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Utah Court of Appeals

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ALLAI	N LESLIE MCKAY, Plaintiff/Appellant,	:	APPELLEE'S BRIEF
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.

> NOLAN J. OLSEN (2464) Attorney for Defendant/Appellee 8138 South State Street Midvale, Utah 84047 (801) 255-7176

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AUG 1 6 1993

Mary Mary T. Noonan Clerk of the Court

		IN THE	UTAH	COURT	OF APPEA	LS
ALLAN	I LESLIE MCKAY		:		י מקוד זקר	DDIEE
	Plaintiff/App	ellant,	, :	API	PELLEE'S	BRIEF
vs.			:			
MARY	ANN MCKAY,		•	App	peal No.	930060-CA
	Defendant/App	ellee.	:	Pri	iority 1	5

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STATEMENT OF JURISDICTION

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

STATEMENT OF ISSUES

1. <u>Issue</u>: 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?

<u>Standard of Review</u>: "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.]" <u>Throckmorton v. Throckmorton</u>, 767 P.2d 121, 122 (Utah App. 1988) (citing <u>Gardner v. Gardner</u>, 748 P.2d 1076, 1078 (Utah 1988); <u>Eames v. Eames</u>, 735 P.2d 395, 397 (Utah App. 1987)).

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

<u>Standard of Review</u>: "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.'" <u>Watson v. Watson</u>, 837 P.2d 1, 3, (Utah App. 1992) (quoting <u>Woodward v. Woodward</u>, 709 P.2d 393, 394 (Utah 1985)).

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

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

4. <u>Issue</u>: 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 The court, or defense. 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." <u>Steele v.</u> <u>Bd. of Review</u>, 845 P.2d 960, 962 (Utah App. 1993) (citations omitted); <u>see generally</u> 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.").

The district court did not abuse its discretion in 2. 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 Finally, Mrs. McKay is no longer receiving child such decree. Taken collectively, these support. 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." <u>Watson v. Watson</u>, 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. <u>All statements of fact an</u> <u>references to the proceedings below shall be</u> <u>supported by citations to the record</u>.

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

In <u>Steele v. Bd. of Review</u>, 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. <u>Id</u>. at 962. (citing <u>Fackrell v. Fackrell</u>, 740 P.2d 1318, 1319 (Utah 1987); <u>Trees v. Lewis</u>, 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. <u>See Steele v. Bd.</u> 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. <u>Throckmorton v. Throckmorton</u>, 767 P.2d 121, 124 (Utah App. 1988) (quoting <u>Naylor v. Naylor</u>, 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. <u>Throckmorton</u>, 767 P.2d at 124 (quoting <u>Jeppson v Jeppson</u>, 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. <u>See Throckmorton</u>, 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. <u>See</u> R. at 237. Further, she is no longer receiving child support. <u>See</u> R. at 321. Finally, as a result of her disability, she incurs medical expenses of \$150.00 per month exclusive of medicare. <u>See</u> 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 approximatley \$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.

<u>See</u> 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. <u>See Throckmorton</u>, 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." <u>Watson v. Watson</u>, 837 P.2d 1, 3 (Utah App. 1992) (citing <u>Schindler v. Schindler</u>, 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]. <u>English v. English</u>, 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 <u>Woodward v. Fazzio</u>, 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[,]" <u>Eames v. Eames</u>, 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, <u>Scharf v.</u> <u>BMG Corp.</u>, 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 marshall all the evidence in support of the court's finding relating to delinquent child support, that finding should be upheld. <u>See Watson</u> 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. <u>See</u> Utah Code Ann. § 30-3-3 (1991). Section 30-3-3 also allows for fees in modification proceedings and appeals. <u>Muir v. Muir</u>, 841 P.2d 736, 741 (Utah App. 1993) (citing <u>Maughan v. Maughan</u>, 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." <u>Muir</u>, 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 Sate 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 judgment against plaintiff granted for reasonable attorney fees and the Court having advisement taken that issue under 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 10thday 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: "[0]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." <u>Watson v. Watson</u>, 837 P.2d 1, 8 (Utah App. 1992) (quoting <u>Bell v.</u> <u>Bell</u>, 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. <u>Id</u>.

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 In the alternative, the evidence before the district upheld. supported its finding of a substantial change court 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 13 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

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

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

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IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT

IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

ALLAN LESLI	E MCKAY, Plaintiff,	: : : :	FINDINGS OF FACT AND CONCLUSIONS OF LAW ON ORDER MODIFYING DECREE OF DIVORCE
MARY ANN MC	:KAY,	:	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

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, towit: 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 access 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 <u>Stu</u> day of <u>Juan 1992</u>. BY THE COURT: DISTRICT COURT HUDGE

CERTIFICATE OF MAILING

I hereby certify that on the <u>14</u> day of <u>Decch</u> 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.

