

2000

# J. Lynn Wilde v. Sherrie D. Wilde : Reply Brief

Utah Court of Appeals

Follow this and additional works at: [https://digitalcommons.law.byu.edu/byu\\_ca2](https://digitalcommons.law.byu.edu/byu_ca2)



Part of the [Law Commons](#)

Original Brief Submitted to the Utah Court of Appeals; digitized by the Howard W. Hunter Law Library, J. Reuben Clark Law School, Brigham Young University, Provo, Utah; machine-generated OCR, may contain errors.

Nicolaas De Jonge; Attorney for Respondent.

Douglas G. Mortensen; Matheson, Mortensen, Olsen and Jeppson; Attorneys for Appellant.

---

## Recommended Citation

Reply Brief, *Wilde v. Wilde*, No. 20000473 (Utah Court of Appeals, 2000).  
[https://digitalcommons.law.byu.edu/byu\\_ca2/2788](https://digitalcommons.law.byu.edu/byu_ca2/2788)

This Reply Brief is brought to you for free and open access by BYU Law Digital Commons. It has been accepted for inclusion in Utah Court of Appeals Briefs by an authorized administrator of BYU Law Digital Commons. Policies regarding these Utah briefs are available at [http://digitalcommons.law.byu.edu/utah\\_court\\_briefs/policies.html](http://digitalcommons.law.byu.edu/utah_court_briefs/policies.html). Please contact the Repository Manager at [hunterlawlibrary@byu.edu](mailto:hunterlawlibrary@byu.edu) with questions or feedback.

---

IN THE UTAH COURT OF APPEALS

---

J. LYNN WILDE,

Plaintiff/Respondent,

vs.

SHERRIE D. WILDE,

Defendant/Appellant.

REPLY BRIEF  
OF APPELLANT  
SHERRIE D. WILDE

Case No. 20000473-CA

Nicolaas De Jonge, #0859  
Attorney for Respondent  
4212 Highland Drive  
Salt Lake City, Utah 84124  
Telephone: (801) 272-1013

Douglas G. Mortensen, #2329  
MATHESON, MORTENSEN, OLSEN &  
JEPPSON, P.C.  
Attorneys for Appellant  
648 East First South  
Salt Lake City, Utah 84102  
Telephone: (801) 363-2244

**FILED**  
Utah Court of Appeals

JUL 09 2001

Paulette Stagg  
Clerk of the Court

---

IN THE UTAH COURT OF APPEALS

---

J. LYNN WILDE,

Plaintiff/Respondent,

vs.

SHERRIE D. WILDE,

Defendant/Appellant.

**REPLY BRIEF  
OF APPELLANT  
SHERRIE D. WILDE**

Case No. 20000473-CA

---

Nicolaas De Jonge, #0859  
Attorney for Respondent  
4212 Highland Drive  
Salt Lake City, Utah 84124  
Telephone: (801) 272-1013

Douglas G. Mortensen, #2329  
MATHESON, MORTENSEN, OLSEN &  
JEPPSON, P.C.  
Attorneys for Appellant  
648 East First South  
Salt Lake City, Utah 84102  
Telephone: (801) 363-2244

## TABLE OF CONTENTS

TABLE OF AUTHORITIES .....	i
ARGUMENT	
I THE DISTRICT COURT COMMITTED REVERSIBLE ERROR IN MAKING ITS ALIMONY AWARD PROSPECTIVE FROM THE DATE OF ENTRY ONLY .....	1
A. THE LANGUAGE OF THE REVISED STATUTE IS CLEAR IN ITS INTENT TO ELIMINATE TRIAL COURT DISCRETION IN SELECTING THE EFFECTIVE DATE OF ANY SUPPORT MODIFICATION IT CHOOSES TO IMPOSE .....	1
B. APPLYING §78-45-9.3 RETROACTIVELY DOES NOT “ENLARGE, ELIMINATE OR DESTROY ANY VESTED OR CONTRACTUAL RIGHTS” BECAUSE THE DISCRETION GRANTED TRIAL COURTS IN THE PRIOR VERSION OF THE STATUTE PRECLUDES EITHER PARTY FROM <i>HAVING</i> A VESTED OR CONTRACTUAL RIGHT TO ALIMONY OR FREEDOM FROM ALIMONY. ....	2
C. IF, AS MR. WILDE CONTENDS, NEITHER §78-45-9.3(4) NOR ITS PREDECESSOR STATUTE APPLIES TO PURELY SPOUSAL SUPPORT ORDERS, THEN THIS COURT MUST BE GUIDED SOLELY BY THE COMMON LAW WHICH SUPPORTS THE AWARD OF SPOUSAL SUPPORT FROM THE DATE THE OBLIGOR RECEIVED NOTICE OF THE PETITION SEEKING IT. ....	3
D. PUBLIC POLICY INTERESTS DEMAND THAT A SUPPORT MODIFICATION BE MADE EFFECTIVE AS OF THE DATE THE OPPONENT IS SERVED WITH THE PLEADING SEEKING IT BECAUSE: A) OUR LEGISLATURE SO CONCLUDED WHEN IT ENACTED §78-45-9.3 AND B) A PARTY RESISTING MODIFICATION IS OTHERWISE ENCOURAGED TO ENGAGE IN LITIGATIVE DELAY TACTICS. ....	5



<b>II</b>	<b>MR. WILDE’S BRIEF CONTAINS FALSE AND/OR MISLEADING ASSERTIONS WHICH THIS COURT SHOULD REJECT . . . . .</b>	<b>7</b>
<b>A.</b>	<b>AS TO THE BURDEN OF MARSHALING EVIDENCE . . . . .</b>	<b>7</b>
<b>B.</b>	<b>AS TO MRS. WILDE’S ALLEGED “FOCUS ON FRAUD” . . . . .</b>	<b>7</b>
<b>C.</b>	<b>AS TO COUNSEL’S ALLEGED INABILITY TO SEGREGATE TIME RELATED TO FRAUD CLAIMS . . . . .</b>	<b>9</b>
<b>D.</b>	<b>AS TO DEFENSE WITNESS TESTIMONY CONCERNING ABILITY TO WORK . . . . .</b>	<b>11</b>
<b>III</b>	<b>MRS. WILDE SHOULD BE AWARDED AT LEAST SOME OF THE FEES AND COST SHE INCURRED IN HER DISTRICT COURT BATTLES FOR ALIMONY AND ALL OF THE FEES AND COSTS SHE HAS INCURRED IN THIS APPEAL . . . . .</b>	<b>12</b>
<b>A.</b>	<b>THERE IS NO AUTHORITY SUPPORTING A DISTRICT COURT’S AWARDED NOTHING WHATSOEVER FOR FEES AND COSTS INCURRED BY A NEEDY PREVAILING OBLIGEE SPOUSE WHERE, AS HERE, BOTH HER NEED AND THE OBLIGOR SPOUSE’S ABILITY TO PAY HAVE BEEN CLEARLY ESTABLISHED . . . . .</b>	<b>12</b>
<b>B.</b>	<b>COUNSEL’S ITEMIZATIONS ARE CLEAR, COMPLETE AND EASILY SCRUTINIZABLE, AS ARE HIS TESTIMONY AND AFFIDAVIT . . . . .</b>	<b>16</b>
<b>IV.</b>	<b>BECAUSE FOUR MEDICAL EXPERTS AND THE SSA HAVE DECLARED WITHOUT REBUTTAL THAT MRS. WILDE IS WHOLLY DISABLED AND UNABLE TO CONTRIBUTE TO HER OWN SUPPORT, THE DISTRICT COURT COMMITTED PATENT ERROR IN CONCLUDING OTHERWISE . . . . .</b>	<b>19</b>
	<b>RELIEF REQUESTED . . . . .</b>	<b>21</b>

## TABLE OF AUTHORITIES

### RULES

### STATUTES

UCA § 78-45-9.3 (2000);

### CASE AUTHORITIES

Accord Holt v. Holt, 633 SW.2d 171 (Mo. App. 1982);

Alldredge v. Alldredge, 119 Utah 504, 229 P.2d 681 (Utah 1951)

Alpine School District Board of Education v. State Tax Commission, 14 P.3d 125, (Utah App. 2000)

Barker v. Utah Public Service Commission, 970 P.2d 702, 710

Bell v. Bell, 810 P.2d 489 (Ut App. 1991)

Child v. Gonda, 972 P.2d 425, 433-34 (Utah 1998)

Goodman v. Goodman, 173 Neb. 330, 113 NW.2d 202 (1962)

Hanchett v. Burbidge, 59 Utah 127, 135, 202 P.377, 380 (1921)

Harris v. Harris, 259 NY 334, 182 N.E.7 (NY 1932)

Haumont v. Haumont, 793 P.2d 421, 426 (Utah App. 1990)

Kofoed v. Industrial Commission of Utah, 872 P.2d 484, 486 (Utah 1994)

Kennecott Corp. v. Industrial Commission of Utah, 740 P.2d 305, 308 (Utah App. 1987)

Kruse v. Kruse, 464 N.E.2d 934, 938 (In. App. 1984)

Martin v. Martin (1981 2d Dept.) 82 App. Div.. 2d 431, 441 N.Y.S. 2d 828.

Martindale v. Adams, 777 P.2d 514 (Utah App. 1989)

McArthur v. McArthur, 106 So.2d 73 (Fla. 1958)

McCleod v. Sandy Island Corp., 260 S.C. 209, 195 SE.2d 178 (1973)

Nelson v. Salt Lake County, 905 P.2d 872, 875 (Utah 1995)

Okland Construction Co. v. Industrial Commission, 520 P.2d 208, 210-11 (Utah 1974)

Ramona v. Ramona, 244 So.2d 547 (Fla. App. 1971)

Re Marriage of Geis, 512 N.E.2d 1354 (Ill. App. 1987)

Salt Lake Child and Family Therapy Clinic Inc. v. Frederick, 890 P.2d 1017

State v. Higgs, 656 P.2d 998, 1001 (Utah 1982)

Tholen v. Sandy City, 849 P.2d 592, 597, fn. 7 (Utah App. 1993).

Trezevant v. Trezevant, 403 A.2d 1134 (Dist. Col. App. 1979)

World Peace Movement v. Newspaper Agency Corp. Inc., 879 P.2d 253, 259 (Utah 1994).

#### **OTHER AUTHORITIES**

October 1999 Utah Bar Journal, Vol. 12, No. 9, pp 8-53.

## ARGUMENT

### I

#### THE DISTRICT COURT COMMITTED REVERSIBLE ERROR IN MAKING ITS ALIMONY AWARD PROSPECTIVE FROM THE DATE OF ENTRY ONLY

##### A. THE LANGUAGE OF THE REVISED STATUTE IS CLEAR IN ITS INTENT TO ELIMINATE TRIAL COURT DISCRETION IN SELECTING THE EFFECTIVE DATE OF ANY SUPPORT MODIFICATION IT CHOOSES TO IMPOSE.

This Court recently stated:

When language is clear and unambiguous, it must be held to mean what it expresses, and no room is left for construction. [Citations omitted] Only when we find ambiguity in the statute's plain language need we seek guidance from the legislative history and relevant policy considerations. [Citations omitted.]

Alpine School District Board of Education v. State Tax Commission, 14 P.3d 125, (Utah App. 2000); see also Salt Lake Child and Family Therapy Clinic Inc. v. Frederick, 890 P.2d 1017, 1020 (Utah 1995) and Hanchett v. Burbidge, 59 Utah 127, 135, 202 P.377, 380 (1921).

See also Nelson v. Salt Lake County, 905 P.2d 872, 875 (Utah 1995) and World Peace Movement v. Newspaper Agency Corp. Inc., 879 P.2d 253, 259 (Utah 1994).

There is nothing ambiguous or unclear in the language of §78-45-9.3(4) which states in pertinent part:

A . . . spousal support payment . . . may be modified with respect to any period during which a modification is pending, ***but only from the date of service of the pleading*** on the obligee, if the obligor is the petitioner, or on the obligor, if the obligee is the petitioner. ***The tribunal shall order a judgment for the***

*period from the service of the pleading until the final order of modification is entered for any difference in the original order and the modified amount.* (Emphasis added).

The word “may” in the first sentence quoted above grants a trial court discretion to modify or not modify an existing support order, depending upon whether the evidence justifies modification. That sentence also clearly states that if the trial court decides to modify an existing support order, the modification may be made effective “**only** from the date of service of the pleading. . .”. The second sentence of the statute is entirely consistent with the first sentence. It clearly and unmistakably underscores the statute’s directive that any modification order “**SHALL**” be made effective from the date the pleading seeking modification was served. There is simply no ambiguity in the statute nor is there any “wiggle room” for contending that a trial court is free to make its modification order effective on any date it chooses. The statute sets the effective date. It cannot reasonably be construed otherwise.

**B. APPLYING §78-45-9.3 RETROACTIVELY DOES NOT “ENLARGE, ELIMINATE OR DESTROY ANY VESTED OR CONTRACTUAL RIGHTS” BECAUSE THE DISCRETION GRANTED TRIAL COURTS IN THE PRIOR VERSION OF THE STATUTE PRECLUDES EITHER PARTY FROM *HAVING* A VESTED OR CONTRACTUAL RIGHT TO ALIMONY OR FREEDOM FROM ALIMONY.**

As Mr. Wilde’s brief acknowledges, a statutory amendment in Utah may be applied retroactively when it does not “enlarge, eliminate or destroy vested or contractual rights”. Salt Lake Child and Family Clinic, Inc. v. Frederick, 890 P.2d 1017, 1020 (Utah 1995). In addition, amendments clarifying prior statutes or amplifying how they should have been

understood may be applied retroactively. State Dept. of Social Services v. Higgs, 656 P.2d 998,1001 (Utah 1982); Kofoed v. Industrial Commission of Utah, 872 P.2d 484, 486 (Utah App. 1994); Kennecott Corp. v. Industrial Commission of Utah, 740 P.2d 305, 308 (Utah App. 1987); Okland Construction Co. v. Industrial Commission, 520 P.2d 208, 210 (Utah 1974).

Mr. Wilde fails to identify any vested or contractual right which he contends the revised statute “enlarges, eliminates or destroys” in this case. There simply is none. The former version of the statute vested the trial court with discretion to determine when its modification award should be effective. That discretion precluded the existence of any “vested” or “contractual” right of any party to a specific amount or duration of support. As long as the effective date, amount and duration of support was discretionary with the trial court, there could be no vested or contractual right in either party.

**C. IF, AS MR. WILDE CONTENDS, NEITHER §78-45-9.3(4) NOR ITS PREDECESSOR STATUTE APPLIES TO PURELY SPOUSAL SUPPORT ORDERS, THEN THIS COURT MUST BE GUIDED SOLELY BY THE COMMON LAW WHICH SUPPORTS THE AWARD OF SPOUSAL SUPPORT FROM THE DATE THE OBLIGOR RECEIVED NOTICE OF THE PETITION SEEKING IT.**

Mr. Wilde contends that neither UCA §78-45-9.3(2000) nor UCA §30-3-10.6 (1997) applies to spousal support orders. He contends that those statutes apply only to orders which are entered in conjunction with an award of child support.

If Mr. Wilde's contention is true, there is no statute in Utah to guide this Court in determining when Mr. Wilde's alimony obligation should be made effective. This Court therefore must look to the common law for guidance. In many jurisdictions, it is standard for an award of alimony to be made retroactive to the date of the filing of the petition seeking it. See 52 ALR 3d 156 at §5; See also Trezevant v. Trezevant, 403 A2d 1134 (D.C. App. 1979); McArthur v. McArthur, 106 S.2d 73 (Fla. 1958); Ramona v. Ramona, 244 S.2d 547 (Fla. App. 1971); In Re Marriage of Geis, 512 NE2d 1354 (Ill. App. 1987); Harris v. Harris, 259 NY334, 182 NE7 (NY 1932).

The Supreme Court of North Carolina has noted and other courts have found that the term "retroactive" is actually inappropriate in this context:

. . . [W]e conclude the trial court's order modifying alimony from the date the matter was first noticed for hearing is not a retroactive modification. While this issue has not been addressed previously by this Court, we are persuaded by the rule which prevails in other jurisdictions which states:

Orders which modify alimony or support payments effective as of the date of the petition or subsequent thereto but prior to the date of modification are not subject to the criticism that they have retroactive effect which destroys vested rights. This is true because the modification and the whole proceeding in which it is made are referable to the date of the filing of the petition and any change effective as of that date cannot be said to be retroactive.

McArthur v. McArthur, 107 S.2d 73, 76 (Fla. 1958); Accord Holt v. Holt, 633 SW.2d 171 (Mo. App. 1982); McCleod v. Sandy Island Corp., 260 S.C. 209, 195 SE.2d 178 (1973);

Goodman v. Goodman, 173 Neb. 330, 113 NW.2d 202 (1962);  
Harris v. Harris, 259 NY 334, 182 NE7 (1932).

In Harris v. Harris, the Court of Appeals of New York explained the rationale behind this precept:

. . . Where this not so, a defendant, by repeated adjournments for one excuse or another, might delay [the plaintiff] in procuring . . . the relief and help which [the plaintiff] should have, owing to changed conditions and circumstances.

Harris, 259 NY at 336-337, 182 N.E. at 8. For this reason, “a majority of the courts of other states which have considered the question have held the trial court may make modifications effective as of the date the petition is filed.”

Hill v. Hill, 435 S.E.2d 766 (N.C. 1993). Another court has wisely observed:

To grant modification of support only from the date of the court’s order detracts from the purposes of the changed circumstances rule and serves to encourage and benefit dilatory tactics.

Kruse v. Kruse, 464 N.E.2d 934, 938 (In. App. 1984) See Also Martin v. Martin (1981 2d Dept.) 82 App. Div.. 2d 431, 441 N.Y.S. 2d 828.

**D. PUBLIC POLICY INTERESTS DEMAND THAT A SUPPORT MODIFICATION BE MADE EFFECTIVE AS OF THE DATE THE OPPONENT IS SERVED WITH THE PLEADING SEEKING IT BECAUSE: A) OUR LEGISLATURE SO CONCLUDED WHEN IT ENACTED §78-45-9.3 AND B) A PARTY RESISTING MODIFICATION IS OTHERWISE ENCOURAGED TO ENGAGE IN LITIGATIVE DELAY TACTICS.**

Mr. Wilde’s brief correctly notes (at page 20), that policy considerations are to be taken into account only when statutory language is ambiguous. See Alpine School District



Board of Education v. State Tax Commission, 14 P.3d 125 (Utah App. 2000). Here, the statute Utah's legislature recently enacted is not ambiguous. It unambiguously provides that any support modification order shall be made effective as of the date of service of the petition seeking it. See Argument IA., *supra*. Whether this Court decides to apply §78-45-9.3(4) retroactively or not, it now has before it the clear, current view of the legislature.

Public policy opposes litigative delay. The rules governing civil litigation expressly require that they "be liberally construed to secure the just, speedy, and inexpensive determination of every action". Rule 1, URCP. Similarly, Utah's Rules of Evidence have as one of their express purposes the elimination of unjustifiable delay. Rule 102, URE. If a party who opposes a modification of a support order has a chance of delaying the effective date of the order, self interest will impel that party to delay as long as possible the entry of the order. Such chance exists as long as a trial court has discretion to make the modification order effective at any time after the opposing party is served with the petition seeking it. Public policy would be ill served by allowing litigants to engage in litigative delay out of hope that the order they oppose will require them to pay alimony only from the date it is entered. It is not difficult to imagine the lengths to which a disgruntled former spouse may go to delay imposition of an unfavorable order. In fact, one need go no further than the litigative history of this case for an illustration of the mischief and injustice that can be done.

1

---

<sup>1</sup>It took Mrs. Wilde 5 1/2 half years of protracted effort to obtain a measure of the support relief she desperately needed. Mr. Wilde consistently caused delays

## **II.**

### **MR. WILDE’S BRIEF CONTAINS FALSE AND/OR MISLEADING ASSERTIONS WHICH THIS COURT SHOULD REJECT.**

#### **A. AS TO THE BURDEN OF MARSHALING EVIDENCE.**

On page 24 of his brief, Mr. Wilde erroneously asserts:

In challenging discretionary rulings, an appellant has the burden  
of marshaling the evidence in support of the trial court’s finding.

The marshaling requirement applies only to findings of fact, not to discretionary rulings.

Child v. Gonda, 972 P.2d 425, 433-34 (Utah 1998); See also J. Jackson, Utah Standards of  
Appellate Review, Revised, Utah Bar Journal, Volume 12, No. 8, October 1999 pp.8-53, at  
12-13.

#### **B. AS TO MRS. WILDE’S ALLEGED “FOCUS ON FRAUD”.**

Mr. Wilde repeatedly asserts: “from the time Mrs. Wilde retained current counsel, her  
major focus has been on fraud” ; “much of [counsel’s] . . . effort in preparation for the

---

through continuance motions, protracted discovery battles and objections to virtually  
every pretrial ruling of the commissioner or trial court favorable to Mrs. Wilde. He  
paid private investigators thousands of dollars to surveil Mrs. Wilde in an effort to  
catch her in some physical activity inconsistent with debilitating arthritis and  
Parkinson’s Disease. The combined surveillance undertaken before the first and  
second trials total over 1,000 man hours! (See R. 736 - p. 208; 737 - 209- 212; 738 -  
pp.213-214; 739 - pp. 218 -220; R. 1601, pp. 182-184). When the case finally got to  
trial (after Mrs. Wilde’s successful appeal), Mr. Wilde’s counsel spent some 424  
minutes (or 7 1/4 hours) examining and cross examining witnesses - nearly double  
the time Mrs. Wilde’s spent in putting on his case and cross examining defense  
witnesses. During the first day of trial alone, Mr. Wilde raised some 70 objections,  
most of which were denied but all of which consumed precious time and resources.  
(See Trial Transcript, pp. 1-437)

second trial was directed toward the fraud claim”; Mrs. Wilde’s accountant “was hired to continue efforts to pursue the alleged fraud issue”; and “discovery in the divorce case focused on fraud issues”. (Respondent’s brief at pp. 4, 5, 6 and 32). These assertions are erroneous.

Mrs. Wilde and her representative have focused on ascertaining Mr. Wilde’s true income. They have done so for an important reason: Mrs. Wilde’s support needs, due to the gravity of her medical problems and the exorbitance of her medication expense, exceed \$3,200 per month. Mrs. Wilde suspected, based upon past rulings in her case, that the district court handling her case might have difficulty awarding that large a sum, despite clear indications of Mr. Wilde’s six figure annual income. She and her counsel felt it important to demonstrate that Mr. Wilde’s income *far* exceeded his stated annual salary of \$120,000. She deemed it advisable to hire an investigative accountant who submitted two sworn statements identifying the focus of her inquiry:

\* \* \*

Our firm is often retained to conduct investigations and provide consultation and expert testimony in cases in which the true income of a person is at issue. Frequently, this arises in the context of a claim for spousal and/or child support involving a breadwinner who is either self-employed or a principal in a business over which he or she had substantial control. We have been retained to conduct such an investigation into the income of J. Lynn Wilde in this case.

(R. 1035 -1056; 1134-1137; See also Addenda 1 and 2, attached)

Mrs. Wilde's focus on ascertaining her ex-husband's true income was first sharpened by a minute entry ruling of Judge Rigtrup which upheld the Commissioner's grant of Mrs. Wilde's first request for temporary support in 1995 with this comment:

Plaintiff, as a principal in Beneficial International, Inc., is in a position to enjoy perquisites of employment which effectively enhance his real income. Plaintiff is in a . . . position . . . to exploit create juggling in managing his personal finances.

