the opportunity to supplement the trial record with an affidavit of his attorney's fees and costs. Respondent did not object to this request. The Court thereupon ruled on all of the issues involved in the trial, except for the amount of attorney's fees to be awarded. The Court did, however, specifically find that petitioner had a need for respondent to pay her attorney's fees and that respondent had the ability to pay the attorney's fees. Thus, the only issue to be resolved was the amount and reasonableness of petitioner's counsel's fees.

Petitioner's counsel subsequently submitted his affidavit of fees and billing statement to the Court. Respondent then filed an objection to both the late filing procedure and the reasonableness

of the fees. Because respondent objected to petitioner's counsel's filing of an affidavit of fees post-trial, the Court conducted a conference with counsel by telephone on November 13, 1992, and offered to have an evidentiary hearing on the issue of fees, so as to afford respondent the opportunity to cross-examine counsel on the issue of fees. Respondent's counsel declined the Court's offer to participate in an evidentiary hearing and, instead requested the Court to rule based on the materials before the Court. The Court then took the matter under advisement.

The Court, having reviewed the affidavit and billing statement of petitioner's counsel, respondent's objections thereto, and for good cause appearing, hereby rules as follows.

In his affidavit, counsel for petitioner claims \$3,868.00 in attorney's fees and costs. This counsel charges \$135.00 per hour for his time and he claims work for 28.3 hours. Counsel also alleges that he worked in excess of this time on this case, so that he actually billed less time than he actually worked.


Based on the Court's review of respondent's objections, the Court hereby sustains respondent's objections set forth in paragraphs 4, 5 and 7 of respondent's Response to Defendant's Attorney's Affidavit of Attorneys Fees for the reason that the information in the billing statement concerning the

"consultations," "letters" and the "trial brief" is not specific enough on which this Court can find that the time represented is reasonably and necessarily incurred in the prosecution of this case.

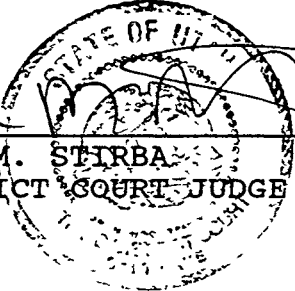
Accordingly, the \$3,868.00 requested by petitioner is reduced by \$1,079.00. The total reasonable and necessarily incurred fees to be awarded to petitioners are \$2,789.00.

Petitioner's counsel is to prepare Findings of Fact and Conclusions of Law and final Judgment on all issues in this matter.

Dated this 10th day of December, 1992.



ANNE M. STIRBA
DISTRICT COURT JUDGE

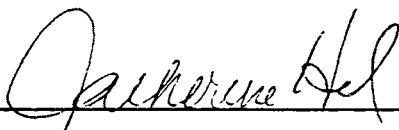


MAILING CERTIFICATE

I hereby certify that I mailed a true and correct copy of the foregoing Memorandum Decision, to the following, this 10th day of December, 1992:

Jane Allen
Attorney for Plaintiff
310 S. Main, Suite 1305
Salt Lake City, Utah 84101

Nolan J. Olsen
Attorney for Defendant
8138 S. State Street
Midvale, Utah 84047



S. JUNIOR BAKER
SNOW & HALLIDAY
Attorneys for Plaintiff
261 East 300 South
Salt Lake City, Utah 84111
Telephone: 364-4940

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H. DIXON
BY *Erudine Mathias*
CLERK

FILMED

IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR
SALT LAKE COUNTY, STATE OF UTAH

ALLAN LESLIE MCKAY, :
 :
 Plaintiff, : PLAINIFF'S ANSWERS TO
 : DEFENDANT'S INTERROGATORIES
 vs. :
 : Civil No. D-80-4670
 MARY ANN MCKAY, :
 :
 Defendant. :

COMES NOW the Plaintiff, by and through his counsel, S. Junior Baker, and answers the Defendant's First Set of Interrogatories as follows:

1. Please set forth your employment record during the past five (5) years, including:
 - a. The name and address of your employer, or if you worked for yourself, the name of the business, and whether it was a sole proprietorship, partnership or corporation;
 - b. The inclusive dates for each such employment or self-employment;
 - c. The type of work performed;
 - d. The gross annual income from such employment for each of the past five (5) years;
 - e. The net annual income of each employment for each of the last five (5) years.

ANSWER: Plaintiff objects to all information requested beyond the date of the divorce as being burdensome and immaterial to this matter as this matter deals only with the material change of circumstances since the divorce. All information requested for those periods subsequent to the

divorce is provided as follows:

a. EIMAC Varian, 1678 South Pioneer Road, Salt Lake City, Utah.

b. The Plaintiff began working April of 1979 and has continued to the present.

c. Plaintiff performs electronics quality control inspections.

d. 1982 gross wages were \$21,875.93. 1981 gross wages were approximately \$20,000.00.

e. 1982 net annual income was \$17,072.38. 1981 net annual income is unknown but is estimated to be \$16,500.00.

a. The Plaintiff was further self-employed as Allan McKay Body and Paint.

b. This sole proprietorship was begun in 1982.

c. The type of work performed is minor body and paint work on motor vehicles.

d. The gross annual income from such employment for 1982 was a loss of \$81.00.

e. There was no net annual income from such employment.

2. Have you filed a Federal Income Tax Return during the past five (5) years? If so, for each return, state:

a. Whether it is a separate or joint return;

b. The year for which it was filed;

c. The address of the office where it was filed;

d. The amount of taxable income reported;

e. The name and address of the person who prepared the return;

f. Whether you have a copy.

ANSWER: The Plaintiff renews the objection voiced in Interrogatory Number 1. The unobjected to portion is answered as follows:

a. 1982 filed as a joint return. 1981 filed as a joint return.

b. See Answer to "a".

c. 1982 returned filed in Ogden, Utah; 1981 return filed in Ogden, Utah.

d. The taxable income reported for 1982 for the Plaintiff and his present wife is listed as \$26,598.00. The amount of taxable income reported for 1981 is listed as \$24,969.00.

e. Both returns were prepared by Perry Matthews, 3115 Millerama Avenue, West Valley City, Utah.

f. Plaintiff has in his possession copies for 1981 and 1982.

The Defendant has all copies of tax returns filed for prior years.

3. If you will do so without a Motion to Produce, attach a copy of each Federal Income Tax Return referred to in the preceding Interrogatory.

ANSWER: Copies are attached hereto.

4. If you will do so without a Motion to Produce, attach a copy of each State Income Tax Return filed during the past five (5) years.

ANSWER: Defendant has in her possession all copies of tax returns filed prior to 1981. Copies of the 1981 and 1982 returns are attached hereto.

5. Please list your estimated monthly living expenses in detail, including:

a. Rent;

b. Purchase or mortgage payment; to whom these payments are paid, the address of the party to whom these payments are made, the amount of monthly payments, and the total amount due;

- c. Utilities;
- d. Food;
- e. Clothing;
- f. Laundry and cleaning;
- g. Transportation;
- h. Medical and dental care;
- i. Education;
- j. Insurance;
- k. Recreation;
- l. Other regular expenses.

ANSWER:

- a. None.
- b. Mortgage payment of \$60 per month, excluding taxes and insurance paid to Lettie Rupp, 4614 South 2200 West, Salt Lake City, Utah 84119. The present balance due is approximately \$12,800.00.
- c. \$145.00.
- d. \$350.00.
- e. \$50.00.
- f. \$25.00.
- g. \$155.00.
- h. \$140.00.
- i. \$14.58.
- j. \$144.42.
- k. \$50.00.
- l. \$321.75. These expenses are for support of Plaintiff's foster son on an L.D.S. Mission - \$258.00 per month; various dues

and expenses of the Plaintiff - \$28.75 per month; Cable T.V. of Utah - \$35.00 per month.

