

1989

# Kathryn C. Carleson v. Robert Allan Carleson : Brief of Appellant

Utah Court of Appeals

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**BRIEF**

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IN THE UTAH COURT OF APPEALS

IN AND FOR THE STATE OF UTAH

KATHRYN C. CARLESON,

Plaintiff/ Appellant,

v.

ROBERT ALLAN CARLESON,

Defendant/Respondent.

BRIEF OF APPELLANT

Case No: 890519-CA

Category: 14(b)

Appeal From an Order in the Third Judicial District Court,  
in and for Salt Lake County, State of Utah,  
Honorable James S. Sawaya

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**FILED**

**JAN 2 1990**

Mary T. Noonan  
Clerk of the Court

IN THE UTAH COURT OF APPEALS

IN AND FOR THE STATE OF UTAH

KATHRYN C. CARLESON,  Plaintiff/ Appellant,  v.  ROBERT ALLAN CARLESON,  Defendant/Respondent.	BRIEF OF APPELLANT  Case No: 890519-CA Category: 14(b)
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IN THE UTAH COURT OF APPEALS  
IN AND FOR THE STATE OF UTAH

KATHRYN C. CARLESON,  Plaintiff/Appellant,  v.  ROBERT ALLAN CARLESON,  Defendant/Respondent.	BRIEF OF APPELLANT   Case No: 890519-CA Category: 14(b)
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JURISDICTION

The Court of Appeals has jurisdiction over this matter pursuant to Utah Code Ann. §78-2a-3(h)(1953) as amended.

NATURE OF PROCEEDINGS

This is an appeal from a final Order of the Third Judicial District Court in and for Salt Lake County, the Honorable James S. Sawaya, Judge presiding, entered June 27, 1989, denying the Plaintiff's Petition which requested that the Court: modify the Decree of Divorce, increase the amount of child support to be paid by the Defendant and award the Plaintiff the right to claim the minor child of the parties as an exemption for purposes of filing her state and federal income tax returns.

### ISSUES PRESENTED FOR APPEAL

The issues presented by this Appeal are:

1. Did the Court commit reversible error by determining Defendant's income for purposes of child support based on "net disposable income" rather than reviewing Defendant's gross income as required by Utah Code of Judicial Administration, Rule 4-904, the applicable law in effect at the time.

2. Did the Court error by failing to take into consideration as a part of the Defendant's income the Defendant's election to defer income back to the corporation of which he is the primary stockholder.

3. Did the Court error by failing to take into consideration as a change of circumstance the increased cost to support the minor child of the parties because of her medical needs, and did the Court further error by failing to take into consideration the increased needs of the child due to inflation and the child's increase in age since the entry of the Decree of Divorce.

4. Should the Plaintiff be awarded attorney's fees and costs which she has incurred in this matter and which she will incur on appeal because of her need of assistance.

### DETERMINATIVE STATUTES

Statutes which are determinative of the issues in this case are Utah Code Ann. §30-3-5 (1953) as amended, Utah Code of



Judicial Administration, Rule 4-904, and Appendix H, (attached as Exhibits "A" and "B"), and Utah Rules of Civil Procedure, Rule 26(e).

STATEMENT OF THE CASE

A. NATURE OF THE CASE, COURSE OF THE PROCEEDINGS,  
AND DISPOSITION IN LOWER COURT

1. Plaintiff (Appellant) appeals from an Order entered on June 27, 1989, in the Third Judicial District Court by the Honorable James S. Sawaya, entitled "Decree of Modification Relating to Child Support and Other Issues" (attached as Exhibit "C").

2. After two days of trial, the Court below found that the evidence was insufficient to show a substantial change of circumstance warranting an increase of Defendant's child support payments from the February 16, 1984 Decree.

B. STATEMENT OF FACTS  
RELEVANT TO THE ISSUES PRESENTED FOR REVIEW

The following facts are material to a consideration of the questions presented on this appeal:

1. A Decree of Divorce was entered in this matter on February 16, 1984. (Record, P.35)

2. Paragraph 14 of the Decree states that the Defendant is ordered to pay to the Plaintiff as child support for the minor child of the parties, the sum of \$400.00 per month. (Record, P.39)

3. On July 6, 1988, the Plaintiff/Appellant filed a Petition to Modify the Decree of Divorce alleging, among other things, a change of circumstance as follows:

a. The child of the parties has suffered a medical illness which has resulted in increased costs of care for said child.

b. Due to inflation and the increased age of the child, the costs of caring for said child have increased.

c. The Defendant's income is sufficient to warrant a modification of the Decree of Divorce to require the Defendant to provide more for the support of the parties' child. (Record, P.188-191)

4. The Trial Court received Exhibit "D-2" (attached hereto as Exhibit "D") which is a copy of Defendant's 1984 federal tax return showing Defendant's adjusted gross income for 1984 was \$229,303.00. (Record, P.334)

5. The Court also received Exhibit "P-37" (attached hereto as Exhibit "E") which is a copy of Defendant's 1987 amended Utah state tax return showing Defendant's adjusted gross income for that year was \$232,385.00. (Record, P.334)

6. Defendant's tax return for 1988 was not presented at trial and there was no evidence of Defendant's adjusted gross income for 1988 because the 1988 tax returns were not completed at the time of trial. (Trans. Proceedings, May 3, 1989, P.181, L.1-15)

7. The Lower Court admitted Exhibit "D-14" (a copy of which is attached hereto as Exhibit "F") which was a schedule of Defendant's "Disposable Income" from 1984 through 1988. (Record, P.334)

8. Counsel for the Plaintiff objected to the admission of "D-14" because the exhibit was based upon documents which the Defendant had failed to produce pursuant to Requests for Production of Documents (Trans., P.171, L.13-P.172, L.2); and upon the grounds that the exhibit was not relevant to the proceedings because it represented "disposable income" and the child support schedule in effect at the time of trial in this matter was based upon gross income. (Trans., P.179, L.9-14)

9. Defendant's expert testified that Exhibit "D-14" was not representative of Defendant's adjusted gross income, and Defendant's expert did not know what Defendant's adjusted gross income was for 1988. (Trans., P.198, L.19-P.199, L.15)

10. The Defendant has voluntarily elected to defer income back to Carleson Cadillac, Inc., to purchase his father's shares in the corporation (Trans., P.135, L.1-P.136, L.2), to meet a 13% increase in the "flooring requirements" of General Motors and to increase his share of ownership in the corporation to a position of principal stockholder, all of which is a voluntary action on the part of the Defendant. (Exhibit "6") The deferred income is accruing dividends for Defendant's future benefit. (Trans., P.137, L.2-19)

11. The Defendant has paid \$400,000.00 and taken a loan of \$350,000.00 to increase his share of ownership in Carleson Cadillac, Inc., from 16% in 1984 to 82% in 1989. Defendant is paying \$4,500.00 per month on the loan. (Exhibits "D-7", "D-8", "D-17", and Trans., P.135, L.11-13 and P.194, L.17-P.195, L.17)

12. The Defendant has elected to return excess profits from the corporation back to the corporation rather than retain them as earnings. (Trans., P.213, L.8-22)

13. The parties' child is now five years older than she was when the Decree of Divorce was entered. (Judicial Notice)

14. Costs of raising the child have increased as a result of inflation and the increased age of the child. (Trans., P.8, L.24-P.18, L.18) The Plaintiff submitted Exhibit "P-26" (which is attached hereto as Exhibit "G") to show the total costs for the Plaintiff to provide for the support of the child is now in excess of \$500.00 per month, not including \$533.00 per month for private school at Rowland Hall. (Exhibit "P-26", Trans., P.14, L.3-P.16, L.16)

15. During February, 1988, the parties' child required significant emergency medical treatment as a result of a blocked intestine which required removal of 50 centimeters of her small intestine. (Exhibit "D-1")

16. As a result of the minor child's medical treatment, the Plaintiff is experiencing increased costs to support the

child for food and medication. (Trans., P.35, L.11-18; P.58, L.11-22; P.71, L.21-P.72, L.8; P.73, L.3-6) In addition, the parties' child now requires therapy to be able to cope with her illness. (Trans., P.80, L.18-22)

17. Dr. Ralston, Defendant's expert, testified that the parties' child may suffer from diarrhea and require medication throughout her minority, possibly for the rest of her life. (Trans., P.56, L.9-16) He also testified that the child's need for food is one and one-half to two times greater than normal. (Trans., P.58, L.11-22)

18. The Petition of the Plaintiff was tried before the Court on April 25, 1989, and on May 3, 1989. (Record, P.333 and 335)

19. The Court entered Findings of Fact following trial as follows:

a. The Defendant's real disposable income has not increased since the entry of the Decree of Divorce but has decreased due to the lack of automobile sales of his business. (para. 1, Findings of Fact) (Record, P.366)

b. That there was no evidence adduced to support the increase of child support. (para. 2, Findings of Fact) (Record, P.366)

c. That the minor child's health is good and her medical prognosis is good. (para. 3, Findings of Fact) (Record, P.366)

d. That the Defendant contributes a greater portion of child support than that of the Plaintiff, and Plaintiff's claim for the award of income tax exemption on the minor child should be denied. (para. 9, Findings of Fact) (Record, P.367)

20. The Court entered a Decree of Modification on June 27, 1989. An Order of Extension of Time to Appeal was entered on July 27, 1989, and Plaintiff filed this Appeal on August 28, 1989. (Record, P.380)

#### SUMMARY OF ARGUMENT

The Trial Court committed reversible error by determining Defendant's income based on "net disposable income" rather than reviewing Defendant's gross income as required by the applicable law in effect at the time. Pursuant to the Utah Code of Judicial Administration, Rule 4-904, Appendix H, the Trial Court was required to make its determination of change in circumstance based upon the gross income of the Defendant.

The Trial Court also erred in failing to take into account as a part of the Defendant's income the Defendant's election to defer income back to the corporation of which he is the primary stockholder.

