

2006

# Johnson v. Johnson : Brief of Appellee

Utah Court of Appeals

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## Recommended Citation

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**IN THE UTAH COURT OF APPEALS**

<b>CAMILLE CASTILLO JOHNSON,</b>  <b>Appellee,</b>  <b>vs.</b>  <b>TRAVIS PAUL JOHNSON,</b>  <b>Appellant.</b>	<b>Case No. 20061003-CA</b>
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**REPLY BRIEF OF THE APPELLEE**

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On appeal from the Third District Court  
For Salt Lake County, State of Utah  
Honorable Leslie A. Lewis, Presiding

**Samuel M. Barker (6073)**  
**Bradley J. Schofield (7986)**  
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**FILED**  
**UTAH APPELLATE COURTS**  
**MAY 18 2007**

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## **JURISDICTION**

The Utah Court of Appeals has original jurisdiction of this appeal pursuant to Utah Code § 78-2a-3(h) (1953 as amended) and Rule 3(a), Utah Rules of Appellate Procedure, as this is an appeal from an order entered in a domestic relations case

## **STATEMENT OF ISSUES AND STANDARD OF REVIEW**

**FIRST ISSUE:** Appellant/Respondent's (hereinafter Mr. Johnson) First Issue claims the trial court erred in finding that the real property located at 1892 East Deep Woods Drive, Draper, Utah 84020 was Appellee/Petitioner's (hereinafter Ms. Castillo) separate property and despite Mr. Johnson's asserted efforts and financial contribution did not become marital property. This First Issue is a mixture of law and fact.

**Standard of Review.** A "clearly erroneous" standard of review applies to a challenge of the adequacy of the trial court's Findings of Fact and Conclusions of Law. *Schaumberg v. Schaumberg*, 875 P.2d 598, 603 (Utah Ct. App. 1994; *Kelley v. Kelley*, 2000 UT App 236, ¶ 18, 9 P.3d 171, 177-178. A "clear abuse of discretion" standard of review applies to the trial court's equitable distribution of marital and personal property. *Elman v. Elman*, 2002 UT App 83, ¶ 17, 45 P.3d 176, 180; citing *Schaumberg*, 875 P.2d at 602.

**SECOND ISSUE:** Mr. Johnson's Second Issue claims the trial court ruled on insufficient evidence when it ordered Ms. Castillo to be reimbursed \$10,000.00 for her payment of Mr. Johnson's medical bills. This Second Issue is a mixture of law and fact. Mr. Johnson seeks a remand claiming the facts in the record are not clear. Mr. Johnson is



not entitled to a remand on purported “unclear facts” where he had the burden of presenting his case at trial and failed to do so.

**Standard of Review.** A “clearly erroneous” standard of review applies to a challenge of the adequacy of the trial court’s Findings of Fact and Conclusions of Law. *Schaumberg*, 875 P.2d at 603; *Kelley*, 9 P.3d at 177-178. A “clear abuse of discretion” standard of review applies to the trial court’s equitable distribution of marital and personal property. *Elman*, 45 P.3d at 180; citing *Schaumberg*, 875 P.2d at 602.

## **CONSTITUTIONAL PROVISIONS, STATUTES AND RULES**

The following Constitutional Provisions, Statutes and Rules are relevant to this appeal:

### **Statutes:**

Utah Code § 30-3-5(1) (1953 as amended)

When a decree of divorce is rendered, the court may include in it equitable orders relating to the children, property, debts or obligations, and parties. . .

### **Rules:**

Utah Rule of Appellate Procedure 24(a)(9)

A party challenging a fact finding must first marshal all record evidence that supports the challenged finding . . .

## **STATEMENT OF THE CASE**

This appeal seeks review of the finding of the trial court that the real property and all appreciation was Ms. Castillo’s separate property thus denying Mr. Johnson a share of

its appreciation during the marriage, asking as relief that the order of the trial court be reversed and that Mr. Johnson receive an equal distribution of the appreciation of the real property during the marriage. Mr. Johnson also challenges the trial court's order reimbursing Ms. Castillo \$10,000.00 in medical expenses she paid on Mr. Johnson's behalf claiming the facts in the record are unclear and that the appellate court should remand the case to the trial court.

### **COURSE OF PROCEEDINGS**

A Restraining Order was issued against Mr. Johnson permanently restraining him from coming to Ms. Castillo's residence. R. at 17-18<sup>1</sup>

A bifurcation Decree of Divorce granting a decree of divorce and reserving all other issues was entered on April 21, 2005. R. at 371-373

An Order Pursuant to Motion for Temporary Orders was entered on May 2, 2005 ordering, among other things, that both parties be restrained from the use of illicit drug of any kind and/or alcohol within eight (8) hours of being in the presence of the child; and that each party submit to random drug testing for a period of ninety days (90) from the beginning of testing for drug or alcohol, and including a hair follicle test. R. at 388-393

The trial of this matter commenced on May 3, 2006 at which time the trial court directed questioning to Mr. Johnson regarding his failure to complete the previously ordered drug testing. Tr. at 15: 21-25; 16: 1-16. The trial court asked Mr. Johnson if he

was currently using controlled substances and Mr. Johnson denied that he was. Tr. at 16: 17-19. Mr. Johnson was sworn under oath and the trial court again asked him if he had been using drugs. Mr. Johnson admitted that he had used an opiate two days prior to trial. Tr. at 16: 17-25; 17: 1-12 The trial court ordered the administration of a drug test on Mr. Johnson, Tr. at 17: 13-19, and the test of Mr. Johnson proved positive for two controlled substances. Tr. at 21: 7-20. The trial was continued to May 9, 2006.

The trial again convened on May 9, 2006 at which time Mr. Johnson's drug test proved negative. Tr. at 36: 6-9; 39: 14-15 At the request of Mr. Johnson's counsel Ms. Castillo was also administered a drug test which proved negative. Tr. at 44: 7-25; 45: 1-23; 52: 1-3

Final arguments and the Court's ruling took place on July 6, 2006. R. 631-635; 669; Transcript of Hearing. Rec. 465; 762; Tr. at 191-218

### **DISPOSITION AT TRIAL COURT**

The Amended Findings of Fact and Conclusions of Law and Amended Decree and Judgment Resolving All Issues and Permanent Mutual Protective Order R. 723-747 were entered September 25, 2006.

A Notice of Appeal was filed on October 11, 2006 R. 748-479 The case was selected for mediation, but was not resolved.

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<sup>1</sup> There will be two separate citations to the Record on Appeal in this Brief. The court record of pleadings and papers shall be referred to as "R. page number." The Transcript of Proceedings shall be referred to as "Tr. Page number."

## **RELEVANT FACTS WITH CITATION TO THE RECORD**

Ms. Castillo submits the following relevant facts as a supplement to those itemized in Mr. Johnson's Brief.

Ms. Castillo was severely burned at the age of four years while a passenger in a vehicle. Another passenger lit firecrackers and threw them around. The interior of the car ignited and Ms. Castillo suffered extensive burns. Another child who was also a passenger died as a result of his injuries. Tr. at 20: 9-25; 21: 1-5.

Counsel for Ms. Castillo proffered testimony of Ms. Castillo's mother, Linda Crandall, Tr. at 25: 2-25; 26; 27: 1-13 and Ms. Crandall testified about how the injuries occurred. Tr. at 28: 3-25; 29: 1-3 Ms. Crandall testified regarding the settlement proceeds received by Ms. Castillo for her injuries which included a trust for her medical and schooling in addition to an annuity which generated monthly payments. Tr. at 29: 4-23 Ms. Crandall testified that the balance remaining in the medical trust at the time of trial was about \$500,000 plus an additional sum of no less than \$200,000. Tr. at 30: 3-18. Ms. Crandall testified regarding the extent of Ms. Castillo's medical treatments after receiving her injuries, Tr. at 30: 19-25; 31: 1-4, estimating that Ms. Castillo had undergone at least 70 or 80 surgeries plus other small ones. Tr. at 31: 5-6. Ms. Crandall testified regarding the medical procedures which Ms. Castillo needed in the future as planned surgery and that her medical needs to deal with the scarring would go on for the rest of her life. Tr. at 31: 9-18 Ms. Crandall testified on cross examination that Ms. Castillo had not had surgery in about nine years. Tr. at 33: 1-16

Ms. Castillo testified that she was not currently able to obtain hospital, medical insurance and that she has significant, ongoing, lifelong medical expenses. Tr. at 151: 19-25 Ms. Castillo testified that she had more surgery planned but had postponed it until after the divorce trial was resolved because of the negative effects of stress on her ability to heal as well as the hindrance to have tissue expanders and go out in public. Tr. at 152: 1-15

During cross examination of Ms. Castillo the trial court inquired whether she was able to work. Ms. Castillo answered no and that she had only had one job and had been laid off. In answer to the trial court's questions Ms. Castillo stated that the reason for the loss of the job was because of her burns, that the job was in retail and some customers had made some remarks. Tr. at 160: 12-21

At the conclusion of Ms. Castillo's testimony the trial court asked her about her need for future surgery, the amount of associated pain, and that a number of different surgeries would be needed. Tr. at 168: 20-25; 169: 1-8

Mr. Johnson testified that he had not been employed since prior to his marriage to Ms. Castillo and that he had not been employed since the marriage. Tr. at 78: 5-25. He testified that he was going to start a job on the Monday after the trial. Tr. at 79: 1-2 Mr. Johnson's counsel proffered Mr. Johnson's testimony that he was in pain after being in the automobile crash in August, 2002, that Ms. Castillo had told him she didn't want him to go back to work, and that the parties agreed that he would be a stay-at-home dad. Tr. at 117: 15-25; 118; 119: 1-10. Mr. Johnson testified that Ms. Castillo didn't want him to

work and that she wanted him to take care of her and take care of the child when he was born. Tr. at 119: 11-21

In addition to the short quotation of the trial court at the argument and ruling referred to in Mr. Johnson's Brief, the court recited in detail the factors upon which its decision was based and the reasoning in which the court engaged in arriving at its conclusion in the Amended Findings of Fact R. 727-728, ¶¶ 11, 12] and Conclusions of Law R. 734-735, ¶¶ 30, 31 and Amended Decree and Judgment Resolving All Issues and Permanent Mutual Protective Order R. 723-747. Expressions of the court's reasoning are also found in the Trial Transcript Tr. at 200-209 and in the court's direct comments to each of the parties. Tr. at 216-217

### **SUMMARY OF ARGUMENT**

The challenged error is the trial court's finding that all mortgage principal and interest payments came from Ms. Castillo's separate funds. The finding at issue is not clearly erroneous when all of the facts and circumstances are considered. Any error in the finding was harmless as, based upon the uncontroverted facts, the Court's decision would have been the same.

There was no misapplication of the law by the trial court when it concluded that Mr. Johnson acquired no equitable interest in the subject real property. The trial court heard the testimony, considered the evidence and proffers, evaluated and determined that Mr. Johnson's claims that he contributed to the enhancement of the subject real property and rendered child care were insufficient to support any equitable award to him of any

portion of the appreciation of the subject real property which may have accrued during the two year marriage.

Mr. Johnson disputes the trial court's finding that the subject real property remained Ms. Castillo's separate property during the marriage, argues that there was commingling, contribution, or gifting to Mr. Johnson, but Mr. Johnson fails to marshal the evidence in support thereof.

The trial court did not misapply the law when it awarded all appreciation to Ms. Castillo. The general rule in Utah is that premarital property plus all appreciation should be awarded to the spouse who owned it prior to marriage. There are exceptions to the general rule which have justified a trial court's award of a spouse's separate property to the other spouse under appropriate circumstances. Mr. Johnson did not raise any claim at trial that he should be awarded some of Ms. Castillo's separate property in order that a fair, just and equitable result be obtained between the parties and should not be allowed to raise the claim for the first time on appeal.

Mr. Johnson asserts on appeal that he was entitled to an equal distribution of the appreciation of the real property because the appreciation during the marriage was marital property. On that presumption, Mr. Johnson then attempts to marshal the evidence of Ms. Castillo's physical disabilities and medical needs attempting to show that she was not entitled to more than an equal portion of the appreciation. Mr. Johnson's claim is unavailing if he fails to persuade this court that the trial court erred in denying him any equitable interest in the subject property and, alternatively, in the event the appreciation

of the subject real property were found a marital asset, the facts in the record sufficiently support the trial court's award.

Mr. Johnson is not entitled to a remand on the issue of the award of \$10,000.00 to Ms. Castillo as reimbursement for her payment of Mr. Johnson's medical expenses. Mr. Johnson had the burden of persuasion at trial regarding the disposition of his personal injury settlement proceeds and had access to all documentation and evidence pertaining to when his personal injury claim arose, when his surgery occurred, and when and how much was paid for the surgery. Mr. Johnson failed to present any documentary evidence to the court to establish the facts he now claims are unclear. Mr. Johnson should not be awarded a second bite at the apple to present evidence he could have produced at the trial of the matter.

### **ARGUMENT**

#### **I. THE TRIAL COURT DID NOT ERR IN CONCLUDING THAT THE APPRECIATION IN THE SUBJECT REAL PROPERTY WAS MS. CASTILLO'S SEPARATE PROPERTY**

The findings and conclusions of the trial court are generally upheld:

"A trial court has considerable discretion concerning property [division] in a divorce proceeding, thus its actions enjoy a presumption of validity. " *Schaumberg v. Schaumberg*, 875 P.2d 598, 602 (Utah Ct. App. 1994). We disturb a trial court's property division and valuation "only when there is 'a misunderstanding or misapplication of the law resulting in substantial and prejudicial error, the evidence clearly preponderates against the findings, or such a serious inequity has resulted as to manifest a clear abuse of discretion.'" *Id.* (quoting *Noble v. Noble*, 761 P.2d 1369, 1373 (Utah 1988)).

*Elman*, 45 P.3d at 180.



The trial court is in the prime position to judge the credibility of the witnesses.

In reviewing such a claim [challenge to court's findings of fact] we give due regard "to the opportunity of the trial court to judge the credibility of the witnesses," and we do not set aside a challenged finding except when we determine it to be clearly erroneous Utah R. Civ. P. 52(a)

*Schaumborg*, 875 P.2d at 603

The principal witnesses in the case at hand were the parties. The trial court had its first opportunity to hear testimony on May 3, 2006. The Respondent, Mr. Johnson, was the first witness called to the stand. The trial court inquired whether he was currently using controlled substances. Mr. Johnson denied that he was. Tr. at 15: 21-25; 16: 1-22. After Mr. Johnson was sworn under oath and under further questioning by the court he admitted using drugs two days before the trial. Tr. at 16: 20-25; 17: 1-19. The Court ordered Mr. Johnson to undergo a drug test which proved positive for cocaine and opiates. Tr. at 21: 7-20. The trial was continued until May 9, 2006 at which time Mr. Johnson was again tested for drugs and tested negative. Tr. at 36: 6-9; 39: 14-15. At the request of Mr. Johnson's counsel Ms. Castillo underwent drug testing which proved negative. Tr. at 44: 7-25; 45: 1-22; 52: 1-2.

Under questioning from the court Mr. Johnson testified that his drugs of choice were cocaine and meth but asserted that he had not taken any meth for almost two years. Tr. at 72: 21-25; 73: 1-10. He later testified that he also used Ecstasy and marijuana. Tr. at 128: 5-18 The court inquired whether Mr. Johnson was going to AA and suggested that he go to three meetings per week. Tr. at 1-22. On May 9, 2006 the trial judge asked

Mr. Johnson's counsel to proffer what Mr. Johnson had done between the first date of trial and the second date regarding attending AA meetings. The responsive proffer was that he had attended one meeting. Tr. at 120: 22-25; 121: 1-16. Mr. Johnson testified on redirect examination that he used the family credit card to pay for his drug use. Tr. at 125: 10-24. He then testified that he was allowed \$300 every two weeks as a set allowance and that he paid for drugs out of his allowance. Tr. at 237: 1-22. Mr. Johnson testified in answers to questioning from his counsel that Ms. Castillo had introduced him to drugs. The trial court stated that even though he was trying to put the blame on her he was the one who was using. Tr. at 130: 3-10. The court noted an inconsistency in his testimony at Tr. 130: 11-15.

Mr. Johnson did not know the address of where he had been living for five months. Tr. at 75: 23-25; 76: 1-25; 77: 1-10 He was able to recall the apartment number and that it had two bedrooms. Tr. at 82: 9-19 Mr. Johnson's mother was paying half of the \$690.00 per month rent but did not live in the apartment. Tr. at 83: 1-14

Mr. Johnson had not been employed since before his marriage to Ms. Castillo on October 4, 2002. Tr. 78 at 5-25; 86: 24-25; 87: 1-8; Rec. 1 He testified that he had recently obtained a job which was scheduled to begin the Monday after the trial. Tr. at 79: 1-4 In response to the court's inquiry as to why he didn't work, Mr. Johnson testified that he "wasn't allowed to work" Tr. at 103: 23-25; 104: 1-15 Mr. Johnson testified that he and Ms. Castillo had an agreement that he would be a stay-at-home dad until the child was in kindergarten. Tr. at 116: 1-11. Ms. Castillo denied any such agreement. Tr. at 154: 8-23 The court observed that Mr. Johnson hadn't seen the child since the separation

and that he still wasn't working and that it seemed to the court that he just didn't like to work. Tr. at 120: 8-23.

Since the separation of the parties on October 19, 2004, Rec. 1; Rec. 31, Mr. Johnson had been cited for "alcohol reckless" and his driving license was suspended for 90 days. Tr. at 86: 14-23 He also had been charged with DUI in a road rage altercation during which his arm had been broken, Tr. at 128: 19-25; that he had a history with drug use and alcohol, Tr. at 129: 4-6; and that he had spent 27 days in jail. Tr. at 129: 9-12.

Mr. Johnson testified that he believed he was entitled to an equal share of the real property because he married Ms. Castillo, Tr. at 99: 9-24; that he had provided the money to pay for the landscaping from his personal injury settlement proceeds, Tr. at 99: 25; 100: 1-2; 108: 10-25; 109: 1-25; 110: 1-25; 111: 1-15; that he had installed tile in the house, Tr. at 100: 3-25; 101: 1-25; 102: 1-7; and that \$3,000.00 of the personal injury settlement proceeds were supposed to go into the house for mortgage payments, Tr. at 106: 17-25

Mr. Johnson testified that he had been the primary care giver for the minor child of the parties. Tr. at 112: 5-8 Ms. Castillo denied this. Tr. at 150: 9-25 The court observed that both parties were at home taking care of the child, Tr. at 113: 23-25; and challenged Mr. Johnson's counsel's proffer from other witnesses that Mr. Johnson was doing it solely. Tr. at 114: 2-25. The subsequent testimony from Mr. Johnson's former brother-in-law showed limited observations of claimed child care. Tr. at 135-139: 1-13 The court observed that Mr. Johnson had not seen the child for 15 months, Tr. at 115: 5-15.

The trial court had ample opportunity to observe the credibility and truthfulness of Mr. Johnson as a primary witness in the case.

The trial court appropriately followed the instructions of the appellate courts in *Burt v. Burt*, 799 P.2d 1166, 1169 (Utah Ct. App. 1990) to first categorize the property as separate property or marital property. *Kelley*, 9 P.3d at 179.

**A. Mr. Johnson has Failed to Adequately Marshal the Evidence**

Mr. Johnson itemizes only those portions of the Record which support his desired conclusion and only those portions which deal with the narrow purported error in fact. He fails to satisfy the requirements expressed by the Court in *Moon v. Moon*, 1999 UT App 12 ¶ 24, 973 P.2d 431, 437 that he “present, in comprehensive and fastidious order, every scrap of competent evidence introduced at trial which supports the very findings the appellant resists”

For instance, Mr. Johnson did not include in his exercise of marshalling the evidence the following pertinent uncontroverted facts:

1. The closing on the purchase of the subject real estate by Ms. Castillo was on February 24, 2003. Addendum 1 [Exhibit #11]
2. The date of the separation of the parties was October 19, 2004. Addendum 2 [Rec. 1, Petition for Divorce; Rec. 31, Answer and CounterPetition]
3. A deposit of \$4,420.42 into Ms. Castillo’s separate account (#1827028) on September 20, 2004 from her annuity payor. Addendum 3 [Exhibit #16, p. 152]

4. A deposit of \$5,452.88 into Ms. Castillo's separate account on September 30, 2004 from her annuity payor; and payment of \$3,005.97 to GMACM for the real estate mortgage principal and interest on September 29, 2004. Addendum 3 [Exhibit #16, p. 155]

5. Withdrawal Transfers totaling \$4,000.00 were made to the joint bank account (#1939679) on September 3, 2004 [\$500.00] Addendum 3 [Exhibit #16, p. 149]; September 9, 2004 [\$2,600.00] Addendum 3 [Exhibit #16, p. 151]; September 10, 2004 [\$500.00] Addendum 3 [Exhibit #16, p. 151]; September 27, 2004 [\$200.00] Addendum 3 [Exhibit #16, p. 154]; and September 29, 2004 [\$200.00] Addendum 3 [Exhibit #16, p. 155].

6. Withdrawal Transfers totaling \$2,350.00 were made to joint bank account (#1939679) on October 12, 2004 [\$400.00] Addendum 4 [Exhibit #16, p. 157]; October 15, 2004 [\$200.00] Addendum 4 [Exhibit #16, p. 158]; two transfers on October 20, 2004 [\$250.00 and \$500.00] Addendum 4 [Exhibit #16, p. 158]; two transfers on October 21, 2004 [\$200.00 and \$300.00] Addendum 4 [Exhibit #16, p. 158]; October 26, 2004 [\$500.00] Addendum 4 [Exhibit #16, p. 159].

7. Draft #701 for \$11,237.50 from the separate account. Addendum 4 [Exhibit #16, p. 157]

8. Final Account Statement (#1939679) dated November, 2004. Addendum 5 [Exhibit #17, p. 186]

9. Wasatch Landscaping & Sprinklers bid proposal. Addendum 6 [Exhibit 15, p. 124]

10. Proffer by Respondent's counsel during testimony of Respondent [Tr. at 112: 15-25; Tr. at 113: 1-9]

Mr. SCHOFIELD: No, we're not dealing with custody issues, Your Honor, but the law clearly states that one of the determinations of splitting equity in any home is the contributions made by the family and it clearly states child care is one of the issues in the cases from the Court of Appeals. I believe it's *Dunn v. Dunn*.

THE COURT: You'd have to show me that. I don't believe for one minute that if one party chooses not to work and chooses to stay home, that that counts –

Mr. SCHOFIELD: Your Honor, it's in our trial brief. I believe it's *Dunn vs. Dunn* that says actually that when determining something as marital property, that financial situations shouldn't even be considered. What should be considered is love, companionship, child care and homemaking. It says it clearly in *Dunn vs. Dunn*. Our contention is that there was an agreement between the parties, not while she was pregnant but –

THE COURT: That's what he said.

Mr. SCHOFIELD: - - but raising the child. Can I ask him a question about that?

11. Further proffer by Respondent's counsel during testimony of Respondent [Tr. at 121: 21-25; Tr. at 122-123; Tr. at 124:1-17]

THE COURT: But I don't understand how that's relevant. You claim it means he has an equity position in the house.

Mr. SCHOFIELD: - - I think that the definition of marital property is property that's purchased during the marriage. I mean, we're not saying that we want to

take her down payment on it but this property was certainly, it was purchased during the marriage.

THE COURT: If it was purchased during the marriage but all payments come from her, the down payment and the title is in only her name, then I think there's a real question, a legal question.

Mr. SCHOFIELD: And we would defer to the case law that we've given you because we believe that it doesn't matter how that comes about. If it's marital property, it has to be split equitably and –

THE COURT: Never co-mingled the money that went into the house.

Mr. SCHOFIELD: We're not saying we want any – we believe that she should get her down payment back. Our only position, Your Honor, is we believe that he should have the equity in this house. We think he's entitled to that.

THE COURT: That would mean I'd treat it as a marital asset and I'm saying, I don't see how I can. Apart from his claim which is unsupported that he put tile in and his claim that money he contributed was used for landscaping which, of course, he'd be entitled to recover, I don't see that he's contributed anything to the house and if he had, his name would have been listed on the title.

Mr. SCHOFIELD: Again, Your Honor, and I can only defer and I wish I could look up the case right now but in Dunn vs. Dunn it talks about –

THE COURT: I'll read it again.

Mr. SCHOFIELD: And it talks about the financial contributions of the family shouldn't even be a factor because that takes away from love, companionship,

child care and household services. I mean "Facts which Courts may consider in considering distribution of marital property do not include consideration of which partner was more economically productive during the marriage. Such analysis ignores contributions of love, encouragement and companionship which allude [sic] monetary valuation and give - -

THE COURT: Dunn vs. Dunn involved a wife who didn't work, right?

Mr. SCHOFIELD: That's correct.

THE COURT: And it was sort of the reverse scenario and it involved a situation where the husband had been the worker bee. In this case no one was the worker bee, right?

Mr. SCHOFIELD: Yes, but I think it clearly states that the financial contributions - - if it's bought during the marriage - - the very definition of marital property our contention is, property that was purchased during the marriage.

THE COURT: That isn't sufficient. I know the law does not say that, that if it's bought during the marriage then automatically it's the marital asset. That isn't a law. It may be certainly one large factor to consider but not every instance in which property is acquired during the marriage, if it's especially acquired with funds that were generated before the marriage, becomes a marital asset.

Mr. SCHOFIELD: But I think that's common. I mean, if you have a businessman that has a wife that doesn't work, I mean, they make the payments and they are the only one on the title. Like I said we're not saying that he's entitled to her down payment but we certainly think that -



THE COURT: How do you think he's entitled to half the equity?

Mr. SCHOFIELD: Yes, we do. That's correct.

THE COURT: That's the question.

Mr. SCHOFIELD: Okay. Thank you Your Honor. I don't have any further questions for him.

The trial court considered many other facts in addition to the payment of the mortgage principal and interest from Ms. Castillo's separate funds. The single fact challenged on appeal is not a fatal flaw.

**B. The Challenged Finding is Not Clearly Erroneous Under All of the Facts and Circumstances**

Mr. Johnson claims that the trial court erred in a finding of fact found within paragraph 11 of the Amended Findings of Fact and Conclusions of Law. The court's finding pertained to the real property purchased by Ms. Castillo in Draper, Utah during the marriage of the parties.

The real property situated at 1892 East Deep Woods Drive, Draper, Utah, 84020 was purchased by Petitioner from her separate, pre-marital funds and assets. Title to said real property was taken by Petitioner individually. Respondent was never included or named as an owner on the title to said real property. Petitioner was the sole applicant of and obligor on the obligation which encumbers the real property. All payments of the mortgage principal and interest were made by Petitioner from her separate funds. All payments of the real property taxes and insurance were made by Petitioner from her separate funds.

R. at 727.

The only finding contained within paragraph 11 disputed by Mr. Johnson states: “All payments of the mortgage principal and interest were made by Petitioner from her separate funds.”

Mr. Johnson testified that \$3,000.00 of his total \$27,682.35 personal injury settlement payment was withheld and not deposited into Ms. Castillo’s separate account and that it was to go to the home, into the mortgage. Tr. at 106: 17-25. Mr. Johnson failed to produce any documentary evidence to support his claim that the \$3,000.00 was paid to the mortgage lender. Ms. Castillo testified that the funds were deposited into the separate account because Mr. Johnson “put it there”. Tr. at 155: 10-16; and denied that the \$3,000.00 was used to pay the mortgage on the house. Tr. at 153: 11-22

Mr. Johnson commingled his separate personal injury settlement proceeds with Ms. Castillo’s separate funds by depositing the \$24,682.35 in her separate bank account on September 11, 2004, approximately one month prior to the separation of the parties. Mr. Johnson’s thrust at trial focused upon tracing the use of his separate personal injury settlement proceeds into the landscaping for the subject real property.

Ms Castillo’s bank account activity shows consistent and adequate funding to cover all mortgage principal and interest payments. Her separate account showed a beginning balance on September 1, 2004 of \$6,644.47 and during the months of September and October, 2004, Addenda 3 and 4, Ms. Castillo received other deposits to her separate account from receipt of her annuity payments (\$9,873.30 each month) and a transfer in September, 2004 of \$5,500.00 from her savings account. In addition to paying all other household bills and expenses in September and October, 2004, Ms. Castillo

transferred \$4,000.00 during September and \$2,350.00 during October to the joint bank account she had with Mr. Johnson, issued checks for \$7,632.50 and \$11,237.50, amounts similar to those shown on the landscape bid proposal, Addendum 6, and made one \$3,005.97 payment to GMACM, the mortgage lender. The parties separated on October 19, 2004. Addendum 2

Mr. Johnson asserts that the alleged error, “[a]ll payments of the mortgage principal and interest were made by Petitioner from her separate funds.”, overrides all of the other undisputed facts in the case and mandates a reversal of the trial court’s finding that said real property was Ms. Castillo’s separate property, did not become marital property, and that Mr. Johnson’s efforts did not entitle him to an equitable interest so as to justify awarding him any portion of the appreciation in value of the real property during the period of the marriage.