6. Do you belong to any club, organization, or association, or religion, to which you pay dues or regular charges?

ANSWER: Yes.

7. If the answer to the preceding Interrogatory is in the affirmative, please state:

- a. The name of each organization;
- b. The amount you pay monthly to each organization.

ANSWER:

a. The Church of Jesus Christ of Latter-Day Saints; Academy of Model Aeronautics and Insurance; National Soaring Society.

b. L.D.S. Church - \$157.00 per month; Academy of Model Aeronautics and Insurance - \$30.00 per year; National Soaring Society - \$10.00 per year.

8. Do you have any outstanding obligations, or promissory notes?

ANSWER: Yes.

9. If the answer to the preceding Interrogatory is in the affirmative, please state:

- a. The name and address of the creditor;
- b. The form of the obligation;
- c. The date the obligation was incurred;
- d. The consideration received for the obligation;
- e. A description of any security given for the obligation;
- f. The amount of the original obligation;
- g. The rate of interest on the obligation;
- h. The present unpaid balance of the obligation;
- i. The date and amount of installment or payment.

ANSWER:

- a. J.C. Penney Company, Denver, Colorado.
- b. Expenses incurred on a charge card.
- c. Incurred over time since prior to the Decree of Divorce in the above-entitled matter.
- d. The Plaintiff received household goods, clothing, etc.
- e. Unsecured.
- f. Unknown.
- g. 21% per annum.
- h. \$500.00.
- i. \$32.00 per month due on approximately the 15th of each and every month.

- a. Living Scriptures, Inc., Ogden, Utah.
- b. Plaintiff signed a promissory note.
- c. Obligation incurred December of 1982.
- d. Cassette tapes.
- e. No security.
- f. Original obligation in the amount of \$1,100.00.
- g. Interest rate has been included in the total price, the Plaintiff is unaware of the rate.
- h. The present unpaid balance is \$980.00.
- i. It is paid at the rate of \$32.00 per month due on approximately the 25th of each and every month.

- a. Utah State Employees Credit Union, 660 South 300 East, Salt Lake City, Utah.
- b. A loan incurred to cover charges incurred on a Visa Card.

c. The charges have been incurred over time since June of 1982.

d. The Plaintiff received household goods, tires and car repairs as consideration.

e. No security.

f. The amount of the obligation has varied.

g. 18%.

h. The present balance is \$975.00.

i. This is payable at \$70.00 per month due on the 10th of each and every month.

a. Utah State Employees Credit Union, 660 South 300 East, Salt Lake City, Utah.

b. This is a loan on a promissory note.

c. This obligation was incurred November of 1982.

d. The consideration received was money for the purchase of a Volkswagen Bus.

e. Security is the aforementioned Volkswagen Bus.

f. The amount of the original obligation was \$1,100.00.

g. 18%.

h. The present balance is \$950.00.

i. This is payable at \$55.00 per month due on the 10th of each and every month.

a. Utah State Employees Credit Union, 660 South 300 East, Salt Lake City, Utah.

b. The obligation was a loan for car repairs.

00084

- c. The obligation was incurred in March of 1983.
- d. The Plaintiff received money for car repairs.
- e. There is no security.
- f. The amount of the original obligation was \$300.00.
- g. 18%.
- h. The present unpaid balance is \$275.00.
- i. This is payable at \$25.00 per month due on the 10th of each and every month.

- a. Dr. Moss, Orem, Utah.
- b. Dental work for Cheryl.
- c. Incurred prior to the divorce, with work and additional charges subsequent to the divorce.
- d. Consideration was dental services for Cheryl.
- e. No security.
- f. Approximately \$600.00.
- g. 18%.
- h. The present unpaid balance is \$450.00.
- i. Payable \$25.00 per month due on approximately the 25th of each and every month.

- a. Dr. Picket, Kearns, Utah.
- b. Note for dental work for Cheryl.
- c. This obligation was incurred prior to the divorce with additional work and sums added thereto subsequent to the divorce.
- d. Consideration was dental services for Cheryl.
- e. No security.

- f. Approximately \$600.00.
- g. No interest.
- h. The present unpaid balance approximately \$225.00.
- i. This is payable at \$25.00 per month due on the 15th of each and every month.

- a. F.H.P., 7495 South State Street, Midvale, Utah.
- b. Dental work for present family.
- c. Incurred in March of 1983.
- d. Consideration is dental services.
- e. No security.
- f. Unknown as this is for ongoing treatment.
- g. No interest.
- h. Not applicable.
- i. \$25.00 per month until all work completed. This is due as appointments are scheduled. Appointments are recommended one to two times a month.

- a. EIMAC Credit Union, 1678 South Pioneer Road.
- b. Form of obligation is an open-end loan.
- c. Date obligation incurred in November of 1981.
- d. Consideration received is loan for taxes.
- e. No security.
- f. Amount of original obligation was \$1,000.00.
- g. 17% per annum.
- h. \$950.00.
- i. Payable \$81.00 per month based on a weekly payroll deduc-

tion of \$20.69 per week.

10. Does anyone owe you any money?

ANSWER: No.

11. If the answer to the preceding Interrogatory is in the affirmative, please state for each such debtor the following:

- a. Name and address;
- b. The amount owed;
- c. The form of the obligation;
- d. The date incurred;
- e. The date the obligation becomes due and owing;
- f. The consideration given for the obligation.

ANSWER: Not applicable.

12. Do you own, or are you purchasing or leasing an automobile?

ANSWER: Yes.

13. If the answer to the preceding Interrogatory is in the affirmative, please state for each automobile:

- a. The make and model;
- b. The year;
- c. The purchase price;
- d. The balance due;
- e. The monthly payment.

ANSWER:

- a. 1974 Volkswagen Bus.
- b. See Answer to "a".
- c. \$1,100.00.
- d. \$950.00.
- e. Monthly payment - \$55.00 per month.

14. Do you own any furniture or household goods whose value exceeds \$250.00?

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ANSWER: No.

15. If the answer to the preceding Interrogatory is in the affirmative, please state the following:

- a. A description of the furniture;
- b. The date of purchase;
- c. The present value;
- d. The present location;
- e. The name and addresses of any other person with an ownership interest.

ANSWER: Not applicable.

16. Do you own any other personal property valued at over \$250.00 not referred to in the preceding Interrogatory?

ANSWER: No.

17. If the answer to the preceding Interrogatory is in the affirmative, please state:

- a. A description of the personal property;
- b. Its location;
- c. The estimated value;
- d. The name and address of any other person with an ownership interest therein.

ANSWER: Not applicable.

18. During the past five (5) years, were you engaged in any business enterprises not previously mentioned in Answer to Interrogatory Number 1, either solely or jointly with others?

ANSWER: See Answer to Number 1.

19. If the answer to the preceding Interrogatory is in the affirmative, please state to reach such business:

- a. The name and address of the business;
- b. The form of business organization;
- c. The name of each officer or partner of the business;
- d. The day on which your interest in the business commenced;

- e. Your capital contribution to the business;
- f. Your proportionate share ownership of the profits of the business;
- g. The annual gross profits of the business during the past five (5) years.

ANSWER:

- a. See Answer to Interrogatory No. 1.
- b. See Answer to Interrogatory No. 1.
- c. None.
- d. August of 1982.
- e. \$400.00.
- f. 100%.
- g. See Answer to Interrogatory No. 1.

20. Was any business mentioned in the preceding Interrogatory discontinued, or was your interest terminated?

ANSWER: No.