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Salt Lake County Utah

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

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IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

ALLAN LESLIE MCKAY,	:	2179883
Plaintiff,	:	ORDER MODIFYING DECREE OF DIVORCE 20-92-8:00am
vs.	:	16240483
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, and the court having heretofore made and entered its Findings of Fact and Conclusions of Law, and upon motion of Nolan J. Olsen, attorney for defendant, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

1. That the Decree of Divorce in the above matter be modified as follows:

a. That plaintiff be and he is hereby 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 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 provide herein.

DATED this 284 day of Control 1992. BY_THE COURT DISTRICT COURT

CERTIFICATE OF MAILING

I hereby certify that on the <u>14</u> day of <u>December</u> 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.

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Salt Lake County Utah

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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". Mole DATED this _//_ day of 1992. 10-1 NOLAN J. OLSEN ί SUBSCRIBED AND SWORN to before me this _____ day of 1992.

NOTARY PUBLIC Residing At:

My Commission Expires:

Notary Public PANS VAN DE VANTER 6138 South Stain St lovas, Utzi, 5-017 My Commission F lores November 4, 1992 Stale of Utah

5552 Woot	Planada Way		
Kearns, Ut	lan 84118		
		Hours	Amount
			11
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 Peul		
05/04/02	and preparation	2.5	337.50
05/04/92 06/11/92	Letter Letter	•5	67.50
07/10/92		•5	67.50
08/04/92	Letter Notice of Pre-trial	• 5	67.50
09/04/92		• 5	67.50
03/04/32	Preparation for Pre-trial		

MARY MCKAY

	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	2.0	270.00
	TOTAL HOURS, FEES AND COSTS:	28.3	3,868.00

Salt Lake County Utah

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. 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 MCKAY V. MCKAY

PAGE TWO

MEMORANDUM DECISION

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 MCKAY V. MCKAY

PAGE THREE

MEMORANDUM DECISION

"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 this day of December, 1992.

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MCKAY V. MCKAY

PAGE FOUR MEMORANDUM DECISION

MAILING CERTIFICATE

I hereby certify that I mailed a true and correct copy of the foregoing Memorandum Decision, to the following, this $\frac{20\pi^2}{2}$ 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

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

IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR

SALT LAKE COUNTY, STATE OF UTAH

ALIAN LESLIE MCKAY,	:	
Plaintiff,	:	PLAINTIFF'S ANSWERS TO DEFENDANT'S INTERROGATORIES
VS.	:	Civil No. D-80-4670
MARY ANN MCKAY,	:	CIVII NO. D-80-4070
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 selfemployment;

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;

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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;
- 1. 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.

1. \$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.

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. 178 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?

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 pprpreceding Interrogatory is in the affirmative, please state fo 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 terimination;

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 boker 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;

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. Informatiion requested is therefore available to the Defendant and not to the Plaintiff.

36. During the past five (5) years, have you sold or transfered 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.

 \mathbb{C}_{\circ}

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 judg-ment.

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 <u>20</u> day of April, 1983.

Junion Boker

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 Z. M.C.K. Lang

SUBSCRIBED AND SWORN to before me on this _21_ day of April,

1983.

My Commission Expires:

-7-2-84

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 $\overrightarrow{aa^{M}}$ day of April, 1983.