(R. 424)

Despite the fact that Mr. Wilde had over five years to secrete, disguise or hide income, evidence of a lavish lifestyle abounded. (See e.g., Addenda 7, 1 and 2; R. 866-870; 898, 881; R. 197-1214). Mr. Wilde testified at trial that he had recently undergone laser resurfacing surgery on his face and additional surgery to remove wrinkles around his eyes. His corporation paid for half of the \$2,800 cost of the first surgery. (Trial Transcript, Volume 2, pp. 247-250).

**C. AS TO COUNSEL'S ALLEGED INABILITY TO  
SEGREGATE TIME RELATED TO FRAUD CLAIMS.**

Mr. Wilde asserts on pages 5 and 31 of his brief that Mrs. Wilde and her counsel were unable to identify fees related to the fraud claims. He further asserts that this inability "caused the district court to find that an allocation of fees related to valid divorce issues and unrelated fraud issues was not possible". These assertions are both misleading and incorrect.

It is true that during the first trial, Mrs. Wilde's counsel indicated he was not then able to segregate the part of his fees and costs incurred in the portion of Mrs. Wilde's case which the district case had dismissed just moments before that trial began. (R. 710 lines 9-18). Immediately *before* making that admission, counsel had explained that he had attended a funeral at the midday break and had not been able to spend time examining his time sheets. (R. 710). Immediately *after making that admission*, counsel stated:

What is ascertainable is the time that was spent investigating Mr. Wilde's wealth. And I am suggesting that that's an issue that is relevant to both the dismissed and the non-dismissed portions of the case.

(R. 710, Transcript p. 104, lines 13-18)

Moreover, in his sworn testimony during the second trial, Mrs. Wilde's counsel stated that the time he spent on work related to the fraud claim totaled \$4,406.25 in fees. (Trial Transcript at 426). He then explained why he felt that effort also related to issues legitimately before the court in this action. (Trial Transcript at 425-427). The matter was again clarified in an affidavit counsel later submitted to the district court in which he stated:

During the second trial, I was asked to determine how much, if any, of the fees and costs incurred in and charged in this case were spent on matters other than those directly relating directly relating to Sherrie Wilde's entitlement to alimony. I testified that the issues of fact relating to fraud and other matters were closely related or inextricably intertwined with issues relating to entitlement to alimony. Nevertheless, I undertook to segregate time spent on the fraud and other claims. I testified during the second trial that the fees and costs attributable to "other" matters total \$4,406.25. I have since re-reviewed the time itemizations and affirm that testimony.

(R. 1435-1440; Addendum M to brief-in-chief, at para. 9, p. 5). Mr. Wilde's assertion that counsel could not segregate fees related to fraud issues is simply false.

**D. AS TO DEFENSE WITNESS TESTIMONY CONCERNING ABILITY TO WORK**

On page 4 of his brief, Mr. Wilde make several assertions pertaining to the testimony of defense witnesses concerning job opportunities for disabled workers. He asserts, among other things, that two witnesses "who were substantially more disabled than Mrs. Wilde, testified they were employed full time" and that than an SOS staffing expert testified "there are many job opportunities for such [disabled] individuals, if they have the desire to work".

As to the SOS Staffing Services witness, the district court acknowledged in its memorandum decision that "she had no idea regarding [Mrs. Wilde's] cognitive abilities at the present time." The district further found that "this witness' testimony may have been somewhat unrealistic". (R. 1365).

One of the working "disabled" defense witnesses was Kristen Lilly. She was a 24 year old woman with congenital spina bifida. Mr. Wilde's assertion that she was substantially "more disabled than Mrs. Wilde" is contrary to both her testimony and the trial court's express findings. The district court expressly found, based on the testimony of this witness that

This witness had no cognitive impairment and her arms and hands were not affected by her disability. She can work a keyboard and had no trouble sitting for a full day.  
(R. 1367).

The other defense witness alleged to have been “substantially more disabled than Mrs. Wilde” was a 28 year old woman with cerebral palsy. Aside from being nearly 30 years younger than Mrs. Wilde, this woman testified that she works less than full time and lives at home with her parents who provide support to her. Tellingly, she testified that she was not on social security disability “because it is not the government’s responsibility to take care of me. It’s mine *and my family’s*”!! (Italics added) (Trial Transcript at 362 - 363). This young woman’s disability is unlike Mrs. Wilde’s and she has spent far fewer years in the workforce ( 3 years; See R. 1602 at 361) than Mrs. Wilde did before she became unable to continue working.

### III

#### **MRS. WILDE SHOULD BE AWARDED AT LEAST SOME OF THE FEES AND COST SHE INCURRED IN HER DISTRICT COURT BATTLES FOR ALIMONY AND ALL OF THE FEES AND COSTS SHE HAS INCURRED IN THIS APPEAL**

##### **A. THERE IS NO AUTHORITY SUPPORTING A DISTRICT COURT’S AWARDED NOTHING WHATSOEVER FOR FEES AND COSTS INCURRED BY A NEEDY PREVAILING OBLIGEE SPOUSE WHERE, AS HERE, BOTH HER NEED AND THE OBLIGOR SPOUSE’S ABILITY TO PAY HAVE BEEN CLEARLY ESTABLISHED.**

This Court has stated that although a trial court has discretion to determine what constitutes reasonable attorney fees for a particular case, its exercise of discretion must be based on evidence in the record. Tholen v. Sandy City, 849 P.2d 592, 597, fn. 7 (Utah App. 1993). This Court has also held that a judicially initiated reduction of requested fees, without

findings to explain why the reduction is justified, is an abuse of discretion. *Id*; See also Bell v. Bell, 810 P.2d 489, 493-94 (Utah App. 1991); Martindale v. Adams, 777 P.2d 514, 517-18 (Utah App. 1989).

The amounts requested by Mrs. Wilde for her fees and costs were supported at trial by evidence. Although Mr. Wilde's counsel cross examined Mrs. Wilde's counsel at length, he offered no *evidence* in rebuttal to the testimony and the highly itemized fee and cost statements submitted on behalf of Mrs. Wilde. This court repeatedly has disapproved of a trial court's *sua sponte* rejection or reduction of fees and costs in the absence of clear supporting evidence. See Bell v. Bell, 810 P.2d 489, 494 (Utah App. 1991) and cases cited therein.

It is significant that no evidence was presented at trial in support of an award of *nothing* for fees or costs. Mr. Wilde offered no expert testimony in rebuttal to the testimony and exhibits offered by Mrs. Wilde's counsel. He offered no *evidence* that the fees and costs claimed by Mrs. Wilde were not reasonable nor necessarily incurred. A trial court may not base a decision on attorney fees without evidence or on inadequate evidence. See Haumont v. Haumont, 793 P.2d 421 at 426 (Utah App. 1990).

Utah's Supreme Court long ago endorsed "the general rule . . . that the wife is a privileged suitor in divorce cases" and it is nearly always appropriate for the wife to be awarded costs and attorney fees where she lacks the ability to pay and her husband is the



party seeking the divorce. See Allredge v. Allredge, 119 Utah 504, 229 P.2d 681 (Utah 1951) and cases cited therein.

Not to allow the wife expenses and counsel fees would in the majority of the cases work an injustice by denying her the power to enforce any marital rights she may have.

*Id.* at 515. More recently, our Supreme Court has rejected arguments of “overkill” under circumstances as exist here:

Moreover, we do not believe that anything in the financial arrangements between petitioners and their clients caused petitioners to expend excessive hours on the case. [Counsel] knew very well the possibility of receiving no remuneration for their time and work. Such knowledge would surely motivate efficiency rather than the reverse.

Barker v. Utah Public Service Commission, 970 P.2d 702, 710. In Barker, our Court also took occasion to rebut the notion that a trial court may appropriately consider the fact that counsel took on the case as a “charity” case:

Whether the attorneys provided their services pro bono, at a discount, or at full market rate does not effect a determination of reasonable attorney fees. . . . The rule instructs courts to consider the market rate for legal services, not to reduce the rate for pro bono services or reduced costs. . . . Holding otherwise would only discourage lawyers from taking such cases pro bono in the future. To the contrary, we wish to encourage the kind of public service performed by Barker and Flynn in taking this case despite the huge time commitment and significant risk of non payment.

970 P.2d at 711. Here, Mrs. Wilde’s counsel labored through two trials essentially without compensation. Counsel has also labored through this appeal without compensation.

Upholding the district court's denial of fees and costs to Mrs. Wilde for the work done in the district court or failing to award her fees and costs on this appeal would have a chilling effect on the ability of destitute women like Mrs. Wilde to obtain needed and deserved relief through our civil justice system.

In its December 3, 1998 opinion, this Court expressly found that “the record demonstrates her [Mrs. Wilde’s] financial need and plaintiff’s ability to pay [attorneys fees and costs]”. (R. 1001). Several of the district court’s findings and conclusions contain undeniable indications of Mrs. Wilde’s continuing inability to pay her own attorney’s fees and costs and of Mr. Wilde’s ability to pay or contribute to them. (Findings of Fact Nos. 1, 2, 56 and 64 and Conclusions of Law Nos. 4, 5 and 6; R. 1375, 1390 and 1393). Mrs. Wilde’s need and Mr. Wilde’s ability to pay have never been contested and are now beyond dispute. Under these circumstances, the district court’s decision to award Mrs. Wilde nothing whatsoever for the fees and costs she incurred in her alimony battles at the district court level is unfathomable.

Counsel is aware of no authority anywhere supporting a district court’s refusal to award *any* fees or costs to a needy prevailing obligee spouse where, as here, both her need and the obligor’s ability to pay have been clearly established.

**B. COUNSEL'S ITEMIZATIONS ARE CLEAR, COMPLETE AND EASILY SCRUTINIZABLE, AS ARE HIS TESTIMONY AND AFFIDAVIT.**

At trial, Mrs. Wilde's counsel testified as to the costs incurred in preparation for the two trials before the district court. He offered and the court received an itemization of those costs. No testimony or other evidence was submitted in rebuttal. There was no evidence before the district court to support its denial of *all* of the \$6,508.77 in costs Mrs. Wilde was required to incur.

Counsel's expenditures of time were itemized with particularity. Addendum 8, attached, arranges counsel's time itemizations into categories of work which undisputedly pertain to Mrs. Wilde's effort to obtain alimony. The necessity of the work, as there organized, can hardly be disputed.

It is not Mrs. Wilde's fault that her counsel was required to spend 21.25 hours responding to Mr. Wilde's discovery demands. Mr. Wilde left him no choice. Nor can she be faulted for the 17 hours her counsel spent obtaining and enforcing temporary support while waiting for her claim to be tried. Neither Mrs. Wilde nor her counsel should be punished for the 8.3 hours her counsel spent responding to Mr. Wilde's objections to pretrial orders favorable to Mrs. Wilde.

Mrs. Wilde's counsel spent considerable time trying to discover Mr. Wilde's true income. Much of that time could have been avoided had Mr. Wilde cooperated in that effort rather than having filed motions to quash, stonewalled and required the filing of motions to

compel. Much of the time might have been avoided had Mr. Wilde not so studiously undertaken to hide his income, which he unabashedly admitted having done to Mrs. Wilde's investigative accountant:

... Mr. Lynn Wilde stated to me in response to my query about his personal financial records: "You can tell Doug that I don't have those documents. I throw them away as soon as I receive them". Mr. Wilde indicated to me in clear terms that he discards bank statements, credit card statements and other personal financial records immediately upon receipt because he has been sued repeatedly in recent years and has learned that he does not have to produce documents he does not have. Mr. Wilde also told me that if Sherrie Wilde was to win a judgment against him, she "would never see a penny from me". ... Mr. Wilde stated ... he would ... relocate to a foreign country where Mrs. Wilde would not be able to "touch" him or his assets.

(R. 1137-37, Addendum 2, attached).

Counsel spent several hours attempting to settle the case. The district court offered no justification for refusing to award fees for that effort.

Counsel spent 87.25 hours preparing for and participating in the two trials before the district court. Although the district court found such effort to have been "overkill", it also apparently found the effort insufficient because, despite counsel's production of un rebutted expert testimony from four medical experts and the Social Security Administration, the district court refused to find that Mrs. Wilde is unable to work.

To conclude that this was a simple, easy case not warranting the effort expended on behalf of Mrs. Wilde is to grandly ignore all of Mr. Wilde's substantial and effective efforts to obfuscate and delay. (See pp. 17-20 of Mrs. Wilde's April 23, 2001 Appeal Brief).

Counsel testified that the time spent was necessary and that the amount charged was reasonable. His testimony was further elucidated by his six page affidavit. (R. 1435-1440; Addendum M to Mrs. Wilde's Appeal Brief in chief). As to "overkill", Mrs. Wilde's counsel has averred:

I have not purposely engaged in "overkill" in this case. On the contrary, I have tried to get the case resolved as expeditiously and inexpensively as possible. I have not been paid in this case for over three years. That fact alone demonstrates I have had no interest or incentive to involve myself or my client in protracted litigation. Immediately after the Court of Appeals handed down its decision, I commenced efforts to settle the case without litigation. I wrote two letters to Mr. Wilde's counsel seeking settlement and supplying . . . documentation of Mrs. Wilde's living expenses and documentation of my attorney's fees in handling the [first] appeal. I remained both anxious and willing to participate in settlement at all times.

(R. 1437; Addendum M to brief in chief, page 3, paragraph 5).

As to difficulty of the case, counsel testified at trial:

. . . There have been many difficulties and battles in this case since last December. Delays required an Order to Show Cause, Request for Temporary Support that had to go through the two-step commission and judge process, discovery requests submitted last January were not timely answered which required a Motion to Compel in late March. A Motion for Sanctions in July. Efforts to obtain financial records reflecting Lynn's true income have been arduous. I have in my office 2-3 now bulging volumes of pleadings generated in this case since the Court of Appeals decision was handed down and as of today . . . , my file reflects 100 separate pleadings having been filed in this case since December and that's 5 more than were filed before the appeal was filed, from the time I took over the case from Dick Nemelka.

(R. 1602 at 241).

#### IV

**BECAUSE FOUR MEDICAL EXPERTS AND THE SSA HAVE  
DECLARED WITHOUT REBUTTAL THAT MRS. WILDE IS  
WHOLLY DISABLED AND UNABLE TO CONTRIBUTE TO HER OWN  
SUPPORT, THE DISTRICT COURT COMMITTED PATENT ERROR IN  
CONCLUDING OTHERWISE.**

Mr. Wilde was given ample opportunity have Mrs. Wilde examined by a medical expert of his own choosing and/or to otherwise present at trial competent medical testimony in rebuttal to the testimony offered by Mrs. Wilde. He failed to do so. Careful reading of the medical experts' testimony offered by the medical experts will reveal that despite the slant, shading and snippet-quoting by Mr. Wilde's representatives, their bottom line opinions remain intact and firmly held.

**Dr. Knibbe** opined that Mrs. Wilde met the SSA criteria for a person being "totally disabled" by rheumatoid arthritis even at the time of the first trial (R. 726; first trial transcript 168 at lines 6-23) and that her physical condition had grown worse in the 2 1/2 years between that trial and the second trial. (R. 1601 at 127-128). He found Mrs. Wilde's health to be further hampered by Shogren's Syndrome, Fibromyalgia, Intervertebral disc degeneration and herniation at two levels and manual dexterity impairment. (R. 1601 at 133-136). He prescribed "programmed rest" for Mrs. Wilde consisting of 2 to 3 regular rest periods each day. (R. 1601 at 137). Her arthritis has not responded "as well as one would hope despite aggressive anti-inflammatory treatment" and her fibromyalgia (causing muscle

fatigue, sleep disorder and pain) is not curable and will not “go away”. (R. 1601 at 137, 134). Dr. Knibbe concluded emphatically: “**I don’t believe she’s capable of working in a competitive environment . . . even on a part-time basis**”. (R. 1601 at 138) (Emphasis added).

**Dr. Foley** confirmed that Mrs. Wilde is suffering from worsening Parkinson’s Disease which is irreversible. In his opinion, the worsening of her Parkinson’s Disease renders her “**permanently disabled from any significant occupational endeavor**”. (R. 161 at 44, 45, 63; R. 1414-1419). Dr. Foley further confirmed that in his vast experience the SSA is “relatively tough” on granting disability and has competent people making disability assessments. He opined: “Usually if you can obtain social security disability, you are truly disabled. (R. 1601 at 46-47).

**Dr. Bigler’s** neuropsychological testing of Mrs. Wilde revealed that she is significantly impaired in memory and executive functioning. Compared to women of her age, she is in the lowest 5<sup>th</sup> percentile doing cognitive tasks. Her Parkinson’s Disease and the tremor it causes prevent her from working in more menial jobs. Dr. Bigler concludes on the basis on substantial testing and observation: “**I think the objective assessment of this patient is that her working years are over**”, (R. 1601 at 77-79).

**Dr. Rodgers** has been a treating clinical psychologist to many patients suffering from rheumatoid arthritis and has suffered from the disease himself. (R. 705 at 82-84). Mrs. Wilde’s rheumatoid arthritis and Parkinson’s Disease are, in his opinion, significant

contributing causes of the depression and anxiety disorder for which he has treated her. (R. 1601 at 113-116). Dr. Rodgers has found that Mrs. Wilde has aphasia (inability to remember or think of a specific word) and loses her train of thought. He has seen the tremor in her hands increase. (R. 1601 at 118). His honest, objective opinion is:

**I think she is unemployable. I wouldn't hire her. . . . [T]he days when she won't be able to attend work [are] non predictable . . . because of the lack of prediction of when you're going to have a flare up . . . [B]oth diseases, the Parkinson's as well as the rheumatoid arthritis are progressive in nature, her condition is only going to get worse over time."**

(R. 1601 at 117). (Emphasis added).

The Social Security Administration concluded that Mrs. Wilde became totally disabled on March 25, 1996. (R. 671).

No medical expert controverted or rebutted the findings and conclusions of the four medical experts who testified at trial and the finding of the SSA. The district court's rejection of this overwhelming medical evidence was erroneous as a matter of law and should be reversed.

### **RELIEF REQUEST**

Mrs. Wilde respectfully asks this Court to:

1. Instruct the district court to find, consistent with the evidence, that Mrs. Wilde has been totally disabled from March 25, 1996 and partially disabled (able to work only half time) from August 23, 1994 through March 24, 1996;



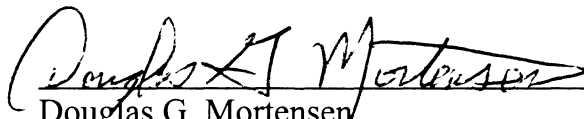
2. Direct the district court to award Mrs. Wilde alimony of \$1,500 per month from September 21, 1994 (the date Mr. Wilde was served with her petition to modify) through March 24, 1996 and \$3,220 per month from March 25, 1996 on, with appropriate adjustments for temporary alimony actually paid during the pendency of this action; (See Addendum 12, attached)

3. Award or direct the district court to award Mrs. Wilde \$6,508.77 in costs and at least \$26,443.75 in fees incurred in her battles at the district level and appropriate fees and costs incurred in this appeal;

4. Award Mrs. Wilde judgment of \$4,000 plus interest for the unpaid temporary alimony awarded for January and February 1999;

5. Direct the district court to increase Mrs. Wilde's monthly alimony award by \$400 reflecting the loss of room and board income from Mrs. Wilde's adult son who is serving a 2 year mission.

RESPECTFULLY SUBMITTED this 9<sup>th</sup> day of July, 2001.

  
Douglas G. Mortensen  
MATHESON, MORTENSEN, OLSEN & JEPPSON, P.C.  
Attorney for Defendant/Appellant

## CERTIFICATE OF SERVICE

I certify that on the 9<sup>th</sup> day of July, 2001 two true and accurate copies of the foregoing was mailed via U.S. Mail to the following:

Nicolaas De Jonge  
Attorney for Respondent  
4212 Highland Drive  
Salt Lake City, Utah 84124

Anna Berumen

Pldg Reply Brief 0618

**CONTENTS OF ADDENDUM  
TO MRS. WILDE'S REPLY BRIEF**

1. Affidavit of Investigative Accountant in Opposition to Motion to Quash;  
(R. 1035-1058)
2. Affidavit of Investigative Accountant in Support of Motion for Sanctions;  
(R. 1134-1137)
3. Memorandum Opposing Motions to Quash; (R.1029-1033)
4. Motion for Sanctions and Supporting Memorandum;(R. 1166-1168)
5. Affidavit of LeeAnn Meads (as to defense medical exam fiasco);  
(R. 1103-1107)
6. Affidavit of Sherrie D. Wilde (as to defense medical exam fiasco);  
(R. 1108-1110)
7. Excerpts From Record Submitted During 2/25/99 Oral Argument  
Pertaining to the Contrasting Financial Circumstances of the Parties;  
(R. 988-990)
8. Legal Work Done at Trial Court Level to Obtain Alimony for Mrs. Wilde;
9. December 7, 1998 Letter from Mrs. Wilde's Counsel Offering to Participate  
in Settlement Discussions Following Grant of Mrs. Wilde's First Appeal;  
(R.1245-1246)
10. December 11, 1998 Letter from Mrs. Wilde's Counsel Following Up on  
Settlement Overture and Providing Further Documentation; (R. 1047-1053)
11. Mid Trial Brief on Why Sherrie's Witnesses Should Not Be Excluded (R.  
1237-1242)
12. Sherrie Wilde's Trial Brief (R. 1197-1219)

**Tab 1**

Telephone: (801) 363-2244

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

Commissioner Thomas N. Arnett

1. I am and at all times material hereto have been a senior accountant with RGL Gallagher, a certified public accountancy firm specializing in investigative accounting. I am over the age of 21 and have personal knowledge of the information contained in this affidavit.

01035



2. Our firm is often retained to conduct investigations and provide consultation and expert testimony in cases in which the true income of a person is at issue. Frequently, this arises in the context of a claim for spousal and/or child support involving a breadwinner who is either self-employed or a principal in a business over which he or she has substantial control. We have been retained to conduct such an investigation into the income of J. Lynn Wilde in this case.

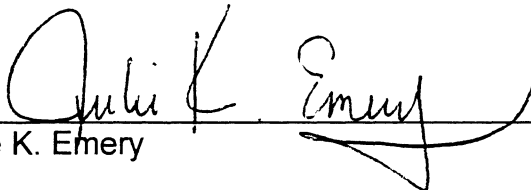
3. Two years ago, records subpoenae substantially similar to those which are the subject of the pending motions to quash were issued and responded to. One such subpoena was issued to American Express. It sought records of credit card use of J. Lynn Wilde. Documents provided in response to that subpoena revealed (that over a 6 year period): Mr. Wilde was a signatory on a credit card account under the name of Linda T. Nelson (his Beneficial International co-principal); Mr. Wilde had his own card under that account; and Mr. Wilde regularly charged purchases on such card. Attached as Exhibit 1 are samples of such credit card records reflecting charges by Mr. Wilde. The recently issued subpoena duces tecum to American Express merely sought a continuation of such records during the last 2 years. Such records are relevant to Mr. Wilde's current income. Examining them will help us ascertain what his true income currently is.

4. A subpoena duces tecum was recently issued to Beneficial International, Inc., a corporation in which Mr. Wilde is and for several years has been president,

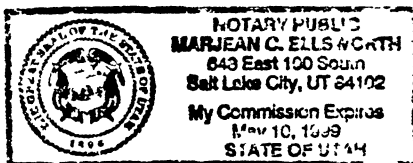
director and largest shareholder. This subpoena seeks detailed general ledgers, supporting ledgers and internally produced balance sheets and income statements. Beneficial International has already produced in this case its audited financial statements. We have sought the records underlying those financial statements for the purpose of attempting to ascertain how much of Mr. Wilde's personal living expenses (clothing, travel, automobile, entertainment, etc.) are being paid for by the company over which he has substantial control.