The Trial Court erred by failing to take into consideration the increased costs of supporting the minor child of the parties incurred by reason of her medical needs as a change

of circumstance and further errored by failing to take into consideration the increased needs of the child due to inflation and the increased age of the child.

The Plaintiff is in need of assistance from the Defendant to meet the requirement of paying her attorneys' fees and costs which she has incurred in this matter and which she will incur on appeal. The Trial Court errored by failing to award all of Plaintiff attorney's fees and further the Plaintiff should be awarded such fees and costs as she may incur in these proceedings.

#### ARGUMENT

##### I.

THE TRIAL COURT'S COMMITTED REVERSIBLE ERROR BY DETERMINING DEFENDANT'S INCOME BASED ON "NET DISPOSIBLE INCOME" RATHER THAN FINDING DEFENDANT'S GROSS INCOME AS REQUIRED BY UTAH CODE OF JUDICIAL ADMINISTRATION, RULE 4-904, APPENDIX H, THE APPLICABLE LAW IN EFFECT AT THE TIME OF TRIAL IN THIS MATTER

##### A.

Legal Standards of Review of Modification of Divorce Decrees.

The standards of review of Trial Courts' granting modification of the Decree of Divorce is: "Defendant must show that the evidence clearly preponderates against the Findings of Fact or that the Trial Court has abused its discretion." Thompson v. Thompson, 709 P.2d 360, 362 (Utah 1985), citing Fletcher v.

Fletcher, 615 P.2d 1218 (Utah 1980); Turner v. Turner, 649 P.2d 6 (Utah 1982). Although the Fletcher case was a direct review of a divorce proceeding, the review by the appellate court of Orders issued in a modification proceeding requires application of similar legal standards. As stated in Fletcher, "On appeal, this Court will not disturb the action of the trial court unless the evidence clearly preponderates to the contrary, or the Trial Court has abused its discretion or misapplied principles of law." Fletcher v. Fletcher, at P.1222 (citations omitted).

Additionally, the Appellate Court has broad powers when reviewing modification Orders. "Under prevailing standards of review, the appellate court may review both the facts and law of matters in equity, such as a request for modification of the Decree." Boals v. Boals, 664 P.2d 1191 (Utah 1983).

A Trial Court must apply a variety of legal standards to the equitable proceeding when considering modification of a divorce decree. Legal principles enunciated by the Utah Supreme Court which are applicable to the modification being reviewed by the Court are: the movant has the burden to show substantial change of circumstance since the Decree that was not originally contemplated within the Decree itself. Woodward v. Woodward, 709 P.2d 393, 394 (Utah 1985); Thompson v. Thompson, supra., at P.362. The party seeking the modification must prove a substantial and permanent change of circumstance necessitating the modification. Kiesel v. Kiesel, 619 P.2d 1374, 1376 (Utah 1980).



B.

Utah Code Ann. §30-3-5(3)(1953) as amended, gives the District Court continuing jurisdiction to make "subsequent changes or new orders" in divorce matters as are reasonable and necessary:

The Court has continuing jurisdiction to make subsequent changes or new orders for the support and maintenance of the parties, the custody of the children and their support, maintenance, health and dental care, or the distribution of the property as is reasonable and necessary.

Appellant filed a Petition for Modification with the Trial Court requesting an increase in child support based upon a change of circumstance, and principally relying on increased medical needs for the child and increased costs to raise the child as a result of inflation and the child's increased age. Plaintiff further alleged increased income on the part of the Defendant.

The Defendant presented to the Court Exhibit "D-14" as evidence of his net disposable earnings, and the Court relied upon those earnings in making a determination that there had been no change of circumstance in the Defendant's income sufficient to warrant increasing child support. The law in effect at the time this matter was tried to the Court, and the law which controlled the determination of income for the purposes of establishing the

appropriate amount of child support to be paid by a noncustodial parent was Utah Code of Judicial Administration, Rule 4-904, Appendix H-II-A-1, which states that the gross monthly income of the natural parents is to be used to determine the appropriate amount of child support to be paid by the noncustodial parent. The Court relied upon the evidence of only Defendant's net income in denying an increase in child support. Such reliance on the part of the Court was error.

The Court further erred by admitting Exhibit "D-14" over the objections of counsel for the Plaintiff. Rule 26(e)(1) of the Utah Rules of Civil Procedure, requires that the identity of every person to be called as an expert witness at trial, and the subject matter and substance of the testimony be disclosed to the opposing party. Defendant failed to meet this requirement, failed to produce documents upon which his expert relied to testify at trial and presented Exhibits "D-14" and "D-15", as charts and graphs of Defendant's disposable income, over Plaintiff's objection. The Court relied on these documents to reach a final determination of Defendant's income. Counsel for Plaintiff also objected to admission of "D-14" and "D-15" on the grounds of relevancy, because the exhibits did not show adjusted gross income as required by the then applicable law for determination of child support. The admission of Exhibits "D-14" and "D-15" was a critical error which resulted in the Court's

reliance on improper evidence to reach its final decision. The Court should have excluded Exhibits "D-14" and "D-15" and should have relied upon the best and most current evidence of Defendant's adjusted gross income, his 1987 tax return (attached hereto as Exhibit "B"), which was admitted at trial as Exhibit "P-37", and showed Defendant's adjusted gross income as \$232,385.00 for that year.

The decision of the Lower Court must be reversed and remanded with instructions to the Lower Court to make a determination of the Defendant's income based upon his adjusted gross income and enter an Order accordingly.

## II.

THE LOWER COURT ERRORED BY FAILING TO TAKE INTO  
CONSIDERATION AS PART OF THE DEFENDANT'S INCOME THE  
DEFENDANT'S ELECTION TO DEFER INCOME BACK TO THE CORPORATION  
OF WHICH HE IS THE PRIMARY STOCKHOLDER

The Defendant is the primary stockholder of Carleson Cadillac, Inc. In his position, the Defendant has elected to defer a substantial portion of his annual income in excess of \$50,000.00 annually, back to the corporation. The Court failed to take into consideration the Defendant's voluntary deferral of income back to the corporation. The net result of the Defendant's voluntary action is to reduce his income by a substantial amount thereby creating the illusion of a reduction of income since the entry of the Decree of Divorce. The Court

erred by giving the Defendant a credit against his gross income even though the income is simply a deferral. The Court should have attributed to the Defendant all of his gross earnings in making a determination of his actual income.

The Utah Supreme Court has held that a Trial Court may consider both the individual and corporate income of a Defendant husband who is the sole shareholder of a corporation when considering income for child support purposes. Garrard v. Garrard, 581 P.2d 1012 (Utah 1978); Christiansen v. Christiansen, 667 P.2d 594 (Utah 1983). The control exercised by Mr. Carleson in virtue of his 82% ownership of the stock of the corporation shows the appropriateness of including the deferred income and further consideration of the corporate tax returns.

This matter should be remanded to the Lower Court with an instruction to consider all of the income of the Defendant when making a determination of his gross income.

### III.

THE COURT ERRORED BY FAILING TO TAKE INTO  
CONSIDERATION AS A CHANGE OF CIRCUMSTANCE THE  
INCREASED COSTS OF SUPPORTING THE MINOR CHILD  
BECAUSE OF HER MEDICAL NEEDS DUE TO INFLATION  
AND THE CHILD'S INCREASED AGE

The Utah Legislature, and Courts of the State of Utah, have unequivocally endorsed the parental obligation of child support as the primary consideration when addressing divorcing parties and their children's rights.

"The Utah Legislature has clearly stated the public policy of the State of Utah is that 'Children shall be maintained from the resources of responsible parents, thereby relieving or avoiding, at least in part, the burden of [support] often borne by the general citizenry through welfare programs.' Citing, Utah Code Ann. §78-45-b-1.1 (1987); Peterson v. Peterson, 74 Utah Adv. Rep. 26, 28 (1988).

As stated in Martinez v. Martinez, 748 P.2d 593, 595 (Utah App. 1988):

"Utah Code Ann. §78-45-3, -4 (1987) established the obligation of both parents to support their children and '[a] child's right to that support is paramount.' Citing, Woodward v. Woodward, 709 P.2d 393, 394 (Utah 1985) 'The Utah Supreme Court continued, 'the Trial Court may fashion such equitable Orders in relation to the children and their support as is reasonable and necessary, considering not only the needs of the children, but also the ability of the parent to pay.'

In Race v. Race, 740 P.2d 253, 255 (Utah 1988), the Court again underscored the importance of the child's rights when it stated:

"Although the awarding of visitation and child support is within the Court's discretion, the Court must consider the child's paramount right to and need for his parents support. (Citation omitted) The Court-Ordered child support is an obligation imposed for the benefit of the children, not the divorcing spouse."

Finally, the Utah Supreme Court in Lord v. Shaw, 682 P.2d 853 (Utah 1984), addressed the broad equitable power of a Trial Court relating to child support:

"In matters concerning the custody and support of children, because of their highly equitable nature, it is appropriate for the Trial Court to take into consideration the entire circumstances in making any order of enforcement of the decree, by contempt or otherwise having in mind his equitable powers, to make any adjustments he may think fair and justified." Lord v. Shaw, at 856.

During the last five years, several factors have significantly increased the cost of supporting the Carleson's minor daughter which the Court failed to consider as a change of circumstance. Since the entry of the Decree of Divorce, the child's age increased by five years. When the Decree of Divorce was entered in this case, the parties' child was only three years old and not attending school. She is now eight years old. She requires daycare which costs \$2.50 per hour (Trans., P.9), and averages \$133.00 per month. (Plaintiff's Exhibit "26") She now requires books, uniforms for school, fees for skating lessons, costs for piano and gymnastic lessons, all as a part of growing up. The Court also failed to consider increased costs of child rearing due to inflation. The Lower Court erred by failing to consider these factors as a change of circumstance. In Naylor v. Naylor, 700 P.2d 707 (Utah 1985), the Court held that the increased age and costs of supporting a child can create a substantial change of circumstance.