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•	33 Amount from line 32 (adjusted gross income)	33	39661	T
Tax	34a If you itemize, complete Schedule A (Form 1040) and enter the amount from Schedule A, line 30	34a	5063	-
Compu-	Caution: If you have unearned income and can be claimed as a dependent on your			
ation	parent's return, check here >] and see page 12 of the Instructions. Also see			
iee	page 12 of the Instructions if:			
struc-	 You are married filing a separate return and your spouse itemizes deductions, OR You file Form 4563, OR You are a dual-status alien. 			
ons on ige 12)	34b If you do not itemize, complete the worksheet on page 13. Then enter the allowable			
	part of your charitable contributions here	346		
	35 Subtract line 34a or 34b, whichever applies, from line 33	35	34598	1
	36 Multiply \$1,000 by the total number of exemptions claimed on Form 1040, line 6e.	36	8000	1-
	37 Taxable Income. Subtract line 36 from line 35	37	26598	1
	38 Tax. Enter tax here and check if from 🔀 Tax Table, 🗌 Tax Rate Schedule X, Y, or Z,	-	X	1-
	or Schedule G	38	4610	
	39 Additional Taxes. (See page 13 of Instructions.) Enter here and check if from T Form 4970.)	39		1-
•	Form 4972, Form 5544, or section 72 penalty taxes			1-
	40 Total. Add lines 38 and 39	40	4610	
	41 Credit for the elderly (attach Schedules R&RP) 41			Ť
redit s	42 Foreign tax credit (attach Form 1116)			
ee	43 Investment credit (attach Form 3468)			
struc-	44 Partial credit for political contributions			
ge 13)	45 Credit for child and dependent care expenses (Form 2441).			
	46 Jobs credit (attach Form 5884)			
	47 Residential energy credit (attach Form 5695) 47			
	48 Other credits—see page 14 ▶			
	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	-
	51 Self-employment tax (attach Schedule SE)	51		Ī
her	52 Minimum tax (attach Form 4625)	52		-
axes	53 Alternative minimum tax (attach Form 6251)	53		1
cluding	54 Tax from recapture of investment credit (attach Form 4255)	54		-
vance C	55 Social security (FICA) tax on tip income not reported to employer (attach Form 4137).	55		1
yments)	56 Uncollected employee FICA and RRTA tax on tips (from Form W-2)	56		1-
	57 Tax on an IRA (attach Form 5329)	57		1
	58 Advance earned income credit (EIC) payments received (from Form W-2)	58		1
5	59 Total tax. Add lines 50 through 58	59	4566	-
	60 Total Federal income tax withheld			Ī
yment s	61 1982 estimated tax payments and amount applied from 1981 return . 61			
ach	62 Earned income credit. If line 33 is under \$10,000, see			
ms W-2, 2G, and	page 15 of instructions			
2P	63 Amount paid with Form 4868			
front.	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)			
	66 Regulated Investment Company credit (attach Form 2439) 66			
	67 Total. Add lines 60 through 66	67	5876	
fund or	68 If line 67 is larger than line 59, enter amount OVERPAID	68	1310	
ount	69 Amount of line 68 to be REFUNDED TO YOU	69	1310	. _
u Owe	70 Amount of line 68 to be applied to your 1983 estimated tax ► 70			
- 970	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. 🕨	71	H-fund	_ _
	(Check ► ☐ if Form 2210 (2210F) is attached. See page 16 of Instructions.) ► \$	1.1.111		
	Under penalties of perjury, I declare that I have examined this return, including accompanying schedules i	and stati () is bas	ements, and to t ed on all inform	ihe sti
	of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpaver			
	of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer which preparer has any knowledge.			
(n	of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer			
ease gn re	of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer		OfH must sign)	
(n	of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer which preparer has any knowledge. Your signature Date Spouse's signature (If filing	jointly, B	rer's social secu	t
n :e	of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer which preparer has any knowledge.	jointly, B		

