

From which I cannot recover, still buried in the mountain of papers, briefs, replies, appearances, appeals, so no one ever finds their way through it, to the violation, the root cause.

Overwhelming tactical advantage.

That is how opposing counsel wants it—buried in chaos.  
Whatever it takes to keep me from getting a hearing on the merits, where actual evidence might be required, and worse than that, examined.

This is due process, choked to death,  
right in front of us, under color of law.  
Yes, I am acutely aware. Profoundly different.  
Yet on a scale from 1 to 10, each is an eleven,  
a distinct hole, but the same dyke.

The court gets stuck in molasses,  
unable to see beyond the misdirection.

Someone needs to cut through this  
Gordian knot. Not detangle it.  
Cut through it.

Shortcuts rely on conditions which are true for both paths,  
--absent dissent. Easy to forget the rarely noticed conditional.  
that is always present, choosing the shorter, more convenient  
path, just as sound, except when challenged--assumptions  
seldom noted, because they always held, but no longer do.  
Dissent makes the soundness of the paths different again,  
and the longer, less convenient, less familiar path becomes  
required, without notice. Without the benefit of notice,  
even the system fails, producing the spectacularly absurd.

Reverse, on due process.  
Because full faith and credit does not  
apply to hopelessly defective judgments.

Do the right thing. No one else can.

Filed 11/20/20

**CERTIFIED FOR PUBLICATION**

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SIXTH APPELLATE DISTRICT**

**In re the Marriage of ROSEMARY and  
JAMES SAWYER.**

**ROSEMARY SAWYER,**

Respondent,

v.

**JAMES SAWYER,**

Appellant;

**SANTA CRUZ COUNTY  
DEPARTMENT OF CHILD SUPPORT  
SERVICES,**

Appellant.

**H046558  
(Santa Cruz County  
Super. Ct. No. FL007773)**

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In 2001, a Minnesota state court ordered appellant James Sawyer to pay \$89,582.15 in child support arrears to his ex-wife, respondent Rosemary Sawyer,<sup>1</sup> for their two children. James was by then living in California, and in 2005 the Minnesota order was registered for enforcement purposes in Santa Cruz County Superior Court pursuant to the Uniform Interstate Family Support Act.

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<sup>1</sup> The trial court order at issue here refers to James's ex-wife as Rosemary Sawyer. In some places, the record references her as Rosemary Hildebrandt. For clarity, we refer to James and Rosemary by their first names. Rosemary has not participated in these appeals.

In 2018, in connection with registration in California of a renewed judgment from Minnesota, the trial court in Santa Cruz County stayed enforcement of a portion of James's child support arrears determined by the 2001 Minnesota order because the children had intermittently lived with James between 1993 and 2002. The trial court found the remainder of the arrears enforceable against James. Both James and appellant Santa Cruz County Department of Child Support Services (the Department), which has assisted in the enforcement and collection of James's child support arrears, have appealed the trial court's 2018 order.

The Department contends that the trial court lacked authority under the Uniform Interstate Family Support Act to stay the arrears owed by James because the 2001 Minnesota order at issue was registered and confirmed in California in 2005, and James did not timely challenge its registration. We agree and reverse the portion of the 2018 order staying enforcement of \$28,890 of the arrears. James appeals the portion of the trial court's order finding that the remainder of the arrears (\$60,692.15) was enforceable. We reject his claims of error and affirm that portion of the 2018 order.

## **I. FACTS AND PROCEDURAL BACKGROUND**

### **A. *Background*<sup>2</sup>**

James and Rosemary were married from 1978 to 1989 and have two (now adult) sons together: the elder born in 1977 (older son) and the younger in 1984 (younger son). James and Rosemary divorced in Minnesota, and a judgment and decree of dissolution ending their marriage was entered in that state in January 1989. James was ordered by the Minnesota court to pay \$1,000 per month in child support to Rosemary.

Shortly following the divorce, James moved to Santa Clara County, California. Thereafter, Rosemary requested assistance from the State of California in enforcing the

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<sup>2</sup> We take these undisputed background facts from James's sworn testimony at the October 23, 2018 hearing, which preceded the December 18, 2018 order at issue in these appeals.

Minnesota child support order. In January 1991, child support enforcement proceedings began in Santa Clara County. As a result of those proceedings, James was either ordered to or stipulated to pay \$12,000 in child support arrears and was ordered to pay \$100 per month in fulfillment of that obligation.

A few years later, in June 1993, older son, then about 16 years old, moved from Minnesota to California and lived with James until July 1994. James did not seek a modification of the ongoing child support order after older son moved in with him. James testified that modifying the support order "wasn't on [his] radar" at that point and "it seemed to [him] that the whole accounting of child support would be more sensibly done at the end rather than in the middle."

Around 1997, James moved to Santa Cruz County, and the enforcement proceeding against him was transferred to the Santa Cruz County Superior Court.<sup>3</sup> In 1999, younger son moved to California and lived with James for several years. Apparently around this 1999 time period, James asked his Minnesota attorney to notify the Minnesota court that younger son was living with him and was no longer living with Rosemary. However, James did not then seek a modification of the ongoing child support order in the Minnesota court. James testified that his attorney asked or tried to get Rosemary to sign a stipulation to the effect that younger son was in his primary custody, but that effort was unsuccessful.