During the past two years, the minor child of the parties suffered severe medical problems which have resulted in

needs for increased care as well as increased costs. These factors which effect the costs of caring for the child were not adequately considered by the Court. As a result of her illness, the child now requires continual medications. She also requires counseling and therapy to be able to better deal with her illness. Finally, her illness has resulted in food intake which is one and one-half to two times what is normally expected for a child her age. Again, these factors constitute a substantial change in circumstance such that the Court should have considered these factors and required a greater contribution by the Defendant to the child's support. It should be noted by this Court that the Plaintiff did not allege a substantial change in circumstance in Defendant's income in her Petition, but only that the Defendant's income is sufficient to require that he provide more support for the parties' child because the child now requires increased costs for support as a result of her medical needs, increased age and inflation.

The Lower Court's finding of no substantial change in circumstance should be reversed to direct the Court to enter findings that due to increased costs of caring for the child, these factors must be considered, a change of circumstance must be found and an increase in child support should be ordered.

IV.

THE PLAINTIFF IS IN NEED OF ASSISTANCE FROM THE DEFENDANT TO MEET THE REQUIREMENT OF PAYING ATTORNEY'S FEES AND COSTS WHICH SHE INCURRED IN THE LOWER COURT MATTER AND WHICH SHE WILL INCUR ON APPEAL, THE LOWER COURT ERRORED BY AWARDING PLAINTIFF ONLY \$500.00 OF HER ATTORNEY'S FEES AND COSTS.

The Utah Supreme Court has held that the primary issue to be addressed when awarding attorney's fees is need of the requesting party and the other party's ability to pay; when "need" is established, the requesting party must demonstrate the reasonableness of the fees requested. Beals v. Beals, 682 P.2d 862, 864 (Utah 1984); Kerr v. Kerr, 610 P.2d 1380, 1384 (Utah 1980); Christensen v. Christensen, 667 P.2d 592, 596 (Utah 1983).

In the Beals case, supra., the Court upheld the Trial Court's award of attorney's fees based upon Mrs. Beals' financial need which was demonstrated by the disparity in incomes between Mrs. Beals and Mr. Beals. The Court stated:

"Mrs. Beals' testimony demonstrated her financial need. In the three years previous to the trial, her yearly income averaged only \$6,500.00. Mr. Beals' income was well over \$50,000.00 for those years." Beals v. Beals, at P.864.

Further, the Beals Court addressed the reasonableness of Mrs. Beals' attorney's time involved by reviewing the difficulty caused by the Defendant Mr. Beals.

"The record demonstrates the necessity of the time spent. Throughout the pre-trial state, Mr. Beals consistently refused to cooperate in



retaining counsel and in providing discovery, and was ultimately jailed for contempt because of his refusal to be deposed. This non-cooperation required [Mrs. Beals' attorney] to spend extra hours in compelling discovery and in preparing for the case. The trial Judge was familiar with these facts at the time of trial. We, therefore, affirm the \$8,812.73 award to [Mrs. Beals' attorney]." Beals v. Beals, at P.864.

It has long been established that an award of attorney's fees may be granted in a domestic proceeding when a party has satisfactorily demonstrated need. In this matter, the Plaintiff/Appellant has limited income which she must use to pay attorney's fees incurred as a result of the necessity of seeking an increase in child support. The Plaintiff earned only \$24,000.00 gross income in 1988, while the Defendant earned in excess of \$200,000.00 gross income.

This matter should be reversed and remanded to the Lower Court with instructions to the Lower Court to award Plaintiff attorney's fees both for the trial of Plaintiff's Petition and for this appeal, contingent upon Plaintiff's demonstration of need and the ability of the Defendant to pay such fees.

#### CONCLUSION

The lower Court erred in this matter by failing to take into account the Defendant's gross income for purposes of

determining child support and disregarding as part of the Defendant's gross income, funds which he, as the primary stockholder, deferred back to his corporation. If the Court had considered these matters, there would have been a sufficient change of circumstance to allow the Court to enter an Order awarding the Plaintiff an increase of child support.

The Court further erred by failing to take into account the increased medical needs of the child, and the increased costs of raising the child due to her increase in age and inflation during the five years which it elapsed since the entry of the Decree of Divorce. The matter should be reversed and remanded to the lower Court with instruction to take these additional costs into consideration as a change of circumstance and to direct the lower Court to order an appropriate increase in child support relating to these increased costs.

Finally, the Court's Orders on attorney's fees should be reversed and remanded with instructions to the Lower Court that based upon an appropriate showing of need and the relative ability of the Defendant to pay Plaintiff's attorney's fees that an award of attorney's fees for the trial on Plaintiff's Petition and on this appeal should be granted.

DATED this 2<sup>d</sup> day of January, 1990.

LITTLEFIELD & PETERSON

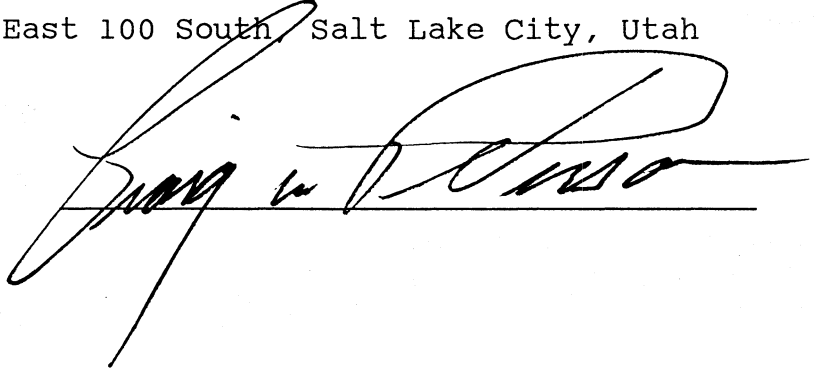
By: 

CRAIG M. PETERSON

Attorney for Appellant

CERTIFICATE OF MAILING

I hereby certify that on this 2<sup>d</sup> day of January, 1990,  
I caused four true and correct copies of the foregoing BRIEF OF  
APPELLANT to be served upon Allan M. Metos, attorney for  
Defendant/Respondent, 623 East 100 South, Salt Lake City, Utah  
84102.

A handwritten signature in black ink, appearing to read "Craig W. Peterson", is written over a horizontal line.

41100 41104

## **Exhibit "A"**

In divorce cases, one evaluator shall perform the evaluation on both parties and shall submit a written report to the court, unless one of the prospective custodians resides outside of the jurisdiction of the court. In those cases, two individual evaluators may be appointed. The evaluators must confer prior to the commencement of the evaluation to establish appropriate guidelines and criteria and shall submit only one joint report to the Court. Evaluators must consider and respond to each of the following factors:

- (A) the child's preference;
- (B) the benefit of keeping siblings together;
- (C) the relative strength of the child's bond with one or both of the prospective custodians;
- (D) the general interest in continuing previously determined custody arrangements where the child is happy and well adjusted;
- (E) factors relating to the prospective custodians' character or status or their capacity or willingness to function as parents, including:
  - (i) moral character and emotional stability;
  - (ii) duration and depth of desire for custody;
  - (iii) ability to provide personal rather than surrogate care;
  - (iv) significant impairment of ability to function as a parent through drug abuse, excessive drinking or other causes;
  - (v) reasons for having relinquished custody in the past;
  - (vi) religious compatibility with the child;
  - (vii) kinship, including in extraordinary circumstances stepparent status;
  - (viii) financial condition;
- (F) any other factors deemed important by the evaluator, the parties, or the court.

#### **Rule 4-904. Child support guidelines.**

##### **Purpose:**

- 1. improve the equity of child support awards by providing uniform and consistent standards.
- 2. improve the efficiency of the adjudication process by facilitating voluntary settlements and reducing court or administrative agency time required to litigate contested cases.
- 3. establish a procedure to periodically review and assess the guidelines.
- 4. establish a process for providing recommendations on child support awards to the court based upon guidelines developed from empirical data and equity considerations after thorough study and review.

##### **Applicability:**

This rule shall apply to all courts of record. It is recommended that administrative agencies involved in setting child support amounts, which are not subject to existing court orders, follow the guidelines as adopted.

##### **Statement of the Rule:**

- 1. **Adoption and publication of guidelines.** The Council shall establish and adopt guidelines for child support awards in judicial proceedings. The guidelines shall be published annually as an appendix to this Code.

**(2) Application of guidelines.**

(A) The guidelines are advisory to the court. Final orders in all cases shall be made at the discretion of the court based upon the facts of the individual case.

(B) Worksheets and a child support schedule are contained in the guidelines and published as an Appendix to this Code. The applicable worksheets must be completed in accordance with the instructions contained in the guidelines and submitted to the court with supporting financial verification and an affidavit of compliance.

(C) The guidelines apply to all cases, not just those that are litigated, including divorce, separation and paternity. They apply regardless of the gender of the custodial parent.

**(3) Update and revision.**

(A) **Establishment of standing committee.** A committee of the Board of District Judges is hereby established to review the implementation of the child support guidelines. The Board, in consultation with the Management Committee of the Council, shall appoint the members of the committee. The membership of the committee shall be as follows:

- (i) three District judges;
- (ii) one Domestic Relations Court Commissioner;
- (iii) one Court of Appeals judge;
- (iv) one attorney appointed by the State Bar Association specializing in domestic law;
- (v) one representative from the Office of Recovery Services;
- (vi) two non-lawyer citizen representatives: one representing the custodial parent's interests and one representing the non-custodial parent's interests.

(B) **Committee meetings.** The committee shall meet as often as deemed necessary for a period of one year, beginning in October, 1988. The committee shall monitor application of the guidelines and recommend to the Council, through the Board, modification of the guidelines or procedures implementing the guidelines. The committee shall study any issues related to child support when requested by the Board or the Council.

(C) **Reporting requirements.** The committee shall submit its recommendations and report to the Board of District Court Judges no later than September of 1989. The Board shall in turn submit the committee's report and the Board's recommendations to the Council no later than November of 1989.