In challenging the adequacy of the findings made by the trial court, Mr. Johnson must show that the trial court’s findings are clearly erroneous. *Elman*, 45 P.3d at 180; *Kelley*, 9 P.3d at 177. The facts are viewed in the light most favorable to the findings. *Id.*, at 178.

An analysis of the separate bank account activity, Addenda 3 and 4, during September and October, 2004, in the light most favorable to the findings, shows that Mr. Johnson’s personal injury settlement proceeds were applied towards payment of the amounts associated with the landscaping bid proposal, Addendum 6, and transferred into the joint bank account rather than applied towards the one and only mortgage principal and interest payment made in the relevant time period.

The trial court had only the conflicting testimony of Ms. Castillo and Mr. Johnson regarding the disposition of the \$3,000.00, and was in the best position to weigh the credibility of the witnesses and their testimony. Therefore the finding of the trial court that “All payments of the mortgage principal and interest were made by Petitioner from her separate funds.” cannot be construed as being clearly erroneous.

Mr. Johnson does not dispute any of the other facts found by the trial court in Paragraph 11 of the Amended Findings of Fact which are adequate in and of themselves, exclusive of the disputed fact, of supporting the finding and ruling of the trial court.

**C. Mr. Johnson has Failed to Demonstrate Any Substantial and Prejudicial Error and No Serious Inequity Has Resulted**

Even if it were to be concluded that the specific fact “[A]ll payments of the mortgage principal and interest were made by Petitioner from her separate funds” is erroneous, the trial court’s finding that the appreciation of the real property during the marriage did not become marital property is not against the clear weight of the evidence upon which the ruling is based nor does it result in a definite and firm conviction that a mistake has been made. *Schaumberg*, 875 P.2d at 602; *Marchant v. Marchant* 743 P.2d 199, 203 (Utah Ct. App. 1987) [trial court’s failure to make proper findings is harmless error only if facts clearly support only a finding in favor of the judgment]. An error such as challenged herein does not rise to the level contemplated by the Court of Appeals:

After constructing this magnificent array of supporting evidence, the challenger must ferret out a fatal flaw in the evidence. The gravity of this flaw must be sufficient to

convince the appellate court that the court's finding resting upon the evidence is clearly erroneous.

*Moon*, 973 P.2d at 437.

This specific finding of fact is harmless and Mr. Johnson has failed to demonstrate how the alleged error affected the outcome of the proceedings.

“Harmless error is defined . . . as an error that is sufficiently inconsequential that we conclude there is no reasonable likelihood that the error affected the outcome of the proceedings.” *Crookston v. Fire Ins. Exch.*, 817 P.2d 789, 796 (Utah 1991)(quotations and citations omitted). “Put in other words, an error is harmful only if the likelihood of a different outcome is sufficiently high as to undermine our confidence in the verdict.” *Id.* “On appeal, the appellant has the burden of demonstrating an error was prejudicial - - that there is a reasonable likelihood that the error affected the outcome of the proceedings.” *Steffensen v. Smith's Mgmt. Corp.*, 820 P.2d 482, 489 (Utah Ct. App. 1991)(quotations and citation omitted), *aff'd*. 862 P.2d 1342 (Utah 1993).

*Covey v. Covey*, 2003 UT App 380, ¶ 21, 80 P.3d 553, 558-559

Mr. Johnson's thrust at trial was that the subject real property should be considered to be a marital asset because it was purchased when he was married to Ms. Castillo, that he acquired an equitable interest in the real property through his investment of “sweat equity” into it in the form of overseeing the landscaping, overseeing the installation of a home theater, and installing tile. He further argued that he contributed child care, love, companionship, and homemaking. Finally, he argued that his monetary contribution of \$27,682.00 derived from his personal injury settlement that he attempted to trace into payments for the landscaping mandated a ruling from the trial court that the

subject property became marital in nature and that he was entitled to share in the appreciation of the asset during the marriage of the parties.

On appeal Mr. Johnson asserts that because of the trial court's error in expression the order and ruling of the trial court should be reversed. Mr. Johnson has failed to demonstrate, in view of all of the other uncontroverted evidence, how any substantial and prejudicial error has been made or that any serious injustice or inequity has resulted from the alleged technical error in expression. *Elman*, 45 P.3d at 180; *Covey*, 80 P.3d at 558-559.

**i. Mr. Johnson's Claimed "Sweat Equity" Was Not Supported by the Evidence.**

Mr. Johnson presented no testimony or documentary evidence to establish that his one time financial contribution one month prior to the separation of the parties adequately enhanced the value of the premarital asset of Ms. Castillo thus constituting an exception to the general rule that premarital property plus all of its appreciation would be returned to the party who owned it. He failed to present any credible evidence to support his claim that he enhanced the value of the subject real property through his "sweat equity" in the form of overseeing the landscaping and was thus entitled to an equitable interest in the appreciation of the subject real property. He called no witness from the landscaping company or elsewhere to corroborate his claimed efforts. Mr. Johnson presented no testimony or evidence to show that his claimed efforts in any way enhanced or contributed to the value of the subject property. *See, Munns v. Munns*, 790 P.2d 116,118 (Utah Ct. App. 1990)

Mr. Johnson presented no documentary evidence to support his claims that he performed “sweat equity” on the subject property that enhanced its value by overseeing the installation of the home theater. Mr. Johnson did not testify, offer evidence, or present other witness testimony to corroborate his claim that his efforts in any way enhanced or contributed to the value of the subject property. *See Id.*

Mr. Johnson testified that he installed slate tile, Tr. at 100: 3-23, and his sister testified that she was with Mr. Johnson when he did tile work in the house. Tr. at 174: 20-25; 175: 1-3. Tr. at 100: 23-24; 101: 1-25; 102: 1-4 Ms. Castillo testified that she paid for the slate tile from her separate account and paid a third party from her separate account to install the slate tile. Tr. at 144: 20-25; 145: 1-8; 166: 10-11 Mr. Johnson gave no testimony and offered no evidence, or other witness testimony that his efforts in any way enhanced or contributed to the value of the subject property. *See Id.*

**ii. Mr. Johnson’s Claim That \$3,000.00 Went to Mortgage Payments is Not Supported by the Evidence**

Mr. Johnson testified that \$3,000.00 was withheld from the amount deposited into Ms. Castillo’s separate bank account on September 11, 2004 and was used to pay the mortgage. Tr. at 106:17-25 Ms. Castillo denied this. Tr. at 153: 11-19 Mr. Johnson did not present any documentary evidence to support his claims regarding the use of the \$3,000.00. The trial court had the opportunity to judge the credibility of the witnesses. *Schaumberg*, 875 P.2d at 603; *Marchant*, 743 P.2d at 202.

**iii. Mr. Johnson's Claim That His Personal Injury Settlement Funds Went to Mortgage Principal and Interest Payments is Not Supported by the Evidence**

Mr. Johnson presented no documents or other evidence pertaining to the nature or the dates of his personal injury litigation, the settlement agreement, or the use of his personal injury settlement proceeds, relying only on the bank records which Petitioner offered as Exhibits #16 and #17. He claimed at trial that his personal injury settlement proceeds could be directly traced into the payments for the landscaping for the subject real property. The documentary evidence shows that two checks, Addenda 3 and 4, were written from Ms. Castillo's separate bank account in amounts which are similar to amounts shown on the landscaping bid proposal. Addendum 6

For or the first time on appeal Mr. Johnson claims that \$24,632.35 of his personal injury settlement proceeds should be construed as having been applied to the mortgage principal and interest payments on the subject real property for the sole reason that the funds were deposited into the account from which Petitioner made mortgage payments. The single deposit of Mr. Johnson's personal injury settlement funds into the separate account of Ms. Castillo on September 11, 2004 is not disputed. This deposit represented the only financial contribution from Mr. Johnson to the marriage during its stormy two year existence and occurred approximately one month before the separation of the parties.

The activity within Ms. Castillo's separate account is uncontroverted that on September 15, 2004 a check for \$7,632.50 appears, an amount which is approximately



the same as a payment acknowledged on the landscaping bid proposal. Addendum 6 On September 20, 2004 a deposit of \$4,420.42 from Ms. Castillo's life time annuity was posted. On September 30, 2004 another life time annuity deposit of \$5,452.88 is reflected. On October 8, 2004 an additional check of \$11,237.50, an amount which is approximately the same as an amount acknowledged on the landscaping bid proposal, appears on the bank records of the separate account. This check plus the September 15, 2004 check for \$7,632.50 total \$18,870.50. Ms. Castillo also transferred \$4,000.00 during September and \$2,350.00 during October to the joint bank account she had with Mr. Johnson, bringing the total to \$25,220.50. Viewing the evidence in the light most favorable to the finding it is most likely that the dollars used to pay the mortgage principal and interest to GMACM of \$3,055.97 on September 29, 2004 came from Ms. Castillo's life time annuity deposits, and thus Ms. Castillo's separate funds were used to pay the mortgage principal and interest. Considering all of the facts and circumstances regarding the activity of Ms. Castillo's bank account at that point in time and viewing the evidence in the light most favorable to the finding, the finding of the trial court that "[A]ll payments of the mortgage principal and interest were made by Petitioner from her separate funds" cannot be said to be clearly erroneous.

**iv. Mr. Johnson Has Failed to Meet His Burden to Show That the Court's Ruling Would Have Been Different Absent the Disputed Finding**

The uncontroverted facts and evidence, the testimony of the witnesses cited above, the various dialogue between the court and respective counsel during the trial, the direct

questioning of the parties by the court, and the ruling of the court clearly show that the outcome of the trial would not have been different:

THE COURT: My understanding of the law is that if the property is kept separate, if there is no commingling of funds, etc., then it can remain her asset just as her settlement money is her asset and has nothing to do with him. Tr. at 200: 13-16

THE COURT: And as you say, if it was in the bank, clearly it would be hers and I don't see any distinction in her putting it in a home. He had the benefit of living in the home, he made no house payments, he didn't work, he didn't pay the down payment or anything toward it and now he's seeking to get part of the money from the home. The only thing I'm interested in is if he can document in any way the tile work that he talked about and any other contribution. Tr. at 200: 24-25; 201: 1-6

THE COURT: There are no receipts for tile purchase, no testimony was given as to the exact number of hours worked or as to an agreement that he was to be paid for that work. Tr. at 208: 9-12

THE COURT: I don't know that the money went for that and there's no document that shows that. There's no check, for

example, drawn on her account or any account for tile. Tr. at 208: 17-20

THE COURT: . . . [A]s I look at my notes from what testimony was educed [sic], the landscaping, I would be inclined to pay him back for that. It appears that the \$24,000 or whatever that was put into her account was used in part for landscaping. \$10,000 of it was used for medical bills. I'm inclined to give him credit for \$24,000 less \$10,000 and that's all I'm inclined to give him credit for. I'll assume that the rest of it went to tile, and that's giving him the benefit of the doubt because there's no proof of that and the house goes to her. I find that it's been kept as a separate asset, his name is not on the title, it never was. He's never paid taxes, he couldn't qualify for the mortgage and she said, her testimony was that she paid \$3,000 for tile but I'm going to give him the benefit of the doubt and give him back what he put in, the \$24,000 into her account, less the \$10,000 that went for medical bills. Tr. at 209: 5-21

THE COURT: . . . All right. That winds everything up and I wish the parties the best of luck.

Frankly sir, I think that while you may not have gotten what you think you were entitled to, I think you've come out of this ahead of where you were to begin with. You had a place to live for a period of years rent free. You did not work. At best you laid some tile and I don't understand to this day why you did not work. I understand there was a child but I raised a child and worked at the same time. I did both without the assistance of anyone else and I don't understand why you couldn't work or why you were unable to get, or hold or to keep a job or look for a job and consequently, I cannot find you've made any contribution to the house other than the one lump sum that was from your personal injury settlement and \$10,000 of that went to medical fees. So I think you've come out of this in a good position. Tr. at 216: 20-24; 217: 1- 11

THE COURT: And ma'am, I think you're entitled to the equity for a variety of reasons. I think you kept the asset separate and as I said before, the title was never in joint tenancy. I think the testimony, as I recall, that you're going to need future surgery and that that money needs to be kept, your assets need to be retained to the extent legally possible so that you have the money for those medical bills in the

future and I've taken all of this into consideration in determining attorney's fees and the fact that each side will be paying their own and I've taken into account the history of the house in determining that it's an asset to be awarded to the Petitioner subject to one small payment to the Respondent. Tr. at 216-217

Mr. Johnson has failed to demonstrate that the outcome at trial would have been different had the trial court omitted its finding that "[a]ll payments of the mortgage principal and interest were made by Petitioner from her separate funds" or restated its finding to acknowledge the facts and circumstances surrounding the sole deposit of Mr. Johnson's personal injury settlement funds into the separate account of Ms. Castillo. He has failed to demonstrate how this claimed error is substantial or prejudicial, or that any serious injustice or inequity has resulted.

**D. The Trial Court Did Not Misapply the Law in its Findings and Conclusions That the Subject Real Property was Ms. Castillo's Separate Property And That Mr. Johnson Did Not Acquire Any Equitable Interest in the Subject Real Property**

The general rule in Utah is that the trial court should award property acquired by one spouse by gift and/or inheritance during the marriage (or property acquired in exchange thereof) to that spouse, together with any appreciation or enhancement of its value, unless (1) the other spouse has by his or her efforts or expense contributed to the enhancement, maintenance, or protection of that property, thereby acquiring an equitable

interest in it, or (2) the property has been consumed or its identity lost through commingling or exchanges or where the acquiring spouse has made a gift of an interest therein to the other spouse. *Mortensen v. Mortensen*, 760 P.2d 304, 308 (Utah 1988).

The trial court heard all of the testimony of Mr. Johnson pertaining to his claims that he supervised the landscaping and home theater installation, installed slate tile, that approximately one month prior to the separation of the parties he made a financial contribution to the enhancement of the subject real property, and that he performed child care. The trial court was in the best position to assess the credibility of the witnesses and their testimony. *Schaumberg*, 875 P.2d at 603; *Marchant*, 743 P.2d at 202.

The ruling of the trial court is well within the parameters of the standards set by the appellate courts of the State of Utah. The *Mortensen* decision of the Utah Supreme Court which states the general rule in Utah contains an extensive analysis of the case law both in Utah and in other jurisdictions pertaining to equitable property division in divorce cases and in particular considered claims of augmentation and/or improvement of property which are similar in nature to the claim made by Mr. Johnson on appeal, stating, “[s]ignificantly, no case has been found where this Court has reversed a trial court’s disposition of gifts or inherited property received by one party during the marriage.” *Mortensen*, 760 P.2d at 307. Since *Mortensen* was decided in 1988 several additional scenarios have been reviewed by the appellate court.

*Dunn v. Dunn*, 802 P.2d 1314 (Utah Ct. App. 1990) concerned dissolution of an 11 year marriage between parties with no children. In *Dunn* the husband had established a professional corporation during the marriage, had invented a medical device which he

sold on contract with resulting royalty rights, and had retirement benefits which had accrued both prior to and during the marriage. The trial court categorized the property as separate or marital, but allocated a larger percentage of the marital property to the husband on the basis that the husband had contributed more to the marriage than had the wife. The appellate court remanded the case holding that the trial court had abused its discretion in its equitable distribution of marital property based solely on the parties' comparative economic contributions to the marriage. The appellate court remanded instructing the trial court to follow the systematic approach set forth in *Burt*, 799 P.2d at 1171.

*Dunn* is distinguishable from the case at hand on a number of grounds, but mainly because the issue in the instant case is the propriety of the trial court's determination that the subject real property was the separate property of Ms. Castillo and did not become marital property to which the general rule of an equal distribution between the parties would apply.

The *Dunn* Court reversed the trial court's determination that credits for certain premarital assets should be granted. *Dunn*, 802 P.2d at 1321 The appellate court criticized a credit of \$26,000 which had arisen out of a sale of a premarital airplane with the use of a portion of the sales proceeds as a down payment on another airplane, then payment of the ongoing installments from marital funds. The appellate court reversed on the grounds that such activity resulted in a commingling of the asset into a marital asset. Similarly, the appellate court reversed a \$22,493 credit against equity in the marital home where the sales proceeds from the premarital condominium had been commingled into

the marital estate; and reversed a \$8,700 credit for the value of a premarital vehicle as during the marriage the vehicle had been sold and the proceeds deposited into the joint bank account.

In the instant case no corporations, patents of inventions, or royalty contracts or any other type of asset was created by either party during the marriage. No credits are claimed here for any premarital assets which were sold with proceeds deposited into a joint account or used as a down payment on an asset with installment payments coming from marital funds. Here the only commingling of separate property occurred when Mr. Johnson deposited the \$24,682.00 proceeds from his separate property personal injury settlement into Ms. Castillo's separate bank account, coincidentally the account from which Ms. Castillo paid the mortgage principal and interest payments. The trial court tacitly acknowledged this as Mr. Johnson's separate property, capable of being traced, and ordered \$14,000.00 of said sum to be returned to Mr. Johnson.

Other than pointing to the absence of a prenuptial agreement as evidence of intent to contribute or commingle premarital property, no testimony or evidence was presented that Ms. Castillo intended to commingle any of her premarital assets with marital assets. To the contrary, Ms. Castillo testified at trial that she always intended that her personal property and bank accounts would remain her separate property, Tr. at 150: 1-8; and that she had no intention to contribute or gift any portion of the subject real property to Mr. Johnson. Tr. at 155: 25; 156: 1-5

In 2002 the Court of Appeals reviewed the trial court's allocation between the parties as a marital asset the appreciation of a premarital asset which had accrued during



the marriage. *Elman*, 45 P.3d at 180-182. The *Elman* claim is similar to Mr. Johnson's claim for a share of appreciation of a premarital asset during the marriage, but the facts in *Elman* are distinguishable from the facts in the instant case.

Here it is uncontroverted that Ms. Castillo used her separate pre-marital funds to make the down payment on the subject real property, then made ongoing mortgage payments as well as real property taxes and insurance from her separate checking account into which her ongoing life annuity payments and earnings from a pre-marital investment account were deposited. Mr. Johnson is claiming an equitable share of the appreciation of the subject real property which occurred during the marriage of the parties based upon the alleged but undocumented use of \$3,000.00 of his personal injury settlement proceeds towards the mortgage, and the sole deposit, approximately one month prior to the separation of the parties, of his personal injury settlement proceeds into the bank account from which Ms. Castillo paid the mortgage. He also claims that he enhanced the subject real property through his efforts of supervising the landscaping and installation of a home theater and his installation of slate tile.

In *Elman* the trial court categorized the property as separate or marital and found that the husband's valuable pre-marital partnership interests remained his separate property, that he had not commingled the partnership assets, and that the wife had not directly enhanced their value during the marriage. However the trial court did find that the wife had actively and uniquely managed and enhanced other marital property thereby enlarging the value of marital property as well as allowing husband to engage in activities which solely benefited his premarital property. The trial court found that as a result of

the wife's efforts in enhancing the marital estate and enabling the husband to concentrate on his premarital partnerships, the wife became equitably entitled to a small share of the appreciation on the husband's premarital assets.

The appellate court in *Elman* affirmed the trial court and in doing so restated the general rule in Utah that after the trial court first categorizes the parties' property as marital or separate, then the trial court should generally award the property and the appreciation thereon to the spouse who brought the property into the marriage. *Id.* at 180, [citations omitted]. The affirmation of the trial court's decision in *Elman* is held to be consistent with and a proper application of the law set forth in the *Dunn*, 802 P.2d at 1323, [a right to an equal share of marital property to a wife as a partner in the business of the marriage]; *Schaumberg*, 875 P.2d at 603, [marital funds used to augment spouse's separate property]; *Savage v. Savage*, 658 P.2d 1201, 1204 (Utah 1983), [assumption of domestic burdens made husband's full-time participation in pre-marital corporation possible]; *Lee v. Lee*, 744 P.2d 1378, 1380 (Utah Ct. App. 1987), [wife assisted in operation of corporation purchased with husband's pre-marital assets, plus performed domestic duties and reared children]. The ruling in *Burke v. Burke*, 733 P.2d 133, 135 (Utah 1987) was distinguished, [no share of appreciation of a premarital asset is justified where appreciation was derived solely from inflation, and no evidence existed of the other spouse's contribution toward growth, or that the assets were accumulated or enhanced by the joint efforts of the parties].

In the instant case neither Ms. Castillo nor Mr. Johnson worked during the marriage. Ms. Castillo did not work because of serious and severe burns she suffered as a

child, Tr. at 160: 10-21, for which she had been awarded a medical and educational trust fund and was receiving monthly payments from life time annuities. Mr. Johnson did not work during the marriage and as of the trial on May 9, 2006 had not worked since the parties' separation on October 19, 2004. Tr. at 78: 5-25; 86: 24-25; 87: 108; Rec. 1 Mr. Johnson testified that he had recently obtained employment which was scheduled to begin the Monday after the trial of this matter. Tr. at 78: 5-25; 79: 1-20 Mr. Johnson had been injured in a rear-end crash in August, 2002, Tr. at 80: 21-23; 96: 17-25; 152: 16-25 and subsequently had surgery to repair a vertebrae, Tr. at 153: 1-10, but presented no testimony or evidence claiming that he had ever been unable to work for any reason. The sole source of income to the household during the two year marriage were the life time annuities payments and investment account earnings of Ms. Castillo, all of which were her pre-marital property.

The testimony and evidence presented at trial did not establish that Mr. Johnson performed domestic duties and/or child care so as to free Ms. Castillo to work or perform services to enhance the value of her pre-marital properties. *Cf. Savage*, 658 P.2d at 1204; *Elman*, 45 P.3d at 180. Testimony and evidence was consistent that both parties were at home with the child or that the child and Ms. Castillo were in Alaska with her family. Ms. Castillo testified that she took one trip for a period of one week and left the child at the marital residence with Mr. Johnson.

The sole instance of a deposit of Mr. Johnson's personal injury settlement funds into the separate account of Ms. Castillo on September 11, 2004, the issuance of a check for \$7,632.50 dated September 15, 2004 and a check for \$11,237.50 dated October 8,

2004 from that account, amounts which somewhat correspond with the amounts handwritten on a landscape company bid proposal, and one payment of \$3,005.97 for the mortgage principal and interest on September 29, 2004 do not rise to any appreciable level to establish Mr. Johnson's financial contribution towards growth, or the augmentation or enhancement of Ms. Castillo's pre-marital asset. The separate account of Ms. Castillo continued to receive separate annuity funds sufficient to pay for tile, landscaping, and all of the other household expenses. There was no testimony or evidence presented to establish any reason why any appreciation of the subject real property occurred during the marriage. *Cf., Burke*, 733 P.2d at 135.

The trial court's finding that Mr. Johnson's efforts were insufficient to entitle him to an equitable share in the appreciation of the premarital asset during the marriage is supported by the weight of the evidence and well within the discretion of the trial court in distributing property in this divorce proceeding.

**E. Mr. Johnson has Failed to Marshal the Evidence to Support His Claim That Ms. Castillo's Premarital Assets Were Contributed to the Marriage**

Mr. Johnson argues that the trial court's ruling failed to properly consider that Ms. Castillo contributed the subject real property to the marriage. This argument is a challenge to a finding of fact made by the trial court as to which Mr. Johnson has failed to marshal any evidence.

Mr. Johnson argues on appeal that the trial court failed to properly consider that Ms. Castillo had contributed the subject real property to the marriage for the reasons that

she purchased the property after her marriage to Mr. Johnson and after the birth of their child, and that the three of them lived together in the property. Mr. Johnson further argues that the absence of a prenuptial agreement between the parties coupled with Ms. Castillo's knowledge that Mr. Johnson was without assets, evidences Ms. Castillo's intent to contribute the property to the marriage.

Having failed to marshal the evidence on this challenge to the finding of the trial court that Ms. Castillo had kept the subject real property separate, Mr. Johnson's arguments regarding any alleged contribution should be disregarded.

**F. The Trial Court did not Misapply the Law in Determining That Ms. Castillo Maintained her Property as Separate Property**

Mr. Johnson claims that because Ms. Castillo knew that he had no assets coming into the marriage she had an affirmative duty to insist upon a prenuptial agreement. Mr. Johnson asserts that because no prenuptial agreement was entered into by the parties it evidences Ms. Castillo's intent to commingle or contribute her premarital property to the marriage.

This argument is contrary to Utah law.

Generally, the rule for premarital property is that each party retain the separate property he or she brought into the marriage.

*Dunn*, 802 P.2d at 1321.

Premarital property loses its separate identity and becomes a part of the marital estate if (1) the other spouse has by his or her efforts or expense contributed to the enhancement, maintenance, or protection of that property thereby acquiring an equitable interest in it, or (1) the property has been

consumed or its identity lost through commingling or exchanges or where the acquiring spouse has made a gift of an interest therein to the other spouse.

*Mortensen*, 760 P.2d at 308.

There is no statutory or case law in Utah to support the proposition that the absence of a prenuptial agreement constitutes a waiver of separate property or a default making a gift to the marriage. The Utah Supreme Court has affirmed a trial court's order finding there was no intention to make a gift to a spouse even when a joint tenancy in real property had been conveyed. *Jespersion v. Jespersen*, 610 P.2d 326, 328 (Utah 1980).

In the instant case there was no creation of a joint tenancy in the subject real property and Mr. Johnson was not added to any of the bank or investment accounts titled to Ms. Castillo. A joint bank account was opened by the parties, funded by Ms. Castillo from her separate bank account, and closed after the separation of the parties. Addendum 5 [Exhibit #17, p. 186].

Ms. Castillo gave the following testimony at trial:

Mr. RICHMAN: Q. Do you understand what prenuptial agreements are:

A. Yes.

Q. Did you feel that the personal property or the bank accounts you had and the money you had was yours?

A. Yes.

Q. And was to stay yours?

A. Yes.

Q. Did you ever entertain any other thought by marrying Mr. Johnson?

A. No.

Tr. at 149: 13-15; Tr. at 150: 1-8

And later testified

Q. (BY Mr. RICHMAN) Did you ever express any agreement with Travis to give the house to him or any portion of it?

A. No.

Q. Or your bank account or any portion of it?

A. No.

Tr. at 155: 25; Tr. at 156: 1-5.

The trial court is viewed as being in the best position to gauge and assess the credibility of the witnesses.

In reviewing such a claim [challenge to court's findings of fact] we give due regard "to the opportunity of the trial court to judge the credibility of the witnesses," and we do not set aside a challenged finding except when we determine it to be clearly erroneous Utah R. Civ. P. 52(a)

*Schaumborg*, 875 P.2d at 603.

Having heard the testimony of both Ms. Castillo and Mr. Johnson and having received the documentary evidence, the trial court appropriately applied the law as established by the appellate courts and ruled that Ms. Castillo had maintained her premarital property as separate property and had not commingled, gifted, or contributed any of her separate property to the marriage.

The clear and uncontroverted evidence, exclusive of the claimed error in expression, capable of supporting only a finding in favor of the judgment, supports the

trial court's finding that the subject real property was Ms. Castillo's separate property, did not become marital property, and that Mr. Johnson did not acquire an equitable interest in the subject property through contributing to the enhancement, maintenance, or protection of that property, and its rulings should be affirmed. There is a reasonable basis to support the trial court's findings, and the trial court's findings should be affirmed. *Schaumberg*, 875 P.2d at 603; *Haumont v. Haumont*, 793 P.2d 421, 425 (Utah Ct. App. 1990)

**G. The Trial Court Did Not Misapply the Law in Awarding All Appreciation to Ms. Castillo**

Mr. Johnson challenges the ruling of the trial court awarding the subject real property and all of its appreciation to Ms. Castillo as her separate property, subject to reimbursement of \$14,000.00 to Mr. Johnson. Mr. Johnson attempts to recharacterize the trial court's ruling into one of an inequitable distribution of marital property. He then leaps to an assertion that the trial court did not make adequate findings of fact to justify an unequal distribution of purported marital property and attempts to marshal the evidence to establish that inadequate facts are in the record upon which the trial court could properly base an unequal distribution of marital property.

The law in Utah provides

In distributing property in divorce proceedings, trial courts are first required to properly categorize the parties' property as marital or separate. *See, e.g., Kelley v. Kelley*, 2000 UT App 236 ,¶ 24, 9 P.3d 171. Generally trial courts are also required to award premarital property, and appreciation on that property, to the spouse who brought the property into the marriage. *See Dunn v. Dunn*, 802 P.2d 1314, 1320 (Utah Ct.



App. 1990); *see also Mortensen v. Mortensen*, 760 P.2d 304, 308 (Utah 1988).

However, separate property is not “totally beyond [a] court’s reach in an equitable property division.” *Burt v. Burt*, 799 P.2d 1166, 1169 (Utah Ct. App. 1990). The court may award the separate property of one spouse to the other spouse in “extraordinary situations where equity so demands.” *Id.* (quoting *Mortensen*, 760 P.2d at 308); *see also Rappleye v. Rappleye*, 855 P.2d 160, 263 (Utah Ct. App. 1993) (“Exceptions to this general rule include whether . . . the distribution achieves a fair, just, and equitable result.” quoting *Dunn*, 802 P.2d at 1320)).