#### *B. Procedural History*

##### *1. 2001 Court Proceedings in Minnesota*

On February 13, 2001, a Minnesota district court issued the child support order that underlies the appeals before us (the Minnesota 2001 order). Prior to the issuance of that order, the parties appeared at a hearing in Minnesota in January 2001. Rosemary,

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<sup>3</sup> We take judicial notice of the 1997 notice of receipt filed in Santa Cruz County and 1997 motion and order transferring cause.

Rosemary's attorney, and James's attorney Robert Hajek appeared. James was not personally present.

The Minnesota 2001 order amended the 1989 judgment and decree of dissolution, awarded physical custody of younger son to James, and ordered Rosemary going forward to pay James child support for younger son. The order also addressed the amount of child support arrears that James owed Rosemary. The order stated that Rosemary had "alleged child support arrears owing by [James] to [Rosemary] in the amount of \$89,582.15" and declared that "judgment shall be entered on said arrears unless, within sixty (60) days from the date of this Order, the parties agree that a different amount is owing, or [James] proceeds before this Court by Notice of Motion and Motion within that sixty (60) day period." This arrears amount was apparently not challenged by either party within the 60 days and, in April 2001, the Minnesota district court entered judgment against James for child support arrears in the amount of \$89,582.15.

## 2. 2005 Proceedings in California

In 2005, the Minnesota 2001 order was registered in California.<sup>4</sup> The notice of registration reflects that the Santa Cruz County Superior Court clerk sent James a copy of the order on March 18, 2005. The notice advised James that he had 25 days from the mailing date to request a hearing to contest the validity or enforcement of the registered order. There is no evidence in the record that James contested or took any court action in connection with the 2005 registration in California of the Minnesota 2001 order requiring him to pay \$89,582.15 in child support arrears to Rosemary.

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<sup>4</sup> The Minnesota order that was registered in California was the February 2001 conditional order and not the judgment entered in April 2001. It is not clear on this record why the April 2001 judgment was not registered in California, but neither party has raised this issue in the trial court or in this court on appeal. We will therefore assume, as do the parties, that the February 2001 order was the appropriate order to register in California.

3. 2007-2009 Court Proceedings in Minnesota and 2009 Registration in California

In 2007, James appeared before a Minnesota child support magistrate to challenge the 2001 Minnesota order issued by the district court. James sought in the Minnesota court a determination that he owed no arrears to Rosemary. After various continuances, James withdrew his motion. Approximately one year later, in late 2008, James again moved for a determination that he owed no arrears to Rosemary.

In early January 2009, the Minnesota child support magistrate determined that James's motion amounted to a motion to vacate the 2001 judgment, decided that it did not have jurisdiction to vacate a final judgment entered in Minnesota district court, and dismissed James's motion. In its written order, the magistrate found that “[b]ased upon the order dated February 13, 2001, there was a judgment entered in this matter determining arrears as of January 31, 2001.” The magistrate decided it was foreclosed from redetermining those arrears and dismissed James's motion.

According to the Minnesota Court of Appeals, which affirmed the child support magistrate's order in an unpublished opinion, James “moved for a determination that he owed no arrears to [Rosemary] so that the state of California would terminate proceedings against him to collect the 2001 Minnesota judgment.” (*Sawyer v. Sawyer* (Minn.Ct.App., Sept. 22, 2009, No. A09-0222) [2009 WL 2998093].) The Court of Appeals described James's motion as an attempt “to relitigate an issue that was resolved eight years ago by the district court.” (*Id.* at p. 5.)

The 2009 order issued by the Minnesota child support magistrate was registered that year for enforcement in Santa Cruz County Superior Court. The court clerk served James with the registration statement and a copy of the January 2009 order. According to the 2009 notice of registration, James then owed Rosemary \$98,476.19 in child support arrears. There is no evidence that James contested or took any court action in California in connection with the 2009 registration.

#### 4. 2013-2018 California Trial Court Proceedings

In 2013, the Department filed in Santa Cruz County Superior Court a request for an order to show cause and affidavit for contempt against James related to his failure to make child support payments. James moved in the Santa Cruz County Superior Court for equitable relief, claiming the arrears calculation in Minnesota was incorrect. James requested that the trial court order an “accounting” and “credit” him with payments he made. James contended that the Department had failed “to reconcile [James’s] payments and credits” with the Minnesota 2001 order and asserted such a reconciliation would have “demonstrated satisfaction of the original child support order.” James requested that the trial court order the Department to stop collecting any payments on the alleged arrears.

At a hearing in March 2014, the trial court denied James’s request to recalculate the arrears previously adjudicated in Minnesota and for equitable relief. The trial court stated that it did “not believe that California has subject matter jurisdiction over the issue that has already been determined by another forum” and was required to “defer to that judgment.”

Nearly four years later, in 2018 the clerk of the Santa Cruz County Superior Court notified James that a new Minnesota order, titled “Notice of Entry and Docketing of Judgment,” had been registered in the superior court. The Minnesota order stated James owed \$139,990.21 in child support arrears as of May 21, 2018.<sup>5</sup> James requested a hearing in Santa Cruz County Superior Court and sought vacatur of the registration of the order.

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<sup>5</sup> The Department in its briefing asserts that the 2018 judgment was a “renewal” of judgment, as a judgment otherwise lapses and becomes unenforceable after 10 years pursuant to Minnesota law. In 2018, the Department’s position before the trial court was that the \$139,990.21 stemmed from the \$89,582.15 established at the January 29, 2001 hearing in Minnesota and included interest that had since accrued pursuant to Minnesota law which calculated interest by the prime market rate minus certain credits for payments James had made.