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Department of the Trea Internal Revenue Servic	(Schedule B is on back) (4) Attach to Form 1040. See Instructions for Schedules A an	id B (Forn	n 1040).		した の よ 07
Name(s) as shown	on Form 1040 Allan + JerAnn Inckary				46 570
Medical and	1 Medicines and drugs				
Dental Expenses	2 Write 1% of Form 1040, line 33		<u>:////////////////////////////////////</u>	<u> ////////////////////////////////////</u>	
(Do not incl ude	3 Subtract line 2 from line 1. If line 2 is more than line 1, write zero		488	·	
expenses reim-	4 Total insurance premiums you paid for medical and dental care	• 4	700	·	
bursed or paid by others.)	5 Other medical and dental expenses:	5a	496		
•	a Doctors, dentists, nurses, hospitals, etc.	- EL		.[
(See page 17 of Instructions.)	b Transportation			·	
	c Other (list—include hearing aids, dentures, eyeglasses, etc. ►Cunfuct Langes)	79		
			1063	·	
	6 Add fines 3 through 5c	·	1184		
	 7 Multiply amount on Form 1040, line 33, by 3% (.03) 8 Subtract line 7 from line 6. If line 7 is more than line 6, write zero 	·]			
	 9 Write one-half of amount on line 4, but not more than \$150 	9	150		
	10 COMPARE amounts on line 8 and line 9, and write the LARGER	• • • • • • • • • • • • • • • • • • • •		10	150
Taxes	11 State and local income	11	1280	1	
	12 Real estate	192	888		
(See page 18 of Instructions.)	13 a General sales (see sales tax tables)		542		
	b General sales on motor vehicles .	135			
	14 Other (list-include personal property) > Lory + truck	14	137		
	15 Add lines 11 through 14. Write your answer here .	• • •	>	15	2847
Interest Expense	16 a Home mortgage interest paid to financial institutions			1	
(See page 19 of	b Home mortgage interest paid to individuals (show that per				
(See page 19 or Instructions.)	son's name and address) > LoHis Rupp	1	394		
	······································	16b			
	17 Credit cards and charge accounts	17	336		
	18 Other (list) > EllurAC Ly-1, +		163		
	USE CY MINION		126		
	14 tab FtL Grillmin	18	83	.	
	19 Add lines 16a through 18. Write your answer here		<u> </u>	19	1092
Contributions	20 a Cash contributions. (If you gave \$3,000 or more to any one or	-			
(See page 19 of	ganization, report those contributions on line 20b.)	<u>20a</u>	251		
Instructions.)	Cash contributions totaling \$3,000 or more to any one organi-	•			
	zation. (Show to whom you gave and how much you gave.)				
	b. b. D. S. Charch		3964	1	
	21 Other than cash (see page 19 of Instructions for required statement)				
	22 Carryover from prior years		\ 、、、►	23	4215
Casually and		104	· · · · ·	1	1
Casualty and Theft Losses and	24 Total casualty or theft loss(es) (attach Form 4684)	05	134	-	a hangtog
Miscellaneous	b Tax return preparation fee		25	• • • • • • • •	
Deductions	26 Other (list) ►	· /		-	
(See page 20 of		1			Alter and
Instructions.)				1	CHIY & LOO W. S. M.
	27 Add lines 24 through 26. Write your answer here		>	27	159
Summ ary of Itemized Deductions	28 Add lines 10, 15, 19, 23, and 27		· · · · ·	<u>28</u>	8463
(See page 20 of Instructions.)	29 If you checked Form 1040, Filing Status box 2 or 5, write \$3,400 1 or 4, write \$2,300 3, write \$1,700)¦	· · · ·	29	3400
	30 Subtract line 29 from line 28. Write your answer here and on For	m 1040	1 line 24 + 11	1	

(Form 1040) Department of the Treasury	(Sol Partnerships, Joint)	le Proj /enture:	Business or Pi prietorship) s, etc., Must File Form 100 See Instructions for Schedu	65.		19 82 08
Name of proprietor	1. John		· · · ·			of proprietor
		uch		376	46	5701
A Main business activity (see Instruct		<u>+ P</u>	· / / f product ►		0115	
B Business name 🕨	54 mit		·····	C Employ	er identific	ation number
D Business address (number and stre	iet) 🕨 🦪 44 / 44 /	<u> </u>				•
City, State and ZIP Code E E Accounting method: (1) X Cash	(2) Accrual	(3)	Other (specify)		1 1	
F Method(s) used to value closing inv	entory:		Other (if other, attach exp	lanation)	••••••	Yes No
G Was there any major change in dete					inventory?	
If "Yes," attach explanation.						
H Did you deduct expenses for an off	ice in your home?.					X
I Did you operate this business at the						
J How many months in 1982 did you a				1105.		
Part I Income		•				
1 a Gross receipts or sales		1	1a 516			
b Returns and allowances			1b			
c Balance (subtract line 1b from l	•			1c		516
2 Cost of goods sold and/or operati	•			•••		
3 Gross profit (subtract line 2 from				3		
4 a Windfall Profit Tax Credit or Refu				4a		
b Other income				<u>4b</u>		
5 Total income (add lines 3, 4a, and 4	b)		<u></u>	. 🕨 🕇		5161
Part II Deductions						
 17 Interest on business indebtedness 18 Laundry and cleaning 19 Legal and professional services . 20 Office supplies and postage 21 Pension and profit-sharing plans . 22 Rent on business property 			 25 Taxes (Do not includ Profit Tax here. See lin 26 Travel and entertainm 27 Utilities and telephone 28 a Wages . b Jobs credit c Subtract line 28b fill 29 Windfall Profit Tax w 1982 . 30 Other expenses (special Berlin Ber	e 29.) nent rom 28a . ithheld in fy): ~ /		161 40
				1		
31 Total deductions (add amounts in c	olumns for lines 6 thr	ough 30)m)	. 🕨 31		597
32 Net profit or (loss) (subtract line 3 on Schedule SE, Part I, line 2 (or Fc	1 from line 5). If a pro	ofit, ent	er on Form 1040, line 12,	and		(81)
33 If you have a loss, do you have amilif you checked "No," enter the loss For Paperwork Reduction Act Notice, see	on Form 1040, line 1	2, and	at risk" in this business (so on Schedule SE, Part I, line	ee Instructi e 2 (or Forr	ons)? n 1041, lin	Yes X No e 6).