*Elman*, 45 P.3d at 180.

Mr. Johnson presented no testimony or evidence at trial to support any claim to Ms. Castillo’s pre-marital and separate property based upon his special needs. Ms. Castillo did not have the burden of persuading the court that she had a special need to retain her separate property where the court did not award any of it to Mr. Johnson. No remand is appropriate on the issue of the needs of Mr. Johnson as none were presented at trial.

Alternatively, if the court determines that the trial court erred in its ruling and finds that Mr. Johnson acquired an equitable interest in the appreciation of the subject real property, the ruling of the trial court should still be upheld.

#### **i. Additional Facts Supporting the Ruling**

In Mr. Johnson’s putative attempt to marshal the evidence he cites select portions of the testimony of Linda Crandall, Ms. Castillo’s mother; and Ms. Castillo’s testimony, and only those portions which support his claim.

Attached as Addendum 7 are the pages of the trial transcript containing all of Ms. Crandall's testimony [Tr. at 28-34]; all of Ms. Castillo's testimony pertaining to her injuries and her medical needs [Tr. 151, 152, 158-160, 167]; and the trial transcript pages containing questions asked by the trial court and comments regarding findings pertaining to Ms. Castillo's injuries and her medical needs [Tr. 20-22; 168-169]

**ii. The Trial Court's Findings are Detailed and Supported by the Record and Itemize Exceptional Circumstances Sufficiently to Justify its Allocation of Property**

The court appropriately observed and considered the relative needs of the parties and acted within the parameters of Utah law when it awarded the appreciation of the premarital asset to Ms. Castillo. Here, as in *Thomas v. Thomas*, 1999 UT 239, 987 P.2d 603, even if the appreciation of the subject real property were determined to be marital, the trial court's findings sufficiently support its allocation of the appreciation of the subject real property to Ms. Castillo as an equitable distribution of property by considering both parties' circumstances at the time of the divorce. *Id.* at 610.

Mr. Johnson's testimony was inconsistent, especially concerning his drug and alcohol addiction and his work history. He did not present any documentary evidence to support his claims of enhancements to the subject real property. He had not held a job since before his marriage to Ms. Castillo and came to court high on drugs and reeking of alcohol. He was willing to live off of Ms. Castillo's life time annuities.

Ms. Castillo's testimony was consistent and she was prepared with documentary evidence to substantiate her testimony and claims. Ms. Castillo's separate property was

acquired as a result of serious burn injuries she received as a child and consisted of annuities and a structured trust fund for her lifetime medical and educational needs. The down payment for purchase of the subject real property came from the structured trust funds. The structured trust fund had been used to pay for extensive medical expenses in the past and had an approximate balance of \$700,000.00 as of the time of trial. Ms. Castillo's uncontroverted testimony was that she needed additional surgeries to deal with her chronic medical needs arising out of her burns and had postponed needed surgeries because of the stress and uncertainty of the pending divorce.

The trial court explained how it arrived at its conclusion, or at least from the record, sufficient record is presented on appeal to allow the appellate court to make the determination, there is a reasonable basis to support the trial court's findings, *Haumont*, 793 P.2d at 425, and the trial court's findings should be affirmed. The trial court was in the best position to judge the credibility of the witnesses and their testimony and a challenged finding should not be set aside except when determined to be clearly erroneous. *Schaumberg*, 875 P.2d at 603.

## **II. THE TRIAL COURT DID NOT ERR WHEN IT REIMBURSED MS. CASTILLO \$10,000.00 PAID FOR MR. JOHNSON'S MEDICAL BILLS**

The rule in Utah is that personal injury settlement proceeds are generally the separate property of a spouse.

Because of the personal nature of special damages, amounts received as compensation for pain, suffering, disfigurement, disability, or other personal debilitation are generally found to

be the personal property of the injured spouse in divorce actions.

*See Izatt v. Izatt*, 627 P.2d 49, 51 (Utah 1981)

Money realized as compensation for lost wages and medical expenses, which diminish the marital estate, are considered to be marital property. *Naranjo v. Naranjo*, 751 P.2d 1144, 1148 (Utah Ct. App. 1988)

**A. Mr. Johnson is Not Entitled to a Remand to Resolve Unclear Facts**

Mr. Johnson claims that remand is necessary because of the record contains “inadequate facts” regarding when the surgery occurred and the bill paid for.

Mr. Johnson and Ms. Castillo each testified regarding the crash which caused Mr. Johnson’s injuries and his subsequent surgery and receipt of settlement sums for his damages. The testimony was consistent that the crash occurred in August, 2002, prior to the marriage of the parties on October 4, 2002. Tr. at 80: 21-23; 96: 17-24; 97: 1-23; 153: 4-6 The testimony was consistent that Mr. Johnson had surgery to repair a crushed vertebrae and that Ms. Castillo paid for it, but only Ms. Castillo testified as to when the surgery occurred. She testified that it was after the marriage and that she paid Dr. Reichman over \$9,000.00 Tr. at 153: 4-10

The trial court explained how it arrived at its conclusion, or at least from the record, sufficient record is presented on appeal to allow the appellate court to make the determination, there is a reasonable basis to support the trial court’s findings, *Haumont*, 793 P.2d at 425, and the trial court’s findings should be affirmed. The trial court was in

the best position to judge the credibility of the witnesses and their testimony and a challenged finding should not be set aside except when determined to be clearly erroneous. *Schaumberg*, 875 P.2d at 603.

The trial court is uniquely suited to observe the demeanor and weigh the credibility of the witnesses and their testimony and a challenged finding should not be set aside except when determined to be clearly erroneous. *Id.*.

Mr. Johnson had the burden of persuasion at trial regarding the disposition of his personal injury settlement proceeds and had access to all documentation and evidence pertaining to when his personal injury claim arose, when his surgery occurred, and when and how much was paid for the surgery. Mr. Johnson failed to present any documentary evidence to the court to establish the facts he now claims are unclear and is not entitled to a remand to the trial court in order to present more evidence.

### **CONCLUSION**

Mr. Johnson has failed to meet his burden to persuade that there has been a misunderstanding or misapplication of the law resulting in substantial and prejudicial error, that the evidence clearly preponderates against the findings, or such a serious inequity has resulted as to manifest a clear abuse of discretion. The trial court appropriately categorized the real property purchased by Ms. Castillo as her separate property based upon the uncontroverted evidence. The claimed error in expression by the trial court pertaining to all of the mortgage principal and interest payments having been paid by Ms. Castillo from her separate funds is harmless, and even had it been omitted or

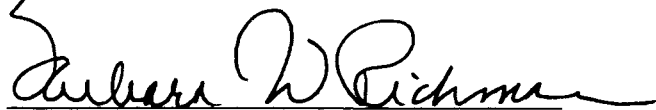
stated differently, Mr. Johnson has not shown that it would have changed or affected the ruling of the trial court.

Mr. Johnson is not entitled to a remand on the issues of when his surgery occurred and when the bill for the surgery was paid as he could have presented the evidence at trial and failed to do so.

Mr. Johnson's appeal should be dismissed and the order and judgment of the trial court affirmed.

RESPECTFULLY SUBMITTED this 17<sup>th</sup> day of May, 2007.

RICHMAN & RICHMAN, LLC

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

BARBARA W. RICHMAN

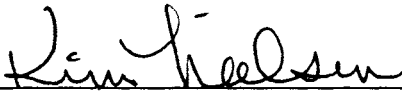
GLEN M. RICHMAN

Attorneys for Petitioner/Appellee

## CERTIFICATE OF SERVICE

I hereby certify that on this 19<sup>th</sup> day of May, 2007, I caused two true and correct copies of the foregoing **REPLY BRIEF OF APPELLEE** to be mailed via first class, postage prepaid to:

Samuel M. Barker (6073)  
Bradley J. Schofield (7986)  
Jeffrey A. Callister (9962)  
SMART, SCHOFIELD, SHORTER & LUNCEFORD  
A Professional Corporation  
5295 South Commerce Drive, Suite 200  
Murray, UT 841107

  
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# ADDENDUM 1



After Recording Return To:  
RESIDENTIAL MORTGAGE ASSISTANCE  
ENTERPRISE, LLC  
3350 EAST BIRCH STREET, SUITE 102  
BREA, CALIFORNIA 92821

Tax Serial No.: 34-09-478-003

[Space Above This Line For Recording Data]

We hereby certify this to be a true &  
correct copy of the original Backman-  
Stewart Title Services, LTD.

## DEED OF TRUST

MIN: 1002410-1000001901-4

### DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

- (A) "Security Instrument" means this document, which is dated FEBRUARY 24 2003, together with all Riders to this document.
- (B) "Borrower" is CAMILLE R. CASTILLO , A SINGLE WOMAN

Borrower is the trustor under this Security Instrument.

- (C) "Lender" is RESIDENTIAL MORTGAGE ASSISTANCE ENTERPRISE, LLC

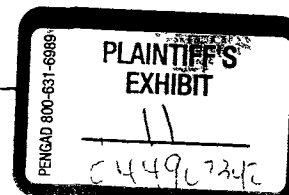
Lender is a LIMITED LIABILITY COMPANY  
and existing under the laws of DELAWARE

organized

Lender's address is 3350 EAST BIRCH STREET, SUITE 102, BREA, CALIFORNIA 92821

- (D) "Trustee" is BACKMAN STEWART TITLE , 167 EAST 6100 SOUTH , SALT LAKE CITY , UTAH 84107

(E) "MERS" is Mortgage Electronic Registration Systems, Inc MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns MERS is the beneficiary under this Security Instrument. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS



Richman COMPANY:

- (F) "Note" means the promissory note signed by Borrower and dated **FEBRUARY 24 2003**. The Note states that Borrower owes Lender **TWO HUNDRED SEVENTY TWO THOUSAND FIVE HUNDRED AND 00/100** Dollars (U.S. \$ **272,500.00** ) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than **MARCH 1, 2033**.
- (G) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."
- (H) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.
- (I) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower (check box as applicable):

- |   |   |  |
|---|---|--|
| <input checked="" type="checkbox"/> Adjustable Rate Rider | <input type="checkbox"/> Condominium Rider              | <input type="checkbox"/> Second Home Rider             |
| <input type="checkbox"/> Balloon Rider                    | <input type="checkbox"/> Planned Unit Development Rider | <input checked="" type="checkbox"/> Other(s) [specify] |
| <input type="checkbox"/> 1-4 Family Rider                 | <input type="checkbox"/> Biweekly Payment Rider         | Prepayment<br>Rider                                    |

(J) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(K) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(L) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(M) "Escrow Items" means those items that are described in Section 3.

(N) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(O) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(P) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(Q) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(R) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

## TRANSFER OF RIGHTS IN THE PROPERTY

The beneficiary of this Security Instrument is MERS (solely as nominee for Lender and Lender's successors and assigns) and the successors and assigns of MERS. This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants, conveys and warrants to Trustee, in trust, with power of sale, the following described property located in the

COUNTY  
(Type of Recording Jurisdiction)

of

SALT LAKE  
(Name of Recording Jurisdiction)

LOT 36, OAK VISTA NO. 1 AT SUNSET, AS SHOWN ON THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SALT LAKE COUNTY RECORDER'S OFFICE.

A.P.N. #: 34-09-478-003

which currently has the address of 1892 EAST DEEP WOODS DRIVE

(Street)

DRAPER

, Utah

84020

("Property Address"):

(City)

(Zip Code)

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right: to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and canceling this Security Instrument.

**BORROWER COVENANTS** that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant, convey and warrant the Property and that the Property is unencumbered, except for encumbrances of record. Borrower further warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

**UNIFORM COVENANTS.** Borrower and Lender covenant and agree as follows:

**1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return

any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

**2. Application of Payments or Proceeds.** Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

**3. Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

**4. Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

**5. Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These

amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

**6. Occupancy.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

**7. Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

**8. Borrower's Loan Application.** Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

**9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

**10. Mortgage Insurance.** If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These

agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

**11. Assignment of Miscellaneous Proceeds; Forfeiture.** All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property.



or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

**12. Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

**13. Joint and Several Liability; Co-signers; Successors and Assigns Bound.** Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

**14. Loan Charges.** Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

**15. Notices.** All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's

address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

**16. Governing Law; Severability; Rules of Construction.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

**17. Borrower's Copy.** Borrower shall be given one copy of the Note and of this Security Instrument.

**18. Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

**19. Borrower's Right to Reinstate After Acceleration.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

**20. Sale of Note; Change of Loan Servicer; Notice of Grievance.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other

information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

**21. Hazardous Substances.** As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

**NON-UNIFORM COVENANTS.** Borrower and Lender further covenant and agree as follows:

**22. Acceleration; Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by Applicable Law. Lender shall be entitled to collect all

expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If the power of sale is invoked, Trustee shall execute a written notice of the occurrence of an event of default and of the election to cause the Property to be sold and shall record such notice in each county in which any part of the Property is located. Lender or Trustee shall mail copies of such notice in the manner prescribed by Applicable Law to Borrower and to the other persons prescribed by Applicable Law. In the event Borrower does not cure the default within the period then prescribed by Applicable Law, Trustee shall give public notice of the sale to the persons and in the manner prescribed by Applicable Law. After the time required by Applicable Law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines (but subject to any statutory right of Borrower to direct the order in which the Property, if consisting of several known lots or parcels, shall be sold). Trustee may in accordance with Applicable Law, postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it or to the county clerk of the county in which the sale took place.

23. **Reconveyance.** Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled to it. Such person or persons shall pay any recordation costs. Lender may charge such person or persons a fee for reconveying the Property, but only if the fee is paid to a third party (such as the Trustee) for services rendered and the charging of the fee is permitted under Applicable Law.

24. **Substitute Trustee.** Lender, at its option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by Applicable Law.

25. **Request for Notices.** Borrower requests that copies of the notices of default and sale be sent to Borrower's address which is the Property Address.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

 (Seal)  
CAMILLE R. CASTILLO -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

Witness:

Witness:

State of Utah )

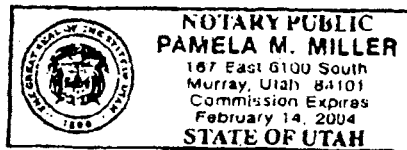
SS.

County of SALT LAKE )

The foregoing instrument was acknowledged before me this  
CAMILLE R. CASTILLO

25 Feb 03

by



Signature of Person Taking Acknowledgment

Title: \_\_\_\_\_

Residing at: \_\_\_\_\_

(Seal)

My commission expires: \_\_\_\_\_

**ADJUSTABLE RATE RIDER**  
**(LIBOR Six-Month Index (As Published In *The Wall Street Journal*) - Rate Caps)**

Loan Number: 1000001901

THIS ADJUSTABLE RATE RIDER is made this 24th day of FEBRUARY 2003, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date given by the undersigned ("Borrower") to secure Borrower's Adjustable Rate Note (the "Note") to RESIDENTIAL MORTGAGE ASSISTANCE ENTERPRISE, LLC, LIMITED LIABILITY COMPANY ("Lender") of the same date and covering the property described in the Security Instrument and located at:

1892 EAST DEEP WOODS DRIVE, DRAPER, UTAH 84020  
[Property Address]

**THE NOTE CONTAINS PROVISIONS ALLOWING FOR CHANGES IN THE INTEREST RATE AND THE MONTHLY PAYMENT. THE NOTE LIMITS THE AMOUNT BORROWER'S INTEREST RATE CAN CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE BORROWER MUST PAY.**

**ADDITIONAL COVENANTS.** In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

**A. INTEREST RATE AND MONTHLY PAYMENT CHANGES**

The Note provides for an initial interest rate of 7.540 %. The Note provides for changes in the interest rate and the monthly payments, as follows:

**4. INTEREST RATE AND MONTHLY PAYMENT CHANGES**

**(A) Change Dates**

The interest rate I will pay may change on the 1st day of MARCH, 2005, and on that day every 6 month thereafter. Each date on which my interest rate could change is called a "Change Date."

**(B) The Index**

Beginning with the first Change Date, my interest rate will be based on an Index. The "Index" is the average of interbank offered rates for six month U.S. dollar-denominated deposits in the London market ("LIBOR"), as published in *The Wall Street Journal*. The most recent Index figure available as of the first business day of the month immediately preceding the month in which the Change Date occurs is called the "Current Index."

If the Index is no longer available, the Note Holder will choose a new index that is based upon comparable information. The Note Holder will give me notice of this choice.

**(C) Calculation of Changes**

Before each Change Date, the Note Holder will calculate my new interest rate by adding SEVEN AND 375/1000 percentage points ( 7.375 %) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

The Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the unpaid principal that I am expected to owe at the Change Date in full on the Maturity Date at my new interest rate in substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

**(D) Limits on Interest Rate Changes**

The interest rate I am required to pay at the first Change Date will not be greater than 8.540% or less than 7.540%. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than ONE AND 000/1000 percentage points (1.000%) from the rate of interest I have been paying for the preceding 6 months. My interest rate will never be greater than 13.540%.

**(E) Effective Date of Changes**

My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again.

**(F) Notice of Changes**

The Note Holder will deliver or mail to me a notice of any changes in my interest rate and the amount of my monthly payment before the effective date of any change. The notice will include information required by law to be given to me and also the title and telephone number of a person who will answer any question I may have regarding the notice.

**B. TRANSFER OF THE PROPERTY OR A BENEFICIAL INTEREST IN BORROWER**

Uniform Covenant 18 of the Security Instrument is amended to read as follows:

**Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law. Lender also shall not exercise this option if: (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender.

To the extent permitted by Applicable Law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender also may require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in this Security Instrument. Borrower will continue to be obligated under the Note and this Security Instrument unless Lender releases Borrower in writing.

If Lender exercises the option to require immediate payment in full, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Adjustable Rate Rider.

  
\_\_\_\_\_  
CAMILLE R. CASTILLO (Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower



## PREPAYMENT RIDER

Loan Number: 1000001901

Date: FEBRUARY 24, 2003

Borrower(s): CAMILLE R. CASTILLO

FOR VALUE RECEIVED, the undersigned ("Borrower") agree(s) that the following provisions shall be incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust or Security Deed of even date herewith (the "Security Instrument") executed by Borrower, as trustor or mortgagor, in favor of RESIDENTIAL MORTGAGE ASSISTANCE ENTERPRISE, LLC, LIMITED LIABILITY COMPANY

("Lender"), as beneficiary or mortgagee, and also into that certain promissory note (the "Note") of even date herewith executed by Borrower in favor of Lender. To the extent that the provisions of this Prepayment Rider (the "Rider") are inconsistent with the provisions of the Security Instrument and/or the Note, the provisions of the Rider shall prevail over and shall supersede any such inconsistent provisions of the Security Instrument and/or the Note.

Section 5 of the Note is amended to read in its entirety as follows:

### " 5 BORROWER'S RIGHT TO PREPAY

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.


The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under the Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount, before applying my Prepayment to reduce the Principal amount of the Note. If I make a partial Prepayment, there will be no changes in the due dates of my monthly payment unless the Note Holder agrees in writing to those changes.

If the Note provides for changes in the interest rate, my partial Prepayment may reduce the amount of my monthly payments after the first Change Date following my partial Prepayment. However, any reduction due to my partial Prepayment may be offset by an interest rate increase.

If within TWENTY FOUR ( 24 ) months from the date of execution of the Security Instrument I make a full or partial Prepayment, and the total of such Prepayments in any 12-month period exceeds TWENTY PERCENT

( 20 %) of the original Principal amount of the loan, I will pay a Prepayment charge in an amount equal to SIX ( 6 ) months' advance interest on the amount by which the total of my Prepayments within that 12-month period exceeds TWENTY PERCENT ( 20 %) of the original Principal amount of the loan."

IN WITNESS WHEREOF, the Borrower has executed this Rider on the \_\_\_\_\_ day of \_\_\_\_\_

  
Borrower \_\_\_\_\_ Date \_\_\_\_\_  
CAMILLE R. CASTILLO

Borrower \_\_\_\_\_ Date \_\_\_\_\_

Borrower \_\_\_\_\_ Date \_\_\_\_\_

Borrower \_\_\_\_\_ Date \_\_\_\_\_

Borrower \_\_\_\_\_ Date \_\_\_\_\_

Borrower \_\_\_\_\_ Date \_\_\_\_\_

# ADDENDUM 2

GAYANNE K. SCHMID (State Bar No. 6793)  
SCHMID & LUHN  
68 South Main Street, Suite 800  
Salt Lake City, UT 84101  
Telephone: (801) 531-8300 x 320  
Facsimile: (801) 363-2420

Attorney for Petitioner

ORIGINAL  
FILED  
THIRD DISTRICT COURT

04 DEC 20 PM 3:41

SALT LAKE DEPARTMENT

BY \_\_\_\_\_  
DEPUTY CLERK

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

CAMILLE CASTILLO-JOHNSON,

Petitioner,

vs.

TRAVIS PAUL JOHNSON,

Respondent.

COMPLAINT FOR DIVORCE

Civil No. 044907342

Judge: Lewis

Petitioner, Camille Castillo-Johnson, complains of Respondent, Travis Paul Johnson, as follows:

PROVISIONS RELATING TO JURISDICTION

1. Petitioner has been an actual and bona fide resident of Salt Lake County for at least three months immediately prior to the filing of the Complaint in this action.
2. The parties were married on October 4, 2002, in Salt Lake City, Salt Lake County, State of Utah, and are still married. The parties separated October 19, 2004.

### PROVISIONS RELATING TO GROUNDS

3. During the course of the marriage, Respondent physically, mentally and emotionally abused Petitioner, making continuation of the marriage existing between the parties no longer possible.

4. A divorce should be granted on the grounds of physical, mental and emotional cruelty.

### PROVISIONS RELATING TO CHILD CUSTODY, VISITATION AND CHILD SUPPORT

5. The parties have one minor child younger than eighteen years of age who is issue of their marriage. The name and birth date of the child is as follows:

Gabriel Golden Johnson, born January 1, 2003

6. Petitioner is informed and believes and thereon alleges that Utah is the home state of this child, pursuant to Utah Code Ann. § 78-45c-3(1)(a).

7. Petitioner is informed and believes and thereon alleges that neither party has participated, as a party, witness, or in any other capacity, in any other litigation concerning the custody of their child in Utah or any other state.

8. Petitioner is informed and believes and thereon alleges that the parties have no knowledge of any custody proceeding concerning their child, pending in Utah or any other state.

9. Petitioner is informed and believes and thereon alleges that the parties do not know of a person not a party to this proceeding who has physical custody of their child or who claims to have custody or visitation rights with respect to their child.

10. Petitioner is informed and believes and thereon alleges that neither party has sought or received public assistance on behalf of their child.

11. During their marriage, Petitioner has been primarily responsible for caring for Gabriel and

is the most closely bonded to him. Accordingly, it is in Gabriel's best interests for Petitioner to be awarded sole legal and physical custody of him.

12. Respondent should be awarded such reasonable parent time with Gabriel as the parties may agree, which at minimum should conform with the statutory visitation guidelines.

13. Respondent should be restrained from taking Gabriel out of state or more than 50 miles from his present home.

14. Respondent should be responsible for picking Gabriel up at the beginning of his time-sharing and return him to day care, school or his home, whichever is appropriate, at the end of his time sharing.

15. The parties should provide each other with current residential addresses and telephone numbers, employment addresses and phone numbers and income within twenty-four (24) hours of any change.

16. Respondent should be ordered to pay Petitioner child support of \$297.36, based on Petitioner's gross monthly income of \$9,000, and Respondent's gross monthly of \$5,000, beginning January, 2005. Respondent should make the child support payment in one monthly installment, due on the first day of each month.

17. Respondent's obligation to pay child support will continue until such time as Gabriel reaches eighteen years of age or graduates from high school during his normal and expected year of graduation, whichever occurs later.

18. Respondent's child support obligation should be subject to mandatory income withholding, pursuant to Utah Code Ann. §§ 78-45-3, 62A-11-403 and 62A-11-404.5.

19. The parties should share equally all reasonable and necessary uninsured medical expenses for Gabriel, including dental, optical, psychological, prescriptions, deductibles and co-payments, beginning

as of the date of separation. A parent who incurs health and dental expenses must provide written verification of the cost and payment of health and dental expenses to the other parent within thirty days of payment. Payment would then be due within ten days after receipt.

20. If either party decides to move out of the state of Utah or more than 50 miles from their current residences, he or she should provide 60 days advance written notice to the other party.

21. The parties should share equally the costs of Gabriel's child care center, which is at present \$525 per month. The parties should pay their one-half shares directly to the service provider.

#### PROVISIONS RELATING TO TAXES

22. Petitioner should have the right to claim Gabriel as a tax exemption each year.

#### PROVISIONS RELATING TO ALIMONY

23. The parties are each self-sufficient and able to provide for their own support. Accordingly, neither party should receive or pay alimony.

#### PROVISIONS RELATING TO REAL PROPERTY

24. The marital home located at 1892 East Deep Woods Drive, Draper, Utah, 84020, should be awarded to Petitioner, along with the indebtedness thereon.

#### PROVISIONS RELATING TO PERSONAL PROPERTY

25. Respondent should be awarded his personal effects, any gifts and inheritances he received during the marriage, any personal property in his possession, including the Saab automobile, provided he pay the indebtedness thereon. Respondent should be ordered to refinance the Saab into his own name within 30 days. Petitioner should be awarded her personal effects, any gifts, inheritances and personal injury settlements, she received during the marriage, the Hyundai automobile, and the remaining personal property.

#### PROVISIONS RELATING TO DEBTS AND OBLIGATIONS

26. With the exception of the Saab indebtedness, each party should be ordered to pay the debts and obligations in his or her own names, without contribution from the other. Each party should be solely responsible for the debts and obligations incurred after the date of separation.

PROVISIONS RELATING TO RESTRAINING ORDER

27. Respondent should be restrained from coming to Petitioner's place of residence. The parties should exchange the minor child in public places. Respondent is permitted to telephone the Petitioner at reasonable times but only for the purposes pertaining to the minor child.

PROVISIONS RELATING TO ATTORNEYS' FEES

28. If this matter is contested, Respondent should be ordered to pay Petitioner's attorney's fees and court costs. If this matter is uncontested, the parties should share equally the attorney's fees and court costs incurred by both in connection with this proceeding.




MISCELLANEOUS PROVISIONS

29. Each party should be ordered to execute and deliver to the other all documents necessary to carry out the terms of the Decree of Divorce.

WHEREFORE, Petitioner prays for relief as follows:

1. For a Decree of Divorce severing the bonds of matrimony existing between Petitioner and Respondent, consistent with the Complaint for Divorce detailed above;
2. For such further relief as may be just and equitable.

Dated: December 20, 2004

  
\_\_\_\_\_  
Gayanne K. Schmid  
Attorney for Petitioner

Petitioner's Address:

1892 East Deep Woods Drive  
Draper, Utah, 84020

**COVER SHEET FOR CIVIL FILING ACTIONS** - Page 1**Party Identification (Attach additional sheets as necessary)**

## PLAINTIFF/PETITIONER

Name **Camille Castillo-Johnson**  
 Address **1892 East Deep Woods Dr  
 Draper, UT 84020**

Day Time Telephone  
**(801) 244-1481**

## PLAINTIFF/PETITIONER

Name  
 Address

Day Time Telephone

## DEFENDANT/RESPONDENT

Name **Travis Paul Johnson**  
 Address

Day Time Telephone

## DEFENDANT/RESPONDENT

Name  
 Address

Day Time Telephone

**TOTAL CLAIM FOR DAMAGES**

\$ \_\_\_\_\_

## ATTY FOR PLAINTIFF/PETITIONER

Name **GAYANNE K. SCHMID**  
 ATTORNEY AT LAW  
 Address **68 SOUTH MAIN, STE. 800  
 SALT LAKE CITY, UTAH 84101**

Day Time Telephone **(801) 531-8300**

## ATTY FOR PLAINTIFF/PETITIONER

Name  
 Address

Day Time Telephone

## ATTY FOR DEFENDANT/RESPONDENT

Name **Bradley J. Schofield**  
 Address **341 South Main St., #303  
 SLC, UT 84111**

Day Time Telephone  
**(801) 538-0400**

## ATTY FOR DEFENDANT/RESPONDENT

Name  
 Address

Day Time Telephone

**JURY DEMAND**

☐ Yes ☐ No

**SCHEDULE OF FEES: §78-7-35. CHECK ANY THAT APPLY.**

(See Case Types for Filing Fees for Complaints other than Claim for Damages.)