In his opposition to enforcement of the 2018 Minnesota support order, James asserted the arrears figure of \$89,582.15 was overstated, he had “no warning” that the January 29, 2001 hearing would be used to determine arrears, and his attorney in Minnesota “did not directly communicate to him the intentions of the Minnesota family law court referee.” James stated he only “first became aware of the \$89,582.15 arrears judgment several years after it was entered, perhaps around 2005, when the Minnesota Department of Child Support sought to register the judgment in California.”

The Department submitted a written response in which it argued James was barred from attacking the amount of arrears determined in 2001 because he had failed to timely challenge the registration of that judgment in California in 2005.<sup>6</sup> The Department maintained that James could only contest the arrears that accrued between the last registration (in 2009) and the current registration (in 2018) but had provided no evidence of any payments made in that period that the Department had not credited to him.

A contested hearing occurred before the trial court on October 23, 2018, presided over by the same judicial officer who had in 2014 denied James’s equitable request to recalculate arrears for the same time period. At the October 23, 2018 hearing, James testified about various topics, including the time periods that his sons lived with him in California. James stated he had retained Bob Hajek, a lawyer in Minnesota, to help handle the proceedings in Minnesota, but James was not aware in 2001 of the January 29, 2001 hearing. James asserted he did not learn about the 2001 hearing or the arrears amount until several years later. He could not recall exactly when he learned about the over \$89,000 in arrears but “it had to have been” in 2005 or 2006. James detailed his efforts in 2007 and 2008 in Minnesota to overturn the arrears calculation, which included his unsuccessful appeal to the Minnesota Court of Appeals.

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<sup>6</sup> Rosemary did not participate in the 2018 proceedings.

In the course of the 2018 hearing, the trial court found that there was no merit to James's claim that the Minnesota court did not have personal jurisdiction over him, despite James's testimony that he was unaware of the 2001 proceedings, because James had then been represented by an attorney who participated in them. Turning to his claim that the arrears figure was incorrect, the trial court stated it was "inclined to grant some equitable relief" and believed it had the authority to do so pursuant to its powers under California law to enforce the Minnesota judgment.

On December 18, 2018, the trial court issued the written order at issue on appeal. The trial court denied James's request to vacate registration of the support order filed on June 28, 2018 but ordered the Department "to stay partial enforcement of the registered orders, according to the attached findings." The attached findings consist of a one-page chart itemizing the arrears amounts stayed by the trial court. The trial court's findings include that the Minnesota order was signed on February 13, 2001 in the amount of \$89,582.15 and was "subsequently registered in California." The attachment details the particular years that either older son or younger son lived with James and the portion of the total arrears that would be stayed for that time period. Adding these various amounts, the trial court ordered that \$28,890 in arrears be stayed.

The trial court's order stated that \$28,890 in arrears was "stayed on equitable grounds during periods of time father had sole custody of children" and that "California courts are free to apply its own law regarding the methods by which the judgment is to be enforced." The trial court concluded that the balance of the \$89,582.15 (that is \$89,582.15 minus \$28,890, or \$60,692.15) could be enforced against James.

Both the Department and James timely appealed the trial court's December 18, 2018 order.

## II. DISCUSSION

"A trial court child support order is reviewed under the abuse of discretion standard of review, and the trial court's findings of fact in connection with a child support

order under the substantial evidence standard of review. [Citation.] ‘To the extent the trial court’s decision reflects an interpretation of a statute, it presents a question of law that we review *de novo.*’” (*In re Marriage of Zimmerman* (2010) 183 Cal.App.4th 900, 906–907.)

The Department argues the trial court lacked authority to award James equitable relief by staying enforcement of a portion of the arrears. In his appeal, James contends that the trial court erred (1) by refusing to stay the remainder of the arrears determined in Minnesota because the Minnesota court did not have personal jurisdiction over him when it entered the 2001 Minnesota order and (2) by failing to continue the proceeding to permit him to present additional evidence about all the equitable “off-sets” he was due.

We begin our consideration of these appeals with the applicable provisions of California law implementing the Uniform Interstate Family Support Act.

#### *A. The Uniform Interstate Family Support Act*

The Uniform Interstate Family Support Act (UIFSA), now codified at Family Code sections 5700.101 et seq.,<sup>7</sup> was enacted in California in 1997.<sup>8</sup> (See *County of Los Angeles Child Support Services Dept. v. Superior Court* (2015) 243 Cal.App.4th 230, 237.) The UIFSA “‘governs, *inter alia*, the procedures for establishing, enforcing and modifying child support orders in cases in which more than one state is involved.’” (*In re Marriage of Connolly* (2018) 20 Cal.App.5th 395, 402.) “The goal of UIFSA is to ensure that ‘‘only one valid support order may be effective at any one time’ [citation], even though the parties and their children may move from state to state.’” (*Ibid.*) “Together with the Federal Full Faith and Credit for Child Support Orders Act (FFCCSOA) (28 U.S.C. § 1738B), the UIFSA ensures that in every case only one state

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<sup>7</sup> Unspecified statutory references are to the Family Code.

<sup>8</sup> Prior to 2016, the UIFSA was codified at sections 4900 et seq. The pertinent provisions relating to the registration and confirmation of out-of-state child support orders have remained largely unchanged since the UIFSA’s adoption in 1997. (Compare §§ 5700.606–5700.608, with former §§ 4955–4956.)

exercises jurisdiction over child support at any given time.” (*In re Marriage of Crosby & Grooms* (2004) 116 Cal.App.4th 201, 206.)