Form			omputa		n of Inve	stment Cred	lit		OMB No. 1545-0155
		if the Treasury nue Service (4)	Schedule B			stment Credit) on back.			27
	_	as shown on return		5 . 1	NA A H				g number
		A 11			nn Mek	A REAL PROPERTY AND A REAL PROPERTY OF A REAL PROPERTY AND A REAL PROPERTY OF A REAL PROP			- 46-5701
S S		The corporation elects the t elect to increase my qua							
PART I.— Elections		I elect to increase my qual							
AR		Enter total qualified progres	ss expenditure	s inclu	ded in column (4	4), Part II 🕨			
L –	D	I claim full credit on certa	in ship <mark>s un</mark> de	r sectio	on 46(g)(3) (Se	e Instruction B for deta	ils.) .	• •	Children and an and the second s
					(1)	(2)	()	3)	(4)
	1	l Recovery Property		Line	Class of Property	Unadjusted Basis		ntage	Qualified Investment (Column 2 × column 3)
			Now				-	50	
~		Regular	New Property	<u>(a)</u> (b)		440	-		440
Investmen ®		Percentage	Used	(c)	3-year		-	50	
str		_	Property	(d)	Other		10	0	
JVe.		an phangangan an a	New	<u>(e)</u>	3-year		4	10	
		8(q) Election to Reduce Credit (instead of adjusting basis)	Property	(1)	Other	and a Reference for a superior and the system Restanting to the superior of the super-		30	
Qualified		1982-83 filers only (see instr.)	Used	<u>(R)</u>	<u>3-year</u>			10	
ali]	Property	(h)	Other		1 8	30	
- Qu	2	Nonrecovery propertyEr	nter total qual	ified ir	vestment (See	instructions for line 2)		2	******
ł	1	New commuter highway v						<u>3</u>	•••••••••••••••••••••••••••••••••••••••
~		Used commuter highway v						- -	
PART	5	Total qualified investment (See instructions for special		perty	-Add lines 1(a)	through 1(h), 2, 3, ar	1d 4	5	440
P	6	Qualified rehabilitation exp	-	· ·	tal qualified inve	etment for	•••		······································
		a 30-year-old buildings						6a	
		b 40-year-old buildings	• • • • •			· · · · · · · ·		6b	**************************************
		c Certified historic structures (Enter the Dept. o	f Interio	or assigned project	number)	<u>6c</u>	
	7	Corporations checking election	box A above—ad	d lines 5	5, 68, 6b, and 6c .	. 7			<u> </u>
Ā	8	10% of line 5 .		e 0	a a e e •	• • • • • • •		8	44
Regu lar lit		15% of line 6a .		a .				9	•••••
يز لا		20% of line 6b .		۰ ،		0 0 0 0 1 0 0		10	••••••
0 0		25% of line 6c .	•••••••			9 à g à a 0 ú		<u>11</u>	••••••
III.—Tentativ Investment Cre	12	Corporations checking elec				tructions for tion 193		12a	
len Ien		a Basic 1% credit—Enter 1% b Matching credit (not more the						126	•••••••••••••••••••••••••••••••••••••••
<u></u>	13	Credit from cooperative			-		(e) - (13	•••••
E		Current year regular invest						14	<u> </u>
<u>ج</u> ۲		Carryover of unused credi						15	
PA	16	Carryback of unused credi	ts					16	
	17	Tentative regular investme	nt credit-Ad	d lines	14, 15, and 16	<u>5</u>	<u> </u>	17	44
su	18	a Individuals—From Form 1040 b Estates and trusts—From For c Corporations (1120 filer	rm 1041, enter ta	ax from	line 26a, plus any s	section 644 tax on trusts .	0	18	4610
Limitations		d Other organizations-E	nter tax before	e credit	s from return .				
nit	19	a Individuals-From Form	1040, enter	credits	from lines 41 a	and 42 of page 2			
Ē		b Estates and trusts—Fro c Corporations (1120 file	ers)—From Fo	orm 11	20. Schedule .	J, enter any fore ign ta	x >	19	-
t.		credit from line 4(a), d Other organizations—E	plus any posi	sessior	s tax credit from	m line 4(f)		·	
ilid	20	Income tax liability as adju	-	-			1	20	4610
Liability		a Enter smaller of line 20	-					21a	4610
Me		b If line 20 is more than					1	216	
	2 2	Regular investment credit						22	4610
		Allowed regular investmen						23	44
2	24	Business energy investme	nt credit limi	tation-	-Subtract line	23 from line 20 .		24	
B	25	Business energy investme	nt credit-Fro	m line	14 of Schedule	B (Form 3468)		25	••
Å.		Allowed business energy in						26	•••
{	27	Total allowed regular and bus	iness energy in	vestmer	nt credit-Add lin	es 23 and 26. Enter here	and		A0102