## **Exhibit "B"**



# APPENDIX H

## UNIFORM CHILD SUPPORT GUIDELINES

### I. OVERVIEW — DETERMINATION OF CHILD SUPPORT\*

Guidelines Advisory: The guidelines are advisory to the court. Final decisions in all cases shall be made at the discretion of the court based upon the facts of the individual case.

Worksheets Mandatory: Two worksheets and a child support schedule are included in the guidelines packet. The worksheets represent sole custody and split custody situations. **THE APPLICABLE WORKSHEETS MUST BE COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS CONTAINED HEREIN AND SUBMITTED TO THE COURT WITH SUPPORTING FINANCIAL VERIFICATION.** Child support is determined by calculating (a) the parties' available income; (b) the child support obligation; and (c) the child support obligation. The schedule lists amounts of com-adjusted gross income.

Application: The guidelines apply to all cases, not just those that are contested, including divorce, separation, and paternity. They apply regardless of the gender of the custodial parent.

Application to Existing Orders: **THE ADOPTION OF THESE GUIDELINES AND ANY CONSEQUENT IMPACT ON EXISTING CHILD SUPPORT ORDERS DOES NOT CONSTITUTE A SUBSTANTIAL CHANGE OF CIRCUMSTANCES TO INDEPENDENTLY ALLOW MODIFICATION OF AN EXISTING ORDER.** Petitions for modification of existing child support orders in place on October 30, 1988 will be considered on a case-by-case basis. Courts have continuing jurisdiction to modify child support orders under circumstances amply described by present case law to ensure the welfare of the child when there is a material change in circumstances. In determining requested modifications of support orders entered prior to the effective date of the guidelines, the court will consider the totality of the present circumstances of the parties and avoid modifications which would work undue hardship on the parties or any children presently dependent thereon.

Second Family Obligations: Natural born or adopted children from a second family of the noncustodial parent whose child support obligation was terminated after the adoption of these guidelines will not be considered to lower an existing child support award. However, in any modification proceeding brought by the custodial parent of the first family to raise child support, all natural born and adopted children of the noncustodial parent will be considered in determining whether the award should be increased. In applying the guidelines, the court may use the schedule reflecting the total number of natural born and adopted children the noncustodial parent is supporting.

6. Taxes and Social Security: Mandatory state and federal taxes and social security deductions have been used in setting award amounts using estimates of after-tax income compiled by the U.S. Bureau of the Census. There is no separate computation of these amounts since the deductions are built into the basic child support need figures used in the schedules.

7. Tax Exemption: The basic child support need figures were further adjusted reflecting the assumption that the custodial parent would receive the tax exemptions for all children. If the custodial parent relinquishes the tax exemptions, this could be grounds for an adjustment in the basic award.

8. Default: In a default hearing, the moving party is required to bring to court a completed child support worksheet, financial verification and an Affidavit indicating either: 1) that the amount of child support requested meets at least the minimum level of support required under the guidelines, or 2) that the amount of child support requested does not meet at least the minimum level of support required under the guidelines. (Sample of Affidavit follows.) If the required documentation of income is not available, the court may accept a verified representation of the defaulting party's income by the moving party based on the best evidence available. The evidence shall be in affidavit form and may only be received into evidence after a copy has been provided to the defaulting party in accordance with Utah Rules of Civil Procedure.

9. Uncontested Hearings: In an uncontested hearing, the moving party is required to come to court with a completed child support worksheet, financial verification and an Affidavit indicating either: 1) that the amount of child support agreed upon meets at least the minimum level of support required under the guidelines, or 2) that the amount of child support agreed upon does not meet at least the minimum level of support required under the guidelines. (Sample of Affidavit follows.).

10. Joint Physical Custody: Joint physical custody, because of its factual complexities, is better handled on a case by case method. The sole custody worksheet should generally be used unless the children spend 35% of overnights with the secondary custodial parent. Evidence indicates that it costs more to rear children under a joint custody arrangement. Generally an amount equal to 50 percent of the support award, as determined by using the guidelines, should be added to determine the total costs of support necessary in such situations. This total cost would then be divided between the parents based upon the percentage of time the child spends in each household.

---

\*A copy of the task force study upon which the Judicial Council based its guidelines is available for inspection at the Administrative Office of the Courts.

IN THE \_\_\_\_\_ DISTRICT COURT

\_\_\_\_\_ COUNTY, STATE OF UTAH

\_\_\_\_\_  
Plaintiff,CHILD SUPPORT AFFIDAVIT  
(DEFAULT)

Civil No. \_\_\_\_\_

\_\_\_\_\_  
Defendant.

1. I hereby certify that to the best of my knowledge and belief, the support amount requested is based upon the plaintiff's income and the evidence available of the defaulting party's income.

2. I hereby certify that the child support amount requested: (Check the following:)

\_\_\_\_ (a) meets the minimum level of support required under the Utah Child Support Guidelines.

\_\_\_\_ (b) does not meet the minimum level of support required under the Utah Child Support Guidelines.

ry)

\_\_\_\_\_  
Attorney for Plaintiff  
or Plaintiff if Appearing  
Pro Se

IN THE \_\_\_\_\_ DISTRICT COURT

\_\_\_\_\_ COUNTY, STATE OF UTAH

\_\_\_\_\_  
Plaintiff,CHILD SUPPORT AFFIDAVIT  
(UNCONTESTED)

Civil No. \_\_\_\_\_

\_\_\_\_\_  
Defendant.

1. We, the undersigned, certify that the child support amount agreed upon by the parties is based upon full disclosure by both parties of present and relevant historical income.

2. We, the undersigned, certify that the child support amount agreed upon: (Check one of the following:)

\_\_\_\_ (a) meets the minimum level of support required under the Utah Child Support Guidelines.

\_\_\_\_ (b) does not meet the minimum level of support required under the Utah Child Support Guidelines.

(Notary)

\_\_\_\_\_  
Attorney for Plaintiff  
or Plaintiff if Appearing  
Pro Se

(Notary)

\_\_\_\_\_  
Attorney for Defendant  
or Defendant if Appearing  
Pro Se

## II. INSTRUCTIONS FOR COMPLETING WORKSHEET: SOLE CUSTODY

(See Sample Worksheet below.)

### A. INCOME.

1. Gross Monthly Income of Each Parent. (Enter in whole dollars on worksheet lines 1a and 1b.) Only the income of the natural parents of the child is used to determine support.

(a) Gross Income Definition: Gross income includes income from any source except as may be excluded elsewhere in the guidelines, and includes, but is not limited to, income from salaries, wages, commissions, royalties, bonuses, rents, dividends, severance pay, pensions, interest, trust income, alimony from previous marriages, annuities, capital gains, social security benefits, worker's compensation benefits, unemployment insurance benefits, subsidies received by reason of employment, and disability insurance benefits. Additionally, business expense account payments for items such as meals, automobile expenses and lodging should be included to the extent that they provide the recipient parent with something he or she would otherwise have to provide.

Specifically excluded are the following: alimony awarded in the instant case; Aid to Families with Dependent Children and other similar welfare benefits being received by a parent; and benefits received under a housing subsidy program, the Job Training Partnership Act, S.S.I., Medicaid and food stamps, or General Assistance.

(b) Self Employment: Gross income from self-employment or operation of a business is defined as: Gross receipts minus minimum necessary expenses required for self-employment or business operation. In general, income and expense from self-employment or operation of a business should be carefully reviewed to determine an appropriate level of gross income available to the parent to satisfy a child support award. This amount will ordinarily differ from a determination of business income for tax purposes. Specifically, only those expenses necessary to allow the business to operate at a reasonable level should be deducted from gross receipts.

(c) Verification: Gross income, whenever possible, should first be computed on an annual basis and then recalculated to determine the average gross monthly income. Suitable documentation of current earnings must be provided and should include year-to-date pay stubs and employer statements. Documentation of current earnings should be supplemented with copies of the last three years of tax returns to provide verification of earnings over time. Historical earnings will be used to determine whether an underemployment or overemployment situation exists.

(d) Imputed Income: Where a hearing has been held and a finding made by the judge that either parent is voluntarily underemployed or unemployed, earning capacity should be imputed to that parent based upon employment potential and probable earnings as derived from work history, occupation qualifications, and prevailing earnings for persons of similar backgrounds in the community. If one parent has no recent work history, income will be imputed at least at the federal minimum wage for a forty-hour work week. Before a greater income is imputed, the judge should enter specific findings of fact as to the evidentiary basis for the imputation.

Exceptions: Income should not be imputed if any of the following conditions exist:

- (1) The reasonable costs of day care for the parties' minor children approach or equal the amount of income the custodial parent can earn;
- (2) A parent is physically or mentally disabled to the extent where he or she cannot earn minimum wage;
- (3) A parent is engaged in education or retraining to establish basic job skills; or
- (4) Unusual emotional and/or physical needs of the child require the custodial parent's presence in the home.

(e) Child's Income: The earnings of a child who is the subject of a child support award should not be considered income to either parent for purposes of the guidelines. However, Social Security benefits received by a child will be credited as child support to the parent upon whose earning record it is based. Other unearned income of the child may be considered as income available to the custodial parent depending upon the circumstances of each case.

2. Pre-Existing Child Support and/or Alimony Orders. (Enter in whole dollars on worksheet, lines 2a and 2b.) Child support previously ordered and actually paid for children of a prior relationship and/or alimony previously ordered and actually paid is deducted from gross income. Proof of payment of child support and/or alimony should be required before the deduction is allowed. Payments on child support arrearages will not be deducted from gross income.

3. Adjusted Gross Income. (Worksheet, lines 3a, 3b, and 3c.) Subtract from line 1 any figures entered on line 2 for each parent. The totals, 3a and 3b, are then added to reach line 3c: the combined adjusted gross income of the parties.

4. Proportionate Share of Combined Income. (Worksheet, lines 4a and 4b.) The figures entered on lines 3a and 3b are each divided by the figure on line

3c to determine each parent's proportionate share of combined income: lines 4a and 4b. Round to the nearest whole number.