The UIFSA allows a support order from another state to be registered for enforcement in California. (§ 5700.601 [formerly § 4950]; *Scheuerman v. Hauk* (2004) 116 Cal.App.4th 1140, 1143–1144.) When the arrears order at issue here was registered in California in 2005, former section 4955 (now codified at section 5700.606) stated: “(a) A nonregistering party seeking to contest the validity or enforcement of a registered order in this state shall request a hearing within 20 days after notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to Section 4956. [¶] (b) *If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.* [¶] (c) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.” (Italics added.)

Section 5700.607, subdivision (a), sets forth the sole grounds on which a party can seek to vacate registration of a support order. Two of those grounds are that “the issuing tribunal lacked personal jurisdiction over the contesting party” and that “full or partial payment has been made.” (§ 5700.607, subd. (a)(1), (6).)<sup>9</sup>

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<sup>9</sup> Former section 4956 contained these same two grounds and stated in full: “(a) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses: [¶] (1) The issuing tribunal lacked personal jurisdiction over the contesting party. [¶] (2) The order was obtained by fraud. [¶] (3) The order has been vacated, suspended, or modified by a later order. [¶] (4) The issuing tribunal has stayed the order pending appeal. [¶] (5) There is a defense under the law of this state to the remedy sought. [¶] (6) Full or partial payment has been made. [¶] (7) The statute of limitation under Section 4953 precludes enforcement of some or all of the arrearages. [¶] (b) If a party presents evidence

Section 5700.608 (formerly section 4957) states: “Confirmation of a registered support order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.”<sup>10</sup>

*B. The Department’s Appeal*

The Department contends that, because James failed to timely challenge the 2005 and 2009 registrations in California, the amount of arrears reflected in the 2001 Minnesota order was “confirmed by operation of law” under the UIFSA, precluding any further adjudication by the trial court of the preregistration amount of arrears.<sup>11</sup>

We agree that the trial court erred when it reduced the amount of James’s child support arrears as determined by the Minnesota 2001 order. We reach this conclusion based on a plain reading of section 5700.608, which states that “[c]onfirmation of a registered support order, whether by operation of law or after notice and hearing, *precludes* further contest of the order *with respect to any matter that could have been asserted at the time of registration*” (italics added).

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establishing a full or partial defense under subdivision (a), a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this state. [¶] (c) If the contesting party does not establish a defense under subdivision (a) to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order.”

<sup>10</sup> The only substantive difference between section 5700.608 and section 4957 is that the phrase “registered order” was changed to “registered support order.” This change is immaterial to the legal issues posed by these appeals.

<sup>11</sup> Because we agree with the Department on this point, we do not reach its alternative arguments that the doctrine of res judicata bars the relitigation of arrears owed through the end of 2001 based on James’s unsuccessful litigation of this issue in Minnesota and that the trial court’s order violates the full faith and credit clause of the United States Constitution.

There is no dispute that the Minnesota 2001 order was registered in California in 2005. Regarding the confirmation of the order, James does not contest that he was given notice that the order was registered. The record reflects that the court clerk served James with the notice in March 2005 that advised him that he must request a hearing within 25 days to challenge the validity or enforcement of the registered order. James's testimony in 2018 was not inconsistent with that notice. He testified that he could not recall exactly when he learned about the over \$89,000 in arrears but "it had to have been either [the] 2005 time frame" when "things started happening that I think might have informed me" or sometime in 2006.

James could have made a timely challenge to the 2005 registration in California as set forth in former section 4955, but he did not.<sup>12</sup> The record does not reflect any such challenge, nor did James ever testify he made any such challenge. Rather, he testified that, beginning in 2007, he unsuccessfully sought in Minnesota to challenge the 2001 Minnesota order.

Therefore, pursuant to former section 4955, subdivision (b), the 2001 Minnesota order became confirmed in California by operation of law. There is no indication that the trial court's 2018 order "to stay partial enforcement" of the arrears is anything other than a permanent reduction of James's child support arrears. However, James was precluded by section 4957 (now section 5700.608) from contesting the arrears, and the trial court did not have the authority to effectively lower the arrears James owed from that amount set by the Minnesota court. (§ 5700.608.)

While the parties do not cite and we have not found any California authority applying the UIFSA to similar facts, our conclusion is consistent with that reached by the

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<sup>12</sup> Former section 4955 provision of the UIFSA has been renumbered to section 5700.606 and, although certain language changed, the changes are not material to our analysis here. (See § 5700.606.) Section 5700.606, subdivision (b), provides that if "the nonregistering party fails to contest the validity or enforcement of the registered support order in a timely manner the order is confirmed by operation of law."

North Dakota Supreme Court in *Smith v. Hall* (N.D. 2005) 707 N.W.2d 247. In *Smith*, a father attempted to vacate a registered and confirmed child support order years after the order was registered, arguing it was void for lack of personal jurisdiction. Relying on the UIFSA provisions similar to the language in California's, including that “ ‘[c]onfirmation of a registered order . . . precludes further contest of the order with respect to any matter that could have been asserted at the time of registration’ ” (*id.* at p. 250), the Supreme Court of North Dakota held father was precluded from contesting the registration on the grounds of lack of personal jurisdiction.