21. If the answer to the preceding Interrogatory is in the affirmative, please state the following:

- a. The name of the business;
- b. The date of discontinuance or termination;
- c. The reason for discontinuance or termination;
- d. The amount of money you received as a result of the discontinuance or termination.

ANSWER: Not applicable.

22. During the last five (5) years, did you purchase any securities, including stocks, bonds, debentures or mortgages?

ANSWER: See Plaintiff's objection to Interrogatory No. 1. During the time subsequent to the Decree of Divorce in the above-entitled matter, Plaintiff has not purchased any of the items queried about in Interrogatory No. 22.

23. If the answer to the preceding Interrogatory is in the affirmative, for each such purchase, please state:

- a. The number and type of securities purchased;
- b. The name of the purchase;
- c. The date of the purchase;
- d. The total purchase price;
- e. The name and address of the broker from whom your purchases were made.

ANSWER: Not applicable.

24. Have you during the last five (5) years sold any securities?

ANSWER: No.

25. If the answer to the preceding Interrogatory is in the affirmative, for each sale, please state the following:

- a. The type and number of securities sold;
- b. The name of the issuing entity;
- c. The date of sale;
- d. The sale price;
- e. The name and address of the broker;
- f. The sale price;
- g. The name and address of the broker to whom the sale was made;
- h. The net gain or loss resulting from the sale;
- i. What you did with the proceeds of the aforementioned sale of securities.

ANSWER: Not applicable.

26. Do you have any bank or credit union account?

ANSWER: Yes.

27. If the answer to the preceding Interrogatory is in the affirmative, please state with respect to each bank or credit union account:

- a. The name of the bank or credit union;
- b. The date the account was opened;

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- c. The type of account;
- d. If closed within the last five (5) years, the date the account was closed;
- e. The amount of the present balance, if any, or the last balance before the account was closed.

ANSWER:

- a. Utah State Employees Credit Union.
- b. Open prior to the Divorce Decree.
- c. Checking account.
- d. Not applicable.
- e. \$250.00

- a. Utah State Employees Credit Union.
- b. Opened prior to the Divorce Decree.
- c. Savings account.
- d. Not applicable.
- e. \$55.00.

28. During the past five (5) years, have there been bank or credit union accounts on which your name did not appear, but in which you deposited money?

ANSWER: No.

29. If the answer to the preceding Interrogatory is in the affirmative, please state with respect to each account:

- a. The account name;
- b. The name and address of the bank or credit union;
- c. The account number;
- d. The approximate date and amount of each deposit made by you.

ANSWER: Not applicable.

30. During the past five (5) years, have there been bank or

credit union accounts on which your name does not appear, but from which you withdrew money by check or other method?

ANSWER: No.

31. If the answer to the preceding Interrogatory is in the affirmative, please state with respect to each account:

- a. The name and address of the bank or credit union where the account is--was located;
- b. The name under which the account stood;
- c. The date and the amount of each withdrawal made by you;
- d. The reason for each withdrawal;
- e. The authority under which you made each withdrawal.

ANSWER: Not applicable.

32. Do you have any safety deposit boxes, vaults, safes or other places of deposit of safe keeping, in which you have deposited any money, documents, or other items of personal property during the last five (5) years?

ANSWER: No.

33. If the answer to the preceding Interrogatory is in the affirmative, for each such deposit, please state:

- a. The name and address where the deposit is located;
- b. The identification number;
- c. The name and address of each person authorized to enter the deposits;
- d. The date the deposit was commenced;
- e. The date the deposit was terminated.

ANSWER: Not applicable.

34. Do you own or have owned at any time in the last five (5) years an interest in any realty?

ANSWER: Yes.

35. If the answer to the preceding Interrogatory is in the affirmative, for each parcel, please state the following:

- a. The address;

- b. The size;
- c. The purchase price;
- d. The detail of financing and the present balance due;
- e. Any improvements you have made to such real property;
- f. If improvements have been made by you to such real property, describe the improvements in detail, including the cost of improvements, the time they were made, and their present value.

ANSWER: The only real property owned by the Plaintiff is the present residence of the Defendant in this matter. Information requested is therefore available to the Defendant and not to the Plaintiff.

36. During the past five (5) years, have you sold or transferred any interest in real property?

ANSWER: Yes.

37. If the answer to the preceding Interrogatory is in the affirmative, please state to whom, for how much, and when each such piece of real property was sold or transferred.

ANSWER: The Plaintiff's interest in the present residence of the Defendant was transferred to the Defendant, Mary Ann McKay, in 1981 at the time the Divorce Decree was entered. The Plaintiff estimates that he had approximately \$4,000.00 equity in said residence at that time.

38. Does any person, firm or business entity hold any property for your benefit?

ANSWER: No.

39. If the answer to the preceding Interrogatory is in the affirmative, for each item of property, please state:

- a. The name and addresses of each such person, firm or business entity;
- b. A description of the property held for your benefit;
- c. The conditions under which the property was or is held for your benefit;
- d. The approximate value of the property.

ANSWER: Not applicable.

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40. Are you holding any property for the benefit of any other person in trust or otherwise?

ANSWER: No.

41. If the answer to the preceding Interrogatory is in the affirmative, please state the name and address of the person for whose benefit you are holding such property, and the conditions under which you hold such property.

ANSWER: Not applicable.

42. Have you loaned or given money to relatives, or friends, or anyone else during the past five (5) years in excess of the value of One Hundred Dollars (\$100.00).

ANSWER: Yes.

43. If the answer to the preceding Interrogatory is in the affirmative, please state:

- a. To whom the money was given;
- b. How much money was given;
- c. The date the money was given.

ANSWER:

- a. Mary Ann McKay.
- b. \$440.00 per month since the time of the Divorce Decree as child support monies. Alimony at \$1.00 per year is also paid through the year 1983.
- c.

44. Do you presently own any interest in any life insurance or annuity policies?

ANSWER: Yes.

45. If the answer to the preceding Interrogatory is in the affirmative, for each policy, please state:

- a. The name and address of the insurance company;
- b. The number of the policy;
- c. The type of policy.

ANSWER:

- a. Indianapolis Life Insurance Company, 1800 South West Temple, Salt Lake City, Utah.
- b. Unknown.
- c. Whole life.

46. At the present time, are you a named Defendant in any civil litigation?

ANSWER: No.

47. If the answer to the preceding Interrogatory is in the affirmative, please state the following:

- a. The jurisdiction in which the litigation is filed;
- b. The name of the parties involved in the litigation;
- c. The amount for which you are being sued;
- d. The date of trial if one has been scheduled.

ANSWER: Not applicable.

48. Are there any outstanding judgments against you?

ANSWER: No.

49. If the answer to the preceding Interrogatory is in the affirmative, as to each such judgment, please state the following:

- a. The jurisdiction in which the judgment was obtained;
- b. The amount of said judgment;
- c. The date the judgment was obtained;
- d. Whether collection attempts have been made on the judgment.

ANSWER: Not applicable.

50. Do you have any patents registered in your own name?

ANSWER: No.

51. If the answer to the preceding Interrogatory is in the affirmative, as to each such patent, please state the following:

- a. The number of the patent;

- b. The date you received said patent;
- c. The date your patent rights will terminate.

ANSWER: Not applicable.

52. Do you receive any royalties from any patents?

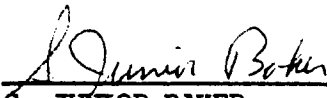
ANSWER: No.

53. If the answer to the preceding Interrogatory is in the affirmative, as to each such patent for which you receive royalties, please state the following:

- a. The amount of royalty received;
- b. How often said royalty is received;
- c. From whom is said royalty received;
- d. How long said royalty will continue.