## **B. CHILD SUPPORT NEED.**

To determine the child support need, the number of children per age group are listed on the worksheet lines 5a, 5b, and 5c. The total number of children is entered on line 5d. The child support obligation is determined by use of the Schedule appropriate to the total number of children. The schedule amount per child is listed by age group on lines 6a, 6b and 6c. To determine the schedule amount, the combined adjusted gross income from line 3c is used with the schedule appropriate to the total number of children in line 5d. A total amount of child support need is entered on lines 7a, 7b, and 7c. Those figures are obtained by multiplying lines 5a times 6a to reach 7a; lines 5b times 6b to reach 7b; lines 5c times 6c to reach 7c; and adding lines 7a plus 7b plus 7c to reach 7d.

### **1. Adjustments.** (Enter in whole dollars on worksheet, line 8.)

(a) Health and Dental Insurance Premiums for Children (Enter in whole dollars on worksheet, line 8):

The costs incurred for the child's portion of the insurance premium(s) should be added to the basic child support need. The parent who can obtain the most favorable medical/dental and optical insurance coverage for the benefit of the minor children at the lowest cost should generally be ordered to do so. If economically beneficial to the minor children, both parents should be ordered to provide such insurance. The costs incurred for the child's portion of the insurance premium(s) will be allocated in proportion to income. Those non-covered routine medical and dental expenses will be borne by the custodial parent. Routine expenses include routine office visits, physical examinations and immunizations.

(b) Total Support Need (Worksheet line 9): This figure is obtained by adding lines 7d and 8.

## **C. CHILD SUPPORT OBLIGATION.**

To determine each parent's share of the child support obligation, his or her proportionate share of combined income (lines 4a and 4b) is multiplied by the total support need on line 9. The figure is entered for each parent on lines 10a and 10b.

A credit is then given for actual payments made by either parent for health and dental insurance premiums for the children (line 8). This credit is entered on lines 11a and 11b as appropriate.

The total child support obligation for each parent is then calculated by subtracting the credit on lines 11a and 11b from the parent's share of the child support obligation on lines 10a and 10b. The amounts are entered on lines 12a and 12b.

## **D. OTHER.**

1. Extended Visitation. This amount applies only to the non-custodial parent and to those months in which the order specifies that the child spend at least 25 of 30 consecutive days with that parent. The amount entered on lines 12a and 12b, as appropriate, is multiplied by .75 to reach a final amount of

ld support due from the non-custodial parent during an extended visitation nth. The figure is entered on line 13a or 13b, as appropriate.

Work-Related Child Care Costs. The reasonable costs of child care expenses actually incurred should be entered on line 14. The child care costs considered are child care costs to allow the custodial parent to work. To determine each parent's share of the work-related child care costs, the proportion-share of combined income (lines 4a and 4b) is multiplied by the work-related child care costs on line 14. The figure is entered for each parent on es 15a and 15b.

**\*SAMPLE**

IN THE SECOND DISTRICT COURT  
WEBER COUNTY, STATE OF UTAH

Susan L. Jones )  
 Plaintiff, )  
 vs. )  
Roger K. Jones )  
 Defendant. )

CHILD SUPPORT OBLIGATION WORKSHEET  
 (SOLE CUSTODY)

Civil No. 88-CV1278

	<u>Plaintiff</u>	<u>Defendant</u>	<u>Combined</u>
AVAILABLE INCOME			
Gross Monthly Income	1a <u>1,000</u>	1b <u>3,000</u>	
Pre-Existing Alimony or Child Support Orders You Have Paid	2a <u>0</u>	2b <u>400</u>	
Adjusted Gross Income	3a <u>1,000</u>	3b <u>2,600</u>	3c <u>3,600</u>
(#1a - #2a = #3a, #1b - #2b = #3b, #3a + #3b = #3c)			
Proportionate Share of Combined Income	4a <u>28</u> %	4b <u>72</u> %	
(#3a ÷ #3c = #4a, #3b ÷ #3c = #4b)			

**CHILD SUPPORT NEED**

Age Group	<u>0-6</u>	<u>7-15</u>	<u>16-18</u>	<u>Total</u>
Number of Children per Age Group	5a <u>1</u>	5b <u>2</u>	5c <u>0</u>	5d <u>3</u>
(#5a + #5b + #5c = #5d)				
Schedule Amount per Child	6a <u>253</u>	6b <u>307</u>	6c <u>0</u>	
(use the combined adjusted gross income from #3c and the schedule appropriate to the total number of children in #5d)				
Total Amount	7a <u>253</u>	7b <u>614</u>	7c <u>0</u>	7d <u>867</u>
(#5a x #6a = #7a, #5b x #6b = #7b, #5c x #6c = #7c, #7a + #7b + #7c = #7d)				

Health and Dental Insurance Premiums For Children 8 72

Total Support Need 9 939  
 (#7d + #8 = #9)

	<u>Plaintiff</u>	<u>Defendant</u>	<u>Combined</u>
CHILD SUPPORT OBLIGATION			
Share of Obligation	10a <u>263</u>	10b <u>676</u>	
(#4a x #9 = #10a, #4b x #9 = #10b)			
Credit for Actual Payments in #8	11a <u>0</u>	11b <u>72</u>	
Parent's Total Child Support Obligation	12a <u>263</u>	12b <u>604</u>	
(#10a - #11a = #12a, #10b - #11b = #12b)			



## CHILD SUPPORT GUIDELINES

Appx. H

## ENDED VISITATION

PlaintiffDefendantCombined

extended visitation amount applies only to the non-custodial parent and to those cases in which the order specifies that the child spend at least 25 of 30 consecutive days with that parent.

nt Paid During Extended Visitation  
( $.75 = \#13a$ ,  $\#12b \times .75 = \#13b$ )

13a \_\_\_\_\_

13b 453

## D CARE COSTS

Related Child Care Costs

14 250

t's Share of Child Care Costs  
( $\#14 = \#15a$ ,  $\#4b \times \#14 = \#15b$ )

15a 7015b 180

## UATION INFORMATION

is a new order  
modification?

16a X

16b \_\_\_\_\_

is a modification, enter the  
date of the prior order,  
date of its entry,  
the state in which it was entered.

17 \_\_\_\_\_

18 \_\_\_\_\_

19 \_\_\_\_\_

is a contested action,  
unilateral award,  
default?

20a \_\_\_\_\_

20b X

20c \_\_\_\_\_

is the amount of the award.

21 784

is the amount specified by the  
 guideline?

22 Yes

Actual forms are available from the Clerk of the Court.

## **Exhibit "C"**

FILED DISTRICT COURT  
Third Judicial District

JUN 27 1989

ALLAN M. METOS #2249  
Attorney for Defendant  
623 East First South  
P.O. Box 11643  
Salt Lake City, Utah 84147-0643  
(801) 363-9345

SALT LAKE COUNTY  
By Susan D. [Signature]  
Deputy Clerk

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

---

KATHRYN C. CARLESON,	)	FINDINGS OF FACTS AND
	)	CONCLUSIONS OF LAW
Plaintiff,	)	
	)	
V.	)	CIVIL NO. D-83-4245
	)	
ROBERT ALLAN CARLESON,	)	
	)	
Defendant.	)	JUDGE JAMES S. SAWAYA

---

THIS matter having come on regularly for trial on the 25th day of April, 1989, and concluded on May 2, 1989, before the Honorable James S. Sawaya, one of the judges of the above-entitled Court. Plaintiff appeared in person and was represented by Judith R. Wolbach, Defendant appeared in person and was represented by Allan M. Metos, Plaintiff introduced her evidence and rested, Defendant introduced his evidence and rested, the evidenced closed and Court having inquired into the legal sufficiency of the evidence so adduced, and being fully advised in the premises, does now make and adopt the following Findings of Fact:

FINDINGS OF FACT

1. That the Defendant's real disposable income has not

increased since the entry of the Divorce Decree but has decreased due to the lack of automobile sales of his business.

2. That there was no evidence adduced to support the increase of child support.

3. That the minor child Heather's health is good and her medical prognosis is good.

4. That the minor child Heather is an excellent student and is doing exceptionally well at her school.

5. That there are no medical reasons or problems with the educational standing of said minor child that requires the elimination of Wednesday overnight visitation with Defendant.

6. That there was not sufficient evidence adduced to support the Defendant's Petition for Joint Custody.

7. That based on the Stipulation of the parties and their counsel in open Court the Court finds the Decree should be modified to include:

A. Summertime Vacation Visitation. That original Decree failed to provide for summer visitation and Defendant should be given TWO (2) uninterrupted and consecutive weeks in the month of August each year as visitation with said minor child.

B. Grandparent Visitation. That Grandparents, Robert E. Carleson and Annabelle Carleson's Petition for Visitation based on said Stipulation, should be awarded FIVE (5) consecutive days each year visitation on reasonable notice to Plaintiff and be entitled to exercise any visitation on the days awarded the

Defendant.

8. That said Decree should be modified to reflect the past pattern of behavior activity and circumstances of the parties as follows:

A. Medical Expenses. That Defendant should be order to continue to pay the insurance premiums on a health insurance policy for the use and benefit of said minor child.

B. School Expenses. That it has been the past pattern and circumstances of the parties that the Defendant pay TWO-THIRDS (2/3) of the minor child's expenses at Rowland Hall/St. Marks School and Plaintiff has paid ONE-THIRD (1/3) of said expenses. The Decree should be modified to reflect said agreement between the parties.

9. That Defendant contributes a greater portion of child support than that of the Plaintiff, and Plaintiff's claim for the award of income tax exemption on minor child shall be denied.

10. That Plaintiff should be awarded FIVE HUNDRED DOLLARS (\$500.00) attorney fees for the use and benefit of her attorney.

FROM the foregoing Findings of Facts the Court made the following:

#### CONCLUSIONS OF LAW

1. That the Plaintiff's Petition for Modification of Visitation and Suspension of Wednesday overnight visitation be denied.

2. That Defendant's Petition for Joint Custody be denied.

3. That Plaintiff's Petition for Increased Child Support

and claim for dependant exemption for State and Federal income tax purposes be denied.