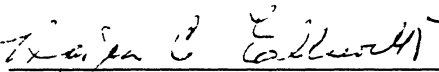
5. All of the recently issued subpoenae seek information relevant to our inquiry into the nature and amount of Mr. Wilde's true income. Without the subpoenaed information, Mr. Wilde's true income cannot be ascertained.

DATED this 12 day of March, 1999.

  
\_\_\_\_\_  
Julie K. Emery

SUBSCRIBED AND SWORN TO BEFORE ME this 12<sup>th</sup> day of March, 1999.



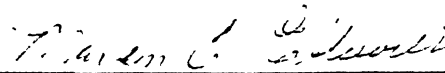
  
\_\_\_\_\_  
Notary Public

**CERTIFICATE OF SERVICE**

On the 1-24 day of March, 1999 I caused to be delivered via the following method a copy of the foregoing to the following:

Kent T. Yano  
2225 East 4800 South, #109  
Salt Lake City, Utah 84117

- |                                     |                      |
|-------------------------------------|----------------------|
| <input checked="" type="checkbox"/> | U.S. Mail            |
| <input type="checkbox"/>            | Facsimile - 277-7334 |
| <input type="checkbox"/>            | Hand-Delivered       |
| <input type="checkbox"/>            | Federal Express      |

  
\_\_\_\_\_

Wilde\Affidavit Quash 0312



DUPLICATE COPY

Page 1 of 5

# Platinum Card® Statement of Account

Prepared For  
LINDA T NELSON

Closing Date  
February 16, 1997

Account Number  
3713-844465-01008

Previous Card Balance \$	Card Payments/Credits \$	New Card Charges \$	New Card Balance \$
4,359.14	-4,427.31	7,312.95	<b>7,244.78</b>

Statement includes payments and charges received by February 16, 1997.  
\* Indicates posting date.

CustomExtras is a great new program designed to reward you for choosing the American Express Card. See the CustomExtras insert in this month's statement for details.

Terms - Payable in full upon receipt of statement.

If you have a question about your account, call 1-800-525-3355 (24 hours/7 days).

Please refer to page 5 for important information regarding your Card Account

Card Detail Amount \$

## Card Payments

February 2, 1997*	-250.00
PAYMENT RECEIVED - THANK YOU	
February 2, 1997*	-443.76
PAYMENT RECEIVED - THANK YOU	
February 2, 1997*	-3,448.88
PAYMENT RECEIVED - THANK YOU	
<b>Total of Card Payments</b>	<b>-4,142.64</b>

## Card Transactions for LINDA T NELSON

Card 3713-844465-01008

January 18, 1997	2,207.34
RC WILLEY HOME FURN SALT LAKE CITY UT	
FURNISHINGS/ACCESSORIES	
Reference 001010011 Rec Number 0000000011	

Continued on reverse

↓ Please fold on the perforation below, detach and return with your payment ↓

## Payment Coupon

Account Number  
3713-844465-01008

Please Pay By:  
March 4, 1997

Total Amount Due  
**\$7,244.78**

LINDA T NELSON  
1780 WEST 500 SOUTH  
SALT LAKE CITY UT 84104-3505



Mail Payment to:

AMERICAN EXPRESS TRS  
P.O. BOX 630001  
DALLAS TX 75363-0001



Please enter account number on all checks and correspondence. Payable in U.S. Dollars upon receipt with a check drawn on a bank in the U.S. or money order, processable through the U.S. banking system.

Check here if address or telephone number has changed. Note changes on reverse side.



**MATHESON, MORTENSEN, OLSEN & JEPPSON**

*a Professional Corporation*

ATTORNEYS AT LAW

648 EAST FIRST SOUTH  
SALT LAKE CITY, UTAH 84102  
TELEPHONE (801) 363-2244

DOUGLAS G. MORTENSEN

TELECOPIER (801) 363-2261  
WRITER'S VOICE MAIL  
951-2843

March 12, 1999

**Via Facsimile - 238-6515**

David C. Blum  
10 West 100 South, Suite 425  
Salt Lake City, Utah

Dear David:

Enclosed are a few sample pages from American Express records which were produced in response to our subpoena two years ago. I believe it is undisputable that Lynn Wilde had and used an American Express Credit Card issued to him under your client's account. Monthly account statements over a 6 year period reveal that Mr. Wilde has used your client's account for all manner of purchases including gifts, meals, theater, Disneyland and Lagoon tickets, car repairs, plane fair and lodging, etc.

Since records have already been disclosed, I suspect your client waived whatever privilege she might have had. I also doubt she has any legal basis for preventing us from discovering the extent of Lynn Wilde's use of her American Express account. Our investigative accountant is preparing an affidavit averring that the subpoenaed records are relevant to the central inquiry in our case: the true income of Lynn Wilde.

We will gladly sign whatever non-disclosure agreement or other documents reasonably drawn to protect your client's privacy. We have no dispute with Linda Nelson nor any intention of sharing her personal financial records with any third parties. We are solely interested in ascertaining Lynn Wilde's true income. Please let me know your position on the matter after reviewing this letter and accompanying enclosures.

Very truly yours,

  
Douglas G. Mortensen

DGM/mje  
Enclosures



# DUPLICATE COPY

Prepared For  
LINDA T NELSON

Account Number 3713-844465-01008  
Closing Date  
February 16, 1997

Page 3 of 5

Card Detail Continued		Amount \$
<b>February 6, 1997*</b>		250.00
PRIVILEGED ASSETS MINNEAPOLIS MN		
FEB CONTRIBUTION		
PRIVILEGED ASSETS		
CERTIFICATE # FXC2325289		
FOR INQUIRIES CALL 1-800-633-4003		
Reference FC2325289 Roc Number FXC2325289		
<b>February 10, 1997</b>		272.61
JONES NY SPORT #337 GILROY CA		
WOMENS APPAREL/ACC		
Reference 004385770		
<b>February 11, 1997</b>		-68.17
MODERN DISPLAY SALT LAKE CITY UT		
001371479 LAMPS/LIGHTING FIXTURES		
<b>February 11, 1997</b>		198.17
EMBASSY SUITES BURLINGAME CA		
Arrival Date	Departure Date	
02/11/97	02/11/97	
LODGING		
Reference 043000000		
<b>February 11, 1997</b>		88.17
MODERN DISPLAY SALT LAKE CITY UT		
LAMPS/LIGHTING FIXTURES		
Reference 001371478 Roc Number 0000001478		
<b>February 12, 1997</b>		300.00
MARRIOTT HOTELS TORR TORRANCE CA		
Arrival Date	Departure Date	
02/11/97	02/11/97	
LODGING		
CARDEPOSIT		
Reference 001151610		
<b>February 13, 1997</b>		389.50
AROMA NATURALS, INC. IRVINE CA		
NATURAL PRODUCT MANUFAC		
Reference 439530096		
<b>Total for LINDA T NELSON</b>		<b>4,434.70</b>
New Charges 4 719 37 New Credits -284 67		
<b>Card Transactions for J LYNN WILDE</b>		
Card 3713-844465-01024		
<b>January 20, 1997</b>		38.00
RED LOBSTER 000058 SALT LAKE CTY UT		
FOOD/BEVERAGE		
FOOD/BEV		38.00
Reference 069210676		
<b>January 27, 1997</b>		80.39
PARKERS' LIGHTHOUSE LONG BEACH CA		
FOOD/BEVERAGE		
FOOD-BEV		71.39
WAITER		9.00
Reference 32899687		
<b>January 28, 1997</b>		798.25
HYATT REGENCY LONG BLONG BEACH CA		
Arrival Date	Departure Date	No of Nights
01/24/97	01/28/97	4
LODGING		
Reference 001300040		
<b>January 28, 1997</b>		827.40
HYATT REGENCY LONG BLONG BEACH CA		
Arrival Date	Departure Date	No of Nights
01/24/97	01/28/97	4
LODGING		
Reference 001300030		

# DUPLICATE COPY

Card Detail Continued		Amount \$	Page 4 of 5
<b>January 28, 1997</b>		837.78	
HYATT REGENCY LONG BLONG BEACH CA			
Arrival Date	Departure Date	No of Nights	
01/24/97	01/28/97	4	
LODGING			
Reference 001300020			
<b>February 7, 1997</b>		11.76	
RISTORANTE FONTANA SALT LAKE CITY UT			
FOOD/BEVERAGE			
Reference 000607001 Roc Number 00607001			
<b>Total for J LYNN WILDE</b>		<b>2,593.58</b>	
New Charges 2 593 58 New Credits 0 00			
<b>Total of Card Activity</b>		<b>New Card Charges 7,312.95</b>	
		<b>New Card Payments/Credits -4,427.31</b>	

# Statement of Account

DRFN08007  
272

6 0006/0015

06 6 1

TERMS - PAYABLE IN FULL UPON RECEIPT OF STATEMENT.

Account Number	Closing Date	Total Amount Due
3713-844465-01008	06-17-96	\$4,696.93

LINDA T NELSON  
1780 WEST 500 SOUTH  
SALT LAKE CITY UT 84104-3505MAIL PAYMENT TO:  
AMERICAN EXPRESS  
P.O. BOX 630012  
DALLAS TX 75263-0012

1384446504 004696930004852850

## Summary of Account

Card Member Name	Account Number	Closing Date
LINDA T NELSON	3713-844465-01008	06-17-96

If you have a question about your account call 1-800-525-3355 (24 hours/7 days).

Page 1 of 5

Previous Balance	Credits/Payments	New Charges	New Balance
\$3,572.29	\$3,728.21	\$4,852.85	\$4,696.93

Amex Ref. No.	Item No.	Listing of Charges and Credits	Charges	Credits
<b>CARD 3713-844465-01008 TRANSACTIONS</b>				
835154-0		PAYMENT RECEIVED - THANK YOU		226.80
835154-0		PAYMENT RECEIVED - THANK YOU		3,345.49
501140-1	001	COUPEVILLE INN COUPEVILLE WA		
		816010004 LODGING	05/18/96	113.30
501141-1	002	NORDSTROM BELLEVUE WA		
		87699872 CASUAL SPORTSWE	05/19/96	151.48
501144-1	003	ENDANGERED SPECIES #HONOLULU HI		
		001172161 GIFT ITEMS	05/22/96	155.00
501144-1	004	ENDANGERED SPECIES #HONOLULU HI		
		001172162 GIFT ITEMS	05/22/96	.92
501146-1	005	USPS 4977880007 SALT LAKE CIT UT		
		014632895 POSTAL SERVICES	05/24/96	61.99
501149-1	006	CHEVRON #0203421 BOUNTIFUL UT		
		043693306 2176807	05/26/96	9.20
501151-1	007	BEST WESTERN HOTEL MOAB UT		
		001697444 LODGING	05/29/96	122.65
501155-1	008	EMBASSY SUITES DENVEDENVER CO		
		486900481 LODGING	06/03/96	295.08
501157-1	009	EMBASSY SUITES DENVEDENVER CO		
		486900481 LODGING	06/05/96	499.57
669159-1	010	DELTA AIRLINES BOUNTIFUL UT		
		TKT# 0061500314583	06/04	221.00
501162-1	011	STRINGS ITALIAN CAFELAS VEGAS NV		
		321038695 FOOD/BEVERAGE	06/08/96	23.17
501165-1	012	LAS VEGAS HILTON LAS VEGAS NV		
		039251 LODGING	06/12/96	438.63
501165-1	013	LAS VEGAS HILTON LAS VEGAS NV		
		039250 LODGING	06/12/96	454.44
<b>PAGE TOTAL</b>			<b>2,390.51</b>	<b>3,728.21</b>

W2 002 OZ.  
(12L )

Card Member Name  
LINDA T NELSON

Account Number  
3713-844465-(

Closing Date Page 2 of 5  
18 06-17-96 W2

DRFN0800  
273

7 0007/0015

Amex Ref. No.	Item No.	Listing of Charges and Credits	Charges	Credits
501166-1	014	EMPHASIS MUSIC NASHVILLE TN 005029037 RECORDS/TAPES/CDS 06/13/96	269.64	
501166-1	015	SHERATON CLUB INT'L RALEIGH NC 016601869 MEMBERSHIP FEES 06/14/96	25.00	
501167-1	016	LVH-BUFFET OF CHAMPILAS VEGAS NV 0000-0614 RESTAURANT 06/14/96	55.60	
TOTAL FOR CARD 100			2,740.75	3,728.2
CARD 3713-844465-01024 TRANSACTIONS				
501142-1	017	HYATT REGENCY BELLEVUE WA 001300040 LODGING 05/19/96	210.50	
501143-1	018	MARRIOTT HOTELS SEATTLE WA 001540530 LODGING 05/21/96	164.92	
501156-1	019	CHEVRON #0203421 BOUNTIFUL UT 044115857 2182439 06/03/96	24.61	
501156-1	020	TOP STOP #9619206 BOUNTIFUL UT 068625097 GAS/MISC 000068625097 06/04/96	21.13	
501157-1	021	HILTON HOTELS/S.L.C.SALT LAKE CTY UT H40057010 LODGING 06/05/96	15.77	
501164-1	022	FREEMAN DECORATING LAS VEGAS NV 000000004 FURNISHINGS/ACCESSORIES 06/11/96	1,035.00	
501165-1	023	LAS VEGAS HILTON LAS VEGAS NV 039366 LODGING 06/12/96	509.98	
501165-1	024	MIRAGE BUFFET LAS VEGAS NV 0000-0613 5812 01 06/13/96	32.10	
501165-1	025	CHEVRON #0203421 BOUNTIFUL UT 044594921 2189202 06/12/96	19.03	
501166-1	026	KINGS CUSTOM JEWELRY SALT LAKE CITY UT 593840152 JEWELRY/GIFTS 06/13/96	79.06	
TOTAL FOR CARD 102			2,112.10	.00
PAGE TOTAL			2,462.34	.00
SUMMARY OF ACCOUNT				
TOTAL FOR CARD 100 LINDA T NELSON			2,740.75	3,728.21
TOTAL FOR CARD 102 J LYNN WILDE			2,112.10	.00
ACCOUNT TOTAL			\$4,852.85	\$3,728.21

ITEM 001  
COUPEVILLE INN COUPEVILLE WA \$113.30

Cardmember Account No 3713-844465-01008	Date of Charge 05/18/96	Reference Code 816010004	Approval Code
Service Establishment and Location COUPEVILLE INN COUPEVILLE WA			
Record of Charge ARRIVAL DATE DEPARTURE DATE # OF NIGHTS 05/17/96 05/18/96 01 ASSURED RESERVATION ROC NUMBER 000020			
S/E # 5460505597			

ITEM 002  
NORDSTROM BELLEVUE WA \$151.48

Cardmember Account No 3713-844465-01008	Date of Charge 05/19/96	Reference Code 87699872	Approval Code 00
Service Establishment and Location NORDSTROM BELLEVUE WA			
Record of Charge CASUAL SPORTSWE			
S/E # 5465700052			
TOTAL CHARGE \$151.48			

Cardmember Name  
LINDA T NELSON

Account Number  
3732-269519-F

Closing Date Page 4 of 5 CPAQ0  
10 08-30-93 W2 49

116 0116/013/  
ITEM 012 \$74.54  
JERRY SEINER CHEVROLE SALT LAKE CITY UT

3732 269519 61010		American Express® Cards	
09/91 THRU 08/94	89 AX	Store No.	Dept. No.
J LYNW WILDE	7-27-93	SALES	1.0
1316 462 001	Service	Register No.	Approval Code
JERRY SEINER CHV072793	# 111233		
5436220032			
SHIP TO		SUB	
Address		TOTAL	
City, State, Zip		TAX	4.50
		TOTAL	74.54
00 773846			

ITEM 013 \$130.25  
JERRY SEINER CHEVROLE SALT LAKE CITY UT

3732 269519 61010		American Express® Cards	
09/91 THRU 08/94	89 AX	Store No.	Dept. No.
J LYNW WILDE	7-16-93	SALES	1.0
1316 462 001	Service	Register No.	Approval Code
JERRY SEINER CHV081693	# 112023		
5436220032			
SHIP TO		SUB	
Address		TOTAL	
City, State, Zip		TAX	6.25
		TOTAL	130.25
00 773878			

ITEM 014 \$37.84  
THE GOOD EARTH LOS GATOS CA

3732 269519 61010		American Express® Cards	
09/91 THRU 08/94	89 AX	Store No.	Dept. No.
J LYNW WILDE	28	SALES	1.0
THE GOOD EARTH	1142787	Check or Bill Number	Am. of Delayed Chg.
LOS GATOS	081890		
5041142787 CA			
SHIP TO		SUB	
Address		TOTAL	
City, State, Zip		TAX	4.50
		TOTAL	37.84
00 225808			

ITEM 015 \$88.08  
ARVEY PAPER & OFFICESALT LK CITY UT

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3732-269519-61010	08/03/93	021729435	
Service Establishment and Location			
ARVEY PAPER & OFFICESALT LK CITY UT			
Record of Charge			
OFFICE SUPPLIES			
S/E # 5434832309			
TOTAL CHARGE AMOUNT			\$88.08

ITEM 016 \$107.10  
LAGOON CORPORATION FARMINGTON UT

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3732-269519-61010	08/05/93	001503156	
Service Establishment and Location			
LAGOON CORPORATION FARMINGTON UT			
Record of Charge			
TICKETS/GIFTS			
ROC NUMBER 0000003156			
S/E # 5436506851			
TOTAL CHARGE			\$107.10

ITEM 017 \$23.08  
CASTAGNOLA SAN FRANCISCO CA

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3732-269519-61010	08/17/93	0000-0818	
Service Establishment and Location			
CASTAGNOLA SAN FRANCISCO CA			
Record of Charge			
FOOD/BEV			
\$20.08			
WAITER			
\$3.00			
S/E # 5041196536			
TOTAL CHARGE			\$23.08

Cardmember Name  
**LINDA T NELSON**

Account Number **3732-269519-f** Closing Date **10 11-29-93** Page 4 of 6 CPAQ06019  
W2 813

128 0128/0137

ITEM 011  
WYLAND GALLERIES HAWHALEIWA HI \$1,600.00

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3732-269519-62000	11/18/93	001732651	
Service Establishment and Location WYLAND GALLERIES HAWHALEIWA HI			
Record of Charge  FINE ART/FRAMES ROC NUMBER 0000002651  S/E # 5514819234  TOTAL CHARGE AMOUNT \$1,600.00			

ITEM 012  
WYLAND GALLERIES HAWHALEIWA HI \$1,600.00CR

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3732-269519-62000	11/18/93	001732652	
Service Establishment and Location WYLAND GALLERIES HAWHALEIWA HI			
Record of Charge  FINE ART/FRAMES ROC NUMBER 0000002652  S/E # 5514819234  TOTAL CHARGE AMOUNT \$1,600.00CR			

ITEM 013  
WYLAND GALLERIES HAWHALEIWA HI \$1,550.00

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3732-269519-62000	11/18/93	001732653	
Service Establishment and Location WYLAND GALLERIES HAWHALEIWA HI			
Record of Charge  FINE ART/FRAMES ROC NUMBER 0000002653  S/E # 5514819234  TOTAL CHARGE AMOUNT \$1,550.00			

ITEM 014  
J CREW LYNCHBURG VA \$42.90

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3732-269519-62000	11/27/93	931126325	
Service Establishment and Location J CREW LYNCHBURG VA			
Record of Charge  MAIL ORDER  ROC NUMBER 004010099  S/E # 2296704075  TOTAL CHARGE AMOUNT \$42.90			

ITEM 015  
VICTORIA SECRET CAT COLUMBUS OH \$55.84

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3732-269519-62000	11/27/93	739549848	
Service Establishment and Location VICTORIA SECRET CAT COLUMBUS OH			
Record of Charge  CATLG MDSE 800-888-1500  S/E # 3346702616  TOTAL CHARGE AMOUNT \$55.84			

ITEM 016  
DOLLAR RENT A CAR DENVER CO INV#530323 \$22.69

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3732-269519-62000	11/27/93	102793	
Service Establishment and Location DOLLAR RENT A CAR DENVER CO			
Record of Charge  RAC DENVER 102793 116676 C  S/E # 3346702616  TOTAL CHARGE AMOUNT \$22.69			

ITEM 017  
CEDAR HOLLOW RESTAURANT NEPHI UT \$12.40

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3732-269519-62000	11/27/93	101393	
Service Establishment and Location CEDAR HOLLOW RESTAURANT NEPHI UT			
Record of Charge  CEDAR HOLLOW RESTAURANT NEPHI UT 101393 12.40  S/E # 3346702616  TOTAL CHARGE AMOUNT \$12.40			

ITEM 018  
CEDAR HOLLOW RESTAURANT NEPHI UT \$20.65

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3732-269519-62000	11/27/93	102293	
Service Establishment and Location CEDAR HOLLOW RESTAURANT NEPHI UT			
Record of Charge  CEDAR HOLLOW RESTAURANT NEPHI UT 102293 20.65  S/E # 3346702616  TOTAL CHARGE AMOUNT \$20.65			



Cardmember Name  
**LINDA T NELSON**

Account Number  
**3732-269519-6200** 11-30-92  
Closing Date Page 5 of 7 CDA0000  
W2 3444

60 0060/0157  
ITEM 017  
DELTA AIRLINES BOUNTIFUL UT \$300.00

Cardmember Account No 3732-269519-62000		Transaction Date 11/12/92		Ticket Number 00614975280275	
Passenger Name NELSON/L			Ticketing Airline DELTA AIRLINES		
Issuer Name AMERICAN INTL TRAVEL			Issuer Address BOUNTIFUL UT		
From SALT LAKE CITY UT	Carrier DL	Class KE	Transaction Amount 300.00		
To LOS ANGELES CA	DL	KE	Amexco Use Only 632310008044 003700 00 325000		
To SALT LAKE CITY UT					
To					
PASSENGER TICKET S/E # 7992700013					

ITEM 018  
NORTHWEST AIRLINES BOUNTIFUL UT \$560.00

Cardmember Account No 3732-269519-62000		Transaction Date 11/09/92		Ticket Number 01214975279663	
Passenger Name WILDE/J			Ticketing Airline NORTHWEST AIRLINES		
Issuer Name AMERICAN INTL TRAVEL			Issuer Address BOUNTIFUL UT		
From SALT LAKE CITY UT	Carrier NW	Class B2	Transaction Amount 560.00		
To MINNEAPOLIS MN	NW	B2	Amexco Use Only 632310009121 003700 00 325000		
To BISMARCK ND	C0	A2			
To DENVER CO	C0	A2			
To SALT LAKE CITY UT					
PASSENGER TICKET S/E # 7992700104					

ITEM 019  
WORDPERFECT - LEASEDOREM UT \$90.94

Cardmember Account No 3732-269519-62000		Date of Charge 11/19/92		Reference Code 00173001		Approval Code	
Service Establishment and Location WORDPERFECT - LEASEDOREM UT							
Record of Charge WP SOFTWARE ROC NUMBER 00173001 S/E # 5436705024 TOTAL CHARGE AMOUNT \$90.94							

ITEM 020  
AMERITEL INN TWIN FALLS ID INV#393865 \$104.86

3732 269519 61010		09/91 THRU 08/94 89 AX		Approval Code		Type of Delivered Chg.	
J LYNN WILDE				Check or Bill Number		Amt. of Delivered Chg.	
AMERITEL INN				102992		104.86	
TWIN FALLS				1110300955		104.86	
TOTAL				00 393865		American Express® Cards	