ANSWER: Not applicable.

DATED this 20 day of April, 1983.



S. JUNIOR BAKER
Attorney for Plaintiff

ALLAN LESLIE MCKAY being first duly sworn upon oath, deposes and says that he has read the foregoing Answers to Interrogatories, that they are true and accurate to the best of his knowledge, information and belief.



ALLAN LESLIE MCKAY

SUBSCRIBED AND SWORN to before me on this 21 day of April,

00006

1983.

My Commission Expires:

7-2-84

James Baker
NOTARY PUBLIC
Residing in Salt Lake County, Utah

MAILING CERTIFICATE

I hereby certify that I mailed a true and exact copy of the foregoing Plaintiff's Answers to Defendant's Interrogatories, postage prepaid, to Steven C. Tycksen, Attorney for Defendant, 45 East Vine Street, Murray, Utah 84107 on this 22nd day of April, 1983.

Sammy Norton

7040

Department of the Treasury—Internal Revenue Service
U.S. Individual Income Tax Return

1982

1982, ending OMB No. 1545-0071

the year January 1–December 31, 1982, or other tax year beginning

el. her-se, lease rint or type.
-KC 375-46-5701
ALLAN & JOANN
4596 S 2200 W
SALT LAKE CITY UT
CAR-RT SORT
528-60-5301
MCKAY
**CR 21
529 1
84119

Last name
Your social security number
Spouse's social security no.

Your occupation **Inspector**
Spouse's occupation **Key punch ops.**

Yes No
Yes No
Note: Checking "Yes" will not increase your tax or reduce your refund.

Residential Section Campaign
Do you want \$1 to go to this fund?
If joint return, does your spouse want \$1 to go to this fund?
For Privacy Act and Paperwork Reduction Act Notice, see Instruction

Filing Status
Check only one box.
1 Single
2 Married filing joint return (even if only one had income)
3 Married filing separate return. Enter spouse's social security no. above and full name here
4 Head of household (with qualifying person). (See page 6 of Instructions.) If the qualifying person is your
5 Qualifying widow(er) with dependent child (Year spouse died **19**). (See page 6 of Instructions.)
Blind Enter number of boxes checked

Type or print PAYER'S Federal identifying number, name, address, and ZIP code below.

FIRST INTERSTATE BANK TRUSTEE
UTAH POWER & LIGHT CO. EMPLOYEE
SAVINGS AND STOCK PURCHASE PLAN
P.O. BOX 30169
SALT LAKE CITY, UTAH 84142
87-6132930

08852

OMB No. 1545-0119
Statement for Recipients of
Total Distributions from
Profit-Sharing, Retirement
Plans and Individual
Retirement Arrangements
Copy B
For Recipient

Recipient's identifying number 528-60-5301	1 Amount includible as income (Add boxes 2, 1 and 4) 516.28	2 Capital gain (For Lump-sum distributions only)	3 Ordinary income 516.28	4 Premiums paid by trustee or custodian for current insurance
5 Employee contributions to profit-sharing or retirement plans 711.78	6 Amount of IRA distributions (do not include box 4 amounts)	7 Category of distribution	8 Net unrealized appreciation in employer's securities \$	9 Other: %

JOANNE R MCKAY
4596 S 2200 W
S L C
UT 84119

This does does not qualify as a lump sum distribution.
Your percentage of total distribution **100**%
Death benefit exclusion does or does not apply.
This information is being furnished to the IRS and appropriate State Officials.

Type or print RECIPIENT'S name, address and ZIP code above. (Name MUST align with arrow)
Department of the Treasury—Internal Revenue Service

Form 1099R

Adjustments to Income (See instructions on page 11)	17a Other pensions and annuities. Total received	17b	
	b Taxable amount, if any, from worksheet on page 10 of Instructions	18	
	18 Rents, royalties, partnerships, estates, trusts, etc. (attach Schedule E)	19	
	19 Farm income or (loss) (attach Schedule F)	20a	
	20a Unemployment compensation (insurance). Total received	20b	
	b Taxable amount, if any, from worksheet on page 10 of Instructions	21	516
	21 Other income (state nature and source—see page 10 of Instructions) <i>Profit Sharing - Retirement - Utah P & L</i>	22	39661
	22 Total income. Add amounts in column for lines 7 through 21	23	
	23 Moving expense (attach Form 3903 or 3903F)	24	
	24 Employee business expenses (attach Form 2106)	25	
25 Payments to an IRA. You must enter code from page 11 (.....)	26		
26 Payments to a Keogh (H.R. 10) retirement plan	27		
27 Penalty on early withdrawal of savings	28		
28 Alimony paid	29		
29 Deduction for a married couple when both work (attach Schedule W)	30		
30 Disability income exclusion (attach Form 2440)	31		
31 Total adjustments. Add lines 23 through 30	32	39661	
Adjusted gross income. Subtract line 31 from line 22. If this line is less than \$10,000, see "Earned Income Credit" (line 62) on page 15 of Instructions. If you want IRS to figure your tax, see page 3 of Instructions.		00003	

Tax Computation (See Instructions on page 12)	33 Amount from line 32 (adjusted gross income)	33	39661
	34a If you itemize, complete Schedule A (Form 1040) and enter the amount from Schedule A, line 30	34a	5063
	Caution: If you have unearned income and can be claimed as a dependent on your parent's return, check here <input type="checkbox"/> and see page 12 of the Instructions. Also see page 12 of the Instructions if: <input checked="" type="checkbox"/> You are married filing a separate return and your spouse itemizes deductions, OR <input checked="" type="checkbox"/> You file Form 4563, OR <input type="checkbox"/> You are a dual-status alien.		
	34b If you do not itemize, complete the worksheet on page 13. Then enter the allowable part of your charitable contributions here	34b	
	35 Subtract line 34a or 34b, whichever applies, from line 33	35	34598
	36 Multiply \$1,000 by the total number of exemptions claimed on Form 1040, line 6e	36	8000
	37 Taxable Income. Subtract line 36 from line 35	37	26598
	38 Tax. Enter tax here and check if from <input checked="" type="checkbox"/> Tax Table, <input type="checkbox"/> Tax Rate Schedule X, Y, or Z, or <input type="checkbox"/> Schedule G	38	4610
	39 Additional Taxes. (See page 13 of Instructions.) Enter here and check if from <input type="checkbox"/> Form 4970, <input type="checkbox"/> Form 4972, <input type="checkbox"/> Form 5544, or <input type="checkbox"/> section 72 penalty taxes	39	
	40 Total. Add lines 38 and 39	40	4610

Credits (See Instructions on page 13)	41 Credit for the elderly (attach Schedules R&RP)	41	
	42 Foreign tax credit (attach Form 1116)	42	
	43 Investment credit (attach Form 3468)	43	44
	44 Partial credit for political contributions	44	
	45 Credit for child and dependent care expenses (attach Form 2441)	45	
	46 Jobs credit (attach Form 5884)	46	
	47 Residential energy credit (attach Form 5695)	47	
	48 Other credits—see page 14 ▶	48	
	49 Total credits. Add lines 41 through 48	49	44
	50 Balance. Subtract line 49 from line 40 and enter difference (but not less than zero) . ▶	50	4566

Other Taxes (Including Advance EIC Payments)	51 Self-employment tax (attach Schedule SE)	51	
	52 Minimum tax (attach Form 4625)	52	
	53 Alternative minimum tax (attach Form 6251)	53	
	54 Tax from recapture of investment credit (attach Form 4255)	54	
	55 Social security (FICA) tax on tip income not reported to employer (attach Form 4137)	55	
	56 Uncollected employee FICA and RRTA tax on tips (from Form W-2)	56	
	57 Tax on an IRA (attach Form 5329)	57	
	58 Advance earned income credit (EIC) payments received (from Form W-2)	58	
	59 Total tax. Add lines 50 through 58	59	4566