## — COMPLAINT FOR DAMAGES —

- \$45 ☐ Small Claims: \$2000 or less  
 \$70 ☐ Small Claims: \$2001-\$5000  
 \$50 ☐ Civil or Interpleader: \$2000 or less  
 \$95 ☐ Civil or Interpleader: \$2001 - \$9999  
 \$155 ☐ Civil or Interpleader: \$10,000 and over  
 \$155 ☐ Civil Unspecified

## — MISCELLANEOUS —

- \$75 ☐ Jury Demand  
 \$2 ☐ Vital Statistics §26-2-25

# COVER SHEET FOR CIVIL FILING ACTIONS - Page 2

## Case Type (Check Only One Category)

Fee	Case Type
<b>----- APPEALS -----</b>	
\$155 <input type="checkbox"/>	Administrative Agency Review
\$75 <input type="checkbox"/>	Small Claims Trial de Novo
<b>----- GENERAL CIVIL -----</b>	
\$155 <input type="checkbox"/>	Attorney Discipline
Sch <input type="checkbox"/>	Civil Rights
\$155 <input type="checkbox"/>	Condemnation
Sch <input type="checkbox"/>	Contract
Sch <input type="checkbox"/>	Debt Collection
\$65 <input type="checkbox"/>	Expungement (Fee is \$0 under circumstances of §77-18-10(2))
Sch <input type="checkbox"/>	Forcible Entry and Detainer
\$155 <input type="checkbox"/>	Forfeiture of Property
Sch <input type="checkbox"/>	Interpleader
Sch <input type="checkbox"/>	Lien/Mortgage Foreclosure
Sch <input type="checkbox"/>	Malpractice
Sch <input type="checkbox"/>	Miscellaneous Civil
\$155 <input type="checkbox"/>	Extraordinary Relief
Sch <input type="checkbox"/>	Personal Injury
\$155 <input type="checkbox"/>	Post Conviction Relief: Capital
\$155 <input type="checkbox"/>	Post Conviction Relief: Non-capital
Sch <input type="checkbox"/>	Property Damage
Sch <input type="checkbox"/>	Property/Quiet Title
Sch <input type="checkbox"/>	Sexual Harassment
Sch <input type="checkbox"/>	Small Claims
Sch <input type="checkbox"/>	Tax
Sch <input type="checkbox"/>	Water Rights
Sch <input type="checkbox"/>	Wrongful Death
Sch <input type="checkbox"/>	Wrongful Termination
<b>----- DOMESTIC -----</b>	
\$0 <input type="checkbox"/>	Cohabitant Abuse
\$155 <input type="checkbox"/>	Common Law Marriage
\$155 <input type="checkbox"/>	Custody/Visitation/Support
\$95 <input checked="" type="checkbox"/>	Divorce/Annulment
	<input checked="" type="checkbox"/> Check if child support, custody or visitation will be part of decree
\$155 <input type="checkbox"/>	Paternity
\$95 <input type="checkbox"/>	Separate Maintenance
\$155 <input type="checkbox"/>	Uniform Child Custody Jurisdiction Act (UCCJA)
\$155 <input type="checkbox"/>	Uniform Interstate Family Support Act (UIFSA)

<b>----- JUDGMENTS -----</b>	
\$25 <input type="checkbox"/>	Abstract of Foreign Judgment or Decree
\$40 <input type="checkbox"/>	Abstract of Judgment or Order of Utah Court/Agency
\$30 <input type="checkbox"/>	Abstract of Judgment/Order of Utah State Tax Commission
\$25 <input type="checkbox"/>	Judgment by Confession
Sch <input type="checkbox"/>	Renew Judgment

<b>----- PROBATE -----</b>	
\$155 <input type="checkbox"/>	Adoption
\$155 <input type="checkbox"/>	Conservatorship
\$155 <input type="checkbox"/>	Estate Personal Rep - Formal
\$155 <input type="checkbox"/>	Estate Personal Rep - Informal
\$155 <input type="checkbox"/>	Guardianship
\$155 <input type="checkbox"/>	Involuntary Commitment
\$155 <input type="checkbox"/>	Minor's Settlement
\$155 <input type="checkbox"/>	<i>Name Change</i>
\$155 <input type="checkbox"/>	Supervised Administration
\$155 <input type="checkbox"/>	Trusts
\$155 <input type="checkbox"/>	Unspecified Probate

<b>----- SPECIAL MATTERS -----</b>	
\$0 <input type="checkbox"/>	Administrative Search Warrant
\$25 <input type="checkbox"/>	Arbitration Award
\$0 <input type="checkbox"/>	Criminal Investigation Search Warrant
\$0 <input type="checkbox"/>	Deposit of Will
\$0 <input type="checkbox"/>	Determination of Competency in Criminal Case
\$0 <input type="checkbox"/>	Extradition
\$25 <input type="checkbox"/>	Foreign Probate or Child Custody Document
\$0 <input type="checkbox"/>	Hospital Lien
\$25 <input type="checkbox"/>	Judicial Approval of Document not part of a Pending Case
\$25 <input type="checkbox"/>	Notice of deposition in out-of-state case
\$25 <input type="checkbox"/>	Open Sealed Record

Effectiv05/05/03

FILED

JAN 18 2005

THIRD DISTRICT COURT  
SALT LAKE DEPARTMENT



35  
Samuel M. Barker, #6073  
SMART, SCHOFIELD, SHORTER & LUNCEFORD  
A Professional Corporation  
5295 South Commerce Drive, Suite 200  
Murray, Utah 84107  
Telephone: (801) 747-0647  
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Attorney for Respondent

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IN THE THIRD JUDICIAL DISTRICT COURT

IN AND FOR SALT LAKE COUNTY, SALT LAKE DEPARTMENT, STATE OF UTAH

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CAMILLE CASTILLO-JOHNSON,

Petitioner,

vs.

TRAVIS PAUL JOHNSON,

Respondent.

**RESPONDENT'S VERIFIED ANSWER  
TO PETITIONER'S COMPLAINT FOR  
DIVORCE AND RESPONDENT'S  
COUNTER PETITION**

Civil No. 044907342

Judge Leslie A. Lewis

Commissioner Thomas N. Arnett, Jr.

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COMES NOW RESPONDENT, Travis Paul Johnson, by and through counsel, Samuel  
M. Barker and Answers Petitioner's Complaint for Divorce as follows:

FIRST DEFENSE

Petitioner's Complaint for Divorce ("Complaint") fails to state a claim upon which relief  
may be granted.

## SECOND DEFENSE

1. Respondent admits the allegations contained in paragraph 1 of Petitioner's Complaint.

2. Respondent admits the allegations contained in paragraph 2 of Petitioner's Complaint.

3. Respondent denies the allegations contained in paragraph 3 of Petitioner's Complaint.

4. Respondent denies the allegations contained in paragraph 4 of Petitioner's Complaint.

5. Respondent admits the allegations contained in paragraph 5 of Petitioner's Complaint.

6. Respondent admits the allegations contained in paragraph 6 of Petitioner's Complaint.

7. Respondent admits the allegations contained in paragraph 7 of Petitioner's Complaint.

8. Respondent admits the allegations contained in paragraph 8 of Petitioner's Complaint.

9. Respondent admits the allegations contained in paragraph 9 of Petitioner's Complaint.

10. Respondent admits the allegations contained in paragraph 10 of Petitioner's Complaint.

11. Respondent denies the allegations contained in paragraph 11 of Petitioner's Complaint and affirmatively states that Respondent has been primarily responsible for caring for Gabriel and is the most closely bonded parent to Gabriel. Accordingly, it is in Gabriel's best interest that Respondent be awarded sole legal and physical custody of Gabriel.

12. Respondent denies the allegations contained in paragraph 12 of Petitioner's Complaint and affirmatively states that Petitioner should be awarded such reasonable parent-time with Gabriel as the parties may agree, which at minimum should conform with the statutory visitation guidelines.

13. Respondent denies the allegations contained in paragraph 13 of Petitioner's Complaint.

14. Respondent denies the allegations contained in paragraph 14 of Petitioner's Complaint and affirmatively states that Petitioner should be responsible for picking Gabriel up at the beginning of his time-sharing and returning him to day care, school or his home, whichever is appropriate, at the end of her time sharing.

15. Respondent admits the allegations contained in paragraph 15 of Petitioner's Complaint.

16. Respondent denies the allegations contained in paragraph 16 of Petitioner's Complaint.

17. Respondent denies the allegations contained in paragraph 17 of Petitioner's Complaint.

18. Respondent denies the allegations contained in paragraph 18 of Petitioner's Complaint.

19. Respondent admits the allegations contained in paragraph 19 of Petitioner's Complaint.

20. Respondent admits the allegations contained in paragraph 20 of Petitioner's Complaint.

21. Respondent denies the allegations contained in paragraph 21 of Petitioner's Complaint and affirmatively states that Petitioner does not work. However, Petitioner should pay one-half of the costs of Gabriel's childcare expenses incurred by Respondent.

22. Respondent denies the allegations contained in paragraph 22 of Petitioner's Complaint.

23. Respondent denies the allegations contained in paragraph 23 of Petitioner's Complaint.

24. Respondent denies the allegations contained in paragraph 24 of Petitioner's Complaint.

25. Respondent denies the allegations contained in paragraph 25 of Petitioner's Complaint.

26. Respondent denies the allegations contained in paragraph 26 of Petitioner's Complaint.

27. Respondent denies the allegations contained in paragraph 27 of Petitioner's Complaint.

28. Respondent denies the allegations contained in paragraph 28 of Petitioner's Complaint.

29. Respondent denies any and all allegations not specifically heretofore admitted.

### THIRD DEFENSE

The Respondent further states that the facts of this case give rise to other defenses and therefore, the Respondent does now plead affirmatively each and every defense set forth in Rule 8(c) of the Utah Rules of Civil Procedure so that such defenses are preserved.

WHEREFORE, having fully answered Petitioner's Complaint for Divorce, Respondent prays that Petitioner's Complaint for Divorce be dismissed and that Petitioner take nothing thereby.



## COUNTERCLAIM

Respondent counter petitions against Petitioner and alleges as follows:

### Provisions Relating to Jurisdiction

1. Both Petitioner and Respondent are bona fide residents of Salt Lake County, State of Utah, and have been for three months immediately prior to the filing of this action.

2. The parties resided in the marital relationship in the State of Utah or Petitioner in the State of Utah committed the acts complained of by Respondent and, therefore, this Court has long-arm jurisdiction over Petitioner pursuant to Utah Code Ann. § 78-27-24(6) (1953 as amended).

3. Petitioner and Respondent were married on October 4, 2002, in Salt Lake City, Salt Lake County, State of Utah, and are presently married. The parties separated on or about October 19, 2004.

### Provisions Relating to Grounds

4. During the course of the marriage the parties have experienced difficulties that cannot be reconciled that have prevented the parties from pursuing a viable marriage relationship.

### Provisions Relating to the Children of the Parties

5. There has been one (1) child born as issue of this marriage to wit: **GABRIEL GOLDEN JOHNSON, born January 1, 2003.**

6. Pursuant to Rule 100(a)(1), of the Utah Rules of Civil Procedure, Respondent states, upon information and belief, that there are no proceedings for custody of the above-named minor child filed or pending in the Juvenile Court.

The Uniform Child Custody Jurisdiction and Enforcement Act

7. Utah has jurisdiction to make child custody and parent-time determinations pursuant to Utah Code Ann. § 78-45c *et seq.* (1953 as amended) in that:

- a. Utah is the home state of the minor child at the time of commencement of this proceeding.
- b. Said minor child currently resides with Petitioner in Salt Lake County.
- c. Respondent has not participated, as a party or witness in any other capacity, in any other proceeding concerning the custody of or visitation/parent time with the child.
- d. Respondent has no information of any proceedings that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions.
- e. Respondent does not know of any person not a party to these proceedings who has physical custody of the child or who claims rights of legal custody or physical custody of, or parent-time with the child.

### Child Custody and Parent-Time

8. Respondent should be awarded the permanent care, custody, and control of the minor child of the parties.

9. Petitioner should be awarded rights of parent-time with the minor child of the parties as follows, pursuant to Utah Code Ann. §§ 30-3-35 and 30-3-35.5:

Reasonable parent-time should be as the parties agree. If the parties do not agree, the following schedule shall be considered the minimum parent-time to which the noncustodial parent and the child shall be entitled:

#### **Minimum schedule for parent-time for children under five years of age.**

(1) The parent-time schedule in this section applies to children under five years old.

(2) If the parties do not agree to a parent-time schedule, the following schedule shall be considered the minimum parent-time to which the noncustodial parent and the child shall be entitled:

(a) for children under five months of age:

(i) six hours of parent-time per week to be specified by the court or the noncustodial parent preferably:

(A) divided into three parent-time periods; and

(B) in the custodial home, established child care setting, or other environment familiar to the child; and

(ii) two hours on holidays and in the years specified in Subsections **30-3-35(2)(f)** through (i) preferably in the custodial home, the established child care setting, or other environment familiar to the child;

(b) for children five months of age or older, but younger than ten months of age:

(i) nine hours of parent-time per week to be specified by the court or the noncustodial parent preferably:

(A) divided into three parent-time periods; and

(B) in the custodial home, established child care setting, or other environment familiar to the child; and

(ii) two hours on the holidays and in the years specified in Subsections **30-3-35(2)(f)** through (i) preferably in the custodial home, the established child care setting, or other environment familiar to the child;

(c) for children ten months of age or older, but younger than 18 months of age:

- (i) one eight hour visit per week to be specified by the noncustodial parent or court;
- (ii) one three hour visit per week to be specified by the noncustodial parent or court;
- (iii) eight hours on the holidays and in the years specified in Subsections 30-3-35(2)(f) through (i); and
- (iv) brief phone contact with the noncustodial parent at least two times per week;
- (d) for children 18 months of age or older, but younger than three years of age:
  - (i) one weekday evening between 5:30 p.m. and 8:30 p.m. to be specified by the noncustodial parent or court; however, if the child is being cared for during the day outside his regular place of residence, the noncustodial parent may, with advance notice to the custodial parent, pick up the child from the caregiver at an earlier time and return him to the custodial parent by 8:30 p.m.;
  - (ii) alternative weekends beginning on the first weekend after the entry of the decree from 6 p.m. on Friday until 7 p.m. on Sunday continuing each year;
  - (iii) parent-time on holidays as specified in Subsections 30-3-35(2)(c) through (i);
  - (iv) extended parent-time may be:
    - (A) two one-week periods, separated by at least four weeks, at the option of the noncustodial parent;
    - (B) one week shall be uninterrupted time for the noncustodial parent;
    - (C) the remaining week shall be subject to parent-time for the custodial parent consistent with these guidelines; and
    - (D) the custodial parent shall have an identical one-week period of uninterrupted time for vacation; and
  - (v) brief phone contact with the noncustodial parent at least two times per week;
- (e) for children three years of age or older, but younger than five years of age:
  - (i) one weekday evening between 5:30 p.m. and 8:30 p.m. to be specified by the noncustodial parent or court; however, if the child is being cared for during the day outside his regular place of residence, the noncustodial parent may, with advance notice to the custodial parent, pick up the child from the caregiver at an earlier time and return him to the custodial parent by 8:30 p.m.;
  - (ii) alternative weekends beginning on the first weekend after the entry of the decree from 6 p.m. on Friday until 7 p.m. on Sunday continuing each year;
  - (iii) parent-time on holidays as specified in Subsections 30-3-35(2)(c) through (i);
  - (iv) extended parent-time with the noncustodial parent may be:
    - (A) two two-week periods, separated by at least four weeks, at the option of the noncustodial parent;
    - (B) one two-week period shall be uninterrupted time for the noncustodial parent;
    - (C) the remaining two-week period shall be subject to parent-time for the custodial parent consistent with these guidelines; and
    - (D) the custodial parent shall have an identical two-week period of uninterrupted time for vacation; and
  - (v) brief phone contact with the noncustodial parent at least two times per week.

(3) A parent shall notify the other parent at least 30 days in advance of extended parent-time or vacation weeks.

(4) Telephone contact shall be at reasonable hours and for reasonable duration.

**Minimum schedule for parent-time for children 5 to 18 years of age.**

(1) The parent-time schedule in this section applies to children 5 to 18 years of age.

(2) If the parties do not agree to a parent-time schedule, the following schedule shall be considered the minimum parent-time to which the noncustodial parent and the child shall be entitled:

(a) (i) one weekday evening to be specified by the noncustodial parent or the court from 5:30 p.m. until 8:30 p.m.; or

(ii) at the election of the noncustodial parent, one weekday from the time the child's school is regularly dismissed until 8:30 p.m., unless the court directs the application of Subsection (2)(a)(i);

(b) (i) alternating weekends beginning on the first weekend after the entry of the decree from 6 p.m. on Friday until 7 p.m. on Sunday continuing each year; or

(ii) at the election of the noncustodial parent, from the time the child's school is regularly dismissed on Friday until 7 p.m. on Sunday, unless the court directs the application of Subsection (2)(b)(i);

(c) holidays take precedence over the weekend parent-time, and changes shall not be made to the regular rotation of the alternating weekend parent-time schedule;

(d) if a holiday falls on a regularly scheduled school day, the noncustodial parent shall be responsible for the child's attendance at school for that school day;

(e) (i) if a holiday falls on a weekend or on a Friday or Monday and the total holiday period extends beyond that time so that the child is free from school and the parent is free from work, the noncustodial parent shall be entitled to this lengthier holiday period; or

(ii) at the election of the noncustodial parent, parent-time over a scheduled holiday weekend may begin from the time the child's school is regularly dismissed at the beginning of the holiday weekend until 7 p.m. on the last day of the holiday weekend;

(f) in years ending in an odd number, the noncustodial parent is entitled to the following holidays:

(i) child's birthday on the day before or after the actual birthdate beginning at 3 p.m. until 9 p.m.; at the discretion of the noncustodial parent, he may take other siblings along for the birthday;

(ii) Martin Luther King, Jr. beginning 6 p.m. on Friday until Monday at 7 p.m. unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(iii) spring break or Easter holiday beginning at 6 p.m. on the day school lets out for the holiday until 7 p.m. on the Sunday before school resumes;

(iv) Memorial Day beginning 6 p.m. on Friday until Monday at 7 p.m., unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(v) July 24th beginning 6 p.m. on the day before the holiday until 11 p.m. on the holiday;

(vi) Veteran's Day holiday beginning 6 p.m. the day before the holiday until 7 p.m. on the holiday; and

(vii) the first portion of the Christmas school vacation as defined in Subsection **30-3-32(3)(b)** plus Christmas Eve and Christmas Day until 1 p.m., so long as the entire holiday is equally divided;

(g) in years ending in an even number, the noncustodial parent is entitled to the following holidays:

(i) child's birthday on actual birthdate beginning at 3 p.m. until 9 p.m.; at the discretion of the noncustodial parent, he may take other siblings along for the birthday;

(ii) Washington and Lincoln Day beginning at 6 p.m. on Friday until 7 p.m. on Monday unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(iii) July 4th beginning at 6 p.m. the day before the holiday until 11 p.m. on the holiday;

(iv) Labor Day beginning at 6 p.m. on Friday until Monday at 7 p.m. unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(v) the fall school break, if applicable, commonly known as U.E.A. weekend beginning at 6 p.m. on Wednesday until Sunday at 7 p.m. unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(vi) Columbus Day beginning at 6 p.m. the day before the holiday until 7 p.m. on the holiday;

(vii) Thanksgiving holiday beginning Wednesday at 7 p.m. until Sunday at 7 p.m.; and

(viii) the second portion of the Christmas school vacation, including New Year's Day, as defined in Subsection **30-3-32(3)(b)** plus Christmas day beginning at 1 p.m. until 9 p.m., so long as the entire Christmas holiday is equally divided;

(h) the custodial parent is entitled to the odd year holidays in even years and the even year holidays in odd years;

(i) Father's Day shall be spent with the natural or adoptive father every year beginning at 9 a.m. until 7 p.m. on the holiday;

(j) Mother's Day shall be spent with the natural or adoptive mother every year beginning at 9 a.m. until 7 p.m. on the holiday;

(k) extended parent-time with the noncustodial parent may be:

(i) up to four weeks consecutive at the option of the noncustodial parent;

(ii) two weeks shall be uninterrupted time for the noncustodial parent; and

(iii) the remaining two weeks shall be subject to parent-time for the custodial parent consistent with these guidelines;

(l) the custodial parent shall have an identical two-week period of uninterrupted time during the children's summer vacation from school for purposes of vacation;

(m) if the child is enrolled in year-round school, the noncustodial parent's extended parent-time shall be 1/2 of the vacation time for year-round school breaks, provided the custodial parent has holiday and phone visits;

(n) notification of extended parent-time or vacation weeks with the child shall be provided at least 30 days in advance to the other parent; and

(o) telephone contact shall be at reasonable hours and for reasonable duration.

(3) Any elections required to be made in accordance with this section by either parent concerning parent-time shall be made a part of the decree and made a part of the parent-time order.

10. Petitioner should responsible for picking up the minor child at the beginning of Petitioner's scheduled time-sharing period and returning the minor child to daycare, school or home, whichever is appropriate, at the end of her scheduled time-sharing period.

11. The parties should provide each other with current residential addresses and telephone numbers, employment addresses and employment telephone numbers and income within twenty-four (24) hours of any change.

#### Provisions Relating to Relocation

12. Pursuant to Utah Code Ann. § 30-3-37, in the event that either parent decides to move from the state of Utah or 150 miles or more from the residence at the time of the decree, that parent shall provide if possible 60 days advance written notice of the intended relocation to the other parent. The written notice of relocation shall contain statements affirming a parent-time schedule approved by both parties that will be followed after the relocation and that neither parent will interfere with the other's parental rights pursuant to the schedule approved by both parties. The relocating party shall be responsible for all the child's travel expenses relating to

holiday parent-time and one-half (1/2) of the child's travel expenses relating to extended parent-time. In the event that the parties are unable to agree on a parent-time schedule the schedule in the relocation statute should be followed after the relocation.

Provisions Relating to Support Payments

13. Respondent is not employed and has no source of income. Prior to the parties' separation, Respondent was a full-time father and caregiver to the parties' minor child.

14. Petitioner is unemployed but received income in excess of \$10,001.00 per month from a settlement and investments.

15. Pursuant to Utah Code Ann. § 78-45-7 et seq. (1953 as amended), Petitioner should be ordered to pay child support to Respondent to commence January 2005, the month of the filing of this Counter Petition as follows:

a. The sum of \$826.00 per month as base support for the minor child of the parties pursuant to the Uniform Child Support Guidelines until said child becomes 18 years of age, or has graduated from high school during the child's normal and expected year of graduation, whichever occurs later (see child support worksheet attached hereto as Exhibit "A" and incorporated herein by reference).

b. The base child support award shall be reduced by 25% for time periods during which the child is with the noncustodial parent for at least 12 days out of 30 consecutive days. The base child support award shall be reduced by 50% for time periods during which the child is with the noncustodial parent for at least 25 out of 30



consecutive days. This provision does not apply if the visit was a “normal” parent-time or holiday visits with the noncustodial parent. However, “normal” parent-time and holiday visits to the custodial parent shall not be considered an interruption of the consecutive day requirement.

c. If the Office of Recovery Services is collecting child support, the noncustodial parent must submit written documentation to the Office of Recovery Services, verifying the dates of the visit and either a court order or written agreement of the parties concerning that visit. If the noncustodial parent is current in all child support obligations, a refund will be given to the noncustodial parent within one month after the visit, or after the documentation has been received by the Office of Recovery Services, whichever is last.

d. The obligee (custodial parent) shall be entitled to immediate and automatic income withholding relief pursuant to Utah Code Ann. § 62A-11 Parts 4 and 5 (1953 as amended). This income withholding procedure applies to existing and future payors, and all withheld income shall be submitted to the Office of Recovery Services.

e. Pursuant to Utah Code Ann. § 30-3-10.5, all monthly payments of child support, maintenance or alimony provided in the order or decree shall be due on the first day of each month, unless otherwise specified.

f. All administrative fees and costs of income withholding assessed by the Office of Recovery Services shall be paid by Petitioner in addition to the base child support obligation.

g. All child support payments should be made to the Office of Recovery Services, P.O. Box 45011, Salt Lake City, Utah 84145-0011, unless the Office of Recovery Services gives notice that payments should be sent elsewhere.

h. The issue of child support arrearages may be determined by further judicial or administrative determination.

i. Pursuant to Utah Code Ann. § 78-45-4.4 and 7.7, each parent's child support obligation shall be established in proportion to their adjusted gross incomes. The child support obligation of the father shall be \$0. The child support obligation of the mother shall be \$826.00 (see child support worksheet attached as Exhibit "A"). Except during periods of court-ordered visitation, if physical custody of the child changes from that assumed in the original order, the parent without physical custody shall be required to pay the amount of support set forth in this paragraph without the need to modify this order to the parent who has physical custody, to a relative to whom physical custody of the child has been voluntarily given, or to the state if the child is in state custody.

j. Enforcement of a child support order may be pursued at any time within four years after the date the child reaches majority.

#### Provisions Relating to Health Insurance

16. Pursuant to Utah Code Ann. § 78-45-7.15 (1953 as amended), Petitioner should maintain insurance for medical expenses for the benefit of the minor child.

a. Petitioner shall receive a credit toward her child support obligation, for health insurance premiums she actually pays to provide coverage for the child, even if another adult in Petitioner's household pays the premium.

b. The child's portion of the premium shall be calculated by dividing the premium amount by the number of persons covered under the policy.

c. Both parties should share equally all reasonable and necessary uninsured medical expenses, including deductibles and co-payments, incurred for the minor child and actually paid by the parties.

d. The parent ordered to maintain insurance should provide verification of coverage to the other parent, or to the Office of Recovery Services under Title IV of the Social Security Act, upon initial enrollment of the dependent children, and thereafter on or before January 2, of each calendar year. The parent should notify the other parent, or the Office of Recovery Services, of any change of insurance carrier, premium, or benefits within 30 calendar days of the date that parent first knew or should have known of the change.

e. A parent who incurs medical expenses should provide written verification of the cost and payment of medical expenses to the other parent within 30 days of payment.

f. A parent incurring medical expenses may be denied the right to receive credit for the expenses or to recover the other parent's share of the expenses if that parent fails to comply with the Subparagraphs "d" and "e" above.

g. The parent to whom written verification is provided should reimburse the parent who incurred the medical expenses one-half of the amount of the out-of-pocket costs within 30 days of receipt of the written verification.

#### Provisions Relating to Child Care Expenses

17. Pursuant to Utah Code Ann. § 78-45-7.16 (1953 as amended), both parties should share equally the reasonable work-related and career, or occupational training-related childcare expenses incurred by Respondent.

a. Petitioner should begin paying her share of childcare expenses on a monthly basis immediately upon presentation of proof of the childcare expense.

b. Respondent should provide written verification of the cost and identity of a childcare provider to Petitioner upon initial engagement of a provider and thereafter on the request of Petitioner. Respondent should notify Petitioner of any change of childcare provider or the monthly expense of childcare within 30 calendar days of the date of the change. Respondent may be denied the right to receive credit for the expenses or to

recover Petitioner's share of the expenses if Respondent fails to comply with these provisions.

#### Provisions Relating to Life Insurance

18. Petitioner should obtain a life insurance policy on Petitioner's life, so long as such is available at reasonable cost or through Petitioner's employer, in a face amount of sufficient size to provide for a monthly income equal to child support and alimony payments herein. Petitioner should maintain in full force and effect said life insurance policy until the support obligations herein terminate. During the period of the child's minority, Petitioner should irrevocably designate the parties' minor child as beneficiary on said life insurance and designate Respondent as the trustee for said minor child. Thereafter, so long as the alimony obligation continues, Petitioner should irrevocably designate Respondent as beneficiary on said life insurance.

#### Provisions Relating to Debts and Obligations

19. Petitioner should assume and pay, and hold Respondent harmless from liability on, all debts and obligations incurred by the parties prior to their date of separation. Thereafter, Petitioner should assume and pay all debts and obligations incurred for a family purpose. Otherwise, all debts and obligations contracted by the parties should be the responsibility of the party who incurred the particular debt. Pursuant to Utah Code Ann. § 30-3-5(c)(ii), the parties should notify respective creditors or obligees regarding the division of debts, obligations, or liabilities herein and the parties' separate, current addresses.

#### Provisions Relating to Personal Property

20. During the course of the marriage relationship, the parties acquired certain items of personal property. Said personal property should be appraised by an independent appraiser and divided equitably between the parties.

#### Provisions Relating to Real Property

21. During the course of the marriage, the parties acquired certain real property to wit:

- a. A home located at 1892 Deep Woods Drive, Draper, Utah 84020, more particularly described as follows: Lot 36 OAK VISTA 1 AT SUNCREST Sec 3409.
- b. Said real property should be sold as soon as reasonably practicable and the proceeds of the sale should be applied as follows:
  - i. First, pay expenses of sale;
  - ii. Second, retire any and all mortgages and liens;
  - iii. Third, pay all marital debts and obligations;
  - iv. Last, the balance remaining thereafter to be divided equally between the parties.
- c. Both parties should execute any necessary documents for the listing and sale of said real property. In the event the Respondent fails to execute said documents, Petitioner may submit an ex parte motion, pursuant to Rule 70 of the Utah Rules of Civil

Procedure, and the Court may direct the clerk of the court to execute said necessary documents.

\* IS THERE ANY OTHER LAND?