4. That Plaintiff is awarded the sum of FIVE HUNDRED DOLLARS (\$500.00) for attorney's fees.

5. That the Divorce Decree be modified to provide:

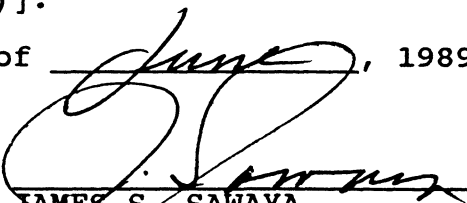
A. Grandparent visitation for Robert E. and Annabelle Carleson for at least FIVE (5) consecutive days each year with the minor child, together with the right of visitation anytime available to the Defendant.

B. Defendant Robert A. Carleson, the right to TWO (2) consecutive weeks of visitation during the month of August each year with said minor child.

C. Defendant be ordered to continue to pay premiums on health insurance policy now in existence for the use and benefit of Heather Carleson.

D. That the parties continue to split the expenses of the education of Heather and Rowland Hall/St. Marks School has been their practice in the past [Defendant TWO-THIRDS (2/3) and Plaintiff ONE-THIRD (1/3)].

DATED this 27 day of June, 1989.

  
\_\_\_\_\_  
JAMES S. SAWAYA  
DISTRICT COURT JUDGE

CAR-FF

JUN 27 1989

ALLAN M. METOS #2249  
Attorney for Defendant  
623 East First South  
P.O. Box 11643  
Salt Lake City, Utah 84147-0643  
(801) 363-9345

**JUDGEMENT**

SALT LAKE COUNTY  
By Susan Skay  
Deputy Clerk

---

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

---

KATHRYN C. CARLESON,	)	DECREE OF MODIFICATION
	)	
Plaintiff,	)	
	)	
V.	)	CIVIL NO. D-83-4245
	)	185/2466
ROBERT ALLAN CARLESON,	)	
	)	
Defendant.	)	JUDGE JAMES S. SAWAYA

---

THIS matter having come on regularly for trial on the 25th day of April, 1989, and concluded on May 2, 1989, before the Honorable James S. Sawaya, one of the judges of the above-entitled Court. Plaintiff appeared in person and was represented by Judith R. Wolbach, Defendant appeared in person and was represented by Allan M. Metos, Plaintiff introduced her evidence and rested, Defendant introduced his evidence and rested, the evidenced closed and Court having inquired into the legal sufficiency of the evidence so adduced, and being fully advised in the premises, and heretofore made Findings of Facts and Conclusions of Law entered the following judgment.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. That Plaintiff's Petition for Modification of the

Divorce Decree to limit Defendant's visitation, increase child support, and for the award of income tax dependant exemption be the same is hereby denied.

2. That Defendant Robert A. Carleson's Cross-Petition for Joint Custody be and the same is hereby denied.

3. That the Divorce Decree presently entered by this Court be modified as follows:

A. Visitation. Plaintiff to awarded TWO (2) uninterrupted consecutive weeks of visitation with said minor child during the month of August each year.

B. Educational Expenses. Defendant is ordered to pay the tuition, book, and educational expenses of said minor child while enrolled in Rowland Hall/St. Marks School as he has done in the past. [Defendant is to pay TWO-THIRDS (2/3) of said expenses and Plaintiff is to pay ONE-THIRD (1/3) of said expenses].

C. Medical Expenses. Defendant is order to continue to pay the premiums for medical insurance for said minor chid as he has done in the past.

4. That the Visitation Petition of Robert E. Carleson and Annabelle Carleson, the natural grandparents based on the parties Stipulation is granted to be exercised as follows:

A. On reasonable notice to Plaintiff, that FIVE (5) consecutive days is awarded each year.

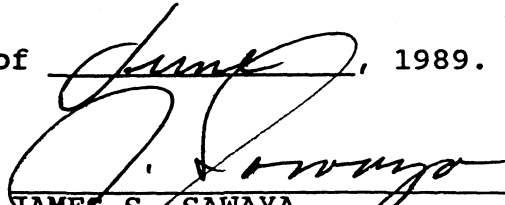
B. During any visitation time of the Defendant be granted.

5. That Plaintiff is awarded the sum of FIVE HUNDRED



DOLLARS (\$500.00) for attorney's fees for the use and benefit of her counsel, each party is to bear other attorney's fees and costs.

DATED this 27 day of June, 1989.

  
\_\_\_\_\_  
JAMES S. SAWAYA  
DISTRICT COURT JUDGE

CAR-DM

## **Exhibit "D"**

040

## U.S. Individual Income Tax Return

84

Your social security number

ROBERT A

CARLESON

519 52 4630

Spouse's social security number

2777 SO CLAYBOURNE

Your occupation

AUTO DEALER

Spouse's occupation

SALT LAKE CITY UTAH 84109

Identical  
on Campaign

Do you want \$1 to go to this fund?

If joint return, does your spouse want \$1 to go to this fund?

Yes

Yes

XX

No

No

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

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

g Status

1 XX

Single

2

Married filing joint return (even if only one had income)

3

Married filing separate return. Enter spouse's full name here.

only  
ox.

4

Head of household. If the qualifying person is your unmarried child, write child's name.

5

Qualifying widow(er) with dependent child (Year spouse died) 19 (See page 6 of Instructions.)

6a XX

Yourself

65 or over

Blind

Enter number of  
boxes checked  
on 6a and b

b

Spouse

65 or over

Blind

1

ptions

c First names of your dependent children who lived with you

Enter number  
of children  
listed on 6cs check  
ox labeled  
elf.  
other  
if theyd 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

HEATHER CARLESON

DAUGHTER

0

NO

YES

1

e Total number of exemptions claimed

Add numbers  
entered in  
boxes above

2

yme

7 Wages, salaries, tips, etc.

7

137,305

8 Interest income (also attach Schedule B if over \$400)

8

12,056

9a Dividends (attach Schedule B if over \$400)

797

9b Exclusion

100

c Subtract line 9b from line 9a and enter the result

9c

697

e attach  
B of your  
s W-2, W-2G  
V-2P here.

10 Refunds of State and local income taxes.

10

11 Alimony received.

11

12 Business income or (loss) (attach Schedule C).

12

13 Capital gain or (loss) (attach Schedule D).

13

14 40% capital gain distributions not reported on line 13 (See page 9 of Instructions).

14

15 Supplemental gains or (losses) (attach Form 4797).

15

16 Fully taxable pensions, IRA distributions, and annuities not reported on line 17.

16

17a Other pensions and annuities, including rollovers. Total received

17a

b Taxable amount, if any, from worksheet on page 10 of Instructions

17b

18 Rents, royalties, partnerships, estates, trusts, etc. (attach Schedule E)

18

81,245

19 Farm income or (loss) (attach Schedule F)

19

20a Unemployment compensation (insurance). Total received

20a

b Taxable amount, if any, from worksheet on page 10 of Instructions

20b

21a Social security benefits. (see page 10 of Instructions)

21a

b Taxable amount, if any, from the worksheet on page 11 of Instructions

21b

22 Other income

22

23 Add lines 7 through 22. This is your total income

23

231,303

ustments  
income

24 Moving expense (attach Form 3903 or 3903F)

24

25 Employee business expenses (attach Form 2106)

25

26a IRA deduction, from the worksheet on page 12

26a

2,000

b IRA payments made in 1985 included in line 26a

2,000

27 Payments to a Keogh (H.R. 10) retirement plan

27

28 Penalty on early withdrawal of savings

28

29 Alimony paid

29

30 Deduction for a married couple when both work (attach Schedule W)

30

uc.  
on  
11)

33

npu-  
on

34a If you itemize deductions, attach Schedule A (Form 1040) and enter the amount of the deduction on line 33.

Caution: If you have unearned income, enter it on line 33 as a separate item. If you have unearned income, check here ☐ and see page 13 of the instructions. Also see page 13 if:

- You are married filing a separate return and your spouse itemizes deductions, OR
- You file Form 4563, OR
- You are a dual-status alien.

JC-  
on  
13)

34b If you do not itemize deductions, and you have charitable contributions, complete the worksheet on page 14. Then enter the allowable part of your contributions here

35 Subtract line 34a or 34b, whichever applies, from line 33

36 Multiply \$1,000 by the total number of exemptions claimed on Form 1040, line 6e

37 Taxable Income. Subtract line 36 from line 35

38 Tax. Enter tax here and check if from ☐ Tax Table, ☒ Tax Rate Schedule X, Y, or Z, or ☐ Schedule G39 Additional Taxes. (See page 14 of Instructions.) Enter here and check if from ☐ Form 4970, ☐ Form 4972, ☐ Form 5544

40 Add lines 38 and 39. Enter total

redits

41 Credit for child and dependent care expenses (attach Form 2441)

42 Credit for the elderly and the permanently and totally disabled

43 Residential energy credit (attach Form 5695)

44 Partial credit for political contributions for which you have receipts

uc-  
on  
14)

45 Add lines 41 through 44. These are your total personal credits

46 Subtract line 45 from 40. Enter the result (but not less than zero)

47 Foreign tax credit (attach Form 1116)

48 General business credit. Check if from ☐ Form 3800, ☒ Form 3468, ☐ Form 5884, ☐ Form 6478

49 Add lines 47 and 48. These are your total business and other credits

50 Subtract line 49 from 46. Enter the result (but not less than zero)

ier  
ces

51 Self-employment tax (attach Schedule SE)

52 Alternative minimum tax (attach Form 6251)

53 Tax from recapture of investment credit (attach Form 4255)

uding  
ance

54 Social security tax on tip income not reported to employer (attach Form 4137)

55 Tax on an IRA (attach Form 5329)

ments)

56 Add lines 50 through 55. This is your total tax

yments

57 Federal income tax withheld

58 1984 estimated tax payments and amount applied from 1983 return

59 Earned income credit. If line 33 is under \$10,000, see page 16

60 Amount paid with Form 4868

61 Excess social security tax and RRTA tax withheld (two or more employers)

62 Credit for Federal tax on gasoline and special fuels (attach Form 4136)

63 Regulated investment Company credit (attach Form 2439)

ch  
ns W-2,  
G, and  
p  
ont.