Payments Attach Forms W-2, W-2G, and W-2P to front.	60 Total Federal income tax withheld	60	5876
	61 1982 estimated tax payments and amount applied from 1981 return	61	
	62 Earned income credit. If line 33 is under \$10,000, see page 15 of Instructions	62	
	63 Amount paid with Form 4868	63	
	64 Excess FICA and RRTA tax withheld (two or more employers)	64	
	65 Credit for Federal tax on special fuels and oils (attach Form 4136)	65	
	66 Regulated Investment Company credit (attach Form 2439)	66	
	67 Total. Add lines 60 through 66	67	5876

Refund or Amount You Owe	68 If line 67 is larger than line 59, enter amount OVERPAID	68	1310
	69 Amount of line 68 to be REFUNDED TO YOU	69	1310
	70 Amount of line 68 to be applied to your 1983 estimated tax . . ▶	70	
	71 If line 59 is larger than line 67, enter AMOUNT YOU OWE. Attach check or money order for full amount payable to Internal Revenue Service. Write your social security number and "1982 Form 1040" on it. ▶ (Check <input type="checkbox"/> if Form 2210 (2210F) is attached. See page 16 of Instructions.) ▶ \$	71	Refund

Please Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information which preparer has any knowledge.

▶ Your signature _____ Date _____ ▶ Spouse's signature (If filing jointly, BOTH must sign) _____

Paid Preparer's Use Only	Preparer's signature ▶ <i>Perry ...</i>	Date ▶ 4-9-82	Check if self-employed <input type="checkbox"/>	Preparer's social security number ▶ 528 44 859
	Firm's name (or yours, if self-employed) ▶ 3115 ...	E.I. No. ▶		
	and address ▶ West Valley City, Utah	ZIP code ▶ 84119		

Profit or (Loss) From Business or Profession

(Sole Proprietorship)

Partnerships, Joint Ventures, etc., Must File Form 1065.

▶ Attach to Form 1040 or Form 1041. ▶ See Instructions for Schedule C (Form 1040).

Name of proprietor: Allan & JAHIM MCKAY Social security number of proprietor: 376 46 5701

A Main business activity (see Instructions) ▶ Body & Paint ; product ▶ Repairs

B Business name ▶ Same C Employer identification number

D Business address (number and street) ▶ Guine
City, State and ZIP Code ▶

E Accounting method: (1) Cash (2) Accrual (3) Other (specify) ▶

F Method(s) used to value closing inventory:
(1) Cost (2) Lower of cost or market (3) Other (if other, attach explanation)

G Was there any major change in determining quantities, costs, or valuations between opening and closing inventory?
If "Yes," attach explanation.

H Did you deduct expenses for an office in your home?

I Did you operate this business at the end of 1982?

J How many months in 1982 did you actively operate this business? ▶ 4 mos.

Yes	No
	X
	X
X	

Part I Income

1 a Gross receipts or sales	1a	516			
b Returns and allowances	1b				
c Balance (subtract line 1b from line 1a)	1c		516		
2 Cost of goods sold and/or operations (Schedule C-1, line 8)	2				
3 Gross profit (subtract line 2 from line 1c)	3				
4 a Windfall Profit Tax Credit or Refund received in 1982 (see Instructions)	4a				
b Other income	4b				
5 Total income (add lines 3, 4a, and 4b)	5			516	

Part II Deductions

6 Advertising			25 Taxes (Do not include Windfall Profit Tax here. See line 29.)		
7 Bad debts from sales or services (Cash method taxpayers, see Instructions)			26 Travel and entertainment		
8 Bank service charges			27 Utilities and telephone		80
9 Car and truck expenses	20		28 a Wages		
10 Commissions			b Jobs credit		
11 Depletion			c Subtract line 28b from 28a		
12 Depreciation, including Section 179 expense deduction (from Form 4562)	226		29 Windfall Profit Tax withheld in 1982		
13 Dues and publications			30 Other expenses (specify):		
14 Employee benefit programs			a Bath Rental		70
15 Freight (not included on Schedule C-1)			b Materials		161
16 Insurance			c Tools		40
17 Interest on business indebtedness			d		
18 Laundry and cleaning			e		
19 Legal and professional services			f		
20 Office supplies and postage			g		
21 Pension and profit-sharing plans			h		
22 Rent on business property			i		
23 Repairs			j		
24 Supplies (not included on Schedule C-1)			k		
			l		
			m		
31 Total deductions (add amounts in columns for lines 6 through 30m)	31				597
32 Net profit or (loss) (subtract line 31 from line 5). If a profit, enter on Form 1040, line 12, and on Schedule SE, Part I, line 2 (or Form 1041, line 6). If a loss, go on to line 33	32				(81)

33 If you have a loss, do you have amounts for which you are not "at risk" in this business (see Instructions)? . . . Yes No
If you checked "No," enter the loss on Form 1040, line 12, and on Schedule SE, Part I, line 2 (or Form 1041, line 6).

Computation of Investment Credit

OMB No. 1545-0155

1982

27

▶ Attach to your tax return.
 ▶ Schedule B (Business Energy Investment Credit) on back.

Name(s) as shown on return

Alison & JoAnn McKay

Identifying number

376-46-5701

- PART I.—Elections**
- A The corporation elects the basic or basic and matching employee plan percentage under section 48(n)(1)
 - B I elect to increase my qualified investment to 100% for certain commuter highway vehicles under section 46(c)(6)
 - C I elect to increase my qualified investment by all qualified progress expenditures made this and all later tax years
- Enter total qualified progress expenditures included in column (4), Part II ▶ _____
- D I claim full credit on certain ships under section 46(g)(3) (See Instruction B for details.)