Provisions Relating to Alimony

22. Pursuant to Utah Code Ann. § 30-3-5, Respondent should be awarded a sum of \$3,000.00 per month as alimony from Petitioner for a period two (2) years, equal to the length of the marriage. Petitioner and Respondent were married on October 4, 2002.

a. Petitioner has an ability to provide support to Respondent as requested herein. Petitioner has monthly income in excess of \$10,001.00 per month.

b. Respondent has need of monthly financial support as Respondent has not worked during the parties' marriage and was a stay-at-home father providing full-time care for the parties' minor child.

c. Payment of alimony to Respondent by Petitioner will restore Respondent to the standard of living that existed at the time of the parties' separation.

d. Unless the Decree of Divorce specifically provides otherwise, the order of alimony automatically terminates upon the remarriage of the spouse receiving alimony or the establishment by the paying spouse that the receiving spouse is cohabiting with another person, including living together in a homosexual relationship sharing expenses.

#### Provisions Relating to Financial Accounts

23. Petitioner has financial accounts or other investment fund accounts. Respondent should be awarded one-half of all benefits accrued pursuant to such accounts during the period of the parties' marriage from the date of marriage until the date of the entry of the Decree of Divorce herein.

#### Miscellaneous Provisions

##### Restraining Order

24. Respondent should be restrained from coming to Petitioner's place of residence. The parties should exchange the minor child in public places. Respondent is permitted to telephone the Petitioner at reasonable times but only for the purposes pertaining to the minor child.

##### Taxes

25. Respondent should be entitled to claim the parties' minor child as an exemption for the purposes of filing federal and state income tax returns.

##### Attorney's Fees

26. Petitioner should be ordered to pay Respondent's attorney's fees in a sum of not less than \$2,000.00.

##### Other

27. Petitioner should be restored the use of her former name, **CAMILLE CASTILLO**, if she so desires.




28. Each party should be ordered to execute and deliver to the other such documents as are required to implement the provisions of the Decree of Divorce entered by the Court.

29. The Court should grant such other and further relief as it may deem just and appropriate in this matter.

WHEREFORE, Respondent prays that a Decree of Divorce be granted pursuant to the terms set forth in Respondent's Counter Petition.

DATED this 14 day of JAN 2005.

SMART, SCHOFIELD, SHORTER & LUNCEFORD

  
\_\_\_\_\_  
Samuel M. Barker  
Attorney for Respondent

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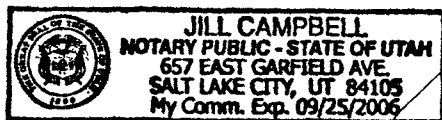
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Travis Paul Johnson (Affiant), being first duly sworn and under oath, deposes and says that Affiant is the Respondent in the above-entitled action; that Affiant has read the foregoing Verified Answer to Petitioner's Complaint for Divorce and Respondent's Counter Petition, and understands the contents thereof, and the same is true of Affiant's own knowledge, information and belief.

Travis Paul Johnson

SUBSCRIBED AND SWORN TO before me this 14 day of JANUARY 2005.



NOTARY PUBLIC

# **EXHIBIT “A”**

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

CAMILLE CASTILLO-JOHNSON,  
  
Petitioner,  
  
**vs.**  
  
TRAVIS PAUL JOHNSON,  
  
Respondent.

**CHILD SUPPORT OBLIGATION WORKSHEET  
(SOLE CUSTODY)**

Civil No. 044907342  
Judge Leslie A. Lewis  
Commissioner Thomas N. Arnett, Jr.

	Mother	Father	Combined
1. Enter the # of natural and adopted children of this mother and father for whom support is to be awarded.			1
2a. Enter the father's and mother's gross monthly income. Refer to instructions for definition of income.	\$10,001.00	\$0	
2b. Enter previously ordered alimony that is actually paid. (Do not enter alimony ordered for this case.)			
2c. Enter previously ordered child support. (Do not enter obligations ordered for the children in Line 1.)			
2d. OPTIONAL: Enter the amount from Line 12 of the Children in Present Home Worksheet for either parent.			
3. Subtract Lines 2b, 2c, and 2d from 2a. This is the Adjusted Gross Income for child support purposes.	\$10,001.00	\$1	\$10,001.00
4. Take the COMBINED figure in Line 3 and number of children in Line 1 to the support Table. Find the Base Combined Support Obligation. Enter it here.			\$826.00
5. Divide each parent's adjusted monthly gross in Line 3 by the COMBINED adjusted monthly gross in Line 3.	100%	0%	
6. Multiply Line 4 by Line 5 for each parent to obtain each parent's share of the Base Support Obligation.	\$826.00	\$0	
7. BASE CHILD SUPPORT AWARD: Bring down the amount(s) from the Low Income Table per U.C.A. 78-45-7.7. The parent(s) without physical custody of the child(ren) pay(s) the amount(s) all 12 months of the year.		\$826.00	

8. Which parent is the obligor? ☒ Mother ☐ Father ☐ Both
9. Is the support award the same as the guideline amount(s) in Line 7? (X) Yes ( ) No  
If No, enter the amount(s) ordered: \$ (Father) \$ (Mother), and answer number 10.
10. What were the reasons stated by the Court for the Deviation?  
( ) Property settlement  
( ) Excessive debts of marriage  
( ) Absence of need of the custodial parent

Attorney Bar No. 6073 ( ) Electronic Filing (X) Manual Filing

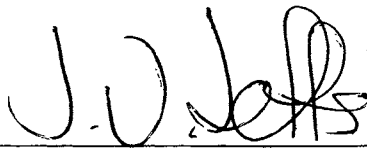
6/2000

CERTIFICATE OF MAILING

On this 18<sup>th</sup> day of Jan . 2005, I deposited in the United States Mail,  
postage prepaid, a true and correct copy of the foregoing **VERIFIED ANSWER TO**  
**PETITIONER'S COMPLAINT FOR DIVORCE AND RESPONDENT'S COUNTER**  
**PETITION** to:

Gayanne K. Schmid  
68 South Main Street, Suite 800  
Salt Lake City, Utah 84101

Travis Paul Johnson  
c/o Christina Williams  
9300 South Redwood Road, #16-04  
West Jordan, Utah 84088

  
\_\_\_\_\_

# ADDENDUM 3

MAIL PAYMENTS TO:  
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# University

OF UTAH

## CREDIT UNION

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT OR DEPOSIT.

LOAN PAYMENT SUFFIX	
CHECKING DEPOSIT	
REG. SAVINGS DEPOSIT	
TOTAL	

1827028

CAMILLE R CASTILLO  
1892 DEEP WOODS DR  
DRAPER UT 84020-5503

09/01/04 09/30/04

1

09/01 ID 01	PRIME SHARES Balance Forward		2012.15
09/01	Deposit Dividend Tiered Rate	1.38	2013.53
	Annual Percentage Yield Earned	0.80% from 08/01/04 through 08/31/04	
09/30	Ending Balance		2013.53
	Dividends Paid Year to Date	7.62	
	A Tiered Rate Dividend of \$1.32 will be posted on 10/01/04		
*****			
09/01 ID 02	GABRIEL GOLDEN Balance Forward		6119.28
09/01	Deposit Dividend Tiered Rate	4.16	6123.44
	Annual Percentage Yield Earned	0.80% from 08/01/04 through 08/31/04	
09/07	Withdrawal Transfer To Share 90	5500.00-	623.44
09/30	Ending Balance		623.44
	Dividends Paid Year to Date	22.64	
	A Tiered Rate Dividend of \$1.01 will be posted on 10/01/04		
*****			
09/01 ID 90	CHECKING Balance Forward		6644.47
09/01	Deposit Dividend Tiered Rate	1.83	6646.30
	Annual Percentage Yield Earned	0.25% from 08/01/04 through 08/31/04	
09/01	Withdrawal at ATM #738613	8.89-	6637.41
	POS HOLIDAY OIL #38 HOLIDAY OIL255 E		
	TRAVER DRAPER UT		
09/01	Withdrawal COMCAST	19.18-	6618.23
09/01	Withdrawal Debit Card	3.00-	6615.23
	08/31 24337894244286688600486 PC PARKING METER PARK CITY UT		
09/01	Withdrawal at ATM #264335	264.09-	6351.14
	POS SMITHS 212 E. 12300 S. DRAPER UT		
09/01	Draft 000540	50.40-	6300.74
09/01	Draft 000544	9.00-	6291.74
09/02	Withdrawal at ATM #002369	21.75-	6269.99
	ATM CRISMONS NEWS & VIEWS 210 E 400 S SALT LAKE CIT UT		
09/02	Withdrawal ATM Fee	1.00-	6268.99
	ATM CRISMONS NEWS & VIEWS 210 E 400 S SALT LAKE CIT UT		
09/02	Withdrawal at ATM #048065	69.25-	6199.74
	POS TOYS R US 5968 S STATE ST MURRAY UT		
09/02	Draft 000539	375.00-	5824.74
09/02	Draft 000541	25.50-	5799.24
09/02	Draft 000543	215.58-	5583.66
09/03	Withdrawal Debit Card	6.62-	5577.04

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2,847

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# University OF UTAH CREDIT UNION

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LOAN PAYMENT SUFFIX	
CHECKING DEPOSIT	
REG. SAVINGS DEPOSIT	
TOTAL	

1827028

CAMILLE R CASTILLO  
1892 DEEP WOODS DR  
DRAPER UT 84020-5503

09/01/04 09/30/04

2

09/03	09/02 24224434247323910300037 SALT LAKE ROASTING SALT LAKE CIT UT		
	Withdrawal Debit Card	7.52-	5569.52
09/03	09/01 24761974246275245010431 FAZOLIS #5225 DRAPER UT		
	Withdrawal Debit Card	15.98-	5553.54
09/03	09/01 24610434246072001199161 BLOCKBUSTER VIDEO #49057 DRAPER UT		
	Withdrawal Debit Card	27.40-	5526.14
09/03	09/02 24401404246001354002017 USPS 4977880004 SALT LAKE CIT UT		
	Withdrawal Debit Card	161.20-	5364.94
09/03	09/02 24717054247122479678845 MODERN DISPLAY SALT LAKE CTY UT		
	Withdrawal Debit Card	329.60-	5035.34
09/03	09/01 24717054246602460274770 THE TICKET LADY SALT LAKE CTY UT		
	Withdrawal Transfer	500.00-	4535.34
	To CASTILLO-JOHNSON 1939679 Share 90		
09/03	Draft 000523	47.15-	4488.19
09/07 09/05	Withdrawal at ATM #031317	201.75-	4286.44
	ATM Holiday Oil 38 Draper UT		
09/07 09/05	Withdrawal ATM Fee	1.00-	4285.44
	ATM Holiday Oil 38 Draper UT		
09/07 09/05	Withdrawal at ATM #222711	66.07-	4219.37
	POS PETCO #0264 6842 S REDWOOD ROAD WEST JORDAN UT		
09/07 09/05	Withdrawal at ATM #000075	121.93-	4097.44
	POS OFFICE DEPOT WEST JORDAN UT		
09/07	Draft 000387	40.00-	4057.44
	Processed Check - CAPITAL ONE		
	TYPE: CHECK PYMT		
09/07	Draft 000388	200.00-	3857.44
	Processed Check - CAPITAL ONE		
	TYPE: CHECK PYMT		
09/07	Withdrawal Debit Card	4.00-	3853.44
	09/03 24223694249980215139416 PIZZA PIPELINE SALT LAKE CIT UT		
09/07	Withdrawal Debit Card	9.53-	3843.91
	09/05 24625124250441549502553 CHEVRON 00301989 DRAPER UT		
09/07	Withdrawal Debit Card	10.76-	3833.15
	09/02 24223694247980215136158 PIZZA PIPELINE SALT LAKE CIT UT		
09/07	Withdrawal Debit Card	12.94-	3820.21
	09/02 24254774247456738000884 TACO BELL #05139 MIDVALE UT		
09/07	Withdrawal Debit Card	21.08-	3799.13
	09/02 24721854248024703398420 J & G AUTOMOTIVE SALT LAKE CIT UT		
09/07	Withdrawal Debit Card	38.45-	3760.68
	--- Continued on following page ---		

2,848

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# University OF UTAH CREDIT UNION

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LOAN PAYMENT SUFFIX	
CHECKING DEPOSIT	
REG. SAVINGS DEPOSIT	
TOTAL	

1827028

CAMILLE R CASTILLO  
1892 DEEP WOODS DR  
DRAPER UT 84020-5503

09/01/04 09/30/04

3

09/07	09/02 24071054247489195777734 LIBRARY STORE, THE SALT LAKE CIT UT		
	Withdrawal Debit Card	130.08-	3630.60
09/07	09/05 24610434250004062535671 PARTY CITY #435 W JORDAN CITY UT		
	Withdrawal Debit Card	184.22-	3446.38
09/07	09/03 24399004248512010106349 FIRESTONE 00106344 SANDY UT		
	Deposit Transfer From Share 02	5500.00	8946.38
09/07	Draft 000576	260.00-	8686.38
	Cashed Draft 000576		
09/07	Withdrawal at ATM #001300	61.75-	8624.63
	ATM USANA AMPHITHEATER 2 5150 WESTRIDGE		
	BLVD. WEST VALLEY UT		
09/07	Withdrawal ATM Fee	1.00-	8623.63
	ATM USANA AMPHITHEATER 2 5150 WESTRIDGE		
	BLVD. WEST VALLEY UT		
09/07	Draft 000383	1401.30-	7222.33
09/07	Draft 000389	45.80-	7176.53
09/08	Draft 000549	26.00-	7150.53
	Processed Check - PREMIER CR CARD		
	TYPE: CHECKPAYMT		
09/08	Withdrawal ATT WS	143.24-	7007.29
09/08	Withdrawal Debit Card	36.17-	6971.12
	09/07 24493984252200999600067 FOREVER YOUNG SANDY UT		
09/08	Withdrawal at ATM #404075	74.97-	6896.15
	POS SMITHS 212 E. 12300 S. DRAPER UT		
09/08	Draft 000382	161.00-	6735.15
09/08	Draft 000385	273.27-	6461.88
09/08	Draft 000390	105.39-	6356.49
09/08	Draft 000391	30.87-	6325.62
09/08	Draft 000392	310.41-	6015.21
09/08	Draft 000545	73.00-	5942.21
09/08	Draft 000546	70.00-	5872.21
09/09	Withdrawal CLARKE AMERICAN	20.99-	5851.22
	TYPE: CHK ORDER		
09/09	Withdrawal MCI 800-444-3333	79.38-	5771.84
	TYPE: THANK YOU		
09/09	Withdrawal QUESTAR GAS CO.	262.00-	5509.84
	TYPE: QGC		
09/09	Withdrawal Debit Card	15.20-	5494.64
	09/08 24493984252170559400374 ALBERTO'S MURRAY UT		
09/09	Withdrawal Debit Card	24.98-	5469.66
	--- Continued on following page ---		

2,849

000150

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# University

OF UTAH

## CREDIT UNION

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT OR DEPOSIT.

LOAN PAYMENT SUFFIX	
CHECKING DEPOSIT	
REG. SAVINGS DEPOSIT	
TOTAL	

1827028

CAMILLE R CASTILLO  
1892 DEEP WOODS DR  
DRAPER UT 84020-5503

09/01/04 09/30/04

4

09/09	09/07 24266964252528097102199 GGW VIDEO 800-6893666 CA		
	Withdrawal Debit Card	28.18-	5441.48
09/09	09/08 24164074252621053275686 MINIATURE MARK00309484 SOUTH SALT LA UT		
	Withdrawal Debit Card	78.89-	5362.59
09/09	09/07 24418004252252074645805 THE BUCKLE #277 SANDY UT		
	Withdrawal Debit Card	89.52-	5273.07
09/09	09/07 24610434252004075866772 WET SEAL #835 SANDY UT		
	Withdrawal Transfer	2600.00-	2673.07
	To CASTILLO-JOHNSON 1939679 Share 90		
09/09	Withdrawal	100.00-	2573.07
09/09	Draft 000384	135.75-	2437.32
09/09	Draft 000386	152.92-	2284.40
09/10	Draft 000380	56.40-	2228.00
	Cashed Draft 000380		
09/10	Withdrawal Transfer	500.00-	1728.00
	To CASTILLO-JOHNSON 1939679 Share 90		
09/10	Draft 000381	340.49-	1387.51
09/10	Draft 000548	500.00-	887.51
09/11	Deposit by Check	24682.35	25569.86
09/13	Withdrawal Debit Card	8.23-	25561.63
	09/09 24055234254000949400081 CROWN BURGERS SALT LAKE CIT UT		
09/13	Withdrawal Debit Card	23.48-	25538.15
	09/10 24493984255170020601482 NEWSPAPER AGENCY CORP 801-237-2800 UT		
09/13	Withdrawal Debit Card	28.33-	25509.82
	09/11 24625124255441583442398 CHEVRON 00301989 DRAPER UT		
09/13	Withdrawal at ATM #003567	141.64-	25368.18
	POS WILDOATS 400 S 700 E Salt Lake Cit UT		
09/13	Draft 000396	81.08-	25287.10
09/13	Draft 000547	65.17-	25221.93
09/13	Draft 000550	400.00-	24821.93
09/14	Draft 000395	16.87-	24805.06
09/15	Withdrawal Debit Card	87.84-	24717.22
	09/13 24229704258025400200356 SHERATON HOTELS CITY CNTR SALT LAKE CTY UT		
09/15	Draft 000393	213.19-	24504.03
09/15	Draft 000397	56.81-	24447.22
09/15	Draft 000578	7632.50-	16814.72
09/16	Withdrawal Debit Card	3.85-	16810.87
	09/14 24254774259456689500655 TACO BELL #15331 SALT LAKE CIT UT		
09/16	Withdrawal Debit Card	16.30-	16794.57
	09/15 24224434260304162300141 PIBS EXCHANGE LC SALT LAKE CIT UT		

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2,850

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LOAN PAYMENT SUFFIX	
CHECKING DEPOSIT	
REG. SAVINGS DEPOSIT	
TOTAL	

1827028

CAMILLE R CASTILLO  
1892 DEEP WOODS DR  
DRAPER UT 84020-5503

09/01/04 09/30/04

5

09/16	Withdrawal Debit Card	28.24-	16766.33
	09/15 24493984260170043200091 DECADES SALT LAKE CIT UT		
09/16	Withdrawal Debit Card	29.58-	16736.75
	09/15 24717054260122606833075 PAPER CREATIONS SALT LAKE CIT UT		
09/16	Withdrawal Debit Card	59.00-	16677.75
	09/14 24403694259900425900067 EXPRESS RENTALS INC MURRAY UT		
09/16	Withdrawal at ATM #817080	45.39-	16632.36
	POS SMITHS 212 E. 12300 S. DRAPER UT		
09/16	Withdrawal at ATM #017736	161.75-	16470.61
	ATM Holiday Oil 38 Draper UT		
09/16	Withdrawal ATM Fee	1.00-	16469.61
	ATM Holiday Oil 38 Draper UT		
09/16	Withdrawal at ATM #024677	30.84-	16438.77
	POS KMART 1055 E DRAPER PARKWAY DRAPER UT		
09/16	Draft 000394	904.10-	15534.67
09/17	Withdrawal Debit Card	5.12-	15529.55
	09/15 24254774260456689500553 TACO BELL #15331 SALT LAKE CIT UT		
09/17	Withdrawal Debit Card	49.25-	15480.30
	09/16 24755414260642606819880 TEN THOUSAND VILLAGES UTA SALT LAKE CIT UT		
09/17	Withdrawal Debit Card	81.03-	15399.27
	09/15 24072804260456000226693 JOANN FABRIC #1444 SALT LAKE CIT UT		
09/17	Withdrawal at ATM #002352	101.75-	15297.52
	ATM Holiday Oil 38 Draper UT		
09/17	Withdrawal ATM Fee	1.00-	15296.52
	ATM Holiday Oil 38 Draper UT		
09/17	Draft 000579	100.00-	15196.52
09/18	Withdrawal at ATM #982702	201.50-	14995.02
	ATM M274-MT VIEW-39077 HWY 410 & 7TH		
	MOUNTAIN VIEW WY		
09/18	Withdrawal ATM Fee	1.00-	14994.02
	ATM M274-MT VIEW-39077 HWY 410 & 7TH		
	MOUNTAIN VIEW WY		
09/20 09/19	Withdrawal at ATM #008932	161.75-	14832.27
	ATM Holiday Oil 38 Draper UT		
09/20 09/19	Withdrawal ATM Fee	1.00-	14831.27
	ATM Holiday Oil 38 Draper UT		
09/20 09/19	Withdrawal at ATM #941431	34.30-	14796.97
	POS HOLIDAY OIL #38 HOLIDAY OIL255 E		
	TRAVER DRAPER UT		
09/20	Deposit AIG RPS 301	4420.42	19217.39

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2,851

000152

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LOAN PAYMENT SUFFIX	
CHECKING DEPOSIT	
REG. SAVINGS DEPOSIT	
TOTAL	

1827028

CAMILLE R CASTILLO  
1892 DEEP WOODS DR  
DRAPER UT 84020-5503

09/01/04 09/30/04

6

TYPE: ANNUITYPAY  
09/20 Withdrawal PACIFICORP 216.58- 19000.81  
TYPE: ELECTRIC C  
09/20 Withdrawal Debit Card 4.00- 18996.81  
09/17 24717054261732610701529 SUPERSONIC 33RD SOUTH SALT LAKE CIT UT  
09/20 Withdrawal Debit Card 31.52- 18965.29  
09/17 24455014261040006288501 BENEDICT'S TRUE VAL MOUNTAIN VIEW WY  
09/20 Withdrawal Debit Card 44.66- 18920.63  
09/18 24455014262040007267057 BENEDICT'S TRUE VAL MOUNTAIN VIEW WY  
09/20 Withdrawal Debit Card 48.24- 18872.39  
09/16 24792624261221028600471 RUBY TUESDAY #2187 DRAPER UT  
09/20 Withdrawal at ATM #022070 70.59- 18801.80  
POS PETSMART Sandy UT  
09/20 Withdrawal at ATM #115634 72.66- 18729.14  
POS WAL-MART #2307 10425 SO STATE ST SANDY  
UT  
09/20 Withdrawal at ATM #003445 292.57- 18436.57  
POS ALBERTSONS #0394 11479 SOUTH STATE  
STREE DRAPER UT  
09/21 Withdrawal Debit Card 138.50- 18298.07  
09/20 24337894264296005458562 DEPT OF MOTOR VEHICLE SALT LAKE CIT UT  
09/21 Withdrawal at ATM #249590 2.87- 18295.20  
POS HOLIDAY OIL #38 HOLIDAY OIL255 E  
TRAVER DRAPER UT  
09/21 Withdrawal at ATM #028919 29.82- 18265.38  
POS KMART 1055 E DRAPER PARKWAY DRAPER UT  
09/22 Withdrawal Debit Card 24.42- 18240.96  
09/20 24625124265441648419405 CHEVRON 00301989 DRAPER UT  
09/22 Withdrawal Debit Card 276.97- 17963.99  
09/20 24164074265743360280657 RADIO SHACK 00133512 DRAPER UT  
09/22 Withdrawal at ATM #032622 101.75- 17862.24  
ATM Holiday Oil 38 Draper UT  
09/22 Withdrawal ATM Fee 1.00- 17861.24  
ATM Holiday Oil 38 Draper UT  
09/23 Draft 000580 419.50- 17441.74  
Cashed Draft 000580  
09/23 Withdrawal at ATM #027792 85.26- 17356.48  
POS KMART 1055 E DRAPER PARKWAY DRAPER UT  
09/24 09/23 Withdrawal at ATM #009524 62.50- 17293.98  
ATM HARRY O'S 427 S. MAIN ST PARK CITY UT  
--- Continued on following page ---

2,852

000153

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# University OF UTAH CREDIT UNION

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LOAN PAYMENT SUFFIX _____	
CHECKING DEPOSIT	
REG. SAVINGS DEPOSIT	
TOTAL	

1827028

CAMILLE R CASTILLO  
1892 DEEP WOODS DR  
DRAPER UT 84020-5503

09/01/04 09/30/04

7

09/24	09/23	Withdrawal ATM Fee	1.00-	17292.98
		ATM HARRY O'S 427 S. MAIN ST PARK CITY UT		
09/24		Withdrawal at ATM #332015	13.18-	17279.80
		POS WET SEAL #290 64 SOUTH RIO GRANDE ST		
		SALT LAKE CTY UT		
09/24		Draft 000551	262.00-	17017.80
09/25		Withdrawal at ATM #027940	201.75-	16816.05
		ATM Holiday Oil 38 Draper UT		
09/25		Withdrawal ATM Fee	1.00-	16815.05
		ATM Holiday Oil 38 Draper UT		
09/27	09/26	Withdrawal at ATM #048823	73.66-	16741.39
		POS SUNCREST MARKET 14886 S. TRAVERSE		
		RIDGE DRAPER UT		
09/27	09/26	Withdrawal at ATM #030816	101.75-	16639.64
		ATM Holiday Oil 38 Draper UT		
09/27	09/26	Withdrawal ATM Fee	1.00-	16638.64
		ATM Holiday Oil 38 Draper UT		
09/27	09/26	Withdrawal at ATM #178232	29.55-	16609.09
		POS HOLIDAY OIL #38 HOLIDAY OIL255 E		
		TRAVEL DRAPER UT		
09/27		Withdrawal Debit Card	14.60-	16594.49
		09/25 24610434270072006809599 ARBY'S #223 Q52 DRAPER UT		
09/27		Withdrawal Debit Card	24.19-	16570.30
		09/23 24493984268207099300391 MARIE CALLENDER'S #93 SALT LAKE CIT UT		
09/27		Withdrawal Debit Card	26.65-	16543.65
		09/23 24323024268138014400019 THE COSTUME CLOSET SALT LAKE CIT UT		
09/27		Withdrawal Debit Card	26.65-	16517.00
		09/24 24418004269269145649609 SOLE OUTDOORS #92 LENEXA KS		
09/27		Withdrawal Debit Card	30.47-	16486.53
		09/23 24625124269441675823319 CHEVRON 00301989 DRAPER UT		
09/27		Withdrawal Debit Card	30.87-	16455.66
		09/23 24323024268138016600244 THE COSTUME CLOSET SALT LAKE CIT UT		
09/27		Withdrawal Debit Card	44.68-	16410.98
		09/23 24164074268494274363422 BORDERS BOOKS 01002740 MURRAY UT		
09/27		Withdrawal Debit Card	72.49-	16338.49
		09/24 24792624269682090689217 EXPRESS # 0906 SALT LAKE CIT UT		
09/27		Withdrawal Transfer	200.00-	16138.49
		To CASTILLO-JOHNSON 1939679 Share 90		
09/28		Withdrawal Debit Card	8.13-	16130.36
		09/27 24224434272323910300092 SALT LAKE ROASTING SALT LAKE CIT UT		
		--- Continued on following page ---		

2,853

000154

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# University

OF UTAH

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LOAN PAYMENT SUFFIX	
CHECKING DEPOSIT	
REG. SAVINGS DEPOSIT	
TOTAL	

1827028

CAMILLE R CASTILLO  
1892 DEEP WOODS DR  
DRAPER UT 84020-5503

09/01/04 09/30/04

8

09/28	Withdrawal at ATM #385447	2.32-	16128.04
	POS HOLIDAY OIL #38 HOLIDAY OIL255 E		
	TRAVER DRAPER UT		
09/29	Withdrawal GMACM EPAYBILL	3005.97-	13122.07
	TYPE: ONDEMAND		
09/29	Withdrawal Debit Card	5.00-	13117.07
	09/27 24492794272118000185821 CENTURY THEATR 12019 SALT LAKE CIT UT		
09/29	Withdrawal Debit Card	6.13-	13110.94
	09/28 24455014272720006395417 F4037 MCDONALD'S SLC UT		
09/29	Withdrawal Debit Card	7.95-	13102.99
	09/27 24492794272118000191639 CENTURY 16 12019 SALT LAKE UT		
09/29	Withdrawal Debit Card	14.78-	13088.21
	09/28 24717054273642732005962 ROMA RISTORANTE SL CITY UT		
09/29	Withdrawal Debit Card	80.93-	13007.28
	09/28 24493984273639000002612 PARTY AMERICA #2201 SALT LAKE CIT UT		
09/29	Withdrawal Debit Card	360.70-	12646.58
	09/25 24270764272318014490230 EMBASSY SUITES HOTEL SALT LAKE CIT UT		
09/29	Withdrawal at ATM #008079	40.00-	12606.58
	ATM University of Utah CU 50 North Medical		
	Drive Salt Lake UT		
09/29	Withdrawal Transfer	200.00-	12406.58
	To CASTILLO-JOHNSON 1939679 Share 90		
09/29	Withdrawal at ATM #021965	101.75-	12304.83
	ATM Holiday Oil 38 Draper UT		
09/29	Withdrawal ATM Fee	1.00-	12303.83
	ATM Holiday Oil 38 Draper UT		
09/30 09/29	Withdrawal at ATM #394015	85.99-	12217.84
	POS ALBERTSONS 1212 E. 12200 S. DRAPER UT		
09/30	Deposit AIG RPS 301	5452.88	17670.72
	TYPE: ANNUITYPAY		
09/30	Withdrawal Debit Card	28.21-	17642.51
	09/29 24625124273441701722745 CHEVRON 00301989 DRAPER UT		
09/30	Withdrawal Debit Card	51.57-	17590.94
	09/28 24072804273456000161663 JOANN FABRIC #1444 SALT LAKE CIT UT		
09/30	Withdrawal Debit Card	137.00-	17453.94
	09/28 24661004273120272010081 GALEN V CAMPBELL DDS SALT LAKE CTY UT		
09/30	Ending Balance		17453.94
	Dividends Paid Year to Date	43.08	
	A Tiered Rate Dividend of \$2.79 will be posted on 10/01/04		

--- Continued on following page ---

2,854

000155

# ADDENDUM 4

MAIL PAYMENTS TO:  
P.O. Box 58025  
Salt Lake City, Utah 84158-0025  
Phone (801) 481-8800



# University OF UTAH CREDIT UNION

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT OR DEPOSIT.