64 Add lines 57 through 63. These are your total payments

65 If line 64 is larger than line 56, enter amount OVERPAID

66 Amount of line 65 to be REFUNDED TO YOU

67 Amount of line 65 to be applied to your 1985 estimated tax

68 If line 56 is larger than line 64, enter AMOUNT YOU OWE. Attach check or money order for full amount payable to "Internal Revenue Service." Write your social security number and "1984 Form 1040" on it (Check ☒ if Form 2210 (2210F) is attached.fund or  
ount  
u Owease  
in  
re

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are 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)

Date

Check if

Preparer's social security no.

## **Exhibit "E"**

02 R900430101

<b>Amended Resident Individual Income Tax Return</b> Use this form to amend any TC-40 or TC-40S for tax years 1987 or earlier	<b>UTAH FORM TC-40X (Rev. 11/87)</b>
---	--

Enter your full name (first, middle initial, last). If married, also enter spouse's full name. <b>Robert A. Carlson</b>		Your social security number <b>519   52   4620</b>	
Present home address (number and street including apartment number or rural route) <b>1532 BLAINE AVENUE</b>		Spouse's social security number 	
City, town or post office <b>SALT LAKE CITY</b>	County (province) <b>UTAH</b>	State and ZIP code (foreign country) <b>84105</b>	Daytime telephone number 

<b>1. Filing Status (check one)</b> a. Single <input checked="" type="checkbox"/> <b>1a</b> b. Head of household <input type="checkbox"/> <b>1b</b> c. Married filing joint return <input type="checkbox"/> <b>1c</b> d. Married filing separate returns <input type="checkbox"/> <b>1d</b>	<b>2. Exemptions</b> a. Yourself (enter "1") <input type="checkbox"/> <b>2a</b> b. Spouse (enter "1") <input type="checkbox"/> <b>2b</b> c. Other dependents <input type="checkbox"/> <b>2c</b> d. Total exemptions (add 2a, 2b and 2c) <input checked="" type="checkbox"/> <b>2d</b>	<b>3. Amended state return type</b> a. TC-40 - Long form <input checked="" type="checkbox"/> <b>3a</b> b. TC-40 S - Short form <input type="checkbox"/> <b>3b</b> <b>4. Tax year amended: 19</b> <b>(87)</b> or fiscal year ending _____, 19____
---	---	--

	a. ORIGINALLY REPORTED	b. CORRECT AMOUNT
5. Federal adjusted gross income from federal return (see instructions)	5 222761	5 232385
6. <input checked="" type="checkbox"/> Itemized or <input type="checkbox"/> Standard deduction	6 20358	6 20437
7. Personal exemptions (from line 3, Schedule 1 on reverse)	7 2850	7 2850
8. Retirement inc. from Sch. 2 on back - Over age 65? • Self <input type="checkbox"/> • Spouse <input type="checkbox"/>	8	8
9. Other deductions (from line 5, Schedule 3 on reverse)	9	9
10. Total deductions (add lines 6, 7, 8, and 9)	10 23248	10 23287
11. Deduct line 10 from line 5	11 192513	11 209098
12. State income tax deducted as itemized deduction on Federal Sch. A	12 4891	12 4891
13. Other additions (from line 3, Schedule 4 on reverse)	13	13
14. Total of other additions (add lines 12 and 13)	14 4891	14 4891
15. Utah taxable income (add lines 11 and line 14)	15 204404	15 213989
16. Utah tax (compute from Rate Schedules on back using amount on line 15)	16 15729	16 16472
17. Utah use tax, if applicable	17	17
18. Tax liability (add lines 16 and 17)	18 15729	18 16472
19. Utah income tax withheld (attach any additional withholding form)	19 2900	19 2906
20. Credit for taxes paid to another state (attach returns for column b amount)	20	20
21. Credit for Utah income tax paid on original return or amended	21 12829	21 12829
22. Other credits (from line 7, Schedule 5 on back of return)	22	22
23. Total credits (add lines 19, 20, 21 and 22)	23 15729	23 15729
24. Previous refund received	24	24
25. Previous nongame wildlife contribution	25	25
26. Net credits (line 23 less lines 24 and 25)	26 15729	26 15729
27. Amount to be REFUNDED (if line 26 is greater than line 18, subtract line 26 from line 18, col. b)	27	27
28. Additional TAX DUE (if line 18 is greater than line 26 subtract line 26 from line 18 and enter here)	28 743	28 743
29. Interest on additional tax due (12% per annum on tax due from due date of original return to date paid)	29 63	29 63
30. Balance due (add lines 28 and 29). PAY IN FULL WITH THIS RETURN	30 806	30 806

Send return and payment to: Utah State Tax Commission 180 East Third South Salt Lake City, Utah 84134-0200	OFFICIAL USE ONLY	ICR	UFA	APR
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Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature <i>Robert A. Carlson</i>	Date 12/30/88	Occupation <i>Auto Dealer</i>
Spouse's signature (if filing jointly, both MUST sign even if only one had income)	Date	Occupation
Paid preparer's signature, name and address	Date	Preparer's social security no.

Form **1040X**  
(Rev. October 1987)

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

OMB No. 1545-0091  
Expires 9-30-91

This return is for calendar year **1987**, OR fiscal year ended **19**

Please print or type	Your first name and initial (if joint return, also give spouse's name and initial)	Last name	Your social security number
	<b>ROBERT A. CARLESON</b>		<b>519-52-4620</b>
	Present home address (number and street or rural route). (If you have a P.O. Box, see instructions.)		Spouse's social security number
	<b>1532 BLAINE AVENUE</b>		
City, town or post office, state, and ZIP code		Telephone number (optional)	
<b>SALT LAKE CITY, UTAH 84105</b>		<b>( )</b>	

Enter below name and address as shown on original return (if same as above, write "Same"). If changing from separate to joint return, enter names and addresses used on original returns. (Note: You cannot change from joint to separate returns after the due date has passed.)

**SAME**

a Service center where original return was filed <b>DGON, UTAH</b>	b Has original return been changed or audited by IRS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "No," have you been notified that it will be? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "Yes," identify IRS office <b>▶</b>
---	---

c Are you amending your return to include any item (loss, credit, deduction, other tax benefit, or income) relating to a tax shelter required to be registered? ☐ Yes ☒ No  
If "Yes," you MUST attach Form 8271, Investor Reporting of Tax Shelter Registration Number.

d Filing status claimed. (Note: You cannot change from joint to separate returns after the due date has passed.)  
On original return ☒ Single ☐ Married filing joint return ☐ Married filing separate return ☐ Head of household ☐ Qualifying widow(er)  
On this return ☒ Single ☐ Married filing joint return ☐ Married filing separate return ☐ Head of household ☐ Qualifying widow(er)

Income and Deductions (see instructions)		A. As originally reported or as adjusted (see instructions)	B. Net change—Increase or (Decrease)—enter on page 2	C. Correct amount
1 Total income	1	222,761	9624	232,385
2 Adjustments to income	2			
3 Adjusted gross income (subtract line 2 from line 1)	3	222,761	9624	232,385
4 Deductions	4	20,398	39	20,437
5 Subtract line 4 from line 3	5	202,363	9585	211,948
6 Exemptions	6	3800		3800
7 Taxable income (subtract line 6 from line 5)	7	198,563	9585	208,148
8 Tax (see instructions). (Method used in col. C)	8	70,411	3690	74,101
9 Credits (see instructions)	9			
10 Subtract line 9 from line 8. Enter the result, but not less than zero	10	70,411	3690	74,101
11 Other taxes (such as self-employment tax, alternative minimum tax)	11			
12 Total tax liability (add lines 10 and 11)	12	70,411	3690	74,101
13 Federal income tax withheld and excess FICA and RRTA tax withheld	13	8021		8021
14 Estimated tax payments	14	18,232		18,232
15 Earned income credit	15			
16 Credits for Federal tax on gasoline and special fuels, regulated investment company, etc.	16			
17 Amount paid with Form 4868, Form 2688, or Form 2350 (application for extension of time to file)	17			
18 Amount paid with original return, plus additional tax paid after it was filed	18			44,158
19 Add lines 13 through 18 in column C	19			70,411
Refund or Amount You Owe				
20 Overpayment, if any, as shown on original return (or as previously adjusted by IRS)	20			
21 Subtract line 20 from line 19 (see instructions)	21			70,411
22 AMOUNT YOU OWE. If line 12, col. C, is more than line 21, enter difference. Please pay in full with this return	22			3690
23 REFUND to be received. If line 12, column C, is less than line 21, enter difference	23			

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

Preparer's signature	Date	Spouse's signature (if joint return, BOTH must sign)	Date
<b>Prepared by</b>		Check if self-employed <input type="checkbox"/>	Preparer's social security no.
Firm's name (or yours if self-employed) and address	City, state, and ZIP code		

For Paperwork Reduction Act Notice, see page 1 of separate instructions.

**BE SURE TO COMPLETE PAGE 2**

**Part I Exemptions** (see Form 1040 or Form 1040A Instructions)If claiming more exemptions, complete lines 1-8 and, if applicable, line 9.  
If claiming fewer exemptions, complete lines 1-7.

If you are not changing your exemptions, do not complete Part I.

A. Number  
originally  
reported

B. Net change

C. Correct  
number

1	For tax year 1987—yourself and spouse . . . . .	1		
Caution: If you can be claimed as a dependent on another person's 1987 return (such as your parents' return), you cannot claim an exemption for yourself.				
2	For tax years beginning before 1987—yourself and spouse, 65 or over, blind	2		
3	Your dependent children who lived with you . . . . .	3		
4	For tax years beginning after 1984, your dependent children who did not live with you . . . . .	4		
5	Other dependents . . . . .	5		
6	Total exemptions (add lines 1 through 5) . . . . .	6		
7	Multiply \$1,900 (\$1,080 for tax year 1986; \$1,040, for tax year 1985; \$1,000, for tax year 1984) by the number of exemptions claimed on line 6. Enter the result here and on page 1, line 6. . . . .	7		

**8 Dependents** (children and other) not claimed on original return:  
Note: Complete column (b) or (c), whichever applies, only if amending your 1987 return.