ITEM 021  
DISNEYLAND FOOD ANAHEIM CA INV#323206 \$18.86

3732 269519 61010		09/91 THRU 08/94 89 AX		Approval Code		Type of Delivered Chg.	
J LYNN WILDE				Check or Bill Number		Amt. of Delivered Chg.	
13 322585043231				110692		18.86	
FRENCH MARKET				751A		16.11	
504 120353				TOTAL		18.86	
00 323206				American Express® Cards			

ITEM 022  
CAFE OLE TWIN FALLS ID \$15.02

Cardmember Account No 3732-269519-61010		Date of Charge 10/30/92		Reference Code 0000-1030		Approval Code	
Service Establishment and Location CAFE OLE TWIN FALLS ID							
Record of Charge FOOD/BEV \$13.02 WAITER \$2.00 S/E # 1111005427 TOTAL CHARGE AMOUNT \$15.02							

ITEM 023  
JB'S RESTAURANT 45 BURLEY ID \$13.30

Cardmember Account No 3732-269519-61010		Date of Charge 10/30/92		Reference Code 30380105		Approval Code	
Service Establishment and Location JB'S RESTAURANT 45 BURLEY ID							
Record of Charge FOOD-BEV \$13.30 S/E # 1111022455 TOTAL CHARGE \$13.30							

ITEM 024  
AMERICAN GRILL SALT LAKE CITY MJT \$27.01

Cardmember Account No 3732-269519-61010		Date of Charge 11/02/92		Reference Code 597421018		Approval Code	
Service Establishment and Location AMERICAN GRILL SALT LAKE CITY MJT							
Record of Charge FOOD/BEV \$23.01 WAITER \$4.00 S/E # 543101717 TOTAL							

Cardmember Name  
**LINDA T NELSON**

Account Number **3732-269519-6** Closing Date **10 12-29-92** Page 4 of 6 CBA006C  
W2 31

66 0066/0137

ITEM 011 \$24.95  
DFS HONOLULU HI

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3732-269519-62000	12/15/92	640640270	
Service Establishment and Location			
DFS HONOLULU HI			
Record of Charge			
PERSONAL AND GIFT ITEMS			
S/E # 5514823749			
TOTAL CHARGE AMOUNT			\$24.95

ITEM 012 \$31.17  
HDI HANOVER PA HANOVER PA

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3732-269519-62000	12/23/92	923580049	
Service Establishment and Location			
HDI HANOVER PA HANOVER PA			
Record of Charge			
FASHION GALAXY			
ROC NUMBER 0099751993			
S/E # 2376702825			
TOTAL CHARGE AMOUNT			\$31.17

ITEM 013 \$160.00  
DELTA AIRLINES SALT LAKE CTYUT

Cardmember Account No	Transaction Date	Ticket Number
3732-269519-62000	12/27/92	00621201391506
Passenger Name		Ticketing Airline
HARLAN/COURTNEY		DELTA AIRLINES
Issuer Name		Issuer Address
DELTA AIR LINES INC		SALT LAKE CTY UT
From	Carrier	Class
SALT LAKE CITY UT	DL	YO
To	Transaction Amount	
POCATELLO ID	160.00	
To		
To	Amexco Use Only	
To	36255508	
	000150	
	35 363000	
PASSENGER TICKET		
S/E # 7992701284		

ITEM 014 \$60.61  
U-HAUL CT BOUNTIFUL BOUNTIFUL UT

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3732-269519-62000	12/28/92	00058168	
Service Establishment and Location			
U-HAUL CT BOUNTIFUL BOUNTIFUL UT			
Record of Charge			
U-HAUL DEALER # 72058			
CONTRACT # 00058168			
ROC NUMBER 00894124			
S/E # 5026505552			
TOTAL CHARGE AMOUNT			\$60.61

ITEM 015 \$51.72  
MOANA SURFRIDER HTL HONOLULU HI

3732 269519 61010	09/91 THRU 08/92 89 AX	Approval Code	Type of Delayed Chg.
J LYNN WILSON		120903	
MOANA SURFRIDER		121292	
3340580905			
0251104915			
5510101627			
TOTAL		44.85	
		1.87	
		5.00	
		51.72	
00 459544		American Express® Cards	

ITEM 016 \$218.81  
RADISSON HTL FARGO FARGO ND

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3732-269519-61010	12/03/92	077326238	
Service Establishment and Location			
RADISSON HTL FARGO FARGO ND			
Record of Charge			
ARRIVAL DATE DEPARTURE DATE # OF NIGHTS			
12/01/92 12/03/92 02			
ROC NUMBER 0000061010			
S/E # 1330100207			
TOTAL CHARGE AMOUNT			\$218.81

ITEM 017 \$6.18  
GTE AIRPHONE OAK BROOK IL

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3732-269519-61010	12/03/92	028530854	
Service Establishment and Location			
GTE AIRPHONE OAK BROOK IL			
Record of Charge			
TO TEL NO 801-973-7778			
002 MINS \$06 18			
FROM UNITED			
FOR INQUIRY 800			
S/E # 3126525112			
TOTAL			\$6.18

ITEM 018 \$191.07  
ALAMO RENT-A-CAR INC HONOLULU HI

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3732-269519-61010	12/08/92	120892	
Service Establishment and Location			
ALAMO RENT-A-CAR INC HONOLULU HI			
Record of Charge			
LOCATION DATE/TIME			
RENTAL HI 00/00/00 AGREEMENT			
HONOLULU 810532952			
RETURN TR#			
12/08/92 339515			
S/E # 5513913533			
TOTAL			\$191.07

Cardmember Name  
LINDA T NELSON

Account Number 3732-269519-f Closing Date 12 06-28-90 Page 3 of 4 EBA018007  
W2 655

9 0009/0089

ITEM 005 \$53.00  
SPIEGEL, INC. CHICAGO IL

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3732-269519-61002	06/01/90	043666257	27
Service Establishment and Location			
SPIEGEL, INC. CHICAGO IL			
Record of Charge			
MAIL ORDER MDSE			
S/E # 3126702711			
TOTAL CHARGE AMOUNT			\$53.00
X CARDMEMBER SIGNATURE ON FILE			

ITEM 006 \$46.64CR  
SPIEGEL, INC. CHICAGO IL

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3732-269519-61002	06/14/90	000976503	
Service Establishment and Location			
SPIEGEL, INC. CHICAGO IL			
Record of Charge			
RETURNED MDSE SWIMWEAR			
S/E # 3126702711			
TOTAL CHARGE AMOUNT			\$46.64CR
X CARDMEMBER SIGNATURE ON FILE			

ITEM 007 \$48.88  
LIMITED EXPRESS SALT LAKE CITY UT

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3732-269519-61002	06/21/90	2200799	
Service Establishment and Location			
LIMITED EXPRESS SALT LAKE CITY UT			
Record of Charge			
WOMENS APPAREL			
ROC NUMBER 0220079900			
S/E # 5435002829			
TOTAL CHARGE AMOUNT			\$48.88
X CARDMEMBER SIGNATURE ON FILE			

ITEM 008 \$51.00  
DISNEYLAND ANAHEIM CA INV#872039

3732 269519 61010	07/89 THRU 08/91 89 AX	060890
J LYNN WILDE		
DISNEYLAND 916 MAIN ENTRANCE 9 4046522633 5046543500 CA		
801 255-7700		
00 872039		
Cards		
STORE NUMBER DEPT. NO. SALES PERSON REGISTER NO. APPROVAL CODE		
DEPT. CLASS. QUANT. ARTICLES AMOUNT		
SHIP TO NAME (PRINT) Sun Id.		
ADDRESS APT. NO. Taxes		
CITY STATE ZIP CODE TOTAL		

ITEM 009 \$531.16  
HOTEL IBIS ANAHEIM CA INV#158618

3732 269519 51010	07/89 THRU 08/91 39 AX	060890
J LYNN WILDE		
HOTEL IBIS ANAHEIM CA		
060890		
801 255-7700		
00 872039		
Cards		
STORE NUMBER DEPT. NO. SALES PERSON REGISTER NO. APPROVAL CODE		
DEPT. CLASS. QUANT. ARTICLES AMOUNT		
SHIP TO NAME (PRINT) Sun Id.		
ADDRESS APT. NO. Taxes		
CITY STATE ZIP CODE TOTAL		

ITEM 010 \$28.68  
ALAMO RENT-A-CAR INC NEWPORT BEACH CA

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3732-269519-61010	06/08/90	060890	
Service Establishment and Location			
ALAMO RENT-A-CAR INC NEWPORT BEACH CA			
Record of Charge			
LOCATION		DATE/TIME	
RENTAL	NEWPORT BEACH CA	00/00/00	AGREEMENT 150699305
RETURN		06/08/90	TR# 152515
S/E # 5043924042			

Cardmember Name  
**LINDA T NELSON**

Account Number **3732-269519-6** Closing Date **72 05-29-90** Page 3 of 3 FBA019010  
W2 2716

6 0006/0009  
ITEM 006  
SPIEGEL, INC. CHICAGO IL \$53.00

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3732-269519-61002	05/14/90	042976503	27
Service Establishment and Location SPIEGEL, INC CHICAGO IL			
Record of Charge  MAIL ORDER MOSE			
S/E # 3126702711			
TOTAL CHARGE AMOUNT			\$53.00
X CARDMEMBER SIGNATURE ON FILE			

ITEM 007  
WINTER GARDEN THEATER NEW YORK NY \$105.00

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3732-269519-61002	05/20/90	442205202	31
Service Establishment and Location WINTERGARDEN			
Record of Charge  TICKETS CATS ROC NUMBER 10436958			
S/E # 6316580331			
TOTAL CHARGE AMOUNT			\$105.00
X CARDMEMBER SIGNATURE ON FILE			

ITEM 008  
HOLIDAY INN EAST ELMHURST NY \$504.60

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3732-269519-61002	05/22/90	05229155	00
Service Establishment and Location HOLIDAY INN EAST ELMHURST NY			
Record of Charge  LODGING			
S/E # 6310304423			
TOTAL CHARGE AMOUNT			\$504.60
X CARDMEMBER SIGNATURE ON FILE			

ITEM 009  
FAO SCHWARZ\* NEW YORK NY \$32.48

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3732-269519-61002	05/21/90	014323139	
Service Establishment and Location FAO SCHWARZ* NEW YORK NY			
Record of Charge  TOY/HOBBY SHOPS			
S/E # 6314881491			
TOTAL CHARGE AMOUNT			\$32.48
X CARDMEMBER SIGNATURE ON FILE			

ITEM 010  
THE MIRAGE LAS VEGAS NV INV#764222 \$28.50

3732 269519 61010		07/89 THU 08/91 39 1X		Approval Code
J LYNN WILDE		Check or Bill No		
1540103-205-1217-99-0510		050894		Card
THE PLAC		Type of Delayed Chg		
0227001547		Type of Delayed Chg		
5421635314000 40		Total		Revised Total
5270106745 hv		Total		Revised Total
00 764222				

01050

# Statement of Account

DRFN0800  
4534

11 0011/0015

07 6 1

TERMS - PAYABLE IN FULL UPON RECEIPT OF STATEMENT.

Account Number	Closing Date	Total Amount Due
3713-844465-01008	07-17-96	\$3,177.60

LINDA T NELSON  
1780 WEST 500 SOUTH  
SALT LAKE CITY UT 84104-3505MAIL PAYMENT TO:  
AMERICAN EXPRESS  
P.O. BOX 630012  
DALLAS TX 75263-0012

1384446504 003177600003579511

## Summary of Account

Card Member Name  
LINDA T NELSONAccount Number  
3713-844465-01008Closing Date  
07-17-96

If you have a question about your account call 1-800-525-3355 (24 hours/7 days).

Page 1 of 5

Previous Balance	Credits/Payments	New Charges	New Balance
\$4,696.93	\$5,098.84	\$3,579.51	\$3,177.60

Amex Ref No	Item No	Listing of Charges and Credits	Charges	Credits
835183-0		<b>CARD 3713-844465-01008 TRANSACTIONS</b> PAYMENT RECEIVED - THANK YOU 07/01		4,696.93
501178-1	001	EMBASSY SUITES PHOENIX AZ 178000000 LODGING 06/25/96	193.12	
501178-1	002	EMBASSY SUITES PHOENIX AZ 178000000 LODGING 06/25/96	187.53	
501184-1	003	EDLEN ELECTRIC S S FRANCISCO CA 101100186 ELECTRICAL SERVICES/ACC 07/01/96	113.00	
662189-1	004	DELTA AIRLINES BOUNTIFUL UT TKT# 0068486778496 06/19	94.50	
662189-1	005	DELTA AIRLINES BOUNTIFUL UT TKT# 0068486778497 06/19	94.50	
501190-1	006	EMBASSY SUITES SANTA CLARA CA 190000000 LODGING 07/07/96		199.67
501192-1	007	HOLIDAY INN-SF OAKLAEMERYVILLE CA 069064299 LODGING 07/10/96	300.00	
501192-1	008	EMBASSY SUITES SANTA CLARA CA 192000000 LODGING 07/09/96	150.00	
501193-1	009	KEN GARFF IMPORTS SALT LAKE CITY UT 001187260 SALES/SERVICE/REPAIR 07/10/96	94.66	
662195-1	010	DELTA AIRLINES BOUNTIFUL UT TKT# 0061502674477 07/02	50.00	
		<b>TOTAL FOR CARD 100</b>	<b>1,277.31</b>	<b>4,896.60</b>
		<b>CARD 3713-844465-01024 TRANSACTIONS</b>		
501170-1	011	CHEVRON #0203421 BOUNTIFUL UT 044862255 2193165 06/17/96	19.48	
501170-1	012	RISTORANTE FONTANA SALT LAKE CITY UT 000917001 FOOD/BEVERAGE 06/17/96	43.08	
		<b>PAGE TOTAL</b>	<b>1,339.87</b>	<b>4,896.60</b>

W2  
002 OZ  
(12L3L4L )

Card Member Name  
**LINDA T NELSON**

Account Number  
**3713-844465-1**

Closing Date Page 2 of 5  
**78 07-17-96**

DRFN0800  
4535

12 0012/0015

Amex Ref. No.	Item No.	Listing of Charges and Credits	Charges	Credits
501173-1	013	CITGO 7 ELEVEN #2384SALT LAKE CITY UT		
		CITGO GAS/MSC5230062172384534 06/20/96	10.15	
499176-1	014	COLOR TILE 86488MIDVALE UT		
		086480621 FLOORING 06/21/96	928.63	
501176-1	015	RED LOBSTER SCOTTSDALE AZ		
		059672733 FOOD/BEV 06/23/96	28.69	
501178-1	016	HELEN DECENA PHOENIX AZ		
		MOBIL OIL GAS OR OTHER EA99970 06/25/96	4.41	
501178-1	017	NATURE'S WINDOW SCOTTSDALE AZ		
		147041534 GLASS SALES/INSTLN 06/25/96	455.43	
501183-1	018	CHEVRON #0203421 BOUNTIFUL UT		
		045559222 2103421 06/30/96	20.86	
499184-1	019	COLOR TILE 86488MIDVALE UT		
		086480701 FLOORING 07/01/96		202.24
501186-1	020	TOP STOP #9619217 NORTH SALT LAKE UT		
		070378164 GAS/MISC 000070378164 07/04/96	19.05	
501189-1	021	SIZZLER 05744SANTA CLARA CA		
		006744371 FOOD/BEVERAGE 07/06/96	25.07	
501192-1	022	BILLY HAYES PRESIDEEMERYVILLE CA		
		000391756 SHELL OIL 020424950143 07/08/96	10.35	
501192-1	023	HOLIDAY INN-SF OAKLAEMERYVILLE CA		
		069064312 LODGING 07/10/96	368.35	
501198-1	024	EMBASSY SUITES ANAHEIM CA		
		198000000 LODGING 07/15/96	368.65	
TOTAL FOR CARD 102			2,302.20	202.24
PAGE TOTAL			2,239.64	202.24
SUMMARY OF ACCOUNT				
TOTAL FOR CARD 100 LINDA T NELSON			1,277.31	4,896.60
TOTAL FOR CARD 102 J LYNN WILDE			2,302.20	202.24
ACCOUNT TOTAL			\$3,579.51	\$5,098.84

ITEM 001  
EMBASSY SUITES PHOENIX AZ \$193.12

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3713-844465-01008	06/25/96	178000000	15

Service Establishment and Location  
EMBASSY SUITES PHOENIX AZ

Record of Charge

ARRIVAL DATE	DEPARTURE DATE	# OF NIGHTS
06/25/96	06/25/96	00

S/E # 5020106530

TOTAL CHARGE AMOUNT \$193.12

ITEM 002  
EMBASSY SUITES PHOENIX AZ \$187.53

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3713-844465-01008	06/25/96	178000000	23

Service Establishment and Location  
EMBASSY SUITES PHOENIX AZ

Record of Charge

ARRIVAL DATE	DEPARTURE DATE	# OF NIGHTS
06/25/96	06/25/96	00

S/E # 5020106530

TOTAL CHARGE AMOUNT \$187.53

ITEM 003  
EDLEN ELECTRIC S S FRANCISCO CA \$113.00

Cardmember Account No	Date of Charge	Reference Code	Approval Code
3713-844465-01008	07/01/96	101100186	06

Service Establishment and Location  
EDLEN ELECTRIC S S FRANCISCO CA

Record of Charge

ELECTRICAL SERVICES/ACC

S/E # 5045909330

TOTAL

ITEM 004  
DELTA AIRLINES BOUNTIFUL UT \$94.50

Cardmember Account No	Transaction Date	Ticket Number
3713-844465-01008	06/19/96	00684867784960

Passenger Name  
NELSON/L

Ticketing Airline  
DELTA AIRLINES

Issuer Name  
AMERICAN INTL TRAVEL

Issuer Address  
BOUNTIFUL

From	Carrier	Class	Transaction Amount
SALT LAKE CITY UT			
To SAN JOSE CA		VO	\$94.50
To OAKLAND CA	DL	QA	
To SALT LAKE CITY UT			
To			

Amex Use Only  
21873003721  
037000  
190000

# DUPLICATE COPY

Prepared For  
LINDA T NELSON

Account Number. 3713-844465-01008  
Closing Date  
October 18, 1996

Page 3 of 5

Card Detail Continued		Amount \$
<b>September 19, 1996</b>		106.00
AMERICAN INTL TRAVEL BOUNTIFUL UT		
DELTA AIRLINES		
From:	To:	Carrier: Class:
SALT LAKE CITY UT	PHOENIX AZ	DL LA
	SALT LAKE CITY UT	DL LA
Ticket Number: 00615093408495		Date of Departure: 10/14
Passenger Name: WILDE/J		
Document Type: PASSENGER TICKET		
<b>September 19, 1996</b>		106.00
AMERICAN INTL TRAVEL BOUNTIFUL UT		
DELTA AIRLINES		
From:	To:	Carrier: Class:
SALT LAKE CITY UT	PHOENIX AZ	DL LA
	SALT LAKE CITY UT	DL LA
Ticket Number: 00615093408506		Date of Departure: 10/14
Passenger Name: WILDE/J		
Document Type: PASSENGER TICKET		
<b>September 20, 1996</b>		178.60
JONES NEW YORK 20 GILROY CA		
APPAREL/ACCESSORIES		
Reference 026683345		
<b>September 21, 1996</b>		419.75
EMBASSY SUITES SANTA CLARA CA		
Arrival Date	Departure Date	
09/21/96	09/21/96	
LODGING		
Reference 266000000		
<b>October 1, 1996</b>		3,131.97
RESTORATION HARDWARELITTLETON CO		
HOME FURNISHINGS		
Reference 0004-2583		
<b>October 11, 1996</b>		321.94
WESTIN HOTELS SANTA SANTA CLARA CA		
Arrival Date	Departure Date	
10/10/96	10/11/96	
LODGING		
Reference 917101100		
<b>October 17, 1996</b>		221.00
AMERICAN INTL TRAVEL BOUNTIFUL UT		
DELTA AIRLINES		
From:	To:	Carrier: Class:
SALT LAKE CITY UT	LOS ANGELES CA	DL MQ
	SALT LAKE CITY UT	DL MQ
Ticket Number: 00615119082491		Date of Departure: 10/19
Passenger Name: WILDE/J		
Document Type: PASSENGER TICKET		
<b>Total for LINDA T NELSON</b>		<b>9,271.31</b>
New Charges 9 271 31 New Credits 0 00		
<b>Card Transactions for J LYNN WILDE</b>		
Card 3713-844465-01024		
<b>September 23, 1996</b>		22.38
ENTERPRISE FISH CO SANTA MONICA CA		
FOOD AND BEVERAGE		
TIP \$3.00		
Reference 000424506		
<b>September 26, 1996</b>		289.46
L A MARRIOTT HOTEL LOS ANGELES CA		
Arrival Date	Departure Date	
09/23/96	09/25/96	
LODGING		
CARDEPOSIT		
Reference 027113706		

**DUPLICATE COPY**

Card Detail Continued			Amount \$	Page 4 of 5
<b>September 26, 1996</b>			97.11	
AULD HOLLAND INN	OAK HARBOR	WA		
Arrival Date	Departure Date			
09/26/96	09/28/96			
LODGING				
Reference 033737560				
<b>September 27, 1996</b>			12.74	
COURTYARD CAFE	OAK HARBOR	WA		
FOOD/BEVERAGE				
FOOD/BEV		10.74		
WAITER		2.00		
Reference 0000-0928				
<b>September 29, 1996</b>			135.82	
HOLIDAY INN	SEATTLE	WA		
Arrival Date	Departure Date			
09/29/96	10/03/96			
LODGING				
Reference 09290000				
<b>October 6, 1996</b>			24.73	
RAINFOREST CAFE	GURNEE	IL		
FOOD/BEVERAGES				
Reference 58039790				
<b>October 6, 1996</b>			170.75	
HYATT REGENCY	MILWAUKEE	WI		
Arrival Date	Departure Date	No of Nights		
10/05/96	10/06/96	1		
LODGING				
Reference 001200051				
<b>October 9, 1996</b>			367.58	
MARRIOTT O'HARE	CHICAGO	IL		
Arrival Date	Departure Date			
10/06/96	10/08/96			
LODGING				
CARDEPOSIT				
Reference 001373551				
<b>October 11, 1996</b>			194.81	
TOWN HOUSE MTR INN	GRAND FORKS	ND		
GIFT SHOP				
Reference 000010363				
<b>October 12, 1996</b>			39.69	
RED LOBSTER	000030FARGO	ND		
FOOD/BEVERAGE				
FOOD/BEV		39.69		
Reference 064655103				
<b>October 13, 1996</b>			141.70	
FARGO SUITES	FARGO	ND		
Arrival Date	Departure Date	No of Nights		
10/11/96	10/13/96	2		
LODGING				
Reference 028882172				
<b>October 14, 1996</b>			32.10	
THE OYSTER GRILL PHOENIX AZ				
FOOD AND BEVERAGE				
TIP \$4.00				
Reference 000000010				
<b>Total for J LYNN WILDE</b>			<b>1,528.87</b>	
New Charges 1,528.87				
New Credits 0.00				
<b>Total of Card Activity</b>			<b>New Card Charges 10,800.18</b>	
			<b>New Card Payments/Credits -3,901.92</b>	



Cardmember Name  
**LINDA T NELSON**

Account Number **3732-269519-f** Closing Date **70 10-30-92** Page 5 of 7 DBA007020  
W2 116