1 Recovery Property		Line	(1) Class of Property	(2) Unadjusted Basis	(3) Applicable Percentage	(4) Qualified Investment (Column 2 x column 3)
Regular Percentage	New Property	(a)	3-year		60	
	Used Property	(b)	Other	<i>440</i>	100	<i>440</i>
		(c)	3-year		60	
	(d)	Other		100		
\$48(q) Election to Reduce Credit (instead of adjusting basis) FY 1982-83 filers only (see instr.)	New Property	(e)	3-year		40	
	Used Property	(f)	Other		80	
		(g)	3-year		40	
	(h)	Other		80		
2 Nonrecovery property—Enter total qualified investment (See instructions for line 2)					2	
3 New commuter highway vehicle—Enter total qualified investment (See Instruction D(2))					3	
4 Used commuter highway vehicle—Enter total qualified investment (See Instruction D(2))					4	
5 Total qualified investment in 10% property—Add lines 1(a) through 1(h), 2, 3, and 4 (See instructions for special limits)					5	<i>440</i>
6 Qualified rehabilitation expenditures—Enter total qualified investment for:						
a 30-year-old buildings					6a	
b 40-year-old buildings					6b	
c Certified historic structures (Enter the Dept. of Interior assigned project number)					6c	
7 Corporations checking election box A above—add lines 5, 6a, 6b, and 6c					7	
8 10% of line 5					8	<i>44</i>
9 15% of line 6a					9	
10 20% of line 6b					10	
11 25% of line 6c					11	
12 Corporations checking election box A (See Instruction D(1))—						
a Basic 1% credit—Enter 1% of line 7 (1982-83 fiscal-year filers, see instructions for line 12)					12a	
b Matching credit (not more than 0.5%)—Allowable percentage times adjusted line 7 (attach schedule)					12b	
13 Credit from cooperative—Enter regular investment credit from cooperatives					13	
14 Current year regular investment credit—Add lines 8 through 13					14	<i>44</i>
15 Carryover of unused credits					15	
16 Carryback of unused credits					16	
17 Tentative regular investment credit—Add lines 14, 15, and 16					17	<i>44</i>
18 a Individuals—From Form 1040, enter tax from line 38, page 2, plus any additional taxes from Form 4970					18	<i>4610</i>
b Estates and trusts—From Form 1041, enter tax from line 26a, plus any section 644 tax on trusts						
c Corporations (1120 filers)—From Form 1120, Schedule J, enter tax from line 3						
d Other organizations—Enter tax before credits from return						
19 a Individuals—From Form 1040, enter credits from lines 41 and 42 of page 2					19	-
b Estates and trusts—From Form 1041, enter any foreign tax credit from line 27a						
c Corporations (1120 filers)—From Form 1120, Schedule J, enter any foreign tax credit from line 4(a), plus any possessions tax credit from line 4(f)						
d Other organizations—Enter any foreign or possessions tax credit						
20 Income tax liability as adjusted (subtract line 19 from line 18)					20	<i>4610</i>
21 a Enter smaller of line 20 or \$25,000. See instruction for line 21					21a	<i>4610</i>
b If line 20 is more than \$25,000—Enter 90% of the excess					21b	-
22 Regular investment credit limitation—Add lines 21a and 21b					22	<i>4610</i>
23 Allowed regular investment credit—Enter the smaller of line 17 or line 22					23	<i>44</i>
24 Business energy investment credit limitation—Subtract line 23 from line 20					24	-
25 Business energy investment credit—From line 14 of Schedule B (Form 3468)					25	-
26 Allowed business energy investment credit—Enter smaller of line 24 or line 25					26	-
27 Total allowed regular and business energy investment credit—Add lines 23 and 25. Enter here and						<i>4610</i>

PART IV.—Tax Liability Limitations

Depreciation and Amortization

▶ See separate instructions.
 ▶ Attach this form to your return.

Name(s) as shown on return

Allan & Jeanne Wilkey

Identifying number

376-46-5701

Business or activity to which this form relates

Body & Paint

Part I Depreciation

Section A Election to expense recovery property (Section 179)

A. Class of property	B. Cost	C. Expense deduction

1 Total (not more than \$5,000). Enter here and on line 8 (Partnerships—enter this amount on Schedule K (Form 1065))

Section B Depreciation of recovery property

A. Class of property	B. Date placed in service	C. Cost or other basis	D. Recovery period	E. Method of figuring depreciation	F. Percentage	G. Deduction for this year
2 Accelerated Cost Recovery System (ACRS) (See instructions):						
(a) 3-year property						
<i>AIA Computer</i>	<i>9-1-82</i>	<i>380.</i>	<i>5</i>	<i>ACRS</i>	<i>15</i>	<i>57.</i>
<i>Sander</i>	<i>9-1-82</i>	<i>60</i>	<i>5</i>	<i>ACRS</i>	<i>15</i>	<i>9</i>
(b) 5-year property						
(c) 10-year property						
(d) 15-year public utility property						
(e) 15-year real property—low-income housing						
<i>shop (garage)</i>	<i>9-1-82</i>	<i>4000</i>	<i>15</i>	<i>ACRS</i>	<i>4</i>	<i>160</i>
(f) 15-year real property other than low-income housing						

3 Property subject to section 168(e)(2) election (See instructions):

4 Total column G. Enter here and on line 9

22600103



UTAH RESIDENT LONG FORM
INDIVIDUAL INCOME TAX RETURN

UTAH
1982
FORM TC-40

For the year ending December 31, 1982, or other taxable year
beginning _____ 19____ ending _____ 19____

Use label: **CAR-RT-PRES CRT** ** CR04

otherwise Your social security number

type or 376-46-5701 528-60-5301

print in ALLAN & JG ANN MC KAY

black or 4596 S 2200 WEST

blue ink S L CITY UT 84119

Telephone No Occupation Yours *Inspector*

Spouse's Spouse's *Key punch op.*

Read instructions on page 3 to see if you can use the short form (TC-40S). If you do not qualify to use the short form, you must use this form.

1. FILING STATUS — Check only one A. <input type="checkbox"/> Single, except head of household B. <input type="checkbox"/> Head of Household — Enter qualifying name C. <input checked="" type="checkbox"/> Married filing joint return D. <input type="checkbox"/> Married filing separately. Give spouse's social security number in heading above and enter spouse's full name here	2. EXEMPTIONS <table border="1"> <tr> <td></td> <td>Regular</td> <td>65 or over</td> <td>Blind</td> <td>Enter number of boxes checked</td> </tr> <tr> <td>Yourself</td> <td><input checked="" type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td rowspan="2">2A. <u>2</u></td> </tr> <tr> <td>Spouse</td> <td><input checked="" type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td colspan="5">Number of dependent children who lived with you 2B. <u>6</u></td> </tr> <tr> <td colspan="5">Number of other dependents 2C. _____</td> </tr> <tr> <td colspan="5">TOTAL EXEMPTIONS CLAIMED 2D. <u>8</u></td> </tr> </table>		Regular	65 or over	Blind	Enter number of boxes checked	Yourself	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	2A. <u>2</u>	Spouse	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Number of dependent children who lived with you 2B. <u>6</u>					Number of other dependents 2C. _____					TOTAL EXEMPTIONS CLAIMED 2D. <u>8</u>					3. ELECTION CAMPAIGN FUND — Check box indicating (1) party to which you wish to make a \$1.00 contribution or, (2) contribution. Checking box will not increase tax or reduce refund.
			Regular	65 or over	Blind	Enter number of boxes checked																									
Yourself	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	2A. <u>2</u>																											
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		<table border="1"> <tr> <td></td> <td>Yourself</td> <td>Spouse</td> </tr> <tr> <td>A. American</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>B. Democrat</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>C. Libertarian</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>D. Republican</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>E. No Contribution</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </table>		Yourself	Spouse	A. American	<input type="checkbox"/>	<input type="checkbox"/>	B. Democrat	<input type="checkbox"/>	<input type="checkbox"/>	C. Libertarian	<input type="checkbox"/>	<input type="checkbox"/>	D. Republican	<input type="checkbox"/>	<input type="checkbox"/>	E. No Contribution	<input type="checkbox"/>	<input type="checkbox"/>											
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D. Republican	<input type="checkbox"/>	<input type="checkbox"/>																													
E. No Contribution	<input type="checkbox"/>	<input type="checkbox"/>																													

4. Federal Return: (Check type of return filed. Attach complete copy with all schedules) Form 1040 Form 1040A 1040 EZ

5. Adjusted Gross Income (from Federal return - see instructions on page 4) 5 39661

6. Deductions: Check type of deduction being used on state return - check only one

(A). Itemized Deductions (amount shown on line 28 of Federal Schedule A) or

(B). Standard Deduction (for single, married filing jointly and head of household: \$1,300.00 minimum or 15% of line 5 with a \$2,000.00 maximum. For married filing separately: \$650.00 minimum or 15% of line 5, with a \$1,000.00 maximum. Please read instructions for exceptions) 6

7. Exemptions (total exemptions claimed on line 2D times \$750.00) 7	<u>6000</u>
8. Federal Income Tax Determined for the Same Period (see instructions for line 8) 8	<u>4566</u>
9. Interest from U.S. Government Obligations (included in Federal adjusted gross income) 9	
10. Retirement Income (complete Schedule B on back of form) 10	
11. State Tax Refund (if included as income on Federal return) 11	
12. Adoption Expenses and Other Deductions (see instructions; attach explanation) 12	