James has not established that he could not have asserted at the time of registration his claim that he should have been credited for the time his sons lived with him in the determination of his child support arrears. The UIFSA expressly states that it is a defense to registration that full or partial payment has been made. (See *de Leon v. Jenkins* (2006) 143 Cal.App.4th 118, 126 [noting that “[t]he only pertinent objection allowed by the statute—that ‘[f]ull or partial payment has been made’—would only apply to an *obligor* contending that arrears are *overstated*”]; *Willmer v. Willmer* (2006) 144 Cal.App.4th 951, 960 [“It is the *obligor*’s burden to prove one of the defenses set forth in section 4956, subdivision (a).”].) Because he failed to timely raise this defense to the 2005 registration of the Minnesota 2001 order, section 5700.608 precludes James from asserting the same claim over a decade later.

We recognize that, as general matter under California family law, California courts may apply an equitable approach and deny the enforcement of arrears where the parent otherwise contributed to the care of the child such as providing a home for the child. (See *In re Marriage of Wilson* (2016) 4 Cal.App.5th 1011, 1016; *Helgestad v. Vargas* (2014) 231 Cal.App.4th 719, 735 [“The essence of the equitable credit approach is that in-the-home support during a period of living with the children can count against an ongoing support order that is framed only in monetary terms.”].)

However, we are not persuaded that this general equitable approach or the decisions cited by James support the trial court's order. In exercising its discretion, a trial court may not ignore express statutory requirements. (See *S.C. v. G.S.* (2019) 38 Cal.App.5th 591, 600.) Merely by citing to equitable principles, the trial court did not gain the authority to do indirectly what the applicable statutes prohibit it from doing directly. The trial court's ruling allowed James to contest and litigate the issue of the amount of arrears James owed at the time of the January 29, 2001 hearing, years after the 2001 Minnesota order was confirmed under the UIFSA. Because the trial court's exercise of equitable credit conflicted with the clear statutory language of sections 5700.606 and 5700.608, it lacked authority to grant this relief.

James cites no legal authority interpreting the UIFSA that supports the trial court's order. To bolster his contention that the trial court properly exercised its equitable discretion to not enforce certain arrears in light of its finding that he took care of his sons, James (as did the trial court in its December 18, 2018 order) cites to *Keith G. v. Suzanne H.* (1998) 62 Cal.App.4th 853 (*Keith G.*) and *In re Marriage of Trainotti* (1989) 212 Cal.App.3rd 1072, 1075 (*Trainotti*). However, these authorities do not establish that a trial court may permanently stay enforcement of a portion of arrears, as occurred in this case.

In *Keith G.*, the Court of Appeal affirmed a trial court's "setoff" among conflicting inter-state child support orders. (*Keith G., supra*, 62 Cal.App.4th at pp. 858–859.) The court noted that "[a]llowing the setoff does not reduce or eliminate the amount of the arrearages" but rather "only affects the manner of collection in California," and that "allowing the setoff would not frustrate the purpose of either support order." (*Id.* at p. 860.) Here, by contrast there are no competing support orders at issue, and the trial court's 2018 ruling effectively reduced James's arrears by approximately \$28,000, directly frustrating enforcement of the Minnesota 2001 order.

*Trainotti* is even less relevant. That 1989 decision, which considered whether a father had otherwise satisfied his child support obligation by providing a home and support to the child, predates California’s adoption of the UIFSA and did not consider a foreign judgment which could not be modified under applicable statutory law. (See *Trainotti, supra*, 212 Cal.App.3d at pp. 1075–1076.)

In short, the trial court’s order staying enforcement of \$28,890 of the 2001 Minnesota order violated sections 5700.606, 5700.607, and 5700.608, and was unsupported by any applicable case law interpreting the UIFSA. Because the trial court lacked authority to modify the 2001 Minnesota order, we reverse that portion of the December 18, 2018 order.

### *C. James’s Appeal*

James appeals the portion of the trial court’s December 18, 2018 order that found that \$60,692.15 of the arrears established in the 2001 Minnesota order was enforceable against him.<sup>13</sup> James raises two general claims of error. First, James contends the trial court should have stayed the entire amount of arrears (that is, \$89,582.15) because the Minnesota court lacked personal jurisdiction over him. Second, James argues that the trial court in California denied him the opportunity to “present the full range of evidence supporting the full range of equitable relief that he was due.”

#### 1. Personal Jurisdiction

We first turn to James’s personal jurisdiction claim. In the 2018 proceedings in California, James presented to the trial court his claim that the Minnesota court lacked personal jurisdiction over him. The trial court found against James on that point,

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<sup>13</sup> The trial court’s order stated the balance to be enforced by California was \$60,692.15 (representing \$89,582.15-\$28,890) “PLUS prime interest calculated under Minnesota law, accruing from April 2001 until the present time, LESS payments made each calendar year since April 2001 totaling \$36,673.59.” The parties do not raise any claims related to the prime interest rate applied by the trial court or its findings that James made \$36,673.59 in payments from April 2001 until the present, and we therefore do not review those aspects of the order.

emphasizing that James was represented by an attorney in the Minnesota proceedings. On appeal, we understand James to argue that the Minnesota court's assertion of personal jurisdiction over him violated his due process rights guaranteed by the Fourteenth Amendment of the U.S. Constitution. (See *Walden v. Fiore* (2014) 571 U.S. 277, 283 (*Walden*).)

The Department responds that the UIFSA precludes him from now contesting the 2001 Minnesota order on the basis of a lack of personal jurisdiction. We agree. As noted above, section 5700.607, subdivision (a)(1), of the UIFSA states that lack of personal jurisdiction is one of the grounds on which a nonregistering party can seek to vacate the registration of a support order. (See also former section 4956, subd. (a)(1).) However, that challenge must be made in a timely manner. Based on the provisions of the UIFSA discussed above, James was precluded from raising the jurisdictional issue in California in 2018, over a decade after the 2001 Minnesota order was registered and confirmed in California.