53 0053/0137  
ITEM 018  
DELTA AIRLINES BOUNTIFUL UT \$198 00

Cardmember Account No 3732-269519-62000	Transaction Date 10/15/92	Ticket Number 00614949635 123
Passenger Name WILDE/J		Ticketing Airline DELTA AIRLINES
Issuer Name AMERICAN INTL TRAVEL		Issuer Address BOUNTIFUL UT
From SALT LAKE CITY UT	Carrier DL	Class LE
To SANTA ANA CA		
To SALT LAKE CITY UT	DL	LE
Transaction Amount 198.00		
Amexco Use Only 629620007759 003700 00 298000		
PASSENGER TICKET S/E # 7992700013		

ITEM 019  
EXPRESS SALT LAKE CITY UT \$147 68

Cardmember Account No 3732-269519-62000	Date of Charge 10/28/92	Reference Code 35470182	Approval Code
Service Establishment and Location EXPRESS SALT LAKE CITY UT			
Record of Charge APPAREL  ROC NUMBER 0220018200  S/E # 5435002860			
TOTAL CHARGE AMOUNT			\$147.68

ITEM 020  
THE FRAMING PLACE BOUNTIFUL UT \$600 32

3732 269519 61010		Cards	
09/91 THRU 08/94 89		AX	
J LYNN WILDE			
THE FRAMING PLACE 548024120000948 BOUNTIFUL 5434807087 UT		000000	
DEPT	CLASS	QUANT	ARTICLES
			AT
			AMOUNT
SHIP TO NAME (PRINT)		Sub Total	
ADDRESS		APT NO Taxes	
CITY		STATE ZIP CODE TOTAL	
00 541723		600 32	

ITEM 021  
HORCHOW MOD HORCHOW DALLAS TX \$295 85

Cardmember Account No 3732-269519-61010	Date of Charge 09/29/92	Reference Code 810010073	Approval Code
Service Establishment and Location HORCHOW MOD HORCHOW DALLAS TX			
Record of Charge GAMES 274 90 SHPG*HANDL 20 95			
S/E # 1426700142			TOTAL CHARGE AMOUNT \$295.85

ITEM 022  
HORCHOW MOD HORCHOW DALLAS TX \$26 80

Cardmember Account No 3732-269519-61010	Date of Charge 09/29/92	Reference Code 810080012	Approval Code
Service Establishment and Location HORCHOW MOD HORCHOW DALLAS TX			
Record of Charge GAMES 21 90 SHPG*HANDL 4 90			
S/E # 1426700142			TOTAL CHARGE AMOUNT \$26.80

ITEM 023  
ARVEY PAPER & OFFICESALT LK CITY UT \$105 36

Cardmember Account No 3732-269519-61010	Date of Charge 09/29/92	Reference Code 027518810	Approval Code
Service Establishment and Location ARVEY PAPER & OFFICESALT LK CITY UT			
Record of Charge OFFICE SUPPLIES			
S/E # 5434832309			TOTAL

ITEM 024  
MARKET ROASTERY SAN FRANCISCO CA \$33 19

Cardmember Account No 3732-269519-61010	Date of Charge 10/01/92	Reference Code 000592724	Approval Code
Service Establishment and Location MARKET ROASTERY SAN FRANCISCO CA			
Record of Charge FOOD AND BEVERAGE FOOD AND BEVERAGE TIP 00000400			
S/E # 5041212481			TOTAL



15 0015/0069  
ITEM 016  
SHERATON CLUB INT'L MILFORD OH

\$25.00

3732 269519 61010  
Lynn J. Wilde  
Approval Code  
Check or Bill No  
1840191-1213-7073-24-0535  
S9 43807 000 S  
SHERATON CLUB  
INTERNATIONAL  
MILFORD OH  
Merchandise / Services  
Taxes  
Type of Delayed Chg.  
Tips / Misc.  
Amt of Delayed Chg.  
Total  
Revised Total  
1296776  
00 798591

ITEM 017  
WAIKIKI BEACHCOMBER HOTEL HONOLULU HI

\$1,253.24

3732 269519 61010  
07/89 THRU 08/91 89 AX  
J LYNN WILDE  
Approval Code  
Check or Bill No  
1840191-1213-7073-24-0535  
WAIKIKI  
BEACHCOMBER HTL 06249  
5510102332 134  
0251002333 040  
Merchandise / Services  
Taxes  
Type of Delayed Chg.  
Tips / Misc.  
Amt of Delayed Chg.  
Total  
Revised Total  
00 040445

ITEM 018  
FLAMINGO ENTERPRISES INC HONOLULU HI

\$28.91

3732 269519 61010  
07/89 THRU 08/91 89 AX  
J LYNN WILDE  
Approval Code  
Check or Bill No  
1840191-1213-7073-24-0535  
FLAMINGO COFFEE  
SHOP 15-050351 062690  
5511011074  
0151002334  
Merchandise / Services  
Taxes  
Type of Delayed Chg.  
Tips / Misc.  
Amt of Delayed Chg.  
Total  
Revised Total  
2891  
00 390359

ITEM 019  
HAWAIIAN FLOWERS & PLANTS HONOLULU HI

\$182.00

3732 269519 61010  
07/89 THRU 08/91 89 AX  
J LYNN WILDE  
Approval Code  
Check or Bill No  
1840191-1213-7073-24-0535  
HAWAIIAN  
FLOWERS & PLANT 062990  
HON. HI  
5514101344  
Merchandise / Services  
Taxes  
Type of Delayed Chg.  
Tips / Misc.  
Amt of Delayed Chg.  
Total  
Revised Total  
182.00  
00 232431

ITEM 020  
CLIDAY INN RENO DOWNTOWN RENO NV

\$63.72

3732 269519 61010  
07/89 THRU 08/91 89 AX  
J LYNN WILDE  
Approval Code  
Check or Bill No  
1840191-1213-7073-24-0535  
CLIDAY INN  
065110145 071340  
2627902733  
5270508518 NV  
Merchandise / Services  
Taxes  
Type of Delayed Chg.  
Tips / Misc.  
Amt of Delayed Chg.  
Total  
Revised Total  
6372  
00 417126

ITEM 021  
SACRAMENTO HILTON SACRAMENTO CA

\$398.07

3732 269519 61010  
07/89 THRU 08/91 89 AX  
J LYNN WILDE  
Approval Code  
Check or Bill No  
1840191-1213-7073-24-0535  
SACRAMENTO HILTON  
065110145 071340  
2627902733  
5270508518 NV  
Merchandise / Services  
Taxes  
Type of Delayed Chg.  
Tips / Misc.  
Amt of Delayed Chg.  
Total  
Revised Total  
398.07  
00 572494

ITEM 022  
SACRAMENTO HILTON SACRAMENTO CA

\$140.00

3732 269519 61010  
07/89 THRU 08/91 89 AX  
J LYNN WILDE  
Approval Code  
Check or Bill No  
1840191-1213-7073-24-0535  
SACRAMENTO HILTON  
065110145 071340  
2627902733  
5270508518 NV  
Merchandise / Services  
Taxes  
Type of Delayed Chg.  
Tips / Misc.  
Amt of Delayed Chg.  
Total  
Revised Total  
140.00  
00 572494

ITEM 023  
SHERATON SAN FRANCISCO BURLINGAME CA

\$73.69

3732 269519 61010  
07/89 THRU 08/91 89 AX  
J LYNN WILDE  
Approval Code  
Check or Bill No  
1840191-1213-7073-24-0535  
SHERATON SAN FRANCISCO  
065110145 071340  
2627902733  
5270508518 NV  
Merchandise / Services  
Taxes  
Type of Delayed Chg.  
Tips / Misc.  
Amt of Delayed Chg.  
Total  
Revised Total  
73.69  
00 572494

Account Number      Closing Date      Page 4 of 6      EBA018006  
3732-269519-6      12 07-29-90           3728

14 0014/0089

ITEM 010			\$52.79CR
SPIEGEL, INC.	CHICAGO	IL	

Cardmember Account No	Date of Charge	Reference Code	Approval Code		
3732-269519-61002	07/20/90	000446978			
Service Establishment and Location					
SPIEGEL, INC.		CHICAGO	1L		
Record of Charge					
<p>RETURNED MDSE HSEHLD TEXTILES HSEHLD TEXTILES</p>					
S/E # 3126702711		<table border="1"> <tr> <td>TOTAL CHARGE AMOUNT</td> <td>\$52.79CR</td> </tr> </table>		TOTAL CHARGE AMOUNT	\$52.79CR
TOTAL CHARGE AMOUNT	\$52.79CR				
X CARDMEMBER SIGNATURE ON FILE					

ITEM 011					\$159.69
SPIEGEL, INC.	CHICAGO	-	-	IL	

Cardmember Account No	Date of Charge	Reference Code	Approval Code		
3732-269519-61002	07/26/90	045514744	26		
Service Establishment and Location					
SPIEGEL, INC.		CHICAGO	IL		
Record of Charge					
MAIL ORDER MOSE					
S/E # 3126702711		<table border="1"> <tr> <td>TOTAL CHARGE AMOUNT</td> <td>\$159.69</td> </tr> </table>		TOTAL CHARGE AMOUNT	\$159.69
TOTAL CHARGE AMOUNT	\$159.69				
X CARDMEMBER SIGNATURE ON FILE					

ITEM 012		\$94.75
DOMESTICATIONS 37670HANOVER	PA	

Cardmember Account No 3732-269519-61002	Date of Charge 07/26/90	Reference Code 078519877	Approval Code 00		
Service Establishment and Location DOMESTICATIONS 37670HANOVER		PA			
Record of Charge					
HOME FURNISH					
S/E # 2376704060		<table border="1"> <tr> <td>TOTAL CHARGE AMOUNT</td> <td>\$94.75</td> </tr> </table>		TOTAL CHARGE AMOUNT	\$94.75
TOTAL CHARGE AMOUNT	\$94.75				
X CARDMEMBER SIGNATURE ON FILE					

ITEM 013	\$825.00
NORTHERN CALIFORNIA SHINGLE SPRINGS CA	

[illegible]

ITEM 014  
LEWERS STREET FISH CO HONOLULU HI

7332 254519 51010

07/89 THU 08/91 39 AX

J LYNN WILCOE

APPROV CODE  
07604

Check or Mail No.

FISH CO. HONO-  
013119090 LULU 062790  
5511004988 HI

Dinner

Purchase / Services  
22.00

Cards

Type of Delayed Chip

Year / Month  
3 90

Antst of Delayed Chip

Total  
25.00

Amount Tendered

ITEM 015  
E TAE WON EEL SKIN HONOLULU HI

3732 254519 61010

07/89 THRU 08/91 89 AX

J LYNN WILDE

1610424-204-6625-04-051  
FAC WOL CFL

SKIN FACTORY  
154718  
4510100139 NI

062490

Merchandise / Services

SPIN

NO LEADS  
POLICIES

Cards

Temps

Type / Mins

Time of Day / Qty

Rate of Day / Qty

Total

Remainder Total

Tab 2

**FILED DISTRICT COURT**  
Third Judicial District

JUL 19 1999

By                       
SALT LAKE COUNTY  
Deputy Clerk

Douglas G. Mortensen, #2329  
**MATHESON, MORTENSEN, OLSEN & JEPPSON, P.C.**  
Attorneys for Respondent  
648 East First South  
Salt Lake City, Utah 84102  
Telephone: (801) 363-2244

---

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

---

J. LYNN WILDE,  
Plaintiff,

vs.

SHERRIE D. WILDE,  
Defendant.

**AFFIDAVIT OF  
INVESTIGATIVE ACCOUNTANT  
IN SUPPORT OF  
MOTION FOR SANCTIONS**

Case No. 864903929DA

Judge Stephen L. Henriod

Commissioner Thomas N. Arnett

---

STATE OF UTAH            )  
                                  - : ss.  
COUNTY OF SALT LAKE )

Julie K. Emery, being first duly sworn, deposes and says:

1. I am and at all times material hereto have been a senior accountant with  
RGL Gallagher, a certified public accountancy firm specializing in investigative

accounting. I am over the age of twenty-one and have personal knowledge of the information contained in this affidavit.

2. Our firm is often retained to conduct investigations and provide consultation and expert testimony in cases in which the true income of a person is at issue. Frequently, this arises in the context of a claim for spousal and/or child support involving a breadwinner who is either self-employed or a principal in a business over which he or she has substantial control. We have been retained to conduct such an investigation into the income of J. Lynn Wilde in this case.

3. I have made repeated phone calls and sent a letter via fax on July 8, 1999 to Nicolaas DeJonge, Lynn Wilde's attorney, for the purpose of making an appointment to examine Lynn's personal bank statements, credit cards and other financial records which his discovery responses indicate would be made available for inspection at his attorney's office. Between July 7 and July 15, for example, I placed at least four phone calls to Mr. DeJonge. Though I spoke with Mr. DeJonge's assistant regarding my requests and left messages on each occasion, Mr. DeJonge never called me back.

4. My need to examine Mr. Wild's personal financial records is urgent. I intend to testify at trial on August 9 concerning my findings. Documentation which I have not yet been allowed to review is extremely pertinent to the issues I have been asked to study.

5. Several weeks ago, I was prevented from examining records that I desired to examine at the offices of Beneficial International. I am informed that after this Court was informed of the problems I encountered, it held a telephone conference during which the court informed counsel that Mrs. Wilde's representatives should be allowed to scrutinize all documents which may reflect or reveal Mr. Wilde's true income. I understand this has since been incorporated into a formal order. Arrangements are being made through Mr. Steven Wright's office for me to return to Beneficial International's offices this week.

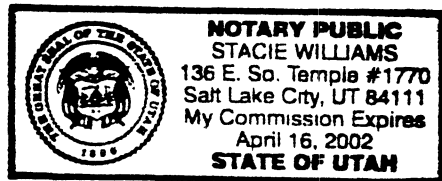
6. During my previous visit to Beneficial's office, Mr. Lynn Wilde stated to me in response to my query about his personal financial records: "You can tell Doug that I don't have those documents. I throw them away as soon as I receive them". Mr. Wilde indicated to me in clear terms that he discards bank statements, credit card statements and other personal financial records immediately upon receipt because he has been sued repeatedly in recent years and has learned that he does not have to produce documents that he does not have. Mr. Wilde also told me that if Sherrie Wilde were to win a judgment against him, she "would never see a penny from me". Mr. Wilde indicated that officials in several foreign countries had approached him with offers to study the effects of eating habits on Attention Deficit Disorder in children. Mr. Wilde stated that if Sherrie Wilde were to win a judgment against him, he would accept one of

the offers and relocate to a foreign country where Mrs. Wilde would not be able to "touch" him or his assets.

DATED this 19 day of July, 1999.

Julie K. Emery  
Julie K. Emery

SUBSCRIBED AND SWORN TO BEFORE ME this 19 day of July, 1999.



Stacie Williams  
Notary Public

#### CERTIFICATE OF SERVICE

On the 19<sup>th</sup> day of July, 1999 I caused to be delivered via the following method a copy of the foregoing to the following:

Nicolaas DeJonge  
4212 Highland Drive  
Salt Lake City, Utah 84124

- ☒ Facsimile - 272-6046
- ☒ U.S. Mail
- ☐ Hand-Delivered
- ☐ Federal Express

Margaret E. Emery



Tab 3

Douglas G. Mortensen, #2329  
**MATHESON, MORTENSEN, OLSEN & JEPPSON, P.C.**  
Attorneys for Respondent  
648 East First South  
Salt Lake City, Utah 84102  
Telephone: (801) 363-2244

FILED  
JAN 11 2018  
Sylvia

---

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

---

J. LYNN WILDE,

Plaintiff,

vs.

SHERRIE D. WILDE,

Defendant.

**MEMORANDUM OPPOSING  
MOTIONS  
TO  
QUASH**

Case No. 864903929DA

Judge Stephen L. Henriod

---

Defendant Sherrie D. Wilde ("Sherrie") submits this memorandum in opposition to motions seeking to quash subpoenae which have been issued in this case.

I.

**ALL OF THE SUBPOENAED DOCUMENTS CONTAIN  
INFORMATION RELEVANT TO LYNN WILDE'S TRUE  
CURRENT INCOME.**

All of the records sought to be produced through the recently-issued subpoenae contain information relevant to a central issue this Court will be asked to decide at the April 9 trial: What is Lynn Wilde's true income? Attached as Exhibit A is the affidavit of investigative accountant Julie K. Emery. Ms. Emery avers that all of the subpoenae seek information relevant to inquiry into the nature and amount of Mr. Wilde's true income and without such information, Mr. Wilde's true income cannot be ascertained. (See paragraph 5 of Exhibit A).

Specific objection has been made that the subpoena issued to American Express seeks irrelevant credit card records of Mr. Wilde's co-principal, Linda T. Nelson. That subpoena is essentially identical to a subpoena American Express honored, without objection, two years ago. According to controlling case authority, objection to further production of such records has been lost through waiver. (See Argument II, *infra*.) Disregarding the waiver issue, it is clear from the previously provided American Express documents that over a 6 year period, Lynn Wilde regularly charged purchases in his own name and on his own card issued under Linda T. Nelson's American Express account. Mr. Wilde's credit card purchases under the Nelson account include theatre, Disneyland and Lagoon tickets, gifts, floral purchases,

restaurant dinners, automobile repairs, lodgings and air travel fares. As investigative accountant Emery has averred, an update of these records has been sought for the purpose of attempting to ascertain how much of Mr. Wilde's personal living expenses are being paid through his business or through credit card purchases which may shield substantial components of his true discretionary income.

## **II.**

### **FAILURE TO OBJECT TO THE PRODUCTION OF DOCUMENTS UNDER SIMILAR SUPOENAE ISSUED TO THE SAME RECORD KEEPERS TWO YEARS AGO CONSTITUTES WAIVER OF ANY PRIVILEGE THAT MIGHT OTHERWISE ATTACH.**

The recently-issued subpoenae are merely "updates" of subpoenae which were issued before trial two years ago. At that time, the subpoenaed persons and entities all responded and produced the requested records. There were no objections or motions to quash. Sherrie now seeks an update of those records so that her representatives may ascertain what Lynn's true income currently is.

Once documents have been produced during discovery, any privilege which may have attached to such documents is lost. This is especially true when no timely objection is made. (See Gold Standard, Inc. v. American Barrick Resources Corp., 805 P.2d 164 (Utah 1990). Here, voluminous documents were produced 2 years ago by

all of the parties to whom subpoenae have been recently reissued. Under Gold Standard, any objection to further production of such records has been waived.

### **III.**

#### **TECHNICAL OBJECTION THAT THE SUBPOENA TO MR. WILDE'S BUSINESS INCORRECTLY NAMES THE BUSINESS IS WITHOUT MERIT.**

Technical objection has been made to the subpoena issued to Mr. Wilde's business (Beneficial International, Inc.) on the ground that it misnames that business as "Beneficial Health International, Inc.". This technical objection may be correct. If it is, however, so also is the local U.S. West 1998/1999 phonebook which lists the business exactly as it is listed on the subpoena: "Beneficial Health International, Inc.". (See Exhibit B, attached). There is no merit to the contention that the subpoena should be quashed, since it faithfully reproduces the name by which the business has chosen to be listed in the local phonebook.

### **IV.**

#### **SHERRIE AND HER COUNSEL HAVE AGREED TO PROTECT THE PRIVACY OF LINDA NELSON AS TO PURCHASES MADE BY HER ON THE CREDIT CARD ACCOUNT SHE SHARES WITH MR. WILDE.**


Counsel incorporates into this memorandum the letter he recently sent to Ms. Nelson's personal attorney explaining the relevance of the American Express

records and pledging fidelity in protecting the privacy of Ms. Nelson's own financial records. (See Exhibit C, attached). Appended as Exhibit 1 to Exhibit A, attached, are several American Express records which have already been produced, revealing the widespread charging of purchases by Mr. Wilde under Ms. Nelson's American Express Account.

#### CONCLUSION

The motions to quash should be denied.

DATED this 12<sup>th</sup> of March, 1999.



Douglas G. Mortensen  
Matheson, Mortensen, Olsen & Jeppson, P.C.  
Attorneys for Respondent

Tab 4

Douglas G. Mortensen, #2329  
**MATHESON, MORTENSEN, OLSEN & JEPPSON, P.C.**  
Attorneys for Defendant  
648 East First South  
Salt Lake City, Utah 84102  
Telephone: (801) 363-2244

---

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

---

J. LYNN WILDE,	:	<b>MOTION FOR SANCTIONS</b>
	:	<b>AND</b>
Plaintiff,	:	<b>SUPPORTING MEMORANDUM</b>
	:	
vs.	:	Case No. 864903929DA
	:	
SHERRIE D. WILDE,	:	Judge Stephen L. Henriod
	:	
Defendant.	:	Commissioner Thomas N. Arnett

---

**MOTION**

Pursuant to Rule 37, U.R.C.P, Defendant Sherrie D. Wilde (“Sherrie”) hereby moves this Court for an order appropriately sanctioning Plaintiff J. Lynn Wilde (“Lynn”) for his failure to cooperate in discovery and ordering Lynn to pay Sherrie’s costs and attorney’s fees incurred in pursuing the needed discovery.

This motion is supported by the following memorandum.



## MEMORANDUM

On January 29, 1999, Sherrie's counsel served on Lynn's counsel 14 interrogatories and 4 document requests. The document requests sought, *inter alia*, Lynn's recent bank statements, credit card statements and tax returns. Lynn did not timely respond to Sherrie's discovery requests. On March 26, 1999, Sherrie filed a motion to compel. Two months later - on May 13 - Lynn responded to the January discovery requests. As to the document requests, his formal responses state "the requested information may be reviewed at the office of my counsel".


Sherrie's investigative accountant has placed several calls to Lynn's attorney seeking an opportunity to examine the requested documents. None of her calls have been returned.

After this Court made clear in an informal telephone conference that it expected full compliance with Sherrie's efforts to ascertain Lynn's true income, Sherrie's investigative accountant returned to Lynn's place of business to examine business records she felt were pertinent. While there, Lynn informed her that it is his practice to discard and not retain all of his personal financial records, including bank statements and credit card statements and bills. Lynn stated that he discards such records immediately upon receipt precisely because of situations such as this law suit. He also stated that Sherrie "would never see a penny" from him, even if she won a judgment against him. He informed the accountant

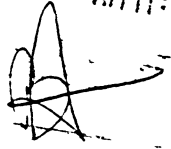
health officials in several foreign countries had approached him with offers to study the effects of eating habits on Attention Deficit Disorder in children. He stated that if Sherrie were to win a judgment against him, he would accept one of the offers and relocate to a foreign country where she would not be able to reach his assets. (See Affidavit of Julie Emery, attached).

This case is to be tried on August 9. A critical issue at trial will be the true amount of Lynn's current income. Efforts to discover Lynn's true income have been underway since January. Lynn has been consistently uncooperative in the efforts of Sherrie's representatives to discover his true income. He has not made available those pertinent records which were requested last January. It appears, in fact, that he has deliberately destroyed many such records. It is therefore appropriate that this Court sanction Lynn by entering a finding that his actual, true income is significantly greater than the income reported on his W-2. It is also appropriate that Sherrie be awarded her costs and attorney's fees incurred herein, pursuant to Rule 37, U.R.C.P.

DATED this 19 day of July, 1999.

  
\_\_\_\_\_  
Douglas G. Mortensen  
**Matheson, Mortensen, Olsen & Jeppson, P.C.**  
Attorneys for Defendant Sherrie D. Wilde

Tab 5

FILED  
DISTRICT COURT  
99 APR -9 AM 11:55  


Douglas G. Mortensen, #2329  
**MATHESON, MORTENSEN, OLSEN & JEPPSON, P.C.**  
Attorneys for Respondent  
648 East First South  
Salt Lake City, Utah 84102  
Telephone. (801) 363-2244

---

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

---

J. LYNN WILDE,

Plaintiff,

vs.