13. Total Exemptions and Deductions (add lines 6 through 12) 13 19029

14. Total Income Less Exemptions and Deductions (line 5 less line 13) 14 20632

15. Add State Income Tax (claimed as an itemized deduction on Federal Schedule A) 15 1280

16. Equitable, Lump Sum and Other Adjustments (see instructions; attach explanation) 16

17. Total Additions (add lines 15 and 16) 17 1280

18. Total Utah Taxable Income (add lines 14 and 17) 18 21912

COMPUTE THE TAX ON AMOUNT ON LINE 18 PER TAX RATE SCHEDULE ON REVERSE OF FORM

19. Utah Income Tax (from Tax Rate Schedules on back of form) 19 1473

20. Credit for Utah Income Tax withheld (attach withholding forms) 20 1558

21. Credit for Income Taxes Paid to Another State (complete Schedule A on back of form) 21

22. Credit for Utah Income Tax Prepaid 22

23. Other Credits (complete Schedule C on back of form) 23

24. Total Credits (add lines 20 through 23) 24 1558

25. Additional Tax Due - If line 19 is larger than 24, subtract line 24 from line 19 and enter balance - PAY THIS AMOUNT 25

26. Refund - If line 24 is larger than line 19, subtract line 19 from line 24 and enter balance 26 85

27. Utah Nongame Wildlife Fund. I wish to contribute \$1 \$5 \$10 or \$_____ (enter amount), or

I do not wish to contribute. Enter contribution amount on line 27 at right 27

28. Net Refund - subtract line 27 from line 26. This amount will be refunded to you. Please allow 90 days for processing 28 85

Send return and payment to: UTAH STATE TAX COMMISSION HEBER M. WELLS OFFICE BUILDING SALT LAKE CITY, UTAH 84134	29. Did you file a Utah return for 1981? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO If no, give reason _____	FOR OFFICIAL USE ONLY CODE _____ APPROVAL _____
---	--	--

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct and complete. Declaration of preparer (other than taxpayer) is based on all information of which he has any knowledge.

SIGN HERE

Your signature _____ Date _____

Preparer's signature (other than taxpayer) *Henry M. Wells* Date *10/10/82*

Preparer's Emp. Ident. or Soc. Sec. No. *3115 Wells Heber M. Wells Bldg. Salt Lake City, UT*

ATTACH CHECK HERE

ATTACH STATE COPY OF FORM W-2 HERE

For the year January 1—December 31, 1981, or other tax year beginning 1981, ending 19 OMB No. 1545-0074

Use IRS label. Other-wise, please print or type.

Your first name and initial (if joint return, also give spouse's name and initial) Last name
 Allan + JO Ann McKay

Your social security number
 376 46 5701

Present home address (Number and street, including apartment number, or rural route)
 4596 So. 2200 West

Spouse's social security no.
 528 60 5301

City, town or post office, State and ZIP code
 Salt Lake City, Utah 84119

Your occupation Inspector
 Spouse's occupation Key punch oper

Presidential Election Campaign Do you want \$1 to go to this fund? Yes No
 If joint return, does your spouse want \$1 to go to this fund? Yes No

Note: Checking "Yes" will not increase your tax or reduce your refund.

Filing Status

1 Single
 2 Married filing joint return (even if only one had income)
 3 Married filing separate return. Enter spouse's social security no. above and full name here
 4 Head of household (with qualifying person). (See page 6 of instructions.) If he or she is your unmarried child, enter child's name
 5 Qualifying widow(er) with dependent child (Year spouse died 19). (See page 6 of instructions.)

For Privacy Act and Paperwork Reduction Act Notice, see instructions.

Exemptions

6a Yourself 65 or over Blind
 b Spouse 65 or over Blind

Enter number of boxes checked on 6a and b 2

c First names of your dependent children who lived with you
 Rick, Allan, Scott, Denny, Cheryl, Brian

Enter number of children listed on 6c 6

d Other dependents:

(1) Name	(2) Relationship	(3) Number of months lived in your home	(4) Did dependent have income of \$1,000 or more?	(5) Did you provide more than one-half of dependent's support?

Enter number of other dependents Add numbers entered in boxes above 8

e Total number of exemptions claimed

Income

Please attach Copy B of your Forms W-2 here.
 If you do not have a W-2, see page 5 of instructions.

Line	Description	Amount
7	Wages, salaries, tips, etc.	35240
8a	Interest income (attach Schedule B if over \$400 or you have any All-Savers interest)	
b	Dividends (attach Schedule B if over \$400)	
c	Total. Add lines 8a and 8b	
d	Exclusion (See page 9 of instructions)	
e	Subtract line 8d from line 8c (but not less than zero)	
9	Refunds of State and local income taxes (do not enter an amount unless you deducted those taxes in an earlier year—see page 9 of instructions)	
10	Alimony received	
11	Business income or (loss) (attach Schedule C)	
12	Capital gain or (loss) (attach Schedule D)	
13	40% of capital gain distributions not reported on line 12 (See page 9 of instructions)	
14	Supplemental gains or (losses) (attach Form 4797)	
15	Fully taxable pensions and annuities not reported on line 16	
16a	Other pensions and annuities. Total received	
b	Taxable amount, if any, from worksheet on page 10 of instructions	
17	Rents, royalties, partnerships, estates, trusts, etc. (attach Schedule E)	
18	Farm income or (loss) (attach Schedule F)	
19a	Unemployment compensation (insurance). Total received	
b	Taxable amount, if any, from worksheet on page 10 of instructions	
20	Other income (state nature and source—see page 11 of instructions)	
21	Total income. Add amounts in column for lines 7 through 20	35240

Adjustments to income

(See instructions on page 11)

Line	Description	Amount
22	Moving expense (attach Form 3903 or 3903F)	
23	Employee business expenses (attach Form 2106)	
24	Payments to an IRA (enter code from page 11)	
25	Payments to a Keogh (H.R. 10) retirement plan	
26	Interest penalty on early withdrawal of savings	
27	Alimony paid	
28	Disability income exclusion (attach Form 2440)	
29	Other adjustments—see page 12	
30	Total adjustments. Add lines 22 through 29	00100

Adjusted Gross Income

31 Adjusted gross income. Subtract line 30 from line 21. If this line is less than \$10,000, see "Earned Income Credit" (line 57) on page 15 of instructions. If you want IRS to figure your tax, see page 3 of instructions.

31 35240

00079

Computation

(See instructions on page 12)

32a	Amount from line 31 (adjusted gross income)	32a	35240
32b	If you do not itemize deductions, enter zero	32b	2271
If you itemize, complete Schedule A (Form 1040) and enter the amount from Schedule A, line 41			
Caution: If you have unearned income and can be claimed as a dependent on your parent's return, check here <input type="checkbox"/> and see page 12 of the instructions. Also see page 12 of the instructions if:			
<ul style="list-style-type: none"> You are married filing a separate return and your spouse itemizes deductions, OR You file Form 4563, OR You are a dual-status alien. 			
32c	Subtract line 32b from line 32a	32c	32969
33	Multiply \$1,000 by the total number of exemptions claimed on Form 1040, line 6e	33	5000
34	Taxable income. Subtract line 33 from line 32c	34	24969
35	Tax. Enter tax here and check if from <input checked="" type="checkbox"/> Tax Table, <input type="checkbox"/> Tax Rate Schedule X, Y, or Z, <input type="checkbox"/> Schedule D, <input type="checkbox"/> Schedule G, or <input type="checkbox"/> Form 4726	35	4567
36	Additional taxes. (See page 13 of instructions.) Enter here and check if from <input type="checkbox"/> Form 4970, <input type="checkbox"/> Form 4972, <input type="checkbox"/> Form 5544, or <input type="checkbox"/> Section 72(m)(5) penalty tax	36	-
37	Total. Add lines 35 and 36	37	4567