Moreover, as the trial court found, there is no merit to James's claim that the Minnesota court did not have jurisdiction over him. The United States Supreme Court has explained, applying longstanding precedent, that "[a]lthough a nonresident's physical presence within the territorial jurisdiction of the court is not required, the nonresident generally must have 'certain minimum contacts . . . such that the maintenance of the suit does not offend "traditional notions of fair play and substantial justice.'"'" (*Walden, supra*, 571 U.S. at p. 283.)

Here, it is undisputed that the child support action in Minnesota arose directly out of James's contacts with that state, where he and Rosemary both were living during marriage and when they dissolved the marriage. The record reflects Rosemary and the children continued to reside in Minnesota after James moved to California. James admitted that he had retained counsel to represent him in the Minnesota proceedings, and the record reflects that James's counsel appeared for him at the January 29, 2001 hearing.

Nothing in the record before us reflects that James ever asserted a lack of personal jurisdiction in Minnesota, where he litigated other substantive issues.

James stresses here that, even though his counsel was at the January 2001 hearing, James did not have personal notice of the hearing and its outcome. But James does not explain how that circumstance undermines the Minnesota court's personal jurisdiction over him. That his attorney may or may not have informed him of a particular hearing in the Minnesota family court proceedings is immaterial. (See *Link v. Wabash R. Co.* (1962) 370 U.S. 626, 633–634.) Given that his chosen representative appeared, there is no dispute that James had legal notice of the January 29, 2001 hearing. We reject his challenge to the 2018 order based on a lack of personal jurisdiction in Minnesota.

## 2. Presentation of Additional Evidence

Turning to James's second claim, James contends that the trial court should have continued the 2018 proceeding to give him an opportunity to submit a "full range" of evidence about the equitable offsets he was due. We see nothing in the record demonstrating that James informed the trial court that he wished to present additional evidence. In any event, James cannot show any prejudice from the trial court's failure to grant a continuance to allow him to present additional evidence because the trial court lacked authority to modify the 2001 Minnesota order. (See *In re Marriage of Falcone & Fyke* (2008) 164 Cal.App.4th 814, 822.)

For the reasons explained above, we affirm the portion of the trial court's December 18, 2018 order that ordered enforcement of the balance of the arrears set forth in the 2001 Minnesota order.

## III. DISPOSITION

The December 18, 2018 order is reversed. The trial court is directed to enter a new order that reinstates enforcement of the \$28,890 arrears stayed in its December 18, 2018 order. In all other respects, the order is affirmed. In the interests of justice, the Department shall recover its costs on appeal. (Cal. Rules of Court, rule 8.278(a)(5).)

---

Danner, J.

WE CONCUR:

---

Greenwood, P.J.

---

Grover, J.

**H046558**

*Santa Cruz Department of Child Support Services v. Sawyer*

Trial Court:	Santa Cruz County Superior Court Superior Court No. FL007773
Trial Judge:	Hon. Jana Kast-Davids
Counsel for Appellant Santa Cruz County Department of Child Support Services:	Xavier Becerra Attorney General of California Cheryl L. Feiner Senior Assistant Attorney General Jennifer Kim Acting Senior Assistant Attorney General Linda M. Gonzalez Supervising Deputy Attorney General Gregory D. Brown Supervising Deputy Attorney General Jennevee H. DeGuzman Deputy Attorney General
Counsel for Appellant James Abbott Sawyer:	Corey Evan Parker Berangere Allen-Blaine The Appellate Law Firm
No appearance for Respondent	

**H046558**

*Santa Cruz Department of Child Support Services v. Sawyer*

## Appellate Courts Case Information

**CALIFORNIA COURTS**  
THE JUDICIAL BRANCH OF CALIFORNIA

Supreme Court

[Change court](#)**Disposition**

**SAWYER, MARRIAGE OF**  
Division SF  
**Case Number S266340**

Only the following dispositions are displayed below: Orders Denying Petitions, Orders Granting Rehearing and Opinions. Go to the Docket Entries screen for information regarding orders granting review.

**Case Citation:** [none](#)

Date	Description
03/10/2021	Petition for review denied

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# Appellate Courts Case Information

6th Appellate District

[Change court](#) 

## Disposition

**Sawyer v. Sawyer et al.**

**Case Number H046558**

<b>Description:</b>	Reversed & Remanded to trial court w/directions
<b>Date:</b>	11/20/2020
<b>Disposition Type:</b>	Final The December 18, 2018 order is reversed. The trial court is directed to enter a new order that reinstates enforcement of the \$28,890 arrears stayed in its December 18, 2018 order. In all other respects, the order is affirmed. In the interests of justice, the Department shall recover its costs on appeal. (Cal. Rules of Court, rule 8.278(a)(5).) (AMD, MJG, AMG)
<b>Publication Status:</b>	Signed Published
<b>Author:</b>	Danner, Allison M.
<b>Participants:</b>	Grover, Adrienne M. (Concur) Greenwood, Mary J. (Concur)
<b>Case Citation:</b>	none

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CRUZ

DEPARTMENT D

BEFORE THE HONORABLE JANA KAST-DAVIDS, JUDGE

ROSEMARY CATHERINE HILD,  
Petitioner,

VS.