SHERRIE D. WILDE,

Defendant.

**AFFIDAVIT OF  
LEEANN MEADS**

Case No. 864903929DA

Judge Stephen L. Henriod

Commissioner Thomas N. Arnett

---

STATE OF UTAH                    )  
  : ss.  
COUNTY OF SALT LAKE )

LeeAnn Meads. being first duly sworn, deposes and says:

1.     I am over the age of twenty-one and have personal knowledge of the  
information contained in this affidavit.

2. On March 15, 1999, I accompanied Sherrie Wilde to the office of Dr. Scott Raub for an "independent" medical examination arranged by Lynn Wilde's attorney. We arrived on time for the appointment.

3. The assistant at the front desk informed us that Dr. Raub would not examine Sherrie because Mr. Yano had not made advance payment for the exam, as agreed. This assistant also informed us that the arrangement included Mr. Yano's providing Dr. Raub with Sherrie's prior medical records. We were told Dr. Raub's office had received neither the advance payment nor the records. We indicated that no one told Sherrie that she was expected to bring any records with her. Dr. Raub's assistant did not deny this but merely said records were to have been supplied through Mr. Yano's office and had not been.

4. Because I knew how anxious and concerned Sherrie was, I tried to persuade Dr. Raub's assistant to allow the exam to occur. I asked that the exam be done with the expectation that payment would be made by the party who arranged for it and indicated that if necessary, "we" could pay for it. I was told that that would not be acceptable. My discussion with Dr. Raub's assistant occurred with Dr. Raub himself standing in the background. I read his name on his white lab coat. He was present during some of the discussion and behind a partition within hearing distance during the rest of the discussion.

5. I am and for several years have been married to a physician, Garner B. Meads, M.D. I believed that a truly independent exam could be undertaken without prior medical records and stated that belief. I was told by Dr. Raub's assistant that "under these circumstances", Dr. Raub would have to review all the records before conducting his exam and rendering his opinion. This naturally led me to wonder whether Dr. Raub's examination truly was going to be "independent".

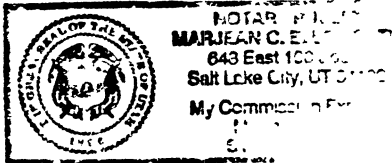
6. During my discussion with Dr. Raub's assistant, it was mentioned that Mr. Yano was out of town and would not be returning until the 17<sup>th</sup> of March. I indicated that Sherrie would be leaving town for a visit with extended family in Arizona, hoping that the difficulty of rescheduling would sway Dr. Raub's office and allow the exam to take place. To our disappointment, we were told that the exam could not take place.

7. After we were "turned down", specific request was made for a letter stating that Sherrie had appeared for her examination. Two weeks later, we did receive a letter. A copy is attached. The letter is accurate in all respects except one: it states that Sherrie was "unable to be seen due to prepayment not being provided to the doctor *from the patients (sic) attorney*". Payment was not supposed to be made by Sherrie's attorney. It was supposed to have been made by Lynn's attorney.

DATED this 8<sup>th</sup> day of April, 1999.

  
\_\_\_\_\_  
LeeAnn Meads

SUBSCRIBED AND SWORN TO BEFORE ME this 8<sup>th</sup> day of April, 1999.



[Signature]  
Notary Public

### CERTIFICATE OF SERVICE

On the 8<sup>th</sup> day of April, 1999 I caused to be delivered via the following method a copy of the foregoing to the following:

Kent T. Yano  
2225 East 4800 South, #109  
Salt Lake City, Utah 84117

- ☒ Facsimile - 277-7334
- ☐ U.S. Mail
- ☐ Hand-Delivered
- ☐ Federal Express

[Signature]

Wilde Affidavit LeeAnn Meads





Tab 6

**FILED DISTRICT COURT**  
Third Judicial District

APR 08 1999

By                      SALT LAKE COUNTY  
Deputy Clerk

Douglas G. Mortensen, #2329  
**MATHESON, MORTENSEN, OLSEN & JEPPSON, P.C.**  
Attorneys for Respondent  
648 East First South  
Salt Lake City, Utah 84102  
Telephone: (801) 363-2244

---

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

---

J. LYNN WILDE,

Plaintiff,

vs.

SHERRIE D. WILDE,

Defendant.

**AFFIDAVIT OF  
SHERRIE D. WILDE**

Case No. 864903929DA

Judge Stephen L. Henriod

Commissioner Thomas N. Arnett

---

STATE OF UTAH            )  
                                  : ss.  
COUNTY OF SALT LAKE )

Sherrie D. Wilde, being first duly sworn, deposes and says:

1.     I am a party to this action. I have personal knowledge of the information contained in this affidavit.

2.     I have carefully read LeeAnn Meads' April 8, 1999 affidavit. It is accurate in all respects. I did appear at the office of Dr. Raub to be examined on March 15,

01108


1999. LeeAnn Meads did accompany me. We did arrive on time. We were told Dr. Raub would not examine me because the fee had not been paid and the medical records had not been provided in accordance with the arrangements made with Lynn's lawyer. LeeAnn Meads did attempt to persuade Dr. Raub's assistant to allow the exam to go forward. Dr. Raub was in the office and was present during part of the discussion, though he did not participate in it.

3. I have been declared totally disabled by the Social Security Administration. The SSA's determination as to my disability was made by an independent medical doctor with whom I had no prior contact or relationship. Since being declared totally disabled by the SSA, I have been diagnosed with Parkinson's Disease by Dr. John Foley. I am currently under treatment by Dr. Foley for my Parkinson's Disease and by Dr. Patrick Knibbe for my rheumatoid arthritis. I was initially examined by Dr. Knibbe at the request of Lynn and his attorney. I had no contact or relationship with Dr. Knibbe before he performed his independent medical exam. Following his exam, he wrote a report indicating that I did indeed have disabling arthritis and needed significant medical care and medication. Later, Dr. Knibbe became my treating rheumatologist. Dr. Knibbe has given sworn statements to this Court and to the Social Security Administration that in his opinion I am totally disabled and unable to work due to the progression of my arthritis disease. On January 9, 1997, Dr. Knibbe submitted a report to disability determination services. A copy of that report is attached

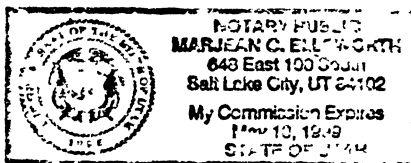
to my counsel's February 23, 1999 Memorandum Opposing Motion for Independent Medical Exam. Also attached to that memorandum are copies of other relevant medical reports submitted by Drs. John F. Ramsey, Max S. Lundberg, A. Alexander Jacoby, Kenneth C. Rodgers, Erin David Bigler and Robert D. Matheson. (See Exhibits A through H to 2/23/99 Memorandum).


4. Being subjected to examination by an unknown doctor is traumatic to me both physically and emotionally. I would prefer not to have to be subjected to further examination and testing. I believe my condition is well documented by the cumulative reports of several independent physicians, including the physician who signed's the SSA disability determination.

DATED this 8<sup>th</sup> day of April, 1999.

  
\_\_\_\_\_  
Sherrie D. Wilde

SUBSCRIBED AND SWORN TO BEFORE ME this 8<sup>th</sup> day of April, 1999.



  
\_\_\_\_\_  
Notary Public

Tab 7

**FILED DISTRICT COURT**  
Third Judicial District

FEB 25 1999

SALT LAKE COUNTY

By \_\_\_\_\_ Deputy Clerk

Re: Case # 864903929

(Submitted during oral argument on 2/25/99)

YEARS	TOTAL ASSETS	RETAINED EARNINGS
1990	\$400,291.00	\$150,650.00
1991	\$467,922.00	\$245,806.00
1992	\$1,246,598.00	\$563,088.00
1993	\$1,209,513.00	\$615,882.00
1994	\$1,247,850.00	\$817,329.00
1995	\$1,480,267.00	\$707,824.00
1996	\$1,547,195.00	\$878,972.00

(R. 617, 922-923; 721; Tr. Trans. 147-148) Lynn is the president and chief executive officer of Beneficial International (R. 712; Tr. Trans. p. 109). Beneficial International is the parent corporation of several wholly-owned subsidiaries. (R. 875-877).

Lynn earns a salary in excess of \$120,000 per year. (R. 644). In addition to his salary and bonuses, he is provided a vehicle (Mercedes) and his transportation and car insurance expenses are paid by the company. (R. 711; Tr. Trans. pp. 107-108) He also enjoys full health insurance benefits, through the company. (R. 711; Tr. Trans. p. 107, lines 11-19; R. 714; Tr. Trans. p. 120) He owns and lives in a condominium in Bountiful having an appraised value, as of 1996, of \$236,000. (R. 868) His condo unit contains a hot tub, sauna, pool table, big screen TV, two other TVs and two VCRs. (R. 868, 869, 881). In July of 1995, Lynn purchased a lot in North Salt Lake for \$97,000 in cash, with the intent to build a home on it. (R. 869-870) At Christmas in 1996, he took 8 people to Hawaii for a week vacation. (R. 898). He has access to season tickets to Utah Jazz basketball games (on the 19th row from the floor) and often purchases and uses Jazz playoff tickets. (R. 866-868).

Sherrie's post-divorce life presents a stark contrast to Lynn's. Within one month of the divorce, she was forced to move out of her home due to foreclosure. (R. 693; Tr. Trans. p. 36). Shortly after the divorce, she undertook to acquire marketable

skills to give her the ability to support herself and contribute to the support of her children. She enrolled in the Bryman School for medical assistants. Her tuition was paid by her church. (R. 693; Tr. Trans. p. 33). She graduated at the top of her class. (R. 808) Following her certification as a medical assistant she entered the job force and remained employed, continuously, except for one brief period between jobs, until she became too disabled to continue. (R. 693; Tr. Trans. pp. 34-35). In the spring of 1994, her health was suddenly compromised by the onset of rheumatoid arthritis. Her condition deteriorated dramatically to the point that in March of 1996, she was no longer able to maintain gainful employment. (Tr. Trans. p. 166; R. 694; Tr. Trans. pp. 39-40).

Sherrie's medical condition rendered her uninsurable. She was unable to qualify for medical insurance through her work. (R. 696; Tr. Trans. p. 45; R. 501).

At the time of trial, her monthly expenses far exceeded the \$800.00 per month temporary alimony Lynn had been ordered to pay her. (See def's. Tr. Exhibits 2 and 3) She was totally dependent upon welfare assistance from the LDS Church to maintain herself. (R. 647). During the 14 month period immediately preceding the trial, Sherrie received \$9,906.98 in monetary assistance from the LDS Church, in addition to food from the Bishop's Storehouse of the Church's welfare system. (See Defendant's Trial Exhibit 1; R.690-691; Tr. Trans. pp. 23-25).



Tab 8

**LEGAL WORK DONE AT TRIAL COURT LEVEL  
TO OBTAIN ALIMONY FOR MRS. WILDE<sup>1</sup>**

**A. Time Spent Responding to Mr. Wilde's Discovery Requests.**

4/24/95	Study discovery requests	.5	@\$125/hr
5/22/95	Prepare for and appear at Sherrie's deposition in Holladay	2.5	"
8/29/95	Work on financial declaration	1.0	"
1/08/96	Conference with Sherrie Wilde; discuss IME with Dr. Knibbe; discuss upcoming deposition . . .	.5	"
12/18/98	Prepare authorization for release of Sherrie's SSA disability records for use in remand of alimony case	.25	@\$140/hr
2/12/99	Extended office visit with Sherrie; review documents and information she has compiled in response to Lynn's interrogatories and document requests	.5	"
2/19/99	Travel to SSA building upon receipt of word that Sherrie's file has been returned from archives and is ready to be copied; . . . copy Sherrie's complete SSA disability file; work on memorandum opposing motion for IME; marshal facts germane to IME motion; marshal law germane to IME motion; outline argument	3.0	"
2/25/99	Draft formal responses to interrogatories and document requests; prepare for and appear at hearing on order to show cause and motion for IME	3.5	"
3/09/99	Telephone conference with Kent Yano regarding IME	.25	"
3/10/99	. . . Conference with Sherrie; discuss proposed medical exam by Dr. Scott Raub; agree on course of action . . .	.5	"
5/07/99	Receive word that Nicolaas De Jonge needs a written explanation for why I want to depose Dr. Ramsey in lieu of his personal appearance at trial; draft letter to him explaining situation	.25	"

---

<sup>1</sup>Taken from chronologic time itemized statements received into evidence at trial and reorganized here into area of work categories for ease of appellate court review.

7/13/99	Office visit with Sherrie; review her rough draft responses to the new counsel's new interrogatories, document requests, etc.; review her documentation . . .	1.5	"
7/14/99	Draft formal response to second set of interrogatories and document request and to first request for update and supplement to previous discovery responses	1.75	"
8/02/99	Telephone conference with Judge Henriod and opposing counsel regarding motions to compel and motion for sanctions; work on finalizing responses to requests for supplemental discovery answers and to second set of interrogatories and document requests	1.75	"
8/03/99	Telephone conference with Sherrie; receive by fax additional documents responsive to supplemental document requests, etc.; recompute her monthly medication expenses; organize exhibits to discovery responses; . . . arrange for hand delivery of discovery responses to opposing counsel	2.5	"
8/18/99	Receive and study motion for protective order and to prevent my deposing Dr. Foley; draft response	1.0	"
Sub-total		21.25	\$2,907.50

**B. Time Spent Seeking or Enforcing Temporary Support While Waiting For Trial on the Merits.**

4/25/95	Draft objection to ruling and request to set aside default; attempt to reach Kent Yano by phone; study and organize pleading file received from Dick Nemelka (prior counsel)	.75	@\$125/hr
5/05/95	Receive and study minute entry; prepare order as directed by Commissioner; draft letter to opposing counsel requesting his client's payment of medical expense obligation	.5	"

6/05/95	Telephone conference with Sherrie regarding Lynn's continued non payment of ordered alimony, etc.; called Kent Yano; leave message	.2	"
7/03/95	Draft affidavit, order to show cause and request for fees	.25	"
7/03/95	office visit with Sherrie; revise affidavit and order to show cause; . . . attempt to reach office manager to discuss requested letter on Sherrie's earnings and benefits; take order to show cause to court; wait for calendar court due to skeletal staff on day before holiday; obtain hearing date; arrange for service on Lynn	2.0	"
7/06/95	Review by telephone conference with Sherrie letter from office manager	.2	"
7/19/95	Telephone conference with Kent Yano; conference call with court clerk and Mr. Yano's assistant to obtain new date for OSC hearing	.3	"
9/29/95	Telephone conference with court clerk; receive by fax favorable ruling on continuation of alimony; draft order reflecting decision as set forth in minute entry	.5	"
10/13/95	Receive and study minute entry from Commissioner Arnett regarding attorney's fees; draft order as directed; prepare letter to opposing counsel and letter to Sherrie	.3	"
4/11/96	Work on order to show cause, motion for order to show cause and affidavit supporting order to show cause regarding increase in temporary alimony	2.0	"
5/20/96	Study motion to terminate temporary alimony; think; work on brief opposing motion; proof, edit and revise brief and arrange for hand delivery to Commissioner Arnett	4.0	"
5/21/96	Prepare for and appear at order to show cause hearing; argue case; confer with Sherrie	2.0	"
12/24/98	Telephone conference with Sherrie; discuss appropriate level of temporary alimony; draft letter to Kent Yano requesting same	.25	"

1/18/99	Draft verified motion for order to show cause; confer with Sherrie regarding monthly expenses; assemble exhibits to be attached to motion; arrange for filing and service	1.25	"
1/28/99	Arrange for order to show cause hearing on February 16; telephone conference with Kent Yano's office to confirm his availability; telephone conference with Commissioner Arnett's clerk to confirm his availability; arrange for pick up of issued order to show cause papers	1.0	@\$140/hr
2/25/99	Prepare for and appear at hearing on OSC	<u>1.5</u>	<u>"</u>
	Sub total	17	\$2,185.00

**C. Time Spent Responding to Mr. Wilde's Objections to Pre-trial Orders Favorable to Mrs. Wilde.**

7/19/95	Confer with court clerk regarding pendency of opposing counsel's objection to Commissioner's ruling; think; prepare request for oral argument on the objection	.3	@\$125/hr
8/21/95	Prepare for [8/21] hearing on objection to Commissioner's award of temporary alimony; argue case; draft order reflecting Judge Rigtrup's favorable ruling	3.0	"
8/29/95	Prepare for [8/29] hearing; argue the case	1.25	"
4/08/99	Prepare for hearing on . . . objections to Commissioner's recommendations; appear at hearing; argue motions; obtain mostly favorable rulings; prepare order at Judge Henriod's direction; draft letter to opposing counsel	2.75	@\$140/hr
8/02/99	Study submissions from opposing counsel; prepare for telephone hearing before Judge Henriod; telephone conference with Judge Henriod and opposing counsel regarding motions to compel and motions for sanctions	1.0	"
	Sub total	<u>8.3</u>	<u>\$1,093.75</u>

**D. Time Spent Seeking to Ascertain Mr. Wilde's  
True Income.**

9/01/95	Review Lynn's financial declaration	.5	@\$125.hr
1/24/96	Draft subpoena duces tecum listing documents to be produced by Beneficial International; draft letter to Kent Yano	1.0	"
1/29/96	Proof, edit and revise subpoena to Beneficial International and letter to opposing counsel	.5	"
1/30/96	Telephone conference with Kent Yano regarding subpoena duces tecum; contact Dick Nemelka to find out whether any Beneficial International documents were produced for him, as alleged	.75	"
2/01/96	Investigate Lynn Wilde's claim to having already produced records we seek via subpoena; draft letter to Kent Yano disclosing findings	.5	"
2/12/96	Study letter from Beneficial International's attorney; issue new subpoena; telephone conference with Dick Nemelka; letter to Beneficial International's attorney	.75	"
2/04/97	Review files and prepare documents to turn over to private investigator; meet with Mel Ashton; review documents and agree on goals; turn documents over to him	2.5	"
2/26/97	Meet with investigator; follow up telephone conference with Jeff Wilde; continue preparations for trial	.75	"
3/04/97	Prepare for deposition of Lynn Wilde	3.0	"
3/05/97	Continue preparation for Lynn Wilde depo; review audited financial statements of Beneficial International; extended telephone conference with Sherrie regarding financial facts and circumstances during marriage; . . . contact American Express Travel concerning failure to respond to subpoena; obtain information that Lynn's travel is done through Linda Nelson's account; arrange to subpoena information on her travel account; etc; conduct deposition of Lynn Wilde	9.0	"

3/13/97	Telephone conference with Art Casper (Lynn's CPA); request tax returns for 1980 through '83	.5	"
1/27/99	Review notes of last night's Inn of Court lecture on finding concealed . . . income; prepare subpoena duces tecum for service on CPA firm . . . , brokerage house . . . Beneficial International and American Express Credit Card Services; prepare notice of records deposition; prepare letter to counsel for Beneficial International; review financial, asset and income documentation gathered two years ago and organized for careful scrutiny by RGL . . .	1.5	@\$140/hr
1/28/99	Draft interrogatories, document requests and requests for admissions; edit and revise subpoena duces tecum; . . . office visit with RGL Gallagher representatives regarding experts scrutiny of records to ascertain Lynn's true income; edit, revise and add to discovery requests in subpoenae; direct legal assistant in further research into income producing real property acquisitions of Lynn Wilde	3.5	"
2/09/99	Prepare subpoena duces tecum to Washington Mutual Bank seeking loan closing documents, appraisals, etc on home Lynn purchased last August; prepare notice of records deposition; prepare subpoena duces tecum to First American Title Company	.75	"
2/18/99	Receive and study documents from First American Title Co responsive to my subpoena; phone call to Blake Heiner requesting pages 2, 3 and 4 of the loan application included in the documents; draft letter to Julie Emery . . . summarizing information obtained from title company and forwarding Beneficial International's most recent financial statement	.75	"
2/19/99	Prepare subpoena duces tecum to First Security Bank; telephone conference with "Amy" at title company; receive word that they only had first page of loan application; direct assistant to follow up with mortgage company for loan application	.5	"

2/22/99	Receive information from . . . contact at Beneficial International that Lynn is liquidating all of his assets and making arrangements to work for Beneficial International solely on commission, in an effort to avoid having to pay alimony; telephone conference with Julie Emery at RGL Gallagher; inform her of this new information	.75	“
2/26/99	Call Corporation Division to confirm current registered agent of Beneficial International; learn that Steven Wright is no longer registered agent . . . and that Linda Nelson is; prepare new subpoena duces tecum to be served on Linda Nelson; draft letter to Kent Yano requesting opportunity to review Beneficial International's general ledgers, etc.; receive Washington Mutual documents responsive to our subpoena; study same; organize file of documents coming in from our subpoenae	.75	“
3/09/99	Study documents produced by FSB in response to subpoena; check with Corporation Division regarding Lynn Wilde's affiliation with several of the bank accounts produced; . . . prepare subpoena duces tecum, letter and notice of records deposition to be sent to First Security Investor Services	1.25	
3/11/99	Telephone conference with Julie Emery; . . . telephone conference with David Blum regarding his motion to quash subpoena; explain reason for subpoena, basis for belief that American Express has records pertaining to Lynn Wilde's use of Linda Nelson's credit card and clarifying that we do not seek any records of Linda Nelson other than those accounts on which Lynn Wilde is a signatory; confer with [Julie Emery] regarding affidavit as to need for currently subpoenaed records; draft affidavit; peruse American Express records for samples of proof that Lynn Wilde made many personal charges on credit card of business co-principal Linda Nelson; photocopy exhibits to affidavit; study motions to quash and supporting memoranda; follow up telephone conference with David Blum; arrange to fax him samples of proof of Lynn Wilde's use of his client's credit card; draft letter to him transmitting proof	3.75	“



3/12/99	Research law on waiver of objection to production of subpoenaed documents by acquiescing in their production earlier; draft memorandum opposing motions to quash; meet with Julie Emery; edit and revise her affidavit; edit and revise letter to Linda Nelson's attorney with American Express records proving Mr. Wilde's use of the Nelson American Express credit card	2.25	"
3/17/99	Telephone conference with investigative accountant Julie Emery; suggest she contact confidential witness out-of-state who is aware of Lynn's divesting himself of his assets to avoid paying alimony; give her the phone number	.25	"
4/06/99	Participate in conference call with Judge Henriod; notify opposing attorneys of hearing on motions to quash	.75	"
4/08/99	Prepare for hearing on motions to quash and objections to Commissioner's recommendations; appear at hearing; argue motions; prepare order at Judge Henriod's direction . . . telephone conference with investigative accountant Julie Emery	2.0	"
4/16/99	Telephone conference, extended, with Steve Wright regarding disagreement over scope of allowable discovery of Beneficial International accounting records; reach agreement on course of action; arrange for Julie Emery to contact him to look at the documents he will allow; telephone conference with David Blum regarding American Express documents; agree to prepare separate order covering only the court's ruling on Linda Nelson's motion to quash; prepare order; hand deliver to Mr. Blum for approval as to form; deliver it to Judge Henriod for execution and entry; fax order to American Express' subpoena compliance director Dennis Clegg	1.5	"
4/19/99	Telephone conference with investigative accountant Julie Emery; communicate request that she peruse records held by Art Casper, CPA	.5	"

4/30/99	Conference call with Judge Henriod, Kent Yano, et al; follow up conference call with Beneficial International's attorney Steve Wright; obtain favorable ruling on records search . . .	.5	"
5/01/99	. . . Telephone conference with Sherrie; inform her of . . . Judge Henriod's informal ruling on our entitlement to conduct full discovery of Beneficial International's accounting records; . . . draft letter to Steven Wright resubmitting revised order on his motion to quash and requesting him to approve it to form	.5	"
5/13/99	Telephone conference with investigative accountant Julie Emery; receive information that Lynn Wilde personally told her he destroyed all his personal financial records so that people cannot discovery his true income and that if Sherrie prevails on alimony he will leave the country, file bankruptcy or take other action to assure she gets nothing; discuss prejudgment writ of attachment	.25	"
6/03/99	Draft new motion to compel discovery and supporting memorandum; draft letter to Julie Emery transmitting check register pages sent to me by Nicolaas DeJonge; study responses to my interrogatories, document request and requests for admissions; forward copies to investigative accountant, Julie Emery; draft letter to Julie Emery regarding unfinished projects . . .	.75	"
7/14/99	Letter to opposing counsel demanding response; prepare subpoena duces tecum, notice of records deposition and letter to Washington Mutual Bank requesting . . . Lynn's checking account records and identifying the checking account number; draft motion for sanctions and supporting memorandum; draft affidavit incorporating statements reported by investigative accountant Julie Emery	1.75	"
7/19/99	Telephone conference with Julie Emery regarding changes to her affidavit; make changes; hand deliver affidavit to her office for execution and notarization; finalize motion for sanctions and file it with court	1.0	"

8/02/99	Prepare for telephone hearing before Judge Henriod; telephone conference with Judge Henriod and opposing counsel regarding motions to compel and motion for sanctions; receive and study Lynn Wilde affidavit opposing investigative accountant Emery's affidavit	.75	"
8/03/99	Receive conference call from attorneys for Beneficial International and Linda Nelson; arrange and participate in conference with Julie Emery; reach agreement with what needs to be produced and what need not be produced; . . . study documents produced by Lynn Wilde and note deficiencies in preparation for tomorrow's further hearing on the pending sanctions motions	1.5	"
8/06/99	Telephone conferences with Julie Emery regarding Stimulite and Eagle Investment records	1.0	"
8/07/99	Memo to Julie Emery; phone call from attorney Jim Clegg regarding CPA Art Casper's reluctance to respond to subpoena due to inability to reach his client and client's attorney for permission; locate and discuss court's May 1999 ruling on motions to quash; agree to defer production pending court approval 9:00 a.m. Monday; . . . meet with accountant Julie Emery regarding her findings to date	1.5	"
Sub total		50	\$6,703.75

#### **E. Time Spent Trying to Settle Case<sup>2</sup>**

9/29/95	Prepare for pretrial settlement conference	.5	@\$125/hr
11/17/95	Prepare for and appear at pretrial settlement and scheduling conference before Judge Rigtrup	1.0	"

---

<sup>2</sup>No time spent was recorded for the time spent making the settlement overtures reflected in two letters to Mr. Wilde's counsel in December 1998 shortly after issuance of this Court's opinion granting Mrs. Wilde's first appeal. (See R. 1245-1253 and Addenda 9 and 10, attached).