Credits

(See instructions on page 13)

38	Credit for contributions to candidates for public office	38	
39	Credit for the elderly (attach Schedules R&RP)	39	
40	Credit for child and dependent care expenses (attach Form 2441)	40	
41	Investment credit (attach Form 3468)	41	
42	Foreign tax credit (attach Form 1116)	42	
43	Work incentive (WIN) credit (attach Form 4874)	43	
44	Jobs credit (attach Form 5884)	44	
45	Residential energy credit (attach Form 5695)	45	
46	Total credits. Add lines 38 through 45	46	
47	Balance. Subtract line 46 from line 37 and enter difference (but not less than zero)	47	4567

Other Taxes

(Including Advance EIC Payments)

48	Self-employment tax (attach Schedule SE)	48	
49a	Minimum tax. Attach Form 4625 and check here <input type="checkbox"/>	49a	
49b	Alternative minimum tax. Attach Form 6251 and check here <input type="checkbox"/>	49b	
50	Tax from recomputing prior-year investment credit (attach Form 4255)	50	
51a	Social security (FICA) tax on tip income not reported to employer (attach Form 4137)	51a	
51b	Uncollected employee FICA and RRTA tax on tips (from Form W-2)	51b	
52	Tax on an IRA (attach Form 5329)	52	
53	Advance earned income credit (EIC) payments received (from Form W-2)	53	
54	Total tax. Add lines 47 through 53	54	4567

Payments

Attach Forms W-2, W-2G, and W-2P to front.

55	Total Federal income tax withheld	55	5419
56	1981 estimated tax payments and amount applied from 1980 return	56	
57	Earned income credit. If line 32a is under \$10,000, see page 15 of instructions	57	
58	Amount paid with Form 4868	58	
59	Excess FICA and RRTA tax withheld (two or more employers)	59	
60	Credit for Federal tax on special fuels and oils (attach Form 4136 or 4136-T)	60	
61	Regulated Investment Company credit (attach Form 2439)	61	
62	Total. Add lines 55 through 61	62	5419

Refund or Balance Due

63	If line 62 is larger than line 54, enter amount OVERPAID	63	952
64	Amount of line 63 to be REFUNDED TO YOU	64	952
65	Amount of line 63 to be applied to your 1982 estimated tax	65	
66	If line 54 is larger than line 62, enter BALANCE DUE. Attach check or money order for full amount payable to "Internal Revenue Service." Write your social security number and "1981 Form 1040" on it. (Check <input type="checkbox"/> if Form 2210 (2210F) is attached. See page 16 of instructions.)	66	

Please Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature: _____ Date: _____ Spouse's signature (if filing jointly. BOTH must sign even if only one had income): _____

Paid Preparer's Use Only

Preparer's signature: Henry Mattianna Date: 3-6-82 Check if self-employed: Preparer's social security no.: 528 44 5590

Firm's name (or yours, if self-employed) and address: 3115 Middleman Ave W. U. S. Utah E.I. No.: _____ ZIP code: 84119

00107

00108



INDIVIDUAL INCOME TAX RETURN

RESIDENT LONG FORM

For the year ending December 31, 1981 or other taxable year beginning 19 ending 19

UTAH FORM TC-40

1981

Name (if joint return, give first names and initials of both) Last Name Your social security number Present home address - Number and street including apartment number or rural route Spouse's social security number City, town or post office County State and Zip code Telephone No Occupation Yours Spouse's

READ instructions on page 3 to see if you can use the short form (TC-40S). If you do not qualify to use the short form, you must use this form.

1. FILING STATUS - Check only one A. Single, except head of household B. Head of Household - Enter qualifying name C. Married filing joint return D. Married filing separately. Give spouse's social security number in heading above and enter spouse's full name here 2. EXEMPTIONS Regular CB or over Blind Yourself Spouse Number of dependent children who lived with you Number of other dependents TOTAL EXEMPTIONS CLAIMED 3. ELECTION CAMPAIGN FUND - Check box indicating (1) party to which you wish to make a \$1.00 contribution or, (2) no contribution. Checking box will not increase tax or reduce refund. Yourself Spouse A. Democratic B. Republican C. No Contribution

4. Federal Return: (Check type of return filed. Attach complete copy with all schedules) - Form 1040 Form 1040 A To file an Amended return use form TC-40X

5. Federal Adjusted Gross Income (From Federal Form 1040 line 31 or Form 1040A line 10) 6. Deductions: Note: Read instructions for line 6 on page 4 before completing this section (A). Itemized Deductions (amount shown on line 39 of Federal Schedule A) (B). Standard Deductions (for single, married filing jointly and head of household: \$1,300.00 minimum or 15% of line 5 with a \$2,000.00 maximum. For married filing separately: \$650.00 minimum or 15% of line 5, with a \$1,000.00 maximum. Please read instructions for exceptions) 7. Exemptions (Total exemptions claimed (line 2d) times \$750.00) 8. Federal Income Tax Determined for the same period (see instructions for line 8) 9. Interest from U.S. Government Obligations included in Federal adjusted gross income 10. Retirement Income (Complete Schedule B on back of this return) 11. State Tax Refund (if reported on line 9 of Federal Form 1040) 12. Adoption Expenses and Other Deductions (See instructions; attach explanation) 13. Total Exemptions and Deductions (add lines 6 through 12) 14. Total Income Less Exemptions and Deductions (line 5 less line 13) 15. Add State Income Tax (claimed as an itemized deduction on Line 11 of Federal Schedule A) 16. Equitable, Lump Sum and Other Adjustments (See instructions; attach explanation) 17. Total Additions (add lines 15 and 16) 18. Total Utah Taxable Income (add lines 14 and 17) COMPUTE THE TAX ON AMOUNT ON LINE 18 PER TAX RATE SCHEDULE ON REVERSE OF FORM 19. Utah Income Tax (from Tax Rate Schedules on back) 20. Credit for Utah income Tax withheld (attach withholding forms) 21. Credit for Income Taxes Paid to Another State (Complete Schedule A on back of form) 22. Credit for Agricultural Off-Highway Gas and Gasohol Tax (Complete Schedule C on back of form) 23. Credit for Utah Income Tax Prepaid (attach proof of pre-payment) 24. Credit for Energy Systems Installation (attach Schedule TC-40E with energy office approval) 25. Total Credits (add lines 20 through 24) 26. Additional Tax Due - If line 19 is larger than 25, subtract line 25 from line 19 and enter balance - PAY THIS AMOUNT 27. Refund - If line 25 is larger than line 19, subtract line 19 from line 25 and enter balance 28. Utah Nongame Wildlife Fund. I wish to contribute \$1, \$5, \$10 or \$ (enter amount), or I do not wish to contribute. Enter contribution amount on line 28 at right 29. Net Refund - subtract line 28 from line 27. This amount will be refunded to you. Please allow 90 days for processing

ATTACH CHECK HERE ATTACH STATE COPY OF FORM W-2 HERE

Send return and payment to: UTAH STATE TAX COMMISSION STATE OFFICE BUILDING SALT LAKE CITY, UTAH 84134 30. Did you file a Utah return for 1980? YES NO If no, give reason FOR OFFICIAL USE ONLY CODE APPROVAL

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which he has any knowledge

SIGN HERE Your signature Date Preparer's signature (other than taxpayer) Date Spouse's signature (if filing jointly BOTH must sign even if only one had income) Address (and ZIP CODE) Preparer's Emp. Ident. or Soc. Sec. No.

00108