Form 4562 Rev. September 1982	OMB No. 1545-0172 Expires 8/31/85					
epartment of the Tressury hternal Revenue Service (4)		separate instruction ach this form to you				67
	n if JEAN	n miles	7		Identifying n 376 -	umber 46 - 5701
usiness or activity to which this form rela	n if JrAn les Body if	Print				
Part Depreciation ection A Election to expense						
	A. Class of property	<u> </u>		8.	Cost	C. Expense deduction
						·
Total (not more than \$5,000). Ent (Form 1065))	<u> </u>					
ection B Depreciation of reco	1		1	E. Method		· · · · · · · · · · · · · · · · · · ·
A. Class of property	B. Date placed in service	C. Cost or other basis	D. Re- covery period	of figuring depreciation	F. Per- centage	G. Deduction for this year
Accelerated Cost Recovery System	(ACRS) (See instruc	ctions):				
(a) 3-year property			-			
AIA Compositor	9-1-82	380.	5	ACAS	15	57.
Sander	9-1-82	60	_ 5	ACHS	15	9
(b) 5-year property	 					
	-					
(c) 10-year property	-					
(d) 15-year public utility property			-			·····
(e) 15-year real property-low- income housing						
5400 (60.072)	9-1-82	4000		ALAS	_4	160
		······································				
(f) 15-year real property other than low-income housing						·
	-					
			_			
Property subject to section 168(e)(2	2) election (See insti	ructions):			Stat Callin	
	-		-\////////			
	-					
		·	-\/////////////////////////////////////			
•••••••••••••••••••	<u>-</u>		\////////////////////////////////////	X/////////////////////////////////////		

Form 4562 (Rev. 9-82)

Form 4562 (Rev. 9-82)

Section C Depreciation of nonrecovery property

A. Description of property	B. Data acquired	2. Cast or sther dusts	D. Depreciation allowed or atlowable in earlier years	E. Method of figuring depreciation	7. Lifo ar rato	G. Ded uction for this year
Class Life Asset Depreciation		System Depreciati	on .	A internet		mannahamman
5 Other depreciation (See inst	ructions):					
 						China Adamperatura (China and China Adamperatura)
······						
······			-			
· · · · · · · · · · · · · · · · · · ·						
		and an and the second	77D -	·		
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~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~	• -		-			and a state of the
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• , • • • • • • • • • • • • • • • • • •	••	anarakini jeri mga nakisi taka kana na				
		······	-			······································
	*		-			
			-			
	•	an a contra a contra	No			
••••••••••••••••••••••••••••••••••••••	· · ·		-			
	<u>_!</u> _					
Total column G, Section C						
	nannaharrin karan di Bana Banan da karang ngang bang ngang bang ngang bang ngang bang ngang bang ngang bang nga					ana ana aona 1899, ang
Enter amount from Section A	, line 1 (Partnersh	ips enter zero) .		o • • •	4 4 2	
Enter amount from Section	B, line 4	• • • •	9 1 9 9 4 5 0	• • • •		226
Total-Add lines 7, 8, and 9		the Depreciation	ine of your return .	• • • •	, , , ,	226
art II Amortization of p	roperty			1	1	
A. Description of property	D. Doto scavired	C. Cost or other busis	B. Amerization allowed or allowable in earlier years	E. Codo soction	F. Amorti- Jation pe- riad or percentage	9. Amortization for this year
•••••••••••••••••••••••••••••••••••••••	-					
	, 1		1	1	1	
*****	· [-			

Page 2

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end they had been an a	1.7.10	erry Kith
	1.45	et catality