Case No. FL007773

JAMES ABBOTT SAWYER,  
Respondent.

1

REPORTER'S TRANSCRIPT OF PROCEEDINGS

HEARING RE REGISTRATION OF SUPPORT ORDER

October 23, 2018

## APPEARANCES:

For the Petitioner:  
DCSS

LINDA KISSINGER,  
Attorney at Law

For Respondent:

KENNETH AZEVEDO,  
Attorney at Law

Reported by:

OSCAR A. MORENO,  
CSR 3441

1  
2  
3                   I N D E X  
4  
56                   Direct   Cross   Redirect   Recross   Court  
7  
89  
10                  WITNESSES:  
11  
12                  For the Respondent:  
13  
14                  James Abbott Sawyer           258       281  
15  
16  
17                  EXHIBITS: (Premarked)  
18  
19                  Petitioner's                   ID       EV  
20  
21                  1 Filed documents re contempt  
22                  2 Case Balance History  
23  
24                  Defense  
25  
26                  A Son's School Record/  
27                  Letter from Whitehouse           264       287  
28                  B Misc documents (2 pages)       268       287  
29                  C Letter from former attorney       271       287

1  
2 Watsonville, California

October 23, 2018

3 P R O C E E D I N G S

4  
5 THE COURT: Okay. Let's go on the record please,  
6 it's the matter of Sawyer versus Sawyer Case No. FL007773.  
7 Appearances, please.

8 MS. KISSINGER: Linda Kissinger for the  
9 Department of Child Support Services.

10 MR. AZEVEDO: Ken Azevedo for James Sawyer.

11 THE COURT: And Mr. Sawyer is also present. We have  
12 two matters on this morning. We have line one regarding the  
13 registration -- the request for a hearing regarding  
14 registration of support order that was filed on June 28<sup>th</sup>,  
15 2018 and line 2, the contempt that is trailing the  
16 registration issue.

17 With regards to the registration issue I see that  
18 Mr. Azevedo on behalf of Mr. Sawyer did file points and  
19 authorities on August 18<sup>th</sup>. His signatures -- yes,  
20 October 18<sup>th</sup> and the Department of Child Support filed a  
21 reply brief -- what's the filing date of that? I just have  
22 the courtesy copy in front of me.

23 MS. KISSINGER: Probably yesterday.

24 THE COURT: Mr. Azevedo, did you get a copy of the  
25 reply brief?

26 MR. AZEVEDO: I did. I don't think I got it

1 yesterday. I might have gotten it a few days ago.

2 MS. KISSINGER: Friday?

3 MR. AZEVEDO: Yeah.

4 MS. KISSINGER: I did it on Friday so it was  
5 probably filed on Monday.

6 And for clarification is Mr. Azevedo representing  
7 Mr. Sawyer on the registration issue?

8 MR. AZEVEDO: That's my understanding.

9 THE COURT: Okay. So, the request for a hearing  
10 regarding registration of the order, the order that we're  
11 referring to for clarity is an order that came out of  
12 Minnesota originally. If the Department could clarify when  
13 that order was originally administered --

14 MS. KISSINGER: Yes. The registration that's being  
15 challenged is the renewal of judgment that was filed on  
16 May 21<sup>st</sup> 2018, registered here on June 25<sup>th</sup>, 2018.

17 THE COURT: Okay. And there are various grounds  
18 checked in support of Mr. Sawyer's request to have the  
19 registration vacated. For simplicity's sake I think we should  
20 address each issue separately to make a clean record on the  
21 Court's ruling. The first round is that this Court did not  
22 have personal jurisdiction over Mr. Sawyer and I believe  
23 according to the points and authorities filed on  
24 October 18<sup>th</sup> -- I'll defer to you, Mr. Azevedo, if you want  
25 to state the basis for that ground that the Court which issued  
26 the order, that Minnesota didn't have personal jurisdiction

1 over him. Are you still proceeding on that ground?

2 MR. AZEVEDO: Yes, it's our position that Mr. Sawyer  
3 was never given an opportunity to challenge the \$89,000  
4 judgment that was issued against him in 2001.

5 He did not have notice of that proceeding and was  
6 not given an opportunity to challenge anything that was  
7 involving that \$89,000 judgment and therefore the Court  
8 violated procedural due process in making that ruling without  
9 him either being present, having an opportunity to contest it.  
10 And I cite to the case of Griffin versus Griffin from the  
11 United States Supreme Court in my points and authorities that  
12 suggests in a similar situation the United States Supreme  
13 Court held that the receiving state did not have to give full  
14 faith and credit to a New York judgment where the aggrieved  
15 party did not have an opportunity to defend themself in the  
16 New York proceedings.

17 THE COURT: Do you want to call Mr. Sawyer as a  
18 witness to support those statements?

19 MR. AZEVEDO: I intended to, yes.

20 MS. KISSINGER: Well, Your Honor, I don't think it's  
21 relevant at this point because that 2001 order has already  
22 been registered for enforcement.

23 He did have an opportunity to address the \$89,000,  
24 he was represented by counsel at the time, he had a 60-day  
25 window to file a new motion. He filed two motions in the  
26 state of Minnesota trying to attack the judgment and then

1 filed an appeal all of which were denied. We cannot accept  
2 that -- we can't attack that judgment here.

3 The only issue before the Court today is whether or  
4 not the registration at the renewal of judgment is valid to be  
5 enforced here not the \$89,000 judgment from 2001.