LOAN PAYMENT SUFFIX	
CHECKING DEPOSIT	
REG. SAVINGS DEPOSIT	
TOTAL	

1827028

CAMILLE R CASTILLO  
1892 DEEP WOODS DR  
DRAPER UT 84020-5503

10/01/04 10/31/04

1

```

10/01 ID 01 PRIME SHARES Balance Forward 2013.53
10/01 Deposit Dividend Tiered Rate 1.32 2014.85
Annual Percentage Yield Earned 0.80% frcm 09/01/04 through 09/30/04
10/31 Ending Balance 2014.85
Dividends Paid Year to Date 8.94
A Tiered Rate Dividend of $1.37 will be posted on 11/01/04
*****
10/01 ID 02 GABRIEL GOLDEN Balance Forward 623.44
10/01 Deposit Dividend Tiered Rate 1.01 624.45
Annual Percentage Yield Earned 0.72% from 09/01/04 through 09/30/04
10/31 Ending Balance 624.45
Dividends Paid Year to Date 23.65
A Tiered Rate Dividend of $0.27 will be posted on 11/01/04
*****
10/01 ID 90 CHECKING Balance Forward 17453.94
10/01 Deposit Dividend Tiered Rate 2.79 17456.73
Annual Percentage Yield Earned 0.25% from 09/01/04 through 09/30/04
10/01 Withdrawal COMCAST 19.18- 17437.55
10/01 Withdrawal Debit Card 11.99- 17425.56
09/29 24610434274072021307179 DANSKIN #12 DRAPER UT
10/01 Withdrawal Debit Card 66.89- 17358.67
09/29 24493984274286599200048 MEMORY LANE PAPER CO OREM UT
10/02 Withdrawal at ATM #007145 101.75- 17256.92
ATM Holiday Oil 38 Draper UT
10/02 Withdrawal ATM Fee 1.00- 17255.92
ATM Holiday Oil 38 Draper UT
10/04 Withdrawal Debit Card 26.64- 17229.28
10/02 24610434277072001548369 BLOCKBUSTER VIDEO #49057 DRAPER UT
10/04 Withdrawal Debit Card 50.95- 17178.33
09/30 24158134275101912770055 US NOVELTY SANDY UT
10/04 Draft 000581 80.00- 17098.33
10/04 Draft 000584 303.34- 16794.99
10/04 Draft 000585 7.00- 16787.99
10/05 Withdrawal Debit Card 56.15- 16731.84
10/03 24154344278562922120118 WASATCH PIZZA MIDTOWN #1 SALT LAKE CIT UT
10/05 Withdrawal Debit Card 96.64- 16635.20
10/03 24399004278916031273587 BIG LOTS #041300041301 SALT LAKE CIT UT
10/05 Draft 000595 42.00- 16593.20
Cashed Draft 000595
10/05 Draft 000582 400.00- 16193.20
--- Continued on following page ---

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2,827

000156



MAIL PAYMENTS TO:  
P.O. Box 58025  
Salt Lake City, Utah 84158-0025  
Phone (801) 481-8800



# University

OF UTAH

## CREDIT UNION

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT OR DEPOSIT.

LOAN PAYMENT SUFFIX	
CHECKING DEPOSIT	
REG. SAVINGS DEPOSIT	
TOTAL	

1827028

CAMILLE R CASTILLO  
1892 DEEP WOODS DR  
DRAPER UT 84020-5503

10/01/04 10/31/04

2

10/05	Draft 000586	28.20-	16165.00
10/05	Draft 000593	174.29-	15990.71
10/06	Deposit by Check	118.07	16108.78
10/06	Withdrawal	1800.00-	14308.78
10/06	Draft 000583	27.00-	14281.78
10/06	Draft 000591	56.12-	14225.66
10/06	Draft 000592	137.51-	14088.15
10/06	Draft 000594	144.16-	13943.99
10/07	Draft 000588	174.81-	13769.18
	Point of Purchase Check - PRINTS PLUS 70		
	Terminal City & State - SALT UT		
	TYPE: EFT		
10/07	Draft 000590	61.30-	13707.88
10/07	Draft 000596	6.51-	13701.37
10/07	Draft 000597	18.78-	13682.59
10/08	Withdrawal ATT WS	30.81-	13651.78
10/08	Draft 000598	50.00-	13601.78
10/08	Draft 000599	12.79-	13588.99
10/08	Draft 000600	11.58-	13577.41
10/08	Draft 000701	11237.50-	2339.91
10/12	Draft 000702	63.70-	2276.21
	Point of Purchase Check - DANCING CRANES I		
	Terminal City & State - SALT UT		
	TYPE: EFT		
10/12	Withdrawal MCI 800-444-3333	81.03-	2195.18
	TYPE: THANK YOU		
10/12	Deposit by Check	330.86	2526.04
10/12	Withdrawal	50.00-	2476.04
10/12	Withdrawal Transfer	400.00-	2076.04
	To CASTILLO-JOHNSON 1939679 Share 90		
10/12	Draft 000587	151.16-	1924.88
10/12	Draft 000589	12.56-	1912.32
10/12	Draft 000703	9.73-	1902.59
10/12	Draft 000704	11.67-	1890.92
10/12	Draft 000705	23.45-	1867.47
10/12	Draft 000706	9.54-	1857.93
10/12	Draft 000707	23.83-	1834.10
10/12	Draft 000709	3.19-	1830.91
10/12	Draft 000726	35.54-	1795.37
10/12	Draft 000727	21.91-	1773.46

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2,828

000157

MAIL PAYMENTS TO:  
P.O. Box 58025  
Salt Lake City, Utah 84158-0025  
Phone (801) 481-8800



# University OF UTAH CREDIT UNION

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT OR DEPOSIT.

LOAN PAYMENT SUFFIX	
CHECKING DEPOSIT	
REG. SAVINGS DEPOSIT	
TOTAL	

1827028

CAMILLE R CASTILLO  
1892 DEEP WOODS DR  
DRAPER UT 84020-5503

10/01/04 10/31/04

3

10/13	Draft 000729		79.10-	1694.36
10/14	Withdrawal EXPRESS RECOVERY		23.19-	1671.17
	TYPE: AUTOPAY			
10/14	Withdrawal QUESTAR GAS CO.		262.00-	1409.17
	TYPE: QGC			
10/14	Withdrawal		100.00-	1309.17
10/14	Draft 000708		41.57-	1267.60
10/14	Draft 000728		13.50-	1254.10
10/14	Draft 000730		25.34-	1228.76
10/15	Withdrawal Transfer		200.00-	1028.76
	To CASTILLO-JOHNSON 1939679 Share 90			
10/18	Draft 000552		7.61-	1021.15
10/19	Withdrawal PACIFICORP		168.49-	852.66
	TYPE: ELECTRIC C			
10/19	Withdrawal Transfer		100.00-	752.66
	To CASTILLO-JOHNSON 1939679 Share 90			
10/19	Draft 000710		37.30-	715.36
10/19	Draft 000711		18.21-	697.15
10/19	Draft 000712		80.33-	616.82
10/19	Draft 000776		15.98-	600.84
10/20	Deposit AIG RPS 301		4553.03	5153.87
	TYPE: ANNUITYPAY			
10/20	Withdrawal Transfer		250.00-	4903.87
	To CASTILLO-JOHNSON 1939679 Share 90			
10/20	Withdrawal Transfer		500.00-	4403.87
	To CASTILLO-JOHNSON 1939679 Share 90			
10/20	Draft 000399		41.12-	4362.75
10/20	Draft 000713		61.56-	4301.19
10/21	Withdrawal Transfer		200.00-	4101.19
	To CASTILLO-JOHNSON 1939679 Share 90			
10/21	Withdrawal Transfer		300.00-	3801.19
	To CASTILLO-JOHNSON 1939679 Share 90			
10/21	Draft 000714		22.04-	3779.15
10/21	Draft 000716		1.16-	3777.99
10/21	Draft 000718		11.00-	3766.99
10/21	Draft 000723		56.11-	3710.88
10/21	Draft 000777		55.35-	3655.53
10/22	Withdrawal		200.00-	3455.53
10/22	Draft 000719		94.96-	3360.57
10/22	Draft 000720		33.37-	3327.20

--- Continued on following page ---

2,829

000158

MAIL PAYMENTS TO:  
P.O. Box 58025  
Salt Lake City, Utah 84158-0025  
Phone (801) 481-8800



# University

OF UTAH

## CREDIT UNION

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT OR DEPOSIT.

LOAN PAYMENT SUFFIX	
CHECKING DEPOSIT	
REG. SAVINGS DEPOSIT	
TOTAL	

1827028

CAMILLE R CASTILLO  
1892 DEEP WOODS DR  
DRAPER UT 84020-5503

10/01/04 10/31/04

4

10/22	Draft 000721	19.35-	3307.85
10/22	Draft 000722	6.40-	3301.45
10/22	Draft 000725	27.00-	3274.45
10/23	Withdrawal	300.00-	2974.45
10/25	Withdrawal	300.00-	2674.45
10/25	Draft 000715	150.00-	2524.45
10/25	Draft 000724	18.50-	2505.95
10/25	Draft 000732	14.39-	2491.56
10/26	Deposit by Check	18130.26	20621.82
10/26	Withdrawal Transfer	500.00-	20121.82
	To CASTILLO-JOHNSON 1939679 Share 90		
10/26	Withdrawal	100.00-	20021.82
10/26	Draft 000731	41.15-	19980.67
10/26	Draft 000736	24.27-	19956.40
10/26	Draft 000737	7.73-	19948.67
10/26	Draft 000738	86.54-	19862.13
10/26	Draft 000739	23.04-	19839.09
10/27	Draft 000747	39.23-	19799.86
	Point of Purchase Check - WALMART 2307 ECA		
	Terminal City & State - SAND UT		
	TYPE: PURCHASE		
10/27	Withdrawal	370.00-	19429.86
10/27	Draft 000734	77.00-	19352.86
10/27	Draft 000742	22.33-	19330.53
10/27	Draft 000743	18.66-	19311.87
10/27	Draft 000744	7.26-	19304.61
10/27	Draft 000745	19.58-	19285.03
10/28	Withdrawal	500.00-	18785.03
10/28	Draft 000740	15.00-	18770.03
10/28	Draft 000741	13.00-	18757.03
10/28	Draft 000746	56.23-	18700.80
10/28	Draft 000749	28.75-	18672.05
10/28	Draft 000750	73.15-	18598.90
10/28	Draft 000753	97.20-	18501.70
10/29	Deposit AIG RPS 301	5616.47	24118.17
	TYPE: ANNUITYPAY		
10/29	Withdrawal	4000.00-	20118.17
10/29	Withdrawal Transfer	1000.00-	19118.17
	To CASTILLO-JOHNSON 1939679 Share 90		
10/29	Deposit Transfer	1000.00	20118.17

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2,830

000159

MAIL PAYMENTS TO:  
P.O. Box 58025  
Salt Lake City, Utah 84158-0025  
Phone (801) 481-8800



# University OF UTAH CREDIT UNION

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT OR DEPOSIT.

LOAN PAYMENT SUFFIX	
CHECKING DEPOSIT	
REG. SAVINGS DEPOSIT	
TOTAL	

1827028

CAMILLE R CASTILLO  
1892 DEEP WOODS DR  
DRAPER UT 84020-5503

10/01/04 10/31/04

5

From CASTILLO-JOHNSON 1939679 Share 90  
10/29 Withdrawal 100.00- 20018.17  
10/29 Draft 000748 1668.44- 18349.73  
10/29 Draft 000752 37.31- 18312.42  
10/31 Ending Balance 18312.42  
Dividends Paid Year to Date 45.87  
A Tiered Rate Dividend of \$1.80 will be posted on 11/01/04

Number	Amount	Number	Amount	Number	Amount	Number	Amount
000399	41.12	000598	50.00	000718*	11.00	000739	23.04
000552*	7.61	000599	12.79	000719	94.96	000740	15.00
000581*	80.00	000600	11.58	000720	33.37	000741	13.00
000582	400.00	000701*	11237.50	000721	19.35	000742	22.33
000583	27.00	000702	63.70	000722	6.40	000743	18.66
000584	303.34	000703	9.73	000723	56.11	000744	7.26
000585	7.00	000704	11.67	000724	18.50	000745	19.58
000586	28.20	000705	23.45	000725	27.00	000746	56.23
000587	151.16	000706	9.54	000726	35.54	000747	39.23
000588	174.81	000707	23.83	000727	21.91	000748	1668.44
000589	12.56	000708	41.57	000728	13.50	000749	28.75
000590	61.30	000709	3.19	000729	79.10	000750	73.15
000591	56.12	000710	37.30	000730	25.34	000752*	37.31
000592	137.51	000711	18.21	000731	41.15	000753	97.20
000593	174.29	000712	80.33	000732	14.39	000776*	15.98
000594	144.16	000713	61.56	000734*	77.00	000777	55.35
000595	42.00	000714	22.04	000736*	24.27		
000596	6.51	000715	150.00	000737	7.73		
000597	18.78	000716	1.16	000738	86.54		

\* Asterisk next to number indicates skip in number sequence

\*\*\*\*\*

Total Dividends Paid Year to Date 78.46

2,831

000160

# ADDENDUM 5

# Membership Application and Account Information Card

All requested information must be completed and current to process this application.

**University**  
CREDIT UNION

University of Utah Federal Credit Union  
3450 S. Highland Drive Salt Lake City, Utah 84106  
P.O. Box 59025 Salt Lake City, Utah 84158-0025  
Phone (801) 481-8800 Fax (801) 481-8877 www.ucrediut.com

\*Account Subject to \$10.00 fee if closed within 180 days.  
Subject to approval by Membership Officer.

## FOR OFFICE USE ONLY

Date (MM/DD/YY) 5/10/04	How Did You Hear About Us? <input type="checkbox"/> Radio <input checked="" type="checkbox"/> T.V. <input type="checkbox"/> Website <input type="checkbox"/> In Branch Advertising <input type="checkbox"/> Newspaper <input checked="" type="checkbox"/> Referral
Account Number (nontransferable share account) 9391079	
This Application Is For: <input checked="" type="checkbox"/> Savings <input checked="" type="checkbox"/> Checking <input checked="" type="checkbox"/> ATM / Checkmate <input type="checkbox"/> Money Fund <input type="checkbox"/> Certificate of Deposit <input type="checkbox"/> Other	

## Membership Eligibility

- ☒ Live ☐ Work ☐ Attend School ☐ Worship ☐ Volunteer
- Located in the following county:  
☒ Salt Lake ☐ Tooele ☐ Summit ☐ Davis ☐ Weber ☐ Morgan
- ☐ University Credit Union Employee  
☐ Immediate family member of an existing or eligible member  
☐ Spouse of person who died while within the field of membership of the University Credit Union

## APPLICANT INFORMATION

Name (First, middle initial, last) Camille R. Castillo Johnson	Social Security Number 574-64-3673	Date of Birth (MM/DD/YY) 10/21/80	M <input type="checkbox"/> F <input checked="" type="checkbox"/>
Street Address (No Post Office Box addresses) 1892 Deep Woods Drive	Evening Telephone With Area Code (801) 816-1144	Daytime Telephone With Area Code (801) 244-1481	
City DRAPER	State UT	Zip Code 84020	Are you a U.S. Citizen or Permanent Resident? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If No (Visa type and exp.)
Mailing Address (if different from street address)	City	State	Zip Code
E-Mail TRAVIS@camillejohnson.com	Mother's Maiden Name Egge	Employer	Employer Telephone With Area Code ( )

## CO-APPLICANT INFORMATION

Name (First, middle initial, last) TRAVIS P. Johnson	Social Security Number 529-17-8952	Date of Birth (MM/DD/YY) 10/1/70	M <input checked="" type="checkbox"/> F <input type="checkbox"/>
Street Address (If Salt Lake County residence is basis for membership, a Salt Lake County address must be provided). (No Post Office Box addresses) 1892 Deep Woods Drive	Evening Telephone With Area Code (801) 816-1144	Daytime Telephone With Area Code (801) 577-7782	
City DRAPER	State UT	Zip Code 84020	Are you a U.S. Citizen or Permanent Resident? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If No (Visa type and exp.)
Mailing Address (if different from street address)	City	State	Zip Code
E-Mail	Mother's Maiden Name Poulson	Employer	Employer Telephone With Area Code ( )

## PAYABLE ON DEATH AGREEMENT

I hereby direct the funds in this account to the owner, or joint owners if it is a joint account, during their lifetime. Upon death of the owner, or last surviving owner, if it is a joint account, the remaining balance shall be paid in accordance to Utah Code Ann. 74-22-10 (BENEFICIARY). Proof of the owner's death shall be established by certified copies of the death certificate.

Name (First, middle initial, last) Janette Bengley	Street Address (If Salt Lake Co. residence is basis for membership, a Salt Lake Co. address must be provided). (No Post Office Box addresses) 317 Scott Ave
City Salt Lake City	State UT
Zip Code	Telephone With Area Code (801) 651-8697

## MEMBERSHIP AGREEMENT TERMS AND CONDITIONS

I hereby make application for membership in and agree to abide by the bylaws of the University Credit Union. I certify by signing this application that I qualify for Credit Union membership based upon qualification requirements outlined in the Bylaws of the Corporation; the information provided on this application is true and correct and my signature on this card applies to secondary share accounts under this account number as well. I authorize the Credit Union to obtain a credit report from a 3rd party credit reporting agency reflecting my credit history.

## VISA CHECKMATE CARD/ATM ACCESS CARD AGREEMENT

I hereby certify that all statements in this application are true and complete and made for the purpose of obtaining a Checkmate card from the University Credit Union. If all statements are not true and complete, I realize that this is sufficient reason for denial of this application. The University Credit Union is authorized to check my credit history. I understand that the Checkmate card will allow me to make withdrawals from my accounts, and that any VISA transactions made with this card will be debited from my checking account. This card does not allow access to any other accounts. I authorize the issuance of a Personal Identification Number (PIN) for the Checkmate card or an ATM card, if in Overdraft Guarantee and ATM Access Agreement.

## AUTHORIZATION

By signing, I agree to the terms and conditions of the Membership and Account Agreement, Truth-in-Savings and Fee Schedule, Funds from Time to Time when are incorporated herein. I/We acknowledge receipt of a copy of the Agreement and Disclosure applicable to the provided. I/We agree to the terms of an acknowledgment receipt of the Electronic Funds Transfer Agreement. I/We authorize the University Credit Union to obtain a credit report from a 3rd party credit reporting agency reflecting my credit history.

## IRS CERTIFICATION

By signing, I certify: 1) That the number shown on this form is my correct Employer Identification Number. 2) That I am not subject to federal income tax withholding as a result of a failure of report all interest or dividends to the IRS, or the IRS has notified me that I am to backup withholding must be shown if you have been notified by the IRS that you are subject to backup withholding. 3) That I am a U.S. citizen or resident.

Member Signature and Date <i>Camille R. Castillo Johnson</i>	Joint Member Signature <i>Travis P. Johnson</i>
---	--

Information below to be completed by Credit Union Representative

<input checked="" type="checkbox"/> Check Systems verified	Social Security Issues Date: Member _____ Joint _____
Branch: _____ Employee #: _____	Manager Initials: <i>ST</i> Date: <i>5/11/04</i>

University Credit Union is an equal opportunity lender. Eligibility and membership requirements, loans and other financial services are subject to approved credit, and rates might change without notice. This credit union is federally insured by the National Credit Union Administration. Copyright © 2003 by University Credit Union. All rights are reserved. University Credit Union and its logo and trademarks of University Credit Union.

V-systems  
Record for Travis  
Central Bank  
Springville, UT  
639 E 700 S  
1999 NSF

PENGAD 800-631-8800  
04907342  
EXHIBIT  
PLAINTIFFS

MAIL PAYMENTS TO:  
P.O. Box 58025  
Salt Lake City, Utah 84158-0025  
Phone (801) 461-6690



# University

## CREDIT UNION

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT OR DEPOSIT.

LOAN PAYMENT SUPPORT	
CHECKING DEPOSIT	
RES. MONIES DEPOSIT	
TOTAL	

1939679

CAMILLE R. CASTILLO-COENSON  
1892 DEEP WOODS DR.  
CRAPER UT 84026

05/10/04 05/31/04

1

05/10	ID 01	PRIME SHARES Balance Forward		0.00
05/10		Deposit Transfer	1000.00	1000.00
		From CASTILLO, CAMILLE 1827028 Share 90		
05/10		Withdrawal	900.00-	100.00
05/31		Ending Balance		100.00
		Dividends Paid Year to Date	0.00	
A Tiered Rate Dividend of \$0.03 will be posted on 06/01/04				
*****				
05/10	ID 90	CHECKING Balance Forward		0.00
05/10		Deposit	900.00	900.00
05/14		Withdrawal	200.00-	700.00
05/15		Withdrawal	300.00-	400.00
05/17		Withdrawal	300.00-	100.00
05/19		Withdrawal	20.00-	80.00
05/22		Withdrawal	40.00-	40.00
05/24		Withdrawal	20.00-	20.00
05/26		Deposit	3100.00	3120.00
05/26		Withdrawal	3000.00-	120.00
05/28		Withdrawal	40.00-	80.00
05/31		Withdrawal at ATM #416853	41.75-	38.25
		ATM SLIM OLSON 724 WEST 2600 SOUTH WOODS		
		CROSS UT		
05/31		Withdrawal ATM Fee	1.00-	37.25
		ATM SLIM OLSON 724 WEST 2600 SOUTH WOODS		
		CROSS UT		
05/31		Ending Balance		37.25
		Dividends Paid Year to Date	0.00	
*****				
		Total Dividends Paid Year to Date	0.00	

2,213

000163

MAIL PAYMENTS TO:  
P.O. Box 30025  
Salt Lake City, Utah 84110-0025  
Phone (801) 441-8000



**University**  
CREDIT UNION

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT OR DEPOSIT.

LOAN PAYMENT DEFERRED	
REPAYMENT DEFERRED	
REPAYMENT DEFERRED	
TOTAL	1939679

CAMILLE R. CASTILLO-JOHNSON  
1892 DEEP WOODS DR.  
DRAPER UT 84020

06/01/04 06/30/04

1

6/01	ID 01	PRIME SHARES Balance Forward			100.00
6/01		Deposit Dividend Tiered Rate	0.03		100.03
6/01		Annual Percentage Yield Earned	0.50% from 05/10/04 through 05/31/04		
6/01		Withdrawal Transfer To Share 90	6.98-		93.05
6/02		Withdrawal Transfer To Share 90	4.04-		89.01
6/10		Ending Balance			89.01
		Dividends Paid Year to Date	0.03		
		A Tiered Rate Dividend of \$0.04 will be posted on 07/01/04			
6/01	IE 90	CHECKING Balance Forward			37.25
6/01		Withdrawal Debit Card	1.91-		35.34
6/01		05/31 24625124152440934856504 CHEVRON 00205131 SALT LAKE CITY UT			
6/01		Withdrawal Debit Card	4.23-		31.14
6/01		05/31 24625124152440934571467 CHEVRON 00203420 WOODS CROSS UT			
6/01		Withdrawal Debit Card	5.01-		26.13
6/01		05/31 24625124152440904571475 CHEVRON 00203420 WOODS CROSS UT			
6/02		Deposit Transfer From Share 01	6.95		33.11
6/02		Withdrawal Debit Card	33.11-		0.00
6/02		05/31 24625124152440907126848 CHEVRON 00301989 DRAPER UT			
6/02		Deposit by Check	300.00		300.00
6/02		Withdrawal	300.00-		0.00
6/02		Deposit Transfer From Share 01	4.04		4.04
6/02		Withdrawal Debit Card	4.04-		0.00
6/02		05/31 24625124153440913668584 CHEVRON 00301989 DRAPER UT			
6/02		Deposit Transfer	27500.00		27500.00
6/03		From CASTILLO, CAMILLE 1827028 Share 90			
6/03		Withdrawal at ATM #36233	121.75-		27378.25
6/03		ATM PIONEER PA 300 West 400 South SALT LAKE CITY UT			
6/03		Withdrawal ATM Fee	1.00-		27377.25
6/03		ATM PIONEER PA 300 West 400 South SALT LAKE CITY UT			
6/03		Withdrawal at ATM #47190	201.50-		27175.75
6/03		ATM 7-ELEVEN-U 780 S 900 WEST SALT LAKE CITY UT			
6/03		Withdrawal ATM Fee	1.00-		27174.75
6/03		ATM 7-ELEVEN-U 780 S 900 WEST SALT LAKE CITY UT			
6/03		Withdrawal at ATM #000015	59.21-		27115.54
6/03		POS PETSMAINT Sandy UT			

--- Continued on following page ---

000170



MAIL PAYMENTS TO:  
P.O. Box 38025  
Salt Lake City, Utah 84158-8025  
Phone (801) 461-1800



# University

## CREDIT UNION

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT OR DEPOSIT.

MEMBER PAYMENT	
SAVINGS	
CHECKING	
OTHER	
TOTAL	

1939679

CAMILLE R. CASTILLO-JOHNSON  
1592 DRPP WOODS DR.  
DRAPER UT 84026

06/01/04 06/30/04

2

06/04	Draft 000001				
06/05	Withdrawal at ATM #802080		11992.18-	15123.36	
	ATM AMEX/EDS - Utah 114 West 1300 SouthUS		241.50-	14881.86	
	Salt Lake Cit UT				
06/05	Withdrawal ATM Fee		1.00-	14880.86	
	ATM AMEX/KDS - Utah 114 West 1300 SouthUS				
	Salt Lake Cit UT				
06/07	Withdrawal Debit Card		10.31-	14870.55	
	06/06 24455014158158420500248 M8209 McDONALD'S DRAPER UT		22.12-	14848.43	
06/07	Withdrawal Debit Card		29.15-	14821.28	
	06/07 24623124156440932390316 CIEVRON 60301989 DRAPER UT		31.93-	14789.35	
06/07	Withdrawal Debit Card		42.59-	14746.76	
	06/06 24455014158158415177655 MAVERIK CNTRY STRE 277 * VALLEY UT		42.10-	14698.66	
06/07	Withdrawal Debit Card		149.72-	14548.94	
	06/05 24224434158281493400167 SUNSHINE CONVENIENCE SALT LAKE CIT UT		1338.78-	13210.16	
06/07	Withdrawal Debit Card		201.75-	13009.41	
	06/03 24399004153320150048391 BURLINGTON COA00000794 MURRAY UT				
06/07	Withdrawal Debit Card		1.00-	13007.41	
	06/05 24623124158440943351410 CHEVRON 00301989 DRAPER UT		161.50-	12845.91	
06/07	Withdrawal Debit Card		1.00-	12844.91	
	06/05 24610434158010184579334 THE HOME DEPOT 4409 SANDY UT		213.32-	12631.99	
06/07	Withdrawal Debit Card		20.33-	12610.96	
	06/03 24610434156010181167606 THE HOME DEPOT 4409 SANDY UT				
06/07	Withdrawal at ATM #589790				
	ATM Earls - Midval-34992 335 West 7200				
	South Midvale UT				
06/07	Withdrawal ATM Fee				
	ATM Earls - Midval-34992 335 West 7200				
	South Midvale UT				
06/07	Withdrawal at ATM #942931				
	ATM AMEX/KDS - Utah 114 West 1300 SouthUS				
	Salt Lake Cit UT				
06/07	Withdrawal ATM Fee				
	ATM AMEX/EDS - Utah 114 West 1300 SouthUS				
	Salt Lake Cit UT				
06/07	Withdrawal at ATM #289101				
	POS THE HOME DEPOT 4409 135 EAST 11400				
	SANDY UT				
06/08	Withdrawal Debit Card				
	06/06 24623124159440348582234 CHEVRON 00203195 DRAPER UT				

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000171

2,646

MAIL PAYMENTS TO:  
P.O. Box 58025  
Salt Lake City, Utah 84158-0025  
Phone: (801) 481-6800



# University

## CREDIT UNION

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT OR DEPOSIT.

LOAN PAYMENT SAVING	
CHECKING DEPOSIT	
FEEL BONUS DEPOSIT	
TOTAL	

1939679

CAMILLE R. CASTILLO-JACKSON  
1892 DEEP WOODS DR.  
DRAPER UT 84020

06/01/04 06/30/04

3

06/08	Withdrawal at ATM #848077 POS HOLIDAY OIL HOLIDAY OIL255 E TRAVER DRAPER UT	13.62-	12597.34
06/08	Draft 000002	10000.00-	2597.34
06/09	Withdrawal at ATM #001615 ATM HOLIDAY OIL #7 293 & 12300 S DRAPER UT	41.75-	2555.59
06/09	Withdrawal ATM Fee ATM HOLIDAY OIL #7 293 & 12300 S DRAPER UT	1.00-	2554.59
06/09	Withdrawal at ATM #508592 ATM W.F.B NORTH-TEMPLE SALT LAKE CTY UT	261.50-	2293.09
06/09	Withdrawal ATM Fee ATM W.F.B NORTH-TEMPLE SALT LAKE CTY UT	1.00-	2292.09
06/_0	Withdrawal at ATM #146537 POS HOLIDAY OIL HOLIDAY OIL255 E TRAVER DRAPER UT	15.73-	2276.36
06/_0	Withdrawal at ATM #302215 ATM ZIONS-45TH SOUTH BC 845 EAST 4500 SOUTH SLC UT	241.50-	2034.86
06/10	Withdrawal ATM Fee ATM ZIONS-45TH SOUTH BC 845 EAST 4500 SOUTH SLC UT	1.00-	2033.86
06/11	Withdrawal Debit Card 06/09 24625124162440966463098 CHEVRON 06203195 DRAPER UT	11.71-	2022.15