UTAH RESIDENT LONG FORM INDIVIDUAL INCOME TAX RETURN

For the year ending December 31, 1982, or other taxable year

beginning____

UTAH 1982 FORM TC-40

. 19_

Use label. CAR-RT-PRES	CRT	1	** CRU4					Your soc	al security	y number
print in ALLAN & JC AN black or 4596 S 2200 W	6-46-5701 (N MC KAY (EST (T 84119	528-6	50-5301	Telepho	one No	Occu	J. YOU	irs / 4		. +0-
Read instructions on page 3 to see if you can use	the abort form (TC 40			<u> </u>					• Y / M	<u>nch</u>
		5). If you do r	tot quality to use			mustus	e this fo			
•1. FILING STATUS - Check only one	●2. EXEMPTIONS		_	Enter nu of box					N FUND	
A. Single, except head of household	Regular	65 or over	Blind	check	•				1) party i contributi	
B. Head of Household Enter gualifying name	Yourself			74 2	-				box will	
	Spouse 🛛 🕅	U	U	2A		tax or re	duce re	itund.		
C. Married filing joint return						A. Ame	vicen		Yoursel	lf Spi [
D. Married filing separately. Give	Number of dependen	t children			.	B. Dem				1
spouse's social security number in heading above and enter spouse's	who lived with you Number of other dep			28	[rtarian			
full name here	Number of other dep	endents		2C					- - 	
	TOTAL EXEMPTION	SCLAIMED		-20 4	}	•	ublican Contribu			
4. Federal Return: (Check type of return filed. Attac			SForm 1040		Form 10			040 EZ	<u> </u>	
5. Adjusted Gross Income (from Federal ret		السليبية سيتعقب الشراب						5	396	41
6. Deductions: Check type of deduction being us				F T		1		51	370	
(A). Itemized Deductions (amount shown on fi			· .			1				
□ (B). Standard Deduction (for single, married fil			100 00					Γ	T	
minimum or 15% of line 5 with a \$2,000 00 makin	•				611	63			1	
minimum or 15% of line 5, with a \$1,000.00 maxin						00				
7. Exemptions (total exemptions claimed on line 2D						66			I	
8. Federal Income Tax Determined for the Same F					47	••			1	
9. Interest from U.S. Government Obligations (inc		-			··					
10. Retirement Income (complete Schedule B on ba								L		
11. State Tax Refund (if included as income on Fede										
12. Adoption Expenses and Other Deductions (se										
13. Total Exemptions and Deductions (add lines 6								13	190	
14. Total Income Less Exemptions and Deduction					<u> </u>	<u></u>		14	206	32
15. Add State Income Tax (claimed as an itemized o					/	280				
16. Equitable, Lump Sum and Other Adjustments				Second second						
7. Total Additions (add lines 15 and 16)						• • • •		17		.80
18. Total Utah Taxable Income (add lines 14 and 12								18	219	12
	TAX ON AMOUNT ON				REVERS	EOFFO	HM			
9. Utah income Tax (from Tax Rate Schedules on							•••••	19	14	73
20. Credit for Utah Income Tax withheid (attach w						558				
21. Credit for Income Taxes Paid to Another State				• 21		·				
22. Credit for Utah Income Tax Prepaid				• 22			ļ	1		
23. Other Credits (complete Schedule C on back of				• 23						
24. Total Credits (add lines 20 through 23)				••			~	24) 5	58
25. Additional Tax Due - If line 19 is larger than 24	I, subtract line 24 from	line 19 and e	inter balance - PA	AY THIS AN	OUNT	• · · · • • • •	- 💬	25		
26. Refund - If fine 24 is larger than line 19, subtra						•••••	••••	26	?	85
27. Utah Nongame Wildlife Fund. I wish to contrib			(enter							
	tribution amount of		•			•••••••	·•	27		
28. Net Refund - subtract line 27 from line 26. This		ded to you. P	lease allow 90 da	ys for proc	essing		<u>(;)</u> •	28	<u>{</u>	55
Send return and UTAH STATE TAX COMMISSIOn HEBER M. WELLS OFFICE BU SALT LAKE CITY, UTAH 84134	ILDING 29. Did y	ou file-a Utah jive reason	n return for 1981?	· 🕺	YES 🗆	NO	•	CODE	OR OFFICIAL	APPROVAL
Under benaities of perjury. I declare that I have ex- complete: Declaration of preparer tother than taxpay				lements and	to the bes	t of my kn	nw'edge	and benefici	tis frint CO	rect and
			1			~~~~	1	-		<u> </u>
conderer declaration of preparer tomer man sarbas					1.8.17					0-6
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SIGN	Date	,	Preparer s sign	nature inther	than laxoa	yen				I (;