1/19/96	Participate in pretrial settlement before Judge Rigtrup	.5	"
3/10/97	Prepare for final pretrial settlement conference; attend conference; confer with Sherrie	1.0	"
10/10/96	Attend pretrial settlement conference before Judge Rigtrup; attend trial and other important dates; calendar important dates	1.0	"
4/26/99	Pursuant to Friday's conference with Kent Yano, work on . . . components of a "global" settlement . . .; draft settlement proposal . . .	1.0	@\$140/hr
4/27/99	Consider settlement alternatives and options; discuss their [Sherrie, LaFonda and Lee Ann's] concerns over a change of judge; . . . revise settlement proposal letter to Kent Yano and computation sheet/analysis	1.0	"
Sub total		6.0	\$ 780.00

**F. Time Spent in Client "Hand Holding" Largely Necessitated by Mr. Wilde's Discomfiting Tactics.**

9/12/95	Telephone conference with Sherrie, extended	.2	@\$125/hr
9/20/95	Telephone conference with Sherrie	.2	"
9/29/95	Extended office visit with Sherrie	.75	"
12/19/95	Telephone conference with Sherrie, extended	.25	"
1/19/96	Extended telephone conference with Sherrie Wilde	.25	"
2/06/96	Telephone conference with Sherrie; memo to file	.25	"
7/01/96	Telephone conference with Sherrie	.1	"
11/08/96	Extended office visit with Sherrie; memo to file	.75	"
2/13/97	Extended telephone conference with Sherrie Wilde	.25	"
2/18/97	Extended office visit with Sherrie Wilde and Lee Ann Meads	.5	"

3/05/97	. . . Extended telephone conference with Sherrie regarding financial facts and circumstances during marriage	.25	"
3/10/97	Office visit with Sherrie and friend, Mrs. Curtis	.75	"
1/04/99	Telephone conference with Sherrie inquiring about response to our request for informal temporary alimony; discuss Lynn's "expense account" income and other matters; <b>learn of Lynn's indication to youngest son that he will help him with college, "if he can afford it after paying Sherrie alimony"</b>	.25	@\$140/hr
1/23/99	<b>Telephone conference at home with Sherrie Wilde; listen to her concerns and calm her regarding fear of ex-husband and his tactics, etc.; give her assurances</b>	.25	"
2/08/99	Telephone conference with Sherrie, extended; memo to file regarding information obtained about her reliance on Bishop's Warehouse for food; name and phone number of current bishop and relief society president, medicaid ID #, and other info . . .	.5	"
2/12/99	Extended office visit with Sherrie Wilde; . . . discuss her visit with Dr. Erin Bigler and the results of her neuropsychological battery of tests	.5	"
2/22/99	Telephone conference with Sherrie	.25	"
3/10/99	<b>Telephone conference with Sherrie, extended; receive word that her daughter-in-law has threatened to prevent her from seeing her grandchild unless she drops her alimony claim against Lynn; receive word that Lynn has agreed to sponsor that daughter-in-law in medical school</b>	.5	"
3/11/99	. . . telephone conference with Sherrie Wilde	.25	"
3/30/99	Extended telephone conference with Sherrie Wilde	.25	"
4/08/99	Telephone conference with Sherrie Wilde; telephone conference with Lee Ann Meads; draft affidavits for their signatures concerning the IME	1.0	"
4/12/99	Telephone conference with Sherrie	.25	"

4/26/99	. . . Telephone conference with Sherrie Wilde regarding her belief that she will lose her Medicaid coverage for prescription medications if she receives alimony . . . ask Sherrie to conduct further investigation	.5	"
4/27/99	Office visit with Sherrie, LaFonda and Lee Ann; obtain additional information concerning Sherrie's medication expenses, Medicare, Medicaid, etc	.5	"
5/9/99	. . . telephone conference with Sherrie; inform her of postponement of trial . . .	.25	"
7/13/99	Office visit with Sherrie Wilde; discuss availability of important physicians to testify at trial; address her other concerns	.5	"
8/03/00	Telephone conference with Sherrie . . .	.25	"
	Sub total	10.5	\$1,402.50

**G. Time Spent in Witness Preparation, Exhibit Preparation, Trial Brief Preparation, and Trial.**

2/12/97	Telephone conference with Kent Yano regarding depositions; prepare for trial	.25	@\$125/hr
2/13/97	Telephone conference with private investigator; prepare for trial	.75	"
2/18/97	Prepare list of trial witnesses; work on exhibits; prepare for trial	4.0	"
2/21/97	Prepare for trial; study UCA §30-3-5 . . . receive and study witness and exhibit designations [of opposing counsel]	2.0	"
2/24/97	Study investigative report; think; confer with researcher Randy Kerr; study Wells v. Wells; seek additional information on US House Bill 3103, listed by plaintiff as a trial exhibit; . . .	1.5	"
2/25/97	Work on trial brief; confer with private investigator; follow up phone conference with Jeff Wilde; memo to file	4.5	"

2/27/97	Meet with investigator; . . . continue preparations for trial	.5	"
2/27/97	Revise trial brief . . . telephone conference with private investigator	1.0	"
3/12/97	Prepare for trial and instruct paralegal on exhibit preparation needs	.5	"
3/13/97	Prepare for trial	2.5	"
3/15/97	Telephone with Barbara Deboer; extended telephone conference with Michael Tilton [Sherrie's Mormon bishop]; continue trial preparations	1.0	"
3/16/97	Extended telephone conference with Dr. Mark Staples; memo to file	.75	"
3/17/97	Continue trial preparation; study Lynn Wilde deposition; prepare questions	4.0	"
3/18/97	Continue trial preparations; extended telephone conversation with Dr. Kenneth Rodgers; telephone conference with Dr. Patrick Knibbe; prepare questions for Rodgers and Knibbe; telephone conference with witness Eileen Hazeltine; prepare questions for her; view surreptitious videotaping of Sherrie Wilde with Kent Yano; confer regarding issues of case; conduct legal research; extended office visit with Sherrie	9.0	"
3/19/97	Continue trial preparations; interview and prepare witnesses; prepare exhibits; continue work on trial brief; research law on opposing counsel claim that alimony may not be awarded when it is first sought after it has been terminated	8.0	"
3/20/97	Trial and continued trial preparation	8.0	"
3/21/97	Trial and continued trial preparation	8.0	"
4/08/99	Telephone conference with Dr. Erin Bigler; arrange for delivery of affidavit	1.0	@\$140/hr
8/03/99	. . . continue preparation for trial	2.0	"

8/04/99	Prepare for trial; telephone conference with Nicolaas De Jonge's secretary regarding examination of videotape and other records of detective agency [hired to surreptitiously surveil Mrs. Wilde]. . . ; continue work on trial brief	2.0	"
8/06/99	Finalize trial brief; continue trial preparation; telephone conference with Boost representative "Karen"; investigate defense witness; preparation of witnesses; telephone conference with Dr. Pat Knibbe	7.0	"
8/07/99	Arrange for copying trial exhibits; proof, edit and revise witness questions; continue trial preparation . .	3.0	"
8/09/99	Trial preparation and trial	9.0	"
8/30/99	Prepare Sherrie Wilde for cross examination at trial: prepare for trial	2.0	"
8/31/99	Prepare for trial; participate in trial	5.0 <sup>3</sup>	"
Sub total		87.25	\$11,371.25

---

<sup>3</sup> Does **NOT** include time spent in trial and trial prep on and before the last two days of trial held on September 1 and October 13, 1999, which covers 146 pages of trial transcript. Counsel's itemized fee exhibits were prepared and submitted before those last two days of trial and the corresponding preparation time. Counsel's conservative estimate of additional time spent is 6 hours.



## RECAPITULATION

A.	Responding to Mr. Wilde's Discovery Requests	\$2,907.50
B.	Seeking or Enforcing Temporary Support While Waiting For Trial on the Merits	\$2,185.00
C.	Responding to Mr. Wilde's Objections to Pre-trial Orders Favorable to Mrs. Wilde	\$1,093.75
D.	Seeking to Ascertain Mr. Wilde's <i>True</i> Income	\$6,703.75
E.	Trying to Settle Case	\$ 780.00
F.	Client "Hand Holding" Largely Necessitated by Mr. Wilde's Discomfiting Tactics	\$1,402.50
G.	Trial, Witness Preparation, Exhibit Preparation and Trial Brief Preparation	<u>\$11,371.25</u>
TOTAL		\$26,443.75

Tab 9

MATHESON, MORTENSEN, OLSEN & JEPPSON  
*a Professional Corporation*  
ATTORNEYS AT LAW  
648 EAST FIRST SOUTH  
SALT LAKE CITY, UTAH 84102  
TELEPHONE (801) 363-2244

DOUGLAS G. MORTENSEN

December 7, 1998

TELECOPIER (801) 363-2261  
WRITER'S PERSONAL VOICE MAIL:  
595-2938

Kent T. Yano  
2225 East 4800 South, #109  
Salt Lake City, Utah 84117

Dear Kent:

Enclosed is a self explanatory Notice of Scheduling Conference. I was given that date when I contacted Judge Henriod's clerk to inquire about the appropriate procedure for getting the case before Judge Henriod for final resolution. I hope December 17<sup>th</sup> at 9:45 is convenient for you.

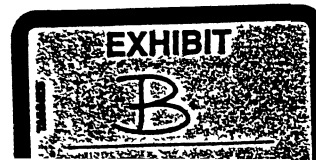
Understandably, Mrs. Wilde is anxious to have this matter resolved as quickly as possible. From my point of view, I believe we are ready to proceed.

I must inform you that Sherrie Wilde was recently diagnosed with Parkinson's Disease. She is now under treatment for that malady as well as rheumatoid arthritis. It is our contention that at this point, Sherrie is unable to contribute to her own support by working. If you desire further documentation, I will be happy to attempt to arrange for it informally. Tell me what you would like and I will try to get it to you as quickly as possible.

If you believe there is any possibility of our achieving a stipulated settlement on the issues remanded to the district court, please let me know. Sherrie and I are not at all opposed to exploring that alternative, especially if we could do so expeditiously and in a way that would allow us to present Judge Henriod with a stipulated settlement on December 17. That may be unrealistic but we are willing to try, if you and your client are.

Enclosed is an itemization of the fees and costs Sherrie has incurred in the appeal. I believe you have an itemization of the fees and costs incurred through trial. You should also have copies of our trial exhibits reflecting her monthly medical and non-medical expenses, as of the date of trial. I have asked Sherrie to provide me with an itemization of her current expenses. As soon as I receive that, I will forward it to you.

01245

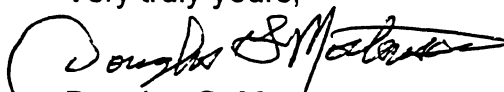


Kent Yano  
December 7, 1998  
Page 2

The doctor who is treating Sherrie's Parkinson's Disease is Dr. John Foley. His address is 370 East 9<sup>th</sup> Avenue, Salt Lake City, Utah 84103. Sherrie's arthritis condition is still being treated by Dr. Patrick Knibbe. As you know, Sherrie has been declared totally disabled by the Social Security Administration. Her monthly disability check is \$502.00.

I hope this information is helpful to you. If you need more, please let me know what you need and I will try to get it to you quickly.

Very truly yours,



Douglas G. Mortensen

DGM/mje

Enclosure

cc: Sherrie Wilde

Tab 10

MATHESON, MORTENSEN, OLSEN & JEPPSON

*a Professional Corporation*

ATTORNEYS AT LAW

648 EAST FIRST SOUTH  
SALT LAKE CITY, UTAH 84102  
TELEPHONE (801) 363-2244

DOUGLAS G. MORTENSEN

TELECOPIER (801) 363-2261  
WRITER'S PERSONAL VOICE MAIL:  
595-2938

December 11, 1998

Kent T. Yano  
2225 East 4800 South, #109  
Salt Lake City, Utah 84117

Re: Wilde v. Wilde

Dear Kent:

Since my December 7 letter to you, I have obtained additional information from my client concerning her monthly expenses. Enclosed are three sheets she recently faxed to me. Also enclosed are courtesy copies of documents offered into evidence at trial as Exhibits 2 and 3. Those two exhibits show what Sherrie's monthly medical and non-medical expenses were at the time of trial.

At present, Sherrie's monthly prescription medication expense is \$832.98. She also has monthly expenses for lab work and physical therapy totaling \$285.00. Her monthly doctor fees are \$255.00. Excluding non-monthly medical expenses (such as her recent MRIs and bone scans, her "non-monthly" visits to the doctor treating her Parkinson's Disease and her annual gynecological exam and papsmear tests, etc.) it appears that Sherrie's actual monthly medical expenses at present total \$1,372.98.

Sherrie's non-medical monthly expenses are listed on a separate sheet, enclosed. Excluding titling, those non-medical expenses total \$2,392.00. Sherrie, therefore, has regular monthly expenses of approximately \$3,765.00.

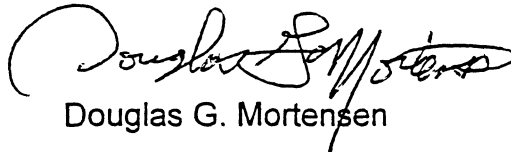
Sherrie wishes you to understand that since being declared totally disabled by the SSA, she has qualified for government assistance on many of her medical bills. The unfortunate reality, however, is that the award of alimony will apparently cause her to lose that benefit. If you have any special knowledge on such matters, I invite you



Kent T. Yano  
December 11, 1998  
Page 2

to share it with me. In the meantime, I will ask Sherrie to assemble as much specific information on that issue as she can.

Very truly yours,



Douglas G. Mortensen

DGM/mje

Enclosures

c: Sherrie Wilde

kenyano.monthly expe.

Mortgage 1st	\$670.00
2nd	272.00
Home maintenance	50.00
Food & household	400.00
Utilities	250.00
Phone	30.00
Laundry & cleaning	20.00
Clothing	75.00
Dental	25.00
Incidental expenses	200.00
Car (insurance, gas etc.)	100.00
Entertainment	50.00
Installment pmts	<u>250.00</u>
Sitting	50.00



Rx - per Month

Arava	\$279.98
Prednisone	9.00
Premanin	16.00
Zolof	79.00
Sinemet	70.00
Primeron	83.00
Soma	189.00
Salagen	84.00
atenolol	23.00
	<hr/>
	\$72.98

Medical Expenses last few months

MRI/MRA (brain) \$1,800.00

MRI (spine) \$1,110.00

Depscan (bone) \$190.00

Monthly expenses

Lake truck \$125.00

P.T. \$160.00

Dr. visits

Dr. Kneibbe (Monthly) \$ 75.00

Dr. Rodgers (Monthly) \$180.00 # 25

Dr. Foley (varies) \$ 45.00

Dr. Eggert (varies).

Now Dr. Visits with Dr. Foley.

\$ 180.00  
45.00

I also see Dr. Mark Curtis for  
yearly exam & PAPs.

## **SHERRIE WILDE'S MONTHLY MEDICAL EXPENSES**

### **PRESCRIPTION MEDICATION EXPENSES**

Imuran	\$89.00
Plaquinil	\$82.00+
Sulphasalazine	\$36.00+
Methatrexate	\$137.00+
Premarin	\$16.00
Prednisone	\$ 9.00
Zoloft	\$64.00
Folic Acid	\$11.50
Ativan	\$96.95
Amitripilin	\$5.00
Calcium	<u>\$5.00</u>
<b>SUBTOTAL</b>	<b>\$ 296.45</b>

### **OTHER MONTHLY MEDICAL EXPENSES**

Dr. Patrick Knibbe (Rheumatologist)	\$75.00
Braces	\$29.00
Lab Work	\$50.00
Physical Therapy (twice a week at \$83.00/wk)	<u>\$356.90*</u>
<b>SUBTOTAL</b>	<b>\$510.90</b>

### **TOTAL MONTHLY MEDICAL EXPENSES**

**\$807.35\*\***

+ These three medications will alternate with Imuran - the first medication on the chart

\* Prescribed but not presently receiving due to inability to pay.

\*\* In addition, Sherrie Wilde sees clinical psychologist Kenneth C. Rogers, PhD, on a regular basis. His normal fee is \$90.00 per hour. At present, he is not charging Mrs. Wilde for her treatment sessions because of her inability to pay.



01252

# SEERI WILDE'S NONMEDICAL MONTHLY EXPENSES

A.	Mortgage obligations on home (including taxes and insurance)	\$648.00
	2nd. Mortgage on home (car payment included in 2nd mortgage)	276.00
B.	Maintenance expenses	50.00
C.	Food and household supplies (Church helps with food and supplies once or twice a month)	450.00
D.	Utilities, including water, electricity and gas (Church has helped with these on occasion)	240.00
E.	Telephone	29.00
F.	Laundry and cleaning	20.00
G.	Clothing (Normally I would spend this much. However, I spend only what is necessary due to lack of money.	200.00
H.	Dental expense ( I have been paying my dentist on a monthly basis but I am in need of a lot of dental work now which I have not had done due to the cost. ( 2 crowns, at least 1 root canal.)	50.00
I.	Incidental expenses	200.00
J.	Car expense (gas, oil, repair, insurance)	100.00
K.	Entertainment expenses	50.00
L.	Installment payments (on debts owed to Fred Meyer, Penneys, Discover Card, Lerner)	150.00
	TOTAL	<u>\$2,463</u>



Tab 11

FILED  
DISTRICT COURT  
MARCH 12 PM 9:00  
J. HENRIOD

Douglas G. Mortensen, #2329  
**MATHESON, MORTENSEN, OLSEN & JEPPSON, P.C.**  
Attorneys for Respondent  
648 East First South  
Salt Lake City, Utah 84102  
Telephone: (801) 363-2244

---

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

---

J. LYNN WILDE,  
  
Plaintiff,  
  
vs.  
  
SHERRIE D. WILDE,  
  
Defendant.

:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

**MID-TRIAL BRIEF  
ON WHY SHERRIE'S  
WITNESSES SHOULD  
NOT BE EXCLUDED**  
  
Case No. 864903929DA  
  
Judge Stephen L. Henriod  
  
Commissioner Thomas N. Arnett

---

I.

**SHERRIE HAS FORTHRIGHTLY REVEALED VOLUMINOUS  
INFORMATION ABOUT HER CASE, EVEN BEFORE BEING  
ASKED, AND HAS PROVIDED MORE THAN AMPLE  
INFORMATION ABOUT HER TRIAL WITNESSES AND  
EXHIBITS IN AS TIMELY A MANNER AS REASONABLY  
POSSIBLE**

There are indications that formal discovery in this case was supposed to have been  
concluded by March 12, 1999 (See Exhibit A). Mr. Yano's agreement to conclude his

discovery is reflected in a December 18 letter. (Exhibit A). The trial date was originally scheduled for April 9. It was continued at Lynn's request. The new trial date was May 13. That trial date was also stricken at Lynn's request and the case was re-scheduled for August 9. At no time prior to those scheduled trial dates was any request made to obtain information concerning Sherrie's trial witnesses.

As early as December 7, 1998, Sherrie's counsel informally shared with Lynn's counsel information concerning Sherrie's Parkinson's Disease, including the fact that it was being treated by Dr. John Foley, whose address was revealed in counsel's December 7 letter. That letter revealed other information concerning her continued treatment by Dr. Knibbe and her continued receipt of Social Security Disability payments. It also expressly stated:

**If you desire further documentation, I will be happy to attempt to arrange for it informally. Tell me what you would like and I will try to get it to you as quickly as possible.**

(See Exhibit B, attached)

Four days later - on December 11, 1998 - Sherries' counsel wrote another letter to Lynn's counsel enclosing detailed records reflecting Sherrie's medical and other monthly expenses. (See Exhibit C, attached)

On March 3, 1999, Sherrie produced 128 pages of documents in response to document requests and submitted a 9 page response to Lynn's First Set of Interrogatories.

The interrogatory answers revealed the names, addresses and telephone numbers of 11 physicians and health care providers seen by her since April 1997. They included the name, address and telephone number of Erin David Bigler. (See Exhibit D attached, Answer to Interrogatory No. 1).

Interrogatory No. 2 sought information concerning specific diagnosed maladies and illnesses. Sherrie's answer revealed that Dr. John Foley has diagnosed and treated Sherrie's Parkinson's Disease and that other responsive information could be found in the several medical reports attached as Exhibits A through H to Sherrie's February 23, 1999 memorandum filed with this Court. **Exhibit B to that memorandum includes a February 12, 1999 letter from Erin David Bigler, Ph.D. and a copy of his January 29, 1999 four page report. That report details every exam he performed on this woman and his opinions and conclusions based on them. Dr. Bigler's trial testimony was perfectly consistent with this report. That report has been of record for nearly 7 months!** (See Exhibit E, attached).