06/11	Withdrawal Debit Card 06/09 24270744161304300110126 CONTEMPO CERAMIC TILE COR OREM UT	138.19-	1863.96
06/11	Withdrawal at ATM #285578 ATM AMEX/EDS - Utah 3510 S Redwood Rd US West Valley C UT	41.50-	1822.46
06/11	Withdrawal ATM Fee ATM AMEX/EDS - Utah 3510 S Redwood Rd US West Valley C UT	1.00-	1821.46
06/12	Withdrawal at ATM #077509 ATM Holiday Oil 38 Draper UT	21.75-	1799.71
06/12	Withdrawal ATM Fee ATM Holiday Oil 38 Draper UT	1.00-	1798.71
06/14 06/13	Withdrawal at ATM #019792 ATM Holiday Oil 38 Draper UT	21.75-	1776.96
06/14 06/13	Withdrawal ATM Fee ATM Holiday Oil 38 Draper UT	1.00-	1775.96
06/14 06/13	Withdrawal at ATM #015365	41.75-	1734.21

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2,64'

000172

MAIL PAYMENTS TO  
P.O. Box 580025  
Salt Lake City, Utah 84158-0025  
Phone (801) 461-6380



# University

CREDIT UNION

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT OR DEPOSIT.

LOAN PAYMENT ENTRY	
CHECKS DEPOSIT	
REG. SAVINGS DEPOSIT	
ETC.	

1939679

CAMILLE R. CASTILLO-JOHNSON  
1892 DEEP WOODS DR.  
CRAPER UT 84020

06/01/04 06/30/04

4

06/14	06/13	ATM EXTRA MART #86-36706 5595 SOUTH REDWOOD ROAD TAYLORSVILLE UT	1.00-	1733.21
06/14	06/13	Withdrawal ATM Fee		
06/14	06/13	ATM EXTRA MART #86-36706 5595 SOUTH REDWOOD ROAD TAYLORSVILLE UT	201.75-	1531.46
06/14	06/13	Withdrawal at ATM #040025		
06/14	06/13	ATM EXTRA MART #80-36393 12300 S. 1300 E. SALT LAKE CITY UT	1.00-	1530.46
06/14	06/13	Withdrawal ATM Fee		
06/14	06/13	ATM EXTRA MART #80-36393 12300 S. 1300 E. SALT LAKE CITY UT	101.75-	1428.71
06/14	06/13	Withdrawal at ATM #C40063		
06/14	06/13	ATM EXTRA MART #80-36393 12300 S. 1300 E. SALT LAKE CITY UT	1.00-	1427.71
06/14	06/13	Withdrawal ATM Fee		
06/14	06/13	ATM EXTRA MART #80-36393 12300 S. 1300 E. SALT LAKE CITY UT	21.75-	1405.96
06/14	06/13	Withdrawal at ATM #040019		
06/14	06/13	ATM EXTRA MART #80-36393 12300 S. 1300 E. SALT LAKE CITY UT	1.00-	1404.96
06/14	06/13	Withdrawal ATM Fee		
06/14	06/13	ATM EXTRA MART #80-36393 12300 S. 1300 E. SALT LAKE CITY UT	4.02-	1400.94
06/14	06/13	Withdrawal Debit Card		
06/14	06/13	06/11 24610434163004092610472 7-ELEVEN 25116 W VALLEY CITY UT	5.32-	1395.62
06/14	06/13	Withdrawal Debit Card		
06/14	06/13	06/10 24445004163843758532841 SMITHS FOOD #4133 SS6 SALT LAKE CITY UT	6.14-	1389.48
06/14	06/13	Withdrawal Debit Card		
06/14	06/13	06/11 24625124164440982812342 CHEVYRON 00301989 DRAPER UT	12.78-	1377.20
06/14	06/13	Withdrawal Debit Card		
06/14	06/13	06/11 24455014163163421505660 F719 MCDONALD'S SALT LAKE CITY UT	13.09-	1364.11
06/14	06/13	Withdrawal Debit Card		
06/14	06/13	06/11 24610434165004092610472 7-ELEVEN 25116 W VALLEY CITY UT	13.74-	1350.37
06/14	06/13	Withdrawal Debit Card		
06/14	06/13	06/10 24610434163072007107831 ARBY'S #223 Q52 DRAPER UT	16.22-	1334.15
06/14	06/13	Withdrawal Debit Card		
06/14	06/13	06/12 24625124165440986571968 CHEVYRON 00205131 SALT LAKE CITY UT	20.21-	1313.94
06/14	06/13	Withdrawal Debit Card		
06/14	06/13	06/10 24625124163440975873443 CHEVYRON 00301989 DRAPER UT	24.00-	1289.94
06/14	06/13	Withdrawal Debit Card		

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2,648

000173

MAIL PAYMENTS TO:  
P.O. Box 58025  
Salt Lake City, Utah 84158-0025  
Phone (801) 461-6800



# University

## CREDIT UNION

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT OR DEPOSIT.

LOAN PAYMENT SLIP	
CHECKING DEPOSIT	
REG. SAVINGS DEPOSIT	
TOTAL	

1939679

CAMILLE R. CASTILLO-JOENSON  
1892 DEEP WOODS DR.  
DRAPER UT 84020

06/01/04 06/30/04

5

06/10	24423634163843691256553 SMITH'S 1133 SALT LAKE CTY UT		
06/14	Withdrawal Debit Card	24.73-	1265.21
06/12	24226454165983070808773 PAPA JONNS PIZZA SALT LAKE CIT UT		
06/14	Withdrawal Debit Card	30.25-	1234.96
06/11	24625124164440982812334 CHEVRON 00301989 DRAPER UT		
06/14	Withdrawal Debit Card	51.30-	1183.06
06/11	24337894164008822903568 STATE LIQUOR STORE 2 SALT LAKE CIT UT		
06/14	Withdrawal Debit Card	316.75-	866.31
06/11	24761974164507400016763 NOVEL TEES WHOLESAL, 1 SALT LAKE CTY UT		
06/14	Withdrawal Debit Card	797.86-	68.45
06/11	24761974164508020013909 STYLECRAFT SALT LAKE CIT UT		
06/14	Withdrawal at ATM #031652	22.00-	46.45
	ATM ZIONS-AIRPORT BRANCH TERMINAL 2 LOWER		
	LVL SALT LAKE CTY UT		
06/14	Withdrawal ATM Fee	1.00-	45.45
	ATM ZIONS-AIRPORT BRANCH TERMINAL 2 LOWER		
	LVL SALT LAKE CTY UT		
06/14	Withdrawal at ATM #031667	42.00-	3.45
	ATM ZIONS-AIRPORT BRANCH TERMINAL 2 LOWER		
	LVL SALT LAKE CTY UT		
06/14	Withdrawal ATM Fee	1.00-	2.45
	ATM ZIONS-AIRPORT BRANCH TERMINAL 2 LOWER		
	LVL SALT LAKE CTY UT		
06/15	Withdrawal Adjustment	496.12	498.57
06/13	74610434166010182419991 THE HOME DEPOT 4409 SANDY UT		
06/15	Withdrawal Debit Card	19.54-	479.03
06/13	24610434166010182414815 THE HOME DEPOT 4409 SANDY UT		
06/15	Withdrawal Debit Card	24.00-	455.03
06/13	24625124166440995409415 CHEVRON 00301989 DRAPER UT		
06/15	Withdrawal Debit Card	32.94-	422.09
06/13	24625124166440995409407 CHEVRON 00301989 DRAPER UT		
06/30	Ending Balance		422.39
	Dividends Paid Year to Date	0.00	
	A Tiered Rate Dividend of \$0.95 will be posted on 07/01/04		

Number	Amount	Number	Amount	Number	Amount	Number	Amount
C0001	11992.18	C0002	10000.00				
Total Dividends Paid Year to Date				0.03			

.649

000174

MAIL PAYMENTS TO  
P.O. Box 54025  
Salt Lake City, Utah 84158-0025  
Phone (801) 461-6500



# University

## CREDIT UNION

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT OR DEPOSIT.

LONG TERM DEPOSIT	
DEPOSITS REMOVED	
NEW SAVINGS ACCOUNT	
TOTAL	1939679

CAMILLE R. CASTILLO-JOHNSON  
1692 DEEP WOODS DR.  
DRAPER UT 84020

07/01/04 07/31/04

07/01 ID 01 PRIME SHARES Balance Forward 89.01  
07/01 Deposit Dividend Tiered Rate 0.04 89.05  
07/26 07/25 Annual Percentage Yield Earned 0.55% from 06/01/04 through 06/30/04  
07/26 07/25 Withdrawal at ATM #066954 61.50- 27.55  
07/26 07/25 ATM AMEX/EDS - Utah 2102 South State STUS  
07/26 07/25 S. Salt Lake UT 1.00- 26.55  
07/26 07/25 Withdrawal ATM Fee  
07/26 07/25 ATM AMEX/EDS - Utah 2102 South State STUS  
07/26 07/25 S. Salt Lake UT 1.55- 25.00  
07/31 Ending Balance 25.00  
07/31 Dividends Paid Year to Date 0.07 25.00  
A Tiered Rate Dividend of \$0.03 will be posted on 08/01/04  
07/01 ID 90 CHECKING Balance Forward 422.09  
07/01 Deposit Dividend Tiered Rate 0.85 422.94  
07/20 Annual Percentage Yield Earned 0.24% from 06/01/04 through 06/30/04  
07/20 Withdrawal at ATM #028941 201.75- 221.19  
07/20 ATM Holiday Oil 38 Draper UT 1.00- 220.19  
07/20 Withdrawal ATM Fee  
07/20 ATM Holiday Oil 38 Draper UT  
07/20 Withdrawal at ATM #44829  
07/20 ATM AMEX/EDS - Utah 175 East 800 South US 101.50- 118.69  
07/20 Salt Lake City UT  
07/20 Withdrawal ATM Fee  
07/20 ATM AMEX/EDS - Utah 175 East 800 South US 1.00- 117.69  
07/21 Salt Lake City UT  
07/21 Withdrawal at ATM #013577 101.75- 15.94  
07/21 ATM Holiday Oil 38 Draper UT  
07/21 Withdrawal ATM Fee  
07/21 ATM Holiday Oil 38 Draper UT 1.00- 14.94  
07/26 Deposit Transfer From Share 01 1.55 16.49  
07/26 Withdrawal Debit Card 28.68- 12.19-  
07/26 07/22 246251242054124034047 CHEVRON C0205131 SALT LAKE CITY UT 12.19-  
07/26 Overdrawn VISA  
07/26 Uncollected Fee of \$20.00 is Due 60.00 47.81  
07/26 Deposit by Check  
07/26 Uncollected Fee Due since 07/26/04 - Overdrawn VISA 20.00- 27.81  
07/28 Withdrawal at ATM #864344 21.75- 6.06  
07/28 ATM PIONEER PA 300 West 400 South SALT  
--- Continued on following page ---

2,557

000175

MAIL PAYMENTS TO:  
P.O. Box 98825  
Salt Lake City, Utah 84198-0825  
Phone (801) 481-8808



# University

CREDIT UNION

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT OR DEPOSIT.

LOAN PAYMENT SHEET	
CHECKING DEPOSIT	
REG. SAVINGS DEPOSIT	
TOTAL	

1939679

CAMILLE R. CASTILLO-JOERSON  
1892 DEEP WOODS DR.  
DRAPER UT 84302

07/01/04 07/31/04

2

07/28	LAKE CIT UT		
	Withdrawal ATM Fee	1.00-	5.06
	ATM PIONEER PA 300 West 400 South SALT		
	LAKE CIT UT		
07/29	Withdrawal Debit Card	3.90-	1.16
	07/28 2445501421E210420972889 MI TIERRA MARKET SALT LAKE CIT UT		
07/29	Deposit by Check	60.00	61.16
07/31	Ending Balance		61.16
	Dividends Paid Year to Date	0.85	
.....			
	Total Dividends Paid Year to Date	0.92	

2,558

000176

MAIL PAYMENTS TO:  
P.O. Box 58025  
Salt Lake City, Utah 84158-0025  
Phone (801) 461-8800



# University

## CREDIT UNION

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT OR DEPOSIT.

LOAN PAYMENT SLIP	
CHECKING DEPOSIT	
REG. SAVINGS DEPOSIT	
TOTAL	

1939679

CAMILLE R. CASTILLO-JOHNSON  
1892 DEEP WOODS DR.  
DRAPER UT 84020

09/01/04 08/31/04

1

08/01	ID 01	PRIME SHARES Balance Forward		25.00
08/01		Deposit Dividend Tiered Rate	0.03	25.03
		Annual Percentage Yield Earned 0.47% from 07/01/04 through 07/31/04		
08/31		Ending Balance		25.03
		Dividends Paid Year to Date	0.10	
		A Tiered Rate Dividend of \$0.01 will be posted on 09/01/04		
.....				
08/01	ID 90	CHECKING Balance Forward		61.16
08/02		Withdrawal Debit Card	4.92-	56.24
		07/31 24455014213213423261026 M11655 MCDONALD'S MURRAY UT		
08/02		Withdrawal Debit Card	38.91-	23.33
		07/30 24403694214900421500105 BLTNDSDIE SUGARHOUSE SALT LAKE CTY UT		
08/03		Withdrawal Debit Card	10.23-	15.10
		08/01 24625124215441312082571 CHEVRON 00205131 SALT LAKE CTY UT		
08/03		Deposit by Check	40.00	55.10
08/07		Deposit Transfer	2200.00	7255.10
		From CASTILLO,CAMILLE 1827028 Share 90		
08/07		Withdrawal	1500.00-	755.10
08/09		Withdrawal Debit Card	40.69-	714.41
		08/07 24625124221441352333654 CHEVRON 00205131 SALT LAKE CTY UT		
08/09		Withdrawal Debit Card	55.94-	658.47
		08/07 24154344221562925780080 WASATCH PIZZA DRAPER 14 DRAPER UT		
08/09		Withdrawal at ATM #020324	201.75-	456.72
		ATM Holiday Oil 38 Draper UT		
08/09		Withdrawal ATM Fee	1.00-	455.72
		ATM Holiday Oil 38 Draper UT		
08/09		Withdrawal at ATM #636662	7.46-	448.26
		POS MAVERIK COUNTRY STORE 11415 S 700 E CRAPER UT		
08/10		Withdrawal Debit Card	35.79-	412.47
		08/08 24625124222441361808158 CHEVRON 00301989 DRAPER UT		
08/10		Deposit Transfer	9000.00	9412.47
		From CASTILLO,CAMILLE 1827028 Share 90		
08/10		Withdrawal at ATM #016411	101.75-	9310.72
		ATM Holiday Oil 38 Draper UT		
08/10		Withdrawal ATM Fee	1.00-	9309.72
		ATM Holiday Oil 38 Draper UT		
08/10		Withdrawal at ATM #148066	20.77-	9288.95
		POS CONOCO #44021 MURRAY UT		
08/11		Withdrawal at ATM #460731	81.50-	9207.45
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2,719

000177

MAIL PAYMENTS TO:  
P.O. Box 58025  
Salt Lake City, Utah 84158-0025  
Phone (801) 481-8900



# University

## CREDIT UNION

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT OR DEPOSIT.

LONG PAYMENT SLIP	
CHECKING RECORD	
REG. SAVINGS RECORD	
TOTAL	

1939679

CAMILLE R. CASTILLO-JOHNSON  
1892 DEEP WOODS DR.  
DRAPER UT 84029

08/01/04 08/31/04

2

08/11	ATM 7-ELEVEN-U 109 SOUTH 300 EAST SALT LAKE CIT UT Withdrawal ATM Fee	1.00-	9206.45
08/11	ATM 7-ELEVEN-U 109 SOUTH 300 EAST SALT LAKE CIT UT Withdrawal CLARKE AMERICAN TYPE: CHK ORDER	12.99-	9193.46
08/11	Withdrawal Debit Card 08/10 24625124223441365224C96 CHEVRON 00203195 DRAPER UT	19.35-	9174.11
08/11	Withdrawal Debit Card 08/09 24625124223441368165247 CHEVRON 00301989 DRAPER UT	39.47-	9134.64
08/11	Withdrawal Debit Card 08/09 24610434223010180760806 THE HOME DEPOT 4409 SANDY UT	292.44-	8842.20
08/11	Withdrawal at ATM #005997 ATM Holiday Oil 38 Draper UT	201.75-	8640.45
08/11	Withdrawal ATM Fee ATM Holiday Oil 38 Draper UT	1.00-	8639.45
08/11	Withdrawal at ATM #006055 ATM Holiday Oil 38 Draper UT	201.75-	8437.70
08/11	Withdrawal ATM Fee ATM Holiday Oil 38 Draper UT	1.00-	8436.70
08/12	Withdrawal Debit Card 08/11 24445004224891828759826 WENDYS #3445 Q25 SALT LAKE CIT UT	6.43-	8430.27
08/12	Withdrawal Debit Card 08/11 24610434224004121803794 7-ELEVEN 26794 SALT LAKE CIT UT	16.55-	8413.72
08/13	Withdrawal Transfer To CASTILLO, CAMILLE 1827028 Share 9C	9000.00-	413.72
08/13	Withdrawal at ATM #004451 ATM Holiday Oil 38 Draper UT	201.75-	211.97
08/13	Withdrawal ATM Fee ATM Holiday Oil 38 Draper UT	1.00-	210.97
08/14	Withdrawal at ATM #022171 ATM Holiday Oil 38 Draper UT	101.75-	109.22
08/14	Withdrawal ATM Fee ATM Holiday Oil 38 Draper UT	1.00-	108.22
08/16	Withdrawal Debit Card 08/13 24625124227441395775E73 CHEVRON 00301989 DRAPER UT	13.62-	94.60
08/16	Withdrawal Debit Card 08/13 24625124227441395775E81 CHEVRON 00301989 DRAPER UT	27.57-	67.03
08/16	Withdrawal Debit Card	45.94-	21.09

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1,720

000178



MAIL PAYMENTS TO:  
P.O. Box 58023  
San Luis Obispo, CA 93401-0023  
Phone (805) 481-4300



PLEASE RETURN THIS PORTION WITH YOUR PAYMENT OR DEPOSIT.

YOUR PAYMENT SLIP	
DEPOSIT SLIP	
PER CASH SLIP	
TOTAL	1935679

CARILLER R. CASTILLO-JOHNSON  
1892 DEEP WOODS DR.  
DRAPER UT 84020

08/01/04 05/31/04

3

08/17	03/13 2445501422727483987251 HARMONS DRAPER UT	7.00-	14.09
08/20	Withdrawal Debit Card		
08/23	06/15 24455014229223407005835 FLYING J 01197 DRAPER UT	40.30	54.09
	Deposit by Check	20.00-	34.09
09/24	Withdrawal Overdraw 000033		
	In the amount \$938.10.		
09/24	08/21 24625124236441449265813 CHEVRON 00301983 DRAPER UT	7.12-	26.97
08/24	Deposit Transfer		
	From CASTILLO, CAMILLE 1827028 Share 90	838.10	865.07
08/24	08/23 Draft 000003	838.10-	26.97
08/24	Deposit Transfer	3000.00	3026.97
	From CASTILLO, CAMILLE 1827028 Share 90		
08/26	Draft 000204	20.29-	3006.68
08/26	Draft 000205	22.89-	2983.79
08/27	Draft 000201	1135.00-	1848.79
08/27	Draft 000202	27.51-	1821.28
08/27	Draft 000203	972.80-	848.48
08/27	Closing Balance		848.48
08/30	Dividends Paid Year to Date	0.85	
	A Tiered Rate Dividend of \$0.24 will be posted on 09/01/04		

Number	Amount	Number	Amount
000003	838.10	000202	27.51
000201	1135.00	000203	972.80
			22.89
* Asterisk next to number indicates skip in number sequence			
Total Dividends Paid Year to Date			
			0.95

000179

2,721

MAIL PAYMENTS TO:  
P.O. Box 58023  
Salt Lake City, Utah 84158-0023  
Phone (801) 481-8300



# University

## CREDIT UNION

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT OR DEPOSIT.

LOAN PAYMENT SUPPLY	
CHECKING DEPOSIT	
REG. SAVINGS DEPOSIT	
TOTAL	

1939679

CAMILLE R. CASTILLO-JOHNSON  
1892 DEEP WOODS DR.  
CRAPER UT 84020

09/01/04 09/30/04

1

09/01	TO 01	PRIME SHARES Balance Forward		25.03
09/01		Deposit Dividend Tiered Rate	0.03	25.04
		Annual Percentage Yield Earned 0.47% from 08/01/04 through 08/31/04		
09/30		Ending Balance		25.04
		Dividends Paid Year to Date	0.11	
A Tiered Rate Dividend of 50.01 will be posted on 10/01/04				
-----				
09/01	TD 90	CHECKING Balance Forward		848.48
09/01		Deposit Dividend Tiered Rate	0.24	848.72
		Annual Percentage Yield Earned 0.22% from 08/01/04 through 08/31/04		
09/02		Withdrawal	15.26-	833.46
09/02		SING RETAIL 439001 SALT LAKE CI TU		
09/02		DATE 08/31/04 24455014245245474178149 5542		
09/03		Deposit Transfer	500.00	1333.46
		From CASTILLO,CAMILLE 1827028 Share 90		
09/07		Draft 000226	35.00-	1298.46
		Cashed Draft 000226		
09/09		Draft 000208	46.75-	1249.71
09/08		Draft 000209	492.49-	757.22
09/08		Draft 000211	5.68-	751.54
09/08		Draft 000254	3.22-	748.32
09/09		Deposit Transfer	2600.00	3348.32
		From CASTILLO,CAMILLE 1827028 Share 90		
09/09		Draft 000227	2100.00-	1248.32
		Cashed Draft 000227		
09/09		Draft 000213	33.51-	1214.81
09/09		Draft 000251	11.45-	1203.36
09/10		Deposit Transfer	500.00	1703.36
		From CASTILLO,CAMILLE 1827028 Share 90		
09/10		Withdrawal at ATM #019534	201.75-	1501.61
		ATM Holiday Oil 38 Draper UT		
09/10		Withdrawal ATM Fee	1.00-	1500.61
		ATM Holiday Oil 38 Draper UT		
09/10		Withdrawal at ATM #505327	17.78-	1482.83
		POS SMITHS 845 E. 4500 SOUTH SMITHS 845 E.		
		4500 SOUTH SALT LAKE UT		
09/10		Draft 000214	29.84-	1452.99
09/10		Draft 000228	400.00-	1052.99
09/10		Draft 000232	645.58-	407.41
09/10		Draft 000253	53.23-	354.18

--- Continued on following page ---

2562

000180

MAIL PAYMENTS TO:  
 P.O. Box 50025  
 Salt Lake City, Utah 84158-0025  
 Phone (801) 461-8500



# University

## CREDIT UNION

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT OR DEPOSIT.

LOAN PAYMENT CHECK	
CHECKING DEPOSIT	
NEED SAVING DEPOSIT	
DATE	

191967

CAMILLE R. CASTILLO-JOHNSON  
 1692 DEEP WOODS DR.  
 DRAPER UT 84020

09/01/01 09/30/01

2

09/11	Deposit by Check	500.00	859.18
09/11	Withdrawal at ATM #570275	1.59-	857.59
	POS LAMAR SCOTT LAMAR SCOTT 704 E. 3300		
	SALT LAKE CIT UT		
09/11	Withdrawal at ATM #136835	2.01-	855.58
	POS 7-ELEVEN SALT LAKE CIT UT		
09/13	Withdrawal Adjustment	53.79	908.79
09/11	74154344256554458220033 4 YOUR CELL SUGARHOUSE SALT LAKE CIT UT		
09/13	Withdrawal Debit Card	9.96-	898.83
09/12	24717054256132560417621 ICEBERG DRIVE INN 910 SALT LAKE CIT		
09/13	Withdrawal Debit Card	30.10-	868.73
09/11	24164074256621114001101 SOUTH POINT 6600451666 DRAPER UT		
09/13	Withdrawal Debit Card	47.97-	820.76
09/11	24717054256132562546948 CACO ENTERPRISES INC SANDY UT		
09/13	Withdrawal Debit Card	53.29-	767.47
09/11	24154344256554458220023 4 YOUR CELL SUGARHOUSE SALT LAKE CIT UT		
09/13	Withdrawal Debit Card	204.62-	562.85
09/10	24445004256916735006280 NORDSTROM-RACK 10033 SALT LAKE CIT UT		
09/13	Draft 000215	10.65-	552.20
09/14	Draft 000216	50.10-	502.10
09/15	Withdrawal Debit Card	59.49-	442.61
09/13	24445004258919563715735 SMITHS MKTPL 14094556 SALT LAKE CIT UT		
09/15	Withdrawal Debit Card	63.70-	378.91
09/14	24399004258142025083304 CALGREEN 50062810 DRAPER UT		
09/17	Draft 000217	50.00-	328.91
09/20	Withdrawal Debit Card	3.92-	325.00
09/17	24625124262441629231319 CHEVRON 00301989 DRAPER UT		
09/20	Withdrawal Debit Card	35.91-	289.09
09/17	24625124262441629231327 CHEVRON 00301969 DRAPER UT		
09/20	Draft 000218	48.27-	240.82
09/20	Draft 000219	14.82-	226.00
09/21	Draft 000255	58.23-	167.77
09/22	Withdrawal Debit Card	10.00-	157.77
09/21	24492794265113000179559 CENTURY THEATR 12019 SALT LAKE CIT UT		
09/23	Withdrawal Debit Card	5.94-	151.83
09/21	24625124266441654695830 CHEVRON 00301989 DRAPER UT		
09/23	Withdrawal Debit Card	7.95-	143.88
09/21	24492794266118000182636 CENTURY 16 12019 SALT LAKE UT		
09/23	Withdrawal Debit Card	8.18-	135.70
09/27	24492794266409002978562 ALBERTSONS 1379 59M DRAPER UT		

--- Continued on following page ---

1,564  
 00018

MAIL PAYMENTS TO:  
P.O. Box 280023  
Salt Lake City, Utah 84158-0023  
Phone (801) 461-6800



# University

## CREDIT UNION

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT OR DEPOSIT.

DATE PAYMENT MADE	
CHECKING ACCOUNT	
NEW SAVINGS ACCOUNT	
TOTAL	1939679

CAMILLE R. CASTILLO-JENSEN  
1892 DEEP WOODS DR.  
DRAPER UT 84020

09/01/04 99/30/04

3

9/23	Withdrawal Debit Card	8.25-	171.52
9/23	09/21 244927942666-18060182628 CENTURY 16 12019 SALT LAKE UT		
9/23	Withdrawal Debit Card	24.30-	102.67
9/24	09/21 74792624266620049900218 HOUTERS MIDVALE UT		
9/24	Withdrawal Debit Card	1.73-	94.89
9/24	09/23 21492134260793084762/46 CARL'S JK #425 DRAPER UT		
9/24	Withdrawal Debit Card	26.07-	68.82
9/27	09/23 24755414260122685180696 ZIMS INC SLC U-		
9/27	Withdrawal Debit Card	9.00-	59.82
9/27	09/23 24625121268441667840967 CEEYRON 00301989 DRAPER UT		
9/27	Deposit Transfer	200.00	259.82
9/27	From CASTILLO, CAMILLE 1827078 Share 99		
9/27	Withdrawal	50.00-	209.82
9/27	Draft 000256	60.00-	149.82
9/28	Draft 000257	27.13-	122.69
9/28	Draft 000258	6.93-	115.76
9/28	Draft 000259	3.50-	112.26
9/29	Withdrawal	100.00-	12.26
9/29	Deposit Transfer	200.00	212.26
9/29	From CASTILLO, CAMILLE 1927028 Share 90		
9/29	Draft 000720	12.55-	99.71
9/29	Draft 000222	10.00-	89.71
9/30	Draft 000221	58.08-	131.63
9/30	Ending Balance		131.63
9/30	Dividends Paid Year to Date	1.99	
9/30	A Tiered Rate Dividend of \$0.05 will be posted on 10/31/04		

Number	Amount	Number	Amount	Number	Amount
00206	48.75	000217	50.00	000227	2160.00
00209	492.45	000218	48.27	000256	60.00
00211	5.68	000219	14.92	000257	27.13
00213	33.51	000220	12.55	000258	6.93
00214	29.84	000221	58.00	000259	3.50
00215	10.65	000222	10.00		
00216	50.10	000226	35.00		
			35.23		

Asterisk next to number indicates skip in number sequence

Total Dividends Paid Year to Date

1.20

000182

MAIL PAYMENTS TO:  
P.O. Box 540025  
Salt Lake City, Utah 84158-0025  
Phone (801) 461-8800



# University

## CREDIT UNION

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT OR DEPOSIT.

LOAN PAYMENT SLIP	
CHECKING DEPOSIT	
REG. OFFICE DEPOSIT	

039679

CAMILLE R. CASTILLO-JOHNSON  
1892 DRXP WOODS DR.  
DRAPER UT 84020

10/01 1 24

10/31	ID 01	PRIME SHARES Balance Forward		25.04
10/01		Deposit Dividend Tiered Rate	0.01	25.05
		Annual Percentage Yield Earned	0.49% from 09/01/04 through 09/30/04	
10/06		Withdrawal Transfer To Share 90	0.05-	25.00
10/31		Ending Balance		25.00
		Dividends Paid Year to Date	2	
		A Tiered Rate Dividend of 50.00 will be posted on 11/01/04		
-----				
10/01	ID 90	CHECKING Balance Forward		131.63
10/01		Deposit Dividend Tiered Rate	0.05	131.68
		Annual Percentage Yield Earned	0.11% from 09/01/04 through 09/30/04	
10/01		Withdrawal Debit Card	1.27-	126.41
		09/29 24625124274441708231343 CHEVRON 00301989 DRAPER UT		
10/01		Withdrawal Debit Card	16.59-	109.82
		09/29 24625124274441708231335 CHEVRON 00301989 DRAPER UT		
10/04		Withdrawal Debit Card	11.62-	98.20
		10/01 24455014275040007857217 SENCREST MARKET DRAPER UT		
10/04		Draft 000223	53.04-	45.12
10/05		Withdrawal Overdrawn 000224	20.00-	25.12
		In the amount \$28.10.		
10/06		Withdrawal Debit Card	1.88-	23.24
		10/04 24164074279355810460251 STARBUCK 00064535 DRAKE CIT UT		
10/06		Withdrawal Debit Card	5.78-	17.46
		10/05 24455014279040008181605 SENCREST MARKET DRAPER UT		
10/06		Withdrawal Debit Card	6.97-	10.49
		10/04 24399004279072000524680 PAYDA EXPRESS 00006394 SALT LAKE CITY UT		
10/06		Deposit Transfer From Share 01	0.05	10.54
10/06		Withdrawal Debit Card	17.21-	6.67
		10/04 24493984279170457000141 TOGOS BASKIN ROBINS 02 SANDY UT		
10/06		Overdrawn VISA		6.67-
10/06		Uncollected Fee of \$20.00 is Due		
10/06		Deposit by Check	4407.67	4401.00
10/06		Draft 000225	43.41-	4357.59
10/06		Draft 000230	22.97-	4334.62
10/07		Uncollected Fee Due since 10/06/04 - Overdrawn VISA	20.00-	4314.62
10/07		Draft 000231	18.77-	4295.85
10/08		Draft 000232	14.48-	4281.37
10/12		Deposit Transfer	400.00	4681.37
		From CASTILLO, CAMILLE 1827028 Share		
10/12		Withdrawal	450.00-	4231.37

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2,548

000188

# University

## CREDIT UNION

MAIL PAYMENTS TO:  
P.O. Box 58025  
Salt Lake City, Utah 84158-0025  
Phone (801) 461-8800



PLEASE RETURN THIS PORTION WITH YOUR PAYMENT OR DEPOSIT.

LOAD PAYMENT REFL	
CHECKING DEPOSIT	
SAVING DEPOSIT	
TOTAL	

1939679

CAMILLE R. CASTILLO-JOHNSON  
1652 DEEP WOODS DR.  
DRAVER CT 84020

10/01/04 10/31/04

2

10/12	Draft 000233	53.11-	4178.26
10/12	Draft 000235	48.8-	4129.45
10/12	Draft 000236	62.37-	4067.13
10/12	Draft 000237	4000.00-	67.13
10/13	Draft 000238	15.12-	52.01
10/13	Withdrawal Overdrawn 000260	20.00-	32.01
10/13	In the amount \$87.70.	20.00-	12.01
10/13	Withdrawal Overdrawn 000261	200.00	212.01
01/15	Deposit Transfer	20.16-	191.25
01/15	From CASTILLO,CAMILLE 1627028 Share 90	17.89-	173.36
01/18	Draft 000242	6.65-	166.71
01/18	Draft 000245	103.00	266.71
01/19	Deposit Transfer	170.00-	146.71
01/19	From CASTILLO,CAMILLE 1827028 Share 90	20.00-	126.71
01/19	Withdrawal	17.89-	108.82
01/19	Withdrawal Overdrawn 000241	10.80-	98.82
01/19	In the amount \$232.90.	23.21-	75.61
01/19	Draft 000243	17.10-	58.71
01/19	Draft 000244	19.00-	39.21
01/19	Draft 000262	250.00	289.21
01/19	Draft 000263	100.00-	189.21
01/19	Draft 000264	500.00	689.21
01/20	Deposit Transfer	150.00-	539.21