(a) Full name (first, initial, and last name)	(b) Child if under age 5	(c) If age 5 or over, dependent's social security number	(d) Relationship	(e) No. of months lived in your home	No. of children listed on 8 who lived with you
					For tax years beginning after 1984, the no. of children on 8 who didn't live with you due to divorce or separation
					No. of parents listed on 8
					No. of other dependents listed on 8

9 For tax years beginning after 1984, if your child listed on line 8 didn't live with you but is claimed as your dependent under a pre-1985 agreement, check here . . . . . ☐**Part II Explanation of Changes to Income, Deductions, and Credits**

Enter the line number from page 1 for each item you are changing and give the reason for each change. Attach all supporting forms and schedules for items changed. Be sure to include your name and social security number on any attachments.

If the change pertains to a net operating loss carryback, a general business credit carryback, or for tax years beginning before 1986, a research credit carryback, attach the schedule or form that shows the year in which the loss or credit occurred. See the instructions. Also, check here . . . . . ☐

FORM K-1 FROM NON-ASSUME 1120S DUE TO CHANGE IN A

FISCAL YEAR OF THE SUB-S CORP. WAS INADVERTENTLY

LEFT OFF FROM RETURN AS ORIGINALLY FILED.

1/4 OF THE AVAILABLE ITEMS FROM THE K-1

HAVE BEEN INCLUDED IN THIS 1040X (COPY OF K-1 ATTACHED)

**Part III Presidential Election Campaign Fund**

Checking below will not increase your tax or reduce your refund.

If you did not previously want to have \$1 go to the fund, but now want to . . . . . check here ☐  
If joint return and your spouse did not previously want to have \$1 go to the fund, but now wants to . . . . . check here ☐



**SCHEDULE K-1**  
**(Form 1120S)**

Department of the Treasury  
Internal Revenue Service

**Shareholder's Share of Income, Credits, Deductions, etc.**

For calendar year 1987 or tax year  
beginning Oct. 1, 1987, and ending Dec. 31, 1987  
For Paperwork Reduction Act Notice, see page 1 of Instructions for Form 1120S.

OMB No. 1545-0130

**1987**

Shareholder's identifying number ▶ <u>519-52-4620</u>	Corporation's identifying number ▶ <u>87-0270078</u>
Shareholder's name, address, and ZIP code <u>ROBERT A. CARLSON</u> <u>2777 SOUTH CLAYBOURNE AVE.</u> <u>SALT LAKE CITY, UTAH 84109</u>	Corporation's name, address, and ZIP code <u>CARLSON CADILLAC CO., INC.</u> <u>1070 SOUTH MAIN</u> <u>SALT LAKE CITY, UTAH 84101</u>

A (1) Shareholder's percentage of stock ownership for tax year (see instructions for Schedule K-1) ▶ 81.9 %  
(2) Number of shares owned by shareholder at tax year end ▶ 249

B Internal Revenue Service Center where corporation filed its return ▶ OGDEN, UTAH

C Tax shelter registration number (see instructions for Schedule K-1) ▶

D Did the shareholder materially participate in the trade or business activity(ies) of the corporation? (See instructions for Schedule K-1. Leave the check boxes blank if there are no trade or business activities.) ☒ Yes ☐ No

E Did the shareholder actively participate in the rental real estate activity(ies) of the corporation? (See instructions for Schedule K-1. Leave the check boxes blank if there are no rental real estate activities.) ☐ Yes ☐ No

F If (1) question D is checked "No" or income or loss is reported on line 2 or 3 and (2) the shareholder acquired corporate stock after 10/22/86, check here ☐ and enter the shareholder's weighted percentage increase in stock ownership for 1987 (see instructions for Schedule K-1) ▶ %

G If question D is checked "No" and any activity referred to in question D was started or acquired by the corporation after 10/22/86, check here ☐ and enter the date of start up or acquisition in the date space on line 1. Also, if an activity for which income or loss is reported on line 2 or 3 was started after 10/22/86, check the box and enter the start up date in the date space on line 2 or 3.

H If the short tax year shown above was a result of a change in tax year required by section 1378, check here ☒

Caution: Refer to Shareholder's Instructions for Schedule K-1 before entering information from Schedule K-1 on your tax return.

	(a) Distributive share items	(b) Amount	(c) Form 1040 filers enter the amount in column (b) only
Income (Losses) and Deductions	1 Ordinary income (loss) from trade or business activity(ies). Date: _____	<u>39,591</u>	See Shareholder's Instructions for Schedule K-1 (Form 1120S).
	2 Income or loss from rental real estate activity(ies). Date: _____		
	3 Income or loss from rental activity(ies) other than line 2 above. Date: _____		
	4 Portfolio income (loss):		
	a Interest		Sch. B, Part I, line 2
	b Dividends		Sch. B, Part II, line 4
	c Royalties		Sch. E, Part I, line 5
	d Net short-term capital gain (loss)		Sch. D, line 5, col. (f) or (g)
	e Net long-term capital gain (loss)		Sch. D, line 12, col. (f) or (g)
	f Other portfolio income (loss)		(Enter on applicable line of your return.)
5 Net gain (loss) under section 1231 (other than due to casualty or theft)		Form 4797, line 1	
6 Other income (loss) (attach schedule)		(Enter on applicable line of your return.)	
7 Charitable contributions		See Form 1040 instructions.	
8 Section 179 expense deduction (attach schedule)	<u>156</u>	See Shareholder's Instructions for Schedule K-1 (Form 1120S).	
9 Deductions related to portfolio income (loss) (attach schedule)	<u>1076</u>		
10 Other deductions (attach schedule)			
Credits	11a Jobs credit		Form 5884
	b Low-income housing credit		Form 8586, line 8
	c Qualified rehabilitation expenditures related to rental real estate activity(ies) (attach schedule)		See Shareholder's Instructions for Schedule K-1 (Form 1120S).
	d Credits related to rental real estate activity(ies) other than on lines 11b and 11c (attach schedule)		
	e Credits related to rental activity(ies) other than on lines 11b, c, and d (attach schedule)		
12 Other credits (attach schedule)			
Tax Preference and Adjustment Items	12a Accelerated depreciation of real property placed in service before 1987		Form 6251, line 5a
	b Accelerated depreciation of leased personal property placed in service before 1987		Form 6251, line 5b
	c Depreciation adjustment on property placed in service after 1986		Form 6251, line 4g
	d Depletion (other than oil and gas)		Form 6251, line 5d
	e (1) Gross income from oil, gas, or geothermal properties		See Form 6251 instructions.
	(2) Gross deductions allocable to oil, gas, or geothermal properties		
	f Other items (attach schedule)		

## **Exhibit "F"**

	<u>Taxable Income</u>	+	<u>Personal Exemptions</u>	-	<u>FIT Withheld</u>	-	<u>K-1 From S Corporation</u>	=	<u>Disposable Income</u>
1984	215,388	+	2,000	-	21,725	-	81,245	=	114,418
1985	110,557	+	2,080	-	18,337	-	40,505	=	53,795
1986	73,428	+	2,160	-	5,707	-	38,086	=	31,795
1987	198,563	+	3,800	-	8,003	-	168,526	=	25,834
1988	115,003 *	+	5,850	-	48,390	-	52,710	=	19,753

\* Reduced by spouse's contribution

## **Exhibit "G"**

HEATHER CARLESON  
EXPENSES

COMBINED MONTHLY EXPENSES:

House Payment	\$ 506.00
Property Taxes and Insurance	120.00
Car Payment	203.00
Car Taxes and Upkeep	75.00
Utilities (Power, Gas, Water, Garbage Telephone)	200.00
Lawn Weed & Bug Spraying	10.00
Swamp Cooler & Sprinkling System Turned Off and On	10.00
Newspaper (Sunday only)	5.00
Gasoline	50.00
Food	300.00*
Vitamin & Mineral Supplements because of Heather's special diet	20.00
Non-Food Items (soap, paper, cleaning products, etc.)	20.00
Entertainment (K & H)	60.00
Dogs (Clipping & Food)	56.00
Vacation	150.00
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TOTAL	\$1,785.00

\* The food allowance has increased approximately \$200.00 per month since Heather's surgery in 1988 and her need for increased calories; thus an additional \$100.00 has been apportioned to her 1/2 share of \$882.50.

Heather's Share

\$ 992.50

HEATHER'S CURRENT PERSONAL MONTHLY EXPENSES (prorated):

Clothing & Footwear	\$ 125.00
Piano Lessons (H)	35.00
Gymnastics Lessons	30.00
Book Orders	10.00
Snack Money (School Fridays)	8.00
Magazine Subscriptions (Highlights, Weekly Reader, etc.)	6.00
Party Gifts	25.00
Day Care (\$100/mo. during school; \$200/mo. during 2 months summer)	133.50
Tuition (1/3 of \$4,150/1989-90 school year, plus \$420/1989 4-week summer program)	150.00
School Uniforms	25.00
Allowance	2.50
School Activities	10.00
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TOTAL	\$ 560.00
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Total Heather's Expenses	\$1,552.50

1989-90 ROWLAND HALL-ST. MARKS EXPENSES:

Tuition (1989-90)	\$4,150.00
Summer Program (4 weeks)	420.00
Uniforms	300.00
School Activities (Book Fairs, etc.)	120.00
Summer Trip (Shakespeare Festival)	150.00
School Lunch	330.00
Snacks	70.00
Winter Sports (\$30-\$90 if not included in tuition, i.e., skiing, horseback riding, etc., for 1989-90)	60.00
Day Care (school year only)	800.00
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TOTAL	\$6,400.00