In mid-June, Lynn's counsel requested supplementation of Sherrie's earlier discovery responses. Sherrie complied. Her supplemental response to Interrogatory No. 1 again referred to Dr. Erin David Bigler among others. Her supplemental response to Interrogatory No. 2 also specifically referred to Dr. Erin David Bigler as one of the doctors who had diagnosed Sherrie's Parkinson's Disease (See Exhibit F, attached).



On August 9, this Court refused to allow Sherrie to call LeeAnn Meads as a fact witness, despite the fact that she was disclosed as a fact witness. The contention was that Lynn had no idea what LeeAnn Meads would say at trial. That contention is questionable because Sherrie's response to Interrogatory No. 12 of Lynn's Second Set of Post Appeal Interrogatories specifically revealed that LeeAnn Meads had been a person from whom Sherrie had received financial assistance. (See Exhibit G, attached).

## II.

**LYNN HAS BEEN LESS RESPONSIVE TO SHERRIE'S  
DISCOVERY REQUESTS THAN SHERRIE HAS BEEN. HIS  
EVE-OF-TRIAL DISCLOSURE OF HIS TRIAL WITNESSES  
FAILS TO REVEAL THE SUBSTANCE OF HIS WITNESSES'  
TESTIMONY "WITH PARTICULARITY"**

On January 29, 1999, Sherrie submitted 14 interrogatories to Lynn. The last of those interrogatories stated:

**Interrogatory No. 14: Identify each witness you intend to  
call at trial and state with particularity the substance of the  
expected testimony of such witness.**

Lynn did not timely respond to Sherrie's discovery requests. Sherrie's counsel wrote letters concerning the failure to respond. Finally, he filed a motion to compel. Some two months after the motion to compel was filed - on May 13, 1999 - Lynn responded. His response to Interrogatory No. 14 was:

**Not known at this time.**

(See Exhibit H, attached)

It is noteworthy that this response was not only several months tardy, it was also sent over one month after the first scheduled trial and on the day of the second scheduled trial. Both continuances were at the request of Lynn, himself.

Rule 26, U.R.C.P. specifically obligates a party to seasonably and timely supplement, even without request, requested information concerning his expert witnesses. This Lynn failed to do.

Finally, on July 28, 1999, Lynn's counsel mailed, by regular mail, designations of his fact and expert trial witnesses. Because Sherrie's counsel was on a 50 mile hike in the High Uintah's with his Scout Troop the entire week of July 26, his first opportunity to see these designations came on August 2<sup>nd</sup>. It is questionable whether they even arrived before that date (counsel does not receive mail at his office on Saturdays). In any event, Lynn's disclosures were made at best contemporaneous with Sherrie's disclosures. The significant difference is that Sherrie requested the witness information last January. Lynn did not request the information until mid-June, a month after his second trial continuance.

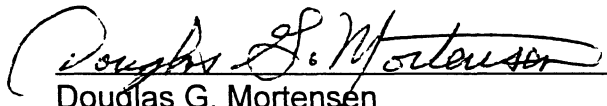
The terse witness information Lynn provided was no more useful than the information he had received concerning Sherrie's witnesses. In fact, it was less useful

because written reports from Sherrie's experts (including, specifically, Dr. Bigler) had been produced last February. (See Exhibits I and J).

### CONCLUSION

In fairness and in the interest in seeing that the truth is discovered, Sherrie's witnesses and exhibits should be received. There is just as strong reason for striking Lynn's witnesses and exhibits as striking Sherrie's. Whatever prejudice has occurred, has fallen evenly on both sides. Sherrie has done the best she could to comply with Lynn's discovery demands.

DATED this 11<sup>th</sup> day of August, 1999.

  
Douglas G. Mortensen  
**Matheson, Mortensen, Olsen & Jeppson, P.C.**  
Attorneys for Respondent Sherrie D. Wilde

Tab 12

Douglas G. Mortensen, #2329  
**MATHESON, MORTENSEN, OLSEN & JEPPSON, P.C.**  
Attorneys for Respondent  
648 East First South  
Salt Lake City, Utah 84102  
Telephone: (801) 363-2244

**FILED DISTRICT COURT**  
Third Judicial District

AUG 06 1999

SALT LAKE COUNTY

By  Deputy Clerk

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

J. LYNN WILDE,	:	<b>SHERRIE WILDE'S</b>
	:	<b>TRIAL BRIEF</b>
Plaintiff,	:	
	:	
vs.	:	Case No. 864903929DA
	:	
SHERRIE D. WILDE,	:	Judge Stephen L. Henriod
	:	
Defendant.	:	Commissioner Thomas N. Arnett

**TABLE OF CONTENTS**

I. INTRODUCTION ..... 1

II. FACTS FORMALLY ADMITTED BY LYNN ..... 3

III. SHERRIE'S PRESENT NEED FOR ALIMONY ..... 6

IV. LYNN'S ABILITY TO PAY ALIMONY IN AMOUNTS NEEDED BY SHERRIE .. 7

V. SHERRIE'S SPECIFIC NEED ..... 8

VI.	COMPUTATION OF CHILD SUPPORT FROM DATE OF PETITION TO DATE OF THIS TRIAL, WITH CREDITS AND OFFSETS FOR TEMPORARY SUPPORT PAID BY LYNN AND SOCIAL SECURITY DISABILITY PAID BY GOVERNMENT .....	8
VII.	COSTS AND ATTORNEY'S FEES INCURRED ON APPEAL .....	11
VIII.	COSTS AND ATTORNEY'S FEES INCURRED BY SHERRIE THROUGH THE FIRST TRIAL .....	12
IX.	COSTS AND ATTORNEY'S FEES INCURRED BY SHERRIE SINCE PUBLICATION OF THE COURT OF APPEALS' DECISION .....	12

Douglas G. Mortensen, #2329  
**MATHESON, MORTENSEN, OLSEN & JEPPSON, P.C.**  
Attorneys for Respondent  
648 East First South  
Salt Lake City, Utah 84102  
Telephone: (801) 363-2244

---

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

---

J. LYNN WILDE,

Plaintiff,

**vs.**

SHERRIE D. WILDE,

Defendant.

:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

**SHERRIE WILDE'S  
TRIAL BRIEF**

Case No. 864903929DA

Judge Stephen L. Henriod

Commissioner Thomas N. Arnett

---

**I.**

**INTRODUCTION**

At the conclusion of the first trial in this action, this Court made several findings of fact which were not disturbed on appeal. Facts found by this Court in March of 1997 include:

1. Sherrie and Lynn were married for 25 years. Their marriage ended in divorce in 1987;

2. Following the parties' divorce, the LDS Church paid for Sherrie to attend the Bryman School Medical Assistant course. As soon as she graduated, she obtained employment, and remained employed for 7 years, with a good work history. Thereafter, she worked for Dr. John Ramsey until February of 1996;

3. Following the divorce, Sherrie developed symptoms of rheumatoid arthritis which diminished her earning capacity;

4. Sherrie's rheumatoid arthritis was diagnosed in 1994. Her symptoms include daily pain, fatigue, swelling, and trouble concentrating;

5. Sherrie has a hand tremor not related to the arthritis;

6. At the time of trial, Sherrie was in therapy for depression;

7. In the opinion of Sherrie's treating rheumatologist (who was originally the physician selected by Lynn and his counsel to conduct an independent medical exam), Sherrie was totally disabled at the time of trial and met the requirements of the Social Security Administration for government disability aid;

8. Sherrie's arthritis was not under control at the time of trial and she could not afford the medications and therapy necessary for an optimal treatment program;

9. Sherrie's rheumatoid arthritis condition constitutes a material and substantial change in circumstances not foreseeable at the time of entry of the original divorce decree and forms a basis of need that did not exist at the time the decree was entered;



10. Sherrie has a need and Lynn has an ability to pay the increased request for alimony;

11. At the time of trial (March 1997), Lynn earned "at least" \$120,000 per year.<sup>1</sup>

On December 3, 1998, the Utah Court of Appeals ruled that:

1. Sherrie is entitled to additional alimony from Lynn;
2. Sherrie is entitled to an award of her attorney's fees and costs reasonably incurred on appeal;
3. This Court should reconsider, based on the Court of Appeals' decision concerning Sherrie's entitlement to alimony, whether Sherrie should be awarded attorney's fees incurred in connection with her petition to modify through the time of trial and, if so, should determine the appropriate amount thereof.

(See Court of Appeals December 3, 1998 8 page opinion).

## II.

### FACTS FORMALLY ADMITTED BY LYNN

In formal discovery, Lynn has admitted the truth of the following 20 facts:

1. Lynn is the largest shareholder of Beneficial International, Inc. stock.

---

As to these findings, see this Court's March 25, 1997 Minute Entry and April 17, 1997 Findings of Fact Nos. 2, 7, 13, 16, 18, 24 - 27.

2. In 1996, Lynn recognized gross income in salary from Beneficial International of \$112,617.00.

3. In 1995, Lynn's W-2 income was \$107,240.00.

4. In 1994, his W-2 income was \$105,240.

5. In 1996, Lynn had interest income totaling \$567.00.

6. In 1994, Lynn had dividend income of \$1,158.00.

7. **In addition to his salary**, Lynn receives full health insurance coverage through his employment with Beneficial International, Inc., at no direct cost to him.

8. Lynn holds over 4.5 million shares of stock in Beneficial International, Inc.

9. Lynn is the president and chief executive officer of Beneficial International, Inc. and has been for the last 12 years.

10. Lynn has been one of the three directors of Beneficial International, Inc. for the last 12 years.

11. Beneficial International, Inc. wholly owns certain subsidiary corporations or business entities including Beneficial Health and Beauty, Inc., and M'lis Company, Inc.

12. Beneficial International, Inc. owns the real property and building in which it and its affiliated companies are headquartered and in which it has its main warehouse.

13. The Beneficial International headquarters located at 1780 West 500 South in Salt Lake City, Utah was purchased by Beneficial International in 1991 for \$330,000 and was appraised approximately 2 years ago for \$470,000.

14. The audited financial statements prepared by Rindlishbacher and Co., a CPA firm, on Beneficial International, Inc. are accurate.

15. Lynn owns a condominium at 1810 South High Point Drive in Bountiful, Utah which was appraised approximately two years ago at a value of \$236,000.

16. The condominium in which he currently resides is equipped with an indoor spa, three television sets, including a big screen TV, three VCR's and a security system.

17. In 1995, Lynn purchased a building lot in North Salt Lake known as Lot 312, Eaglewood Cove Subdivision Phase III.

18. He purchased the aforesaid building lot for approximately \$97,000.

19. He paid the entire purchase price for that lot in cash or certified funds at closing.

20. The company with which Lynn is affiliated has season tickets to Utah Jazz games on or near the 19<sup>th</sup> row from the floor and he frequently uses those tickets himself in attending Utah Jazz games.<sup>2</sup>

---

<sup>2</sup> On January 29, 1999 Sherrie's counsel served 29 requests for admissions on Lynn's counsel. No response was timely made to these requests. Under Rule 36, failure to respond within 30 days constitutes an admission. On May 13, 1999 - long after the 30 day time limit had expired - Lynn responded to the admission requests. His tardy responses included admission of the 20 foregoing facts. The other 9 facts Lynn partially admitted and partially denied. Those facts are listed on Exhibit A, attached, along with footnotes indicating Lynn's modifications thereto.

### **III.**

#### **SHERRIE'S PRESENT NEED FOR ALIMONY**

This Court's Minute Entry and Findings of Fact numbers 1, 3, 4, 5, 6, 7, 8 and 9 all support Sherrie's desperate need for alimony.

Approximately 1 month after the first trial in this action, the Social Security Administration issued a decision finding Sherrie totally disabled and unable to work. The SSA found that she became totally disabled in March of 1996 - the very month in which she herself concluded she was no longer able to work.

As this Court found, Sherrie received church welfare during the 4-1/2 years preceding the first trial in this action. She has continued to receive church welfare on a regular basis since then. This court may take judicial notice that it is the policy and practice of the LDS Church to provide welfare assistance to its needy members only to the extent they are unable to provide for their own needs. This Court may also take judicial notice that it is the policy and practice of the Social Security Administration to award disability benefits only to claimants who are "totally disabled" and unable to contribute to their own support.

At trial, a board certified rheumatologist will testify that Sherrie's arthritis condition has steadily worsened and that she is indeed unable to contribute to her own support at the present time. In addition, sworn testimony will be received from neurologist John Foley indicating that Sherrie now also suffers from Parkinson's Disease which is expected to

worsen. It is worth noting that the rheumatologist who will testify as to Sherrie's condition is the very rheumatologist selected by Lynn and his counsel several years ago to test the veracity of Sherrie's claim that she had been rendered disabled by her worsening arthritis condition. His opinions and findings have never been rebutted or controverted by a competent medical expert but have in fact been corroborated by several other physicians including the physician employed by the SSA to determine her entitlement to "total disability" benefits.

#### **IV.**

#### **LYNN'S ABILITY TO PAY ALIMONY IN AMOUNTS NEEDED BY SHERRIE**

At trial, evidence will be presented that Lynn's true income is substantially greater than the W-2 income he reports to the IRS. Indications of his true income are reflected in the substantial luxury assets he owns and/or controls.

Lynn was married to Sherrie for 25 years and enjoyed many benefits from his union with her, including the benefit of siring five children born to Sherrie. In a civilized society whose basic unit is the family, it is not appropriate for a church and the Federal government to bear a greater obligation and burden to contribute to the support of a disabled woman than the man to whom she was married for a quarter of a century.

**V.**

**SHERRIE'S SPECIFIC NEED**

Sherrie's monthly living expenses as of August, 1999 total \$3,223.58. Those expenses are itemized on Exhibit B, attached. Sherrie's monthly expenses include a sum of \$963.91 for prescription medications. A chart listing the 9 prescription medications Sherrie is currently taking, the physician who prescribes each medication and the monthly cost of each medication is attached as Exhibit C. From mid-1997 until December 3, 1998, the bulk of Sherrie's medication expenses were paid by Medicaid. However, when the Court of Appeals issued its opinion declaring that Sherrie was entitled to receive alimony from Lynn, Sherrie immediately became ineligible for Medicaid. Medicare does not cover prescription medications.

**VI.**

**COMPUTATION OF CHILD SUPPORT FROM DATE OF PETITION TO  
DATE OF THIS TRIAL, WITH CREDITS AND OFFSETS FOR TEMPORARY  
SUPPORT PAID BY LYNN AND SOCIAL SECURITY DISABILITY  
PAID BY GOVERNMENT**

Sherrie claims alimony retroactive to the date of her petition to modify - April 23, 1994. She is entitled to an award of alimony for the period of 60 months which have elapsed since she filed her petition to modify. It is Sherrie's contention that she was partially disabled from August 1994 through February of 1996. From March 1996 until the

present, she has been totally disabled and not able to contribute to her own support (that total disability has been declared by the SSA). During the pendency of this action, Sherrie received temporary alimony between March 1, 1995 and the end of March, 1997 of \$800.00 per month (totaling \$19,200.00). Following issuance of the Court of Appeal's decision, Sherrie was again granted temporary alimony effective January 1, 1999, this time in the amount of \$2,000 per month. She has received a total of \$10,000 since entry of the currently pending temporary alimony order (although this Court affirmed the commissioner's temporary alimony award, it ordered that Lynn needn't pay alimony during the months the matter was being contested, until a final accounting at the time of trial).

Attached as Exhibit D is a copy of the SSA's disability notice. It states that the SSA found Sherrie to have become disabled under its rules on March 25, 1996. It further states, however, that its rules require the disability to continue for five full calendar months in a row before she became entitled to benefits. Therefore, her SSA benefits began in September of 1996. She initially received benefits of \$488.00 per month. That monthly benefit increased slightly to \$502.00 a month. On September 28, 1998 (nearly 13 months ago) Sherrie's monthly payment was reduced to \$458.00 (effective September 3, 1998) to reflect a reduction of \$43.80 for Medicare medical insurance.

Sherrie submits her support needs alimony from Lynn during the 19 months from August 23, 1994 through March 25, 1996 of at least \$2,000 per month, or \$38,000. Sherrie

submits that her monthly support needs during the 41 months from March 25, 1996 through August 1999 have been \$3,223.58 or a total of \$132,166.78. Sherrie's total monetary support need from the date of her petition, therefore, totals \$170,166.78. From that figure, Lynn is entitled to a credit of \$30,200 for the temporary alimony he has paid during the pendency of this action. In addition, he may be entitled to a credit of Social Security Disability payments of \$17,398.00.

Sherrie submits Lynn owes back alimony, therefore, in an amount totaling \$122,568.00:

Total monetary support need from August 23, 1994	\$170,166.78
Less credit for temporary alimony paid	(\$30,200.00)
Less credit for SSA disability payments	<u>(\$17,398.00)</u>
<b>TOTAL PRINCIPAL AMOUNT OF ALIMONY OWED</b>	<b>\$122,568.00</b>

In addition, Sherrie is entitled to interest on the back alimony owed at the legal rate of 10% per annum, pursuant to UCA § 15-1-1.



## **VII.**

### **COSTS AND ATTORNEY'S FEES INCURRED ON APPEAL**

The Utah Court of Appeals has ordered that Sherrie be awarded her attorney's fees and costs incurred on appeal, in these words:

Because defendant has prevailed in large part on appeal, and the record demonstrates her financial need and plaintiff's ability to pay, we exercise our discretion and award defendant attorney's fees and costs on appeal. Accordingly, we also remand to the trial court to determine the amount of attorney fees reasonably incurred on appeal.

(P. 8 of Court of Appeals December 3, 1998 opinion herein). It is noteworthy that the Court of Appeals did **not** direct that Sherrie be awarded only that portion of her fees incurred in the issues on which she prevailed. Rather, the Court of Appeals ordered that Sherrie be awarded all of her reasonable attorney's fees and costs.

Attached as Exhibit E is an itemization of the fees and costs Sherrie incurred in prosecuting her appeal. Those fees and costs total **\$11,427.06**. The attached itemization was sent to Lynn's counsel shortly after the Court of Appeals decision was issued. Lynn and his counsel have had the benefit of scrutinizing such itemization for at least 8 months.

## **VIII.**

### **COSTS AND ATTORNEY'S FEES INCURRED BY SHERRIE THROUGH THE FIRST TRIAL**

Documentary and testimonial evidence was presented at the first trial that Sherrie's costs and attorney's fees to that point totaled \$16,984.56.

Sherrie's counsel presented to the court as Exhibit 8 an itemization of his time and of costs incurred. The court received it. Sherrie's counsel also made a proffer concerning his experience level, his hourly fee and the reasonableness of his fees. He was subjected to cross examination by Lynn's counsel. Both counsel's exhibit and his testimony were received into evidence.

Sherrie submits that the incurrence and reasonableness of her attorney's fees have been established and are beyond contest at this point. The fee itemizations have been in evidence for over 2 years. Whatever objection Lynn or his counsel had to the amount of Sherrie's fees through trial should have been made when Sherrie's counsel was cross examined during the first trial.

## **IX.**

### **COSTS AND ATTORNEY'S FEES INCURRED BY SHERRIE SINCE PUBLICATION OF THE COURT OF APPEALS' DECISION**

Evidence of attorney's fees and costs incurred by Sherrie since December 3, 1998 will be presented at trial.

DATED this 6 day of August, 1999.



Douglas G. Mortensen

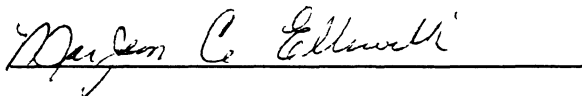
**Matheson, Mortensen, Olsen & Jeppson, P.C.**  
Attorneys for Respondent Sherrie D. Wilde

**CERTIFICATE OF SERVICE**

On the 6<sup>th</sup> day of August, 1999 I caused to be delivered via the following method a copy of the foregoing to the following:

Nicolaas DeJonge  
4212 Highland Drive  
Salt Lake City, Utah 84124

- ☒ Facsimile - 272-6046
- ☐ U.S. Mail
- ☐ Hand-Delivered
- ☐ Federal Express



Wilde\Pldg Trial Brief 0804

**ADDITIONAL FACTS DEEMED ADMITTED  
BY LYNN'S FAILURE TIMELY TO DENY THEM**

1. In 1996, J. Lynn Wilde also took an annuity or IRA distribution of \$3,129.88.<sup>1</sup>
2. In 1995, Lynn had interest income of \$1,506.00.<sup>2</sup>
3. The total income Lynn reported to the IRS for the year 1996 was \$116,893.00.<sup>3</sup>
4. The company Lynn works for also provides his automobile and pays automobile lease payments, automobile insurance, repairs, gasoline, etc.<sup>4</sup>
5. The business of Beneficial International, Inc. is: "wholesale health and beauty products and through its subsidiary operates as a franchiser of many health spas for total body care".<sup>5</sup>
6. Beneficial International, Inc. or one or more of its wholly owned subsidiaries or affiliated companies has a franchise in Danner's Grove, Illinois, a franchise in Holland, two franchises in Utah, two franchises in California, two franchises

---

<sup>1</sup> Claims a "rollover" rather than a distribution.

<sup>2</sup> Claims it was approximately \$1,300.00 rather than \$1,506.00.

<sup>3</sup> Claims he reported only \$107,695 in total income, rather than \$116,893.

<sup>4</sup> Claims the company pays for his car and car-related expenses only to the extent "the use and cost incurred is business related".

<sup>5</sup> Claims the company operates two health spas as franchises.



in Hawaii, 10 franchises in Singapore, 7 franchises in Indonesia, two franchises in Malasia, three franchises in Hong Kong, and two franchises in Japan.<sup>6</sup>

7. In 1996, Lynn owned the aforementioned condominium free and clear of any lien.<sup>7</sup>

8. Lynn presently owns such condominium free and clear of any lien.<sup>8</sup>

9. Lynn is the owner of a home and real property located at 1503 South 1100 East in Salt Lake City, Utah.<sup>9</sup>

Wilde\additional Facts 0805

---

<sup>6</sup> Lynn does not explain his denial of this fact; in an earlier deposition taken in this case, he admitted the company's ownership of these franchises.

<sup>7</sup> Claims he did not own the condominium in 1990. The request appears to contain a typographical error. The year in question was 1996.

<sup>8</sup> Claims the condo has a first mortgage of \$163,000 and a second mortgage of \$31,000.

<sup>9</sup> Claims that he and his son own the house together an that he is "helping him with it".

# **SHERRIE WILDE'S MONTHLY LIVING EXPENSES AS OF AUGUST, 1999**

First mortgage on home	\$652.67
Second mortgage on home	272.00
Home maintenance expense	50.00
Food and household utilities	400.00
Phone	30.00
Laundry and cleaning	20.00
Clothing	50.00
Dental	50.00
Incidental Expenses (including hair care, personal needs, emergency needs, gifts for children and grandchildren)	100.00
Car, insurance, gas, etc.	100.00
Entertainment	50.00
Installment payments on debts	485.00
Prescription medications	<u>963.91</u>
Total	<u>\$3,223.58</u>

ide\living.expenses.August



**MEDICATIONS SHERRIE IS CURRENTLY TAKING AS OF 8/2/99**

<u>MEDICATION</u>	<u>PHYSICIAN</u>	<u>COST/Month</u>
Sinemet	Foley	\$77.49
Carisoprodol/Soma	Knibbe	184.89
Selegiline HCL	Foley	38.99
Arava	Knibbe	249.49
Remcron	Knibbe	206.59
Premarin	Marchand/Curtis	21.99
Prednisone	Knibbe	13.29
Neurontin	Knibbe	51.09
Salagen	Knibbe	<u>121.09</u>
	<b>TOTAL</b>	<b><u>963.91</u></b>