01/20	From CASTILLO,CAMILLE 1827028 Share 90	3.72-	535.99
01/20	Withdrawal	500.30-	35.99
01/20	Draft 000765	260.30	235.99
01/21	Withdrawal	300.00	515.99
01/21	Deposit Transfer	300.00-	735.99
01/21	From CASTILLO,CAMILLE 1827028 Share 90	15.18-	220.81
01/21	Deposit Transfer	39.32-	181.49
01/21	From CASTILLO,CAMILLE 1077028 Share 90		
01/21	Withdrawal		
01/22	Draft 000267		
01/25	Draft 000261		
01/25	Re-presented Check - SOLIDAY OIL CORP		

--- Continued on following page ---

MAIL PAYMENTS TO:  
P.O. Box 55025  
Salt Lake City, Utah 84155-0025  
Phone (801) 461-8800



# Unitel

## CREDIT UNION

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT OR DEPOSIT.

LOAN PAYMENT SLIP	
CHECKING DEPOSIT	
REG. SAVINGS DEPOSIT	
YOUR	

193967

CAMILLE R. CASTILLO-JOHNSON  
1892 DEEP WOODS DR  
DRAPER UT 84020

10/01/04 10/31/04

3

TYPE: REDEPCHRG

10/25	Draft 000248	43.88-	137.61
10/26	Deposit Transfer	500.00	637.61
	From CASTILLO, CAMILLE 1827028 Share 90		
10/26	Draft 000269	46.49-	591.12
10/27	Withdrawal	100.00-	491.12
10/29	Deposit Transfer	1000.00	1491.12
	From CASTILLO, CAMILLE 1827028 Share		
10/29	Withdrawal Transfer	1000.00-	491.12
	To CASTILLO, CAMILLE 1827028 Share 90		
10/29	Withdrawal	400.00-	91.12
10/31	Ending Balance		91.12
	Dividends Paid Year to Date	1.14	
	A Tiered Rate Dividend of \$0.18 will be posted on 11/01/04		

Number	Amount	Number	Amount	Number	Amount	Number	Amount
000223	53.08	000235*	48.81	000243	17.89	000263	17.40
000225*	43.41	000236	62.32	000244	10.00	000264	19.00
000230*	22.97	000237	4000.00	000245	6.65	000265	3.22
000231	18.77	000238	15.12	000248*	43.88	000267*	15.18
000232	14.48	000239	20.76	000261*	39.32	000269*	46.49
000233	53.11	000242*	17.89	000262	23.21		

\* Asterisk next to number indicates skip in number sequence

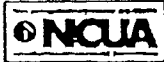
Total Dividends Paid Year to Date

1.26

2,550

000185

MAIL PAYMENTS TO:  
P.O. Box 58025  
San Luis Obispo, Calif. 93415-0025  
Phone (805) 481-8800



# University

## CREDIT UNION

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT OR DEPOSIT.

LONG PAYMENT SLIP	
CHECKING DEPOSIT	
PER. SAVINGS DEPOSIT	
TOTAL	

1939679

CAMILLE R. CASTILLO-JOHNSON  
1892 DEEP WOODS DR.  
GRAPES DT 94020

11/01/04 11/30/04

1

/01 ID 01 PRIME SHARES Balance Forward		25.00
/01 Deposit Dividend Tiered Rate	0.01	25.01
Annual Percentage Yield Earned 0.47% from 10/01/04 through 10/31/04		
/08 Deposit	51.30	76.31
/08 Withdrawal	76.31-	0.00
/08 ID 01 PRIME SHARES Closed		
*** This is the final statement you will receive for this account ***		
*** Please retain this final statement for tax reporting purposes ***		
Dividends Paid Year to Date	0.13	
.....		
/01 ID 90 CHECKING Balance Forward		91.12
/01 Deposit Dividend Tiered Rate	0.18	91.30
Annual Percentage Yield Earned 0.22% from 10/01/04 through 10/31/04		
/01 Withdrawal Overdrawn 000241	20.00-	71.30
In the amount \$232.90.		
/08 Withdrawal Overdrawn 000241	20.00-	51.30
In the amount \$232.90.		
/08 Withdrawal	51.30-	0.00
/08 ID 90 CHECKING Closed		
*** This is the final statement you will receive for this account ***		
*** Please retain this final statement for tax reporting purposes ***		
Dividends Paid Year to Date	1.32	
.....		
Total Dividends Paid Year to Date	1.45	

000186



# ADDENDUM 6

Buc # 2540555

#10 A

Fax 571-9104

45 Am

Call 571-5597

**Wasatch Landscaping &  
Sprinklers.**

3709 West 8140 South,  
West Jordan, Utah. 84088

Fax# 801-282-1665

Phone# 801-699-0866

Owner: Randy Harvey.

One Year parts and Labor Warranty.

Bid proposal

Address: 1892 East Deepwoods Dr

Name: Travis Johnson

Phone# 801-816-1144

Job description: Install sprinkler system, topsoil, clean up all trash and debris, extend rock wall in front yard and side yard grade and level two tiers on North East of property install drip line above rock wall in back yard, reset fallen rocks and sod areas specified by owner, set stepping stones on South side of property, level sand, and flagstone area near porch. Finished job will have dark mulch in all beds over landscape fabric.

Parts will be purchased from listed retailers.

1. Sprinkler supply Co.
2. Performance dirt & Rock.
3. Biograss.

Parts & labor estimation: \$15,275.00

Rocks estimated Two loads owner will pay for extra loads @ \$1000.00 per Load.

Other: \$

Estimated but not exceeding: Fifteen  
Thousand Two Hundred Seventy-Five Dollars. Exception for rocks.

This proposal is binding once signed by both parties.

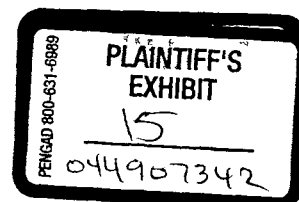
Payment for proposal will be paid within Twenty- four hours of completion.

In any case of non payment Home owner will be responsible for all reasonable attorney fees and 2% monthly interest.

Contractor. \_\_\_\_\_

Owner or Builder. \_\_\_\_\_

Date. \_\_\_\_\_



000124

*Handwritten:* All in Price

# ADDENDUM 7

1 trial.

2 MR. (?): Your Honor, he was unable to -

3 THE COURT: Go back.

4 MR. (?): Do you want to wait?

5 THE COURT: Oh absolutely. Give him a couple of  
6 glasses of water. We're going to get a drug test and we'll  
7 take however long it takes. He's going to give us a sample.  
8 I've had this trick played before. Fill him with water.

9 How did you incur your injuries, ma'am?

10 MS. JOHNSON: I was four and the man we were with,  
11 my mother - it was on the 4<sup>th</sup> of July and he was inebriated  
12 and she was at a neighbor's house and he'd bought fireworks  
13 and got back in the car and (inaudible) car and we went out  
14 past the railroad tracks, a couple of miles down the road and  
15 he lit some firecrackers and he threw them around the car.

16 THE COURT: He did what?

17 MS. JOHNSON: He lit firecrackers and he threw them  
18 around his car.

19 THE COURT: In the back of the car?

20 MS. JOHNSON: Yeah, and it ignited it and I was  
21 burned (inaudible).

22 THE COURT: One of the children died as a result of  
23 that?

24 MS. JOHNSON: Yeah, he was five.

25 THE COURT: And you survived with injuries and the

1 other brother survived without injury?

2 MS. JOHNSON: Yes.

3 THE COURT: Forgive me for asking. I was curious  
4 as to how it happened to a child so young. Thank you for  
5 telling me.

6 (Off the record from 10:13 to 10:18)

7 THE COURT: -at this time it would be  
8 incriminatory, potentially incriminatory. You have an  
9 attorney and you'll want to consult with your attorney before  
10 you say anything further, or two attorneys. I'm wondering  
11 what effect this has on the trial today. Obviously he's used  
12 two controlled substances and we have no way of ascertaining  
13 when. I can tell you that cocaine and opiates do not remain  
14 in the system like marijuana for any length of time. I have  
15 a sheet that says how long. Opiates, two to three days;  
16 cocaine two to three days. So he could have used it as  
17 recently this morning. He could have used it in the past,  
18 three days ago and I don't know what condition he's in. I  
19 only know that he tests positive and he looked to me like he  
20 was (inaudible) when he walked into the courtroom.

21 Counsel?

22 MR. BARKER: Your Honor, I don't know what to say  
23 except to apologize and whatever you would like to do -

24 THE COURT: You have no need to apologize, counsel.  
25 You had no way of knowing. I have pretty good instincts

1 about these things and additionally, when someone foregoes  
2 being drug tested for a full year, there's usually a pretty  
3 good reason, i.e. they're using. I don't know if you want to  
4 confer with co-counsel and your client. I don't know that  
5 he's in any shape to proceed and I think there would be a  
6 basis for seeking to overturn anything that happened today in  
7 terms of a verdict but you can certainly talk and I will want  
8 to hear from both sides on this issues.

9 MR. BARKER: Very good, Your Honor, thank you.

10 (Off the record from 10:19 to 10:25)

11 THE COURT: - he's the one who's chemically enhanced  
12 so his judgment is not what I'd call particularly reliable  
13 and I'm concerned that we spend the morning adducing  
14 testimony and he was the first witness that was called and I  
15 don't know when he used. I only that it's in his system and  
16 the petitioner has indicated that she ingested Percocet last  
17 night which is a prescription medication for her burn pain,  
18 the pain related to her burns and that she took it in the  
19 dose required or prescribed but if we were to reset this  
20 matter, she would go without taking her prescribed medication  
21 that she typically takes at night so that she can get some  
22 sleep and I'm of the opinion that I'd like to have a clean  
23 record. I'd like to have these people come to court clean  
24 and proceed in that manner and we can give you a trial as  
25 quickly as next week.

DIRECT EXAMINATION

BY MR. RICHMAN:

Q You're the mother of Camille?

A Yes, I am.

Q And you were present when she was burned; is that correct?

A Yes, I was in the car.

Q And were you aware that this man had firecrackers in the car?

A I knew he had them but I didn't know that he was going to light them.

Q And what was he doing, throwing them out the window?

A He was throwing them out the window and one flew back into the back seat of the car and caught the car on fire.

THE COURT: You knew he was intoxicated?

THE WITNESS: I was riding in the car with someone else and he was also in the car.

THE COURT: I said, did you know the man was intoxicated?

THE WITNESS: Yes, I did.

THE COURT: And you saw him lighting these and throwing them out the window and knew that there was a propensity for them coming back into the vehicle?

1           THE WITNESS: This all happened within about 30  
2 seconds. It was a very fast - I had no idea that he was  
3 going to light them.

4           Q       (BY MR. RICHMAN) Address the issue that I left  
5 hanging and botched a little bit. Camille turned age 21 and  
6 got some money and that's what I understand purchased the  
7 house; am I correct?

8           A       When she was 18 she was then - the monthly income  
9 was then turned over to Camille. The trust was for her  
10 medical and schooling and that was managed by the Trust  
11 Department of First National Bank of Alaska which was bought  
12 out by Wells Fargo and they managed the medical part of the  
13 trust. I didn't have anything to do with it. When she  
14 became 25 years old - no, 21 years old, she was then, she  
15 could be in control of half whatever was in the trust at that  
16 time and I believe it was over \$500,000. So she had it  
17 taken, she had that half of the trust taken out and invested  
18 with I think it's Fidelity Investments in the town that we're  
19 from, Kenji, Alaska and the manager of that is Parley Giles  
20 and I believe the money for the house came from that and the  
21 reason I know about it is because Camille told me and I also  
22 have Camille's power of attorney and if she needed - I mean,  
23 Parley would also call me if he couldn't get hold of Camille.

24           Q       Let me ask you this. We know that there's a  
25 lifetime annuity and that it has the accelerator to take care



1 right?

2 A Yes.

3 Q And that's roughly, do you know how much that is,  
4 \$10,000 a month?

5 A I don't know exactly how much it is. I haven't had  
6 any reason to ask her.

7 Q The medical surgeries, she had about 60 or 70?

8 A I would say at least that many.

9 Q Is that taken out of her trust money and not  
10 reimbursed or does it get reimbursed to her?

11 A Reimbursed from where?

12 Q So that's my question, my client led us to believe  
13 that it was money that she was reimbursed for and so I just  
14 want to make sure I'm hearing -

15 A If she pays for any medical care like going to the  
16 doctor, this was before she was in control of her trust which  
17 she has total control of her trust now that she's 25, before  
18 that what she would do, if she paid for anything, then she  
19 would send the receipts to the bank and then they would  
20 reimburse her that money.

21 THE COURT: But they're reimbursing her -

22 THE WITNESS: Out of her own money.

23 THE COURT: - out of her own money.

24 THE WITNESS: That's her own trust money. It's not  
25 insurance money or - she has no health insurance.

1           Q     (BY MR. BARKER) You probably mentioned this and  
2 I'm sorry I didn't - how much do you believe she has in the  
3 trust at this point right now?

4           A     She has I believe around \$500,000. It doesn't go  
5 far in the medical world.

6           Q     But after the 60 surgeries, there's still half a  
7 million in the trust?

8           A     There was a half million dollars in there because -  
9 from the time she was 21 is when she got control of half of  
10 her trust and the other half million dollars that's in there,  
11 she hasn't had any surgery in a while.

12          Q     How long has it been since she's had surgery?

13          A     Maybe nine years. She's needed to have it but she  
14 hasn't had it done. She's been here in Utah about six years  
15 and she's never had surgery unless I've been with her.

16               MR. BARKER: Right.

17               That's all I have, Your Honor. Thank you.

18               MR. RICHMAN: I have nothing further.

19               THE COURT: I just have one question. The man who  
20 did this to her, was he your husband?

21               THE WITNESS: No.

22               THE COURT: Your boyfriend?

23               THE WITNESS: He was at the time.

24               THE COURT: And what happened to the relationship  
25 after this happened to your daughter?

1           THE WITNESS: It ended. He was - I testified at  
2 his trial and at every parole hearing that he had, he was  
3 convicted of assault on Camille and he was sentenced to 10  
4 years and he spent 10 years in jail.

5           THE COURT: It must have been prison.

6           THE WITNESS: Yes.

7           THE COURT: It must have been an aggravated assault  
8 or (inaudible). Okay, thank you.

9           All right. So we have the testimony on videotape  
10 of the mother of the petitioner and that means she will not  
11 need to return and I appreciate you have to go back to Alaska  
12 and so are there any other problems we've got for setting it  
13 for Tuesday afternoon?

14          MR. RICHMAN: No, Your Honor.

15          THE COURT: Okay. We'll see you then.

16          MR. BARKER: Thank you, Your Honor.

17          MR. RICHMAN: Thank you, Your Honor.

18          (Whereupon the hearing was concluded)

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1 ability with the child?

2 A Yes, I did. He's never been around young children  
3 before.

4 Q Can you give me an example of what caused you  
5 concern? The day is late so could we just get a sample?

6 A Sorry, how he would hold Gabrielle when he was very  
7 young, wouldn't support his head, just basically threw him  
8 over his shoulder, didn't really hold on to him except for  
9 his bottom. He would play with him until Gabrielle cried. I  
10 always had to go and take him away and go play with him and  
11 then Travis would come in and play with him until he cried,  
12 until the child cried but because of Travis playing with him.

13 Q Let me bounce you to a different subject for a  
14 moment to Travis' car accident and the settlement he got out  
15 of that and let me preface it with this, during anytime that  
16 you've known Travis, have you known him to have hospital,  
17 medical insurance?

18 A No.

19 Q And are you able to obtain hospital, medical  
20 insurance?

21 A Not currently.

22 Q And do you have significant ongoing medical  
23 expenses?

24 A Yes, lifelong.

25 Q You have had more than one surgery. Would you tell

1 me how may surgeries you've had?

2 A We don't know, about 80.

3 Q And do you have any more planned?

4 A Yes.

5 Q Has this legal case been an impediment to you in  
6 any way?

7 A Yes.

8 Q For surgery?

9 A Yes.

10 Q And how is that?

11 A I can't have a surgery if I'm under stress. If I'm  
12 always going to court, I can't have a surgery. I have to be  
13 able to heal and be well enough to have a surgery and I  
14 always get infections and it's kind of a hindrance to have  
15 tissue expanders and go out in public.

16 Q Let's talk about Travis' surgery. He had some  
17 surgery since you've known him?

18 A He's had one.

19 Q And what was that about?

20 A We were rear-ended in Arizona on the way back from  
21 my grandparents and a car rear-ended us. He got some  
22 vertebrae that were, I'm not sure what happened to them but  
23 he had to go and have bone cartilage from a cadaver put into  
24 his neck.

25 Q And when did that surgery take place?

1 college graduate, right?

2 A I don't know if I knew.

3 Q But he wasn't going to school when he was dating  
4 you; isn't that true?

5 A Correct.

6 Q And you knew when you married Travis he didn't have  
7 a lot of assets; isn't that correct?

8 A That's correct.

9 Q And now briefly again, you've gone over this, I  
10 don't want to belabor it. I just want to go over your  
11 circumstance. You received at least at the time of buying  
12 the house you receive \$9,305 per month from one of your  
13 personal injury settlements; is that true?

14 A Correct.

15 Q And that money is tax free, right?

16 A Correct.

17 Q And you had at the time anyway of your, at the time  
18 you bought the house in February 2003, you had \$1 million in  
19 a trust fund, right?

20 A In a structured trust fund.

21 Q As a matter of fact, in that document, your net  
22 worth was over \$1 million, right, in February 2003? Do you  
23 recall that? I think it's your Exhibit 10 if you want -

24 THE COURT: How is this relevant?

25 MR. SCHOFIELD: Your Honor, I think the case law is

1 and we'll go into this, at the end of a divorce you have to  
2 look at what's equitable for the parties, how they're able to  
3 care for themselves, how they're able to get along, provide  
4 for themselves.

5 THE COURT: She obviously has assets.

6 MR. SCHOFIELD: That's all we wanted to hear.  
7 That's all that was, Your Honor.

8 THE COURT: I mean, she certainly was never  
9 supported by her husband.

10 MR. SCHOFIELD: That is true.

11 Q (BY MR. SCHOFIELD) Well, let me just ask you this,  
12 so you knew Travis' circumstances, you testified to; you knew  
13 you had money coming in but it's true you never had Travis  
14 sign a prenuptial agreement, right?

15 A Correct.

16 Q And you did have access to lawyers?

17 A Correct.

18 Q And now, after Gabrielle was born on January 1, you  
19 told Travis not to work so he could take care of Gabrielle;  
20 isn't that correct?

21 A That is not.

22 Q And Gabrielle is now 3, right?

23 A Yes.

24 Q And you don't work, isn't that true?

25 A Correct.

1           Q     And during the marriage you would leave Gabrielle  
2 with Travis for long periods of time while you traveled,  
3 right?

4           A     Incorrect.

5           MR. SCHOFIELD: Your Honor, may I approach the  
6 witness?

7           THE COURT: Uh-huh (affirmative).

8           Q     (BY MR. SCHOFIELD) I want to show you your  
9 affidavit here.

10          THE COURT: May I interject a question?

11          MR. SCHOFIELD: Yes.

12          THE COURT: Are you able to work?

13          THE WITNESS: Not really. I go to school and I go  
14 to Salt Lake Community, not a full course load. I worked one  
15 job in my life and was laid off.

16          THE COURT: And is that because your hands are  
17 impaired?

18          THE WITNESS: No, because I'm burned, because I was  
19 working retail and (inaudible) a couple of customers made  
20 remarks.

21          THE COURT: Okay.

22          MR. SCHOFIELD: And Your Honor, I think (inaudible)  
23 counsel has an objection. This is her affidavit. I'd just  
24 like to refresh her recollection.

25          MR. RICHMAN: We do have an objection because it's



1           Q     And you paid cash for the home?

2           A     Yes.

3           Q     \$168,000, right?

4           A     Correct.

5           Q     And so you were able to pay cash for the home and

6 still make the mortgage payments on the marital home?

7           A     Correct.

8           Q     And your mother testified last time we were here

9 that you haven't had a surgery for nine years; is that

10 correct?

11          A     Roughly, yes.

12               MR. SCHOFIELD: May I have just one moment, Your

13 Honor? I think I'm done.

14          Q     (BY MR. SCHOFIELD) I just want to ask you a couple

15 more questions about I think it's Exhibit 15, your

16 landscaping exhibit? Okay, and written on the exhibit is a

17 number, I think it's \$7,000, can you see up there, \$7,637.50?

18          A     Yes, I see that.

19          Q     Isn't it true that that was taken out of your

20 personal account on September 15, 2004, that was just four

21 days after Travis put the \$24,000 into your account?

22          A     I don't have paperwork, I don't know.

23               MR. SCHOFIELD: May I approach the witness, Your

24 Honor?

25               THE COURT: Yes.

1 Q (BY MR. SCHOFIELD) This is (inaudible) right?

2 A I see that, yes.

3 Q You see on September 11, \$24,000 put in, right?

4 A Uh-huh (affirmative).

5 Q And then you see here where the \$7,637 was taken  
6 out, correct?

7 A Yes.

8 Q Just four days after, right?

9 A It looks like it.

10 MR. SCHOFIELD: Your Honor, counsel is correct, my  
11 records here show \$7,632.50 and I think her exhibit is  
12 \$7,637.50. So I don't know if there's a mistake.

13 THE COURT: That doesn't matter. I've got one that  
14 says \$76 and I can't tell if it's a 5 or 3 and then seven and  
15 then 50 cents.

16 MR. SCHOFIELD: Your Honor, I think that's all I  
17 have, Your Honor. Thank you.

18 THE COURT: Anything further?

19 MR. RICHMAN: No, Your Honor.

20 THE COURT: You do need surgery; is that correct?

21 THE WITNESS: Yes (inaudible).

22 THE COURT: Is it painful as a result of the  
23 surgery that you need?

24 THE WITNESS: Yes.

25 THE COURT: The skin is tightened?

1           THE WITNESS: The skin is (inaudible).  
2           THE COURT: So you need to have all of that  
3 surgically handled?  
4           THE WITNESS: Yes.  
5           THE COURT: And we're talking about a number of  
6 different surgeries?  
7           THE WITNESS: Yes.  
8           THE COURT: All right, thank you.  
9           Are you calling any other witnesses?  
10          MR. RICHMAN: We are not, Your Honor.  
11          THE COURT: You're resting?  
12          MR. RICHMAN: With the exception of the attorney's  
13 fees.  
14          THE COURT: Well, we're going to leave that for  
15 another day. We've run out of time. What have you got?  
16          MR. SCHOFIELD: We have Pamela Johnson, his mother  
17 which I'll ask three questions too and then we have the  
18 sister who will be very brief. I don't know if you want to  
19 do it now or come back, whatever you want to do.  
20          THE COURT: Let's get the two witnesses on.  
21          MR. SCHOFIELD: Pamela Johnson Your Honor.  
22          THE COURT: I'm going to hold you to it.  
23          (Both talking)  
24          MR. SCHOFIELD: We'll do it.  
25          MR. RICHMAN: I'd just observe, while they're