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b Taxable amount, if any, from worksheet on page 10 of Instructions	
20	1
21 Total income. Add amounts in column for lines 7 through 20	
ustments 22 Moving expense (attach Form 3903 or 3903F)	240
1 23 Employee business expenses (effects Form 21/06) 43 4 42/24/24	240
24 Payments to an IRA (enter code from page 11) . 24	240
25 Payments to a Kergh (H R 10) retirement plan 25	240
truc-	240
a 11) 27 Alimony paid	240
28 Disability income exclusion (attach Form 2440)	240
	240
29 Other adjustments see page 12 ▶	240
usted 31 Adjusted gross income. Subtract line 30 from line 21. If this line is less than	
S10,000, see "Earned Income Credit" (line 57) on page 15 of Instructions. If you want IRS to figure your tax, see page 3 of Instructions	

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1040 (1	Allan & John Mckay	Pane K
	32a Amount from line 31 (adjusted gross income)	322 35243
×1	32b If you do not itemize deductions, enter zero	326 227/
onapu-	If you itemize, complete Schedule A (Form 1040) and enter the amount from Schedule A, line 41	
tion	Caution: If you have unearned income and can be claimed as a dependent on your	
e	parent's return, check here > and see page 12 of the Instructions: Also see page 12	
ruc- 15 0ft	of the Instructions if:	
e 12)	 You are married filing a separate return and your spouse itemizes deductions, OR. You file Form 4563, OR 	
	 You are a dual-status alien. 	Min's
	32c Subtract line 32b from line 32a	<u>321</u> <u>32969</u>
	33 Multiply \$1,000 by the total number of exemptions claimed on Form 1040, line 6e	13 5000
	34 Taxable Income, Subtract line 33 from line 32c	34 24969
	35 Tax Enter tax here and check if from Z Tax Table, Tax Rate Schedule X, Y, or Z,	
	Schedule D, C Schedule G, or Form 4726	<u></u>
	36 Additional Taxes. (See page 13 of Instructions.) Enter here and check if from [] Form 4970, Form 4972, Form 5544, or Section 72(m)(5) penalty tax	
		37 - 4567
	37 Total. Add lines 35 and 36	<u> 37 4567 </u>
dits		
,	39 Credit for the elderly (attach Schedules R&RP) 39 40 Credit for child and dependent care expenses (Form 2441) 40	
UC.	41 Investment credit (attach Form 3468)	
5 ON 5 13)	42 Foreign tax credit (attach Form 1116)	
	43 Work incentive (WIN) credit (attach Form 4874)	
	44 Jobs credit (attach Form 5884)	
	45 Residential energy credit (attach Form 5695)	
	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
5 7	48 Seif-employment tax (attach Schedule SE)	48
.85	49a Minimum tax. Attach Form 4625 and check here \blacktriangleright	498
uding	496 Alternative minimum tax. Attach Form 6251 and check here ►	496
ince	50 Tax from recomputing prior-year investment credit (attach Form 4255)	<u>50</u> 51a
nents)	51a Social security (FICA) tax on tip income not reported to employer (attach Form 4137).	516
	51b Uncollected employee FICA and RRTA tax on tips (from Form W-2) 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
monts	55 Total Federal income tax withheld	
	56 1981 estimated tax payments and amount applied from 1980 return . 56	
:h is ₩2,	57 Earned income credit. If line 32a is under \$10,000, see	
G, and	page 15 of Instructions	
Pont.	S8 Amount paid with Form 4868	- 1112
	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 4136T) 60 61 Regulated Investment Company credit (attach Form 2439) 61	-
	and a second	62 5419
· · · · · · · ·		63 952
und or	63 If line 62 is larger than line 54, enter amount OVERPAID	64 952 -
INC8	64 Amount of line 63 to be REFUNDED TO YOU.	
	65 Amount of the 63 to be applied to your 1982 estimated tax 65 1 1 65 1 65 1 65 1 65 1 65 1 65 1	
	able to "Internal Revenue Service." Write your social security number and "1981 Form 1040" on it.	<i>56</i>
	(Check) if Form 2210 (2210F) is ettached. See page 16 of Instructions.) S	
	Under penalties of perjury, I declare that I have examined this return, including accompanying schedules	and statements, and to the ces
150	of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpays which preparer has any knowledge.	ny is deserved on an intermetion o
	N	
•	Your signature Date Spouse's signature (if filing jointly, BOTH i	must sign even if anly one had income
	Prepare 's Date Check if salf-em-	Preparer's social security no
irer's	aignature & string Mathiner 3-6-82 ployed >	528 44 5590
Dnly	Firm's name (or yours, t self employed) 3115 711 alle carrier and E.I. No. 1	the second se
	and address w. U. e. 21+ah ZIP code	54119

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