6 THE COURT: Mr. Azevedo, response to Ms. Kissinger's  
7 statement.

8 MR. AZEVEDO: Well, the renewal of judgment is based  
9 on the original judgment of \$89,000. There was an effort to  
10 register that I believe in 2005.

11 I don't believe Mr. Sawyer had an opportunity in  
12 2005 to challenge that. I'm not quite sure that he was  
13 briefly served with notice of that registration so it all goes  
14 back to this 2001 decision in the Minnesota court.

15 The \$139,000 figure is not valid if the \$89,000  
16 figure was not valid so I think it's all inter-connected and I  
17 think it's kind of hard to say you can only challenge one and  
18 not the other.

19 And unfortunately Mr. Sawyer tried to redress his  
20 grievances in the state of Minnesota and he was not given an  
21 opportunity in that state to raise these issues before the  
22 Court in Minnesota. He was basically told, "Sorry, it's too  
23 much time has passed. We're not going to listen to you" and  
24 he's been trying to have a forum somewhere where he can  
25 address his issues and hopefully he wants to have an  
26 opportunity to do that today here before this Court.

1                   THE COURT: I'm trying to weigh the best way to  
2 approach each of these grounds and I hear the Department's  
3 position, but I as a bench officer am responsible to respond  
4 to each and every ground alleged and so finding facts in  
5 support or not in support of that. So at this time I would  
6 like hear your evidence for that personal jurisdiction ground,  
7 so I can make a ruling.

8                   MR. AZEVEDO: Okay.

9                   So I call Mr. Sawyer.

10                  THE COURT: Yes.

11                  Mr. Sawyer, if you could please come to the witness  
12 stand and remain standing so you can take an oath.

13

14                  JAMES ABBOTT SAWYER,

15                  having been duly sworn, testified as follows:

16

17                  DIRECT EXAMINATION

18

19                  BY MR. AZEVEDO:

20                  Q. Sir, go ahead and state your name for the record.

21                  A. James Sawyer.

22                  Q. Mr. Sawyer, how old are you?

23                  A. 62.

24                  Q. In 1978 did you marry Rosemary?

25                  A. Yes.

26                  Q. And at that time she was known as Rosemary Sawyer?

1 A. After the marriage, yes.

2 Q. Do you know what name she goes by now?

3 A. I do not.

4 Q. How old is Rosemary?

5 A. She would be 67.

6 Q. You had two children with Rosemary?

7 A. Yes.

8 Q. And one is Theodore or Ted?

9 A. Um-hmm, yes.

10 Q. How old is Ted?

11 A. Forty-one.

12 Q. The other son is Jameson?

13 A. Yes.

14 Q. How old is Jameson now?

15 A. Thirty-four.

16 Q. You were divorced from Rosemary in 1989?

17 A. I believe the final decree was January of '89 if I  
18 recall.

19 Q. As a result of the divorce you were ordered to pay  
20 child support totaling \$1,000?

21 A. Correct.

22 Q. And this was in the state of Minnesota?

23 A. Yes.

24 Q. How did that 1,000-dollar figure come about?

25 A. It was essentially a rerun of an earlier separation.

26 The number was arrived at because -- during the separation

1           A.    Yes.

2           Q.    Thereafter Rosemary sought to have California  
3 enforce the child support order for Minnesota; is that  
4 correct?

5           A.    Yes.

6           Q.    And in January of 1991 there was a proceeding in the  
7 Santa Clara County Superior Court regarding that; is that  
8 correct?

9           A.    Yes.

10          Q.    And once again you were ordered to pay the thousand  
11 dollars in child support?

12          A.    Correct, yes.

13          Q.    Was that \$1,000 in child support allocated between  
14 your two sons?

15          A.    No.   Well, no, there was no verdict to that effect.

16          Q.    And it wasn't allocated in Minnesota either?

17          A.    No.

18          Q.    The \$1,000 in child support was retroactive to  
19 January 1<sup>st</sup> of 1991?

20          A.    Right.

21          Q.    At that time Ted was almost 14 years old?

22          A.    Yes.

23          Q.    And Jameson was almost seven years old?

24          A.    Um-hmm.

25          Q.    In April of 1991 you were ordered -- or you  
26 stipulated to pay \$12,000 in child support arrears?

4 ROSEMARY CATHERINE HILD, )  
5 Plaintiff/Respondent, )  
6 vs. ) : No. FL007773  
7 JAMES ABBOTT SAWYER, ) H046558  
8 Defendant/Appellate. )

**COPY**

10 REPORTER'S TRANSCRIPT ON APPEAL

11 March 5, 2014

12 From a Judgment of the Superior Court  
For the County of Santa Cruz

14 BEFORE HONORABLE COMMISSIONER JANA KAST-DAVIES

15

16 APPEARANCES:

17 Plaintiff/Respondent: JENNEVEE HAN DeGUZMAN  
18 DOJ Attorney General's Office  
1300 I Street, Suite 125  
Sacramento, CA 94244

Defendant/Appellant: COREY PARKER, No. 295317  
20 1230 Rosecrans Ave., Suite 300  
Manhattan Beach, CA 90266

Official Court Reporter: PATRICIA A. BOYD  
CSR 9189

23 March 5, 2014

Volume 1

24 Pages 1 through 11/250

25

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2  
3 BEFORE COMMISSIONER JANA KAST-DAVIDS  
4

5 THE DEPARTMENT OF CHILD )  
6 SUPPORT SERVICES, )  
7 Plaintiff, )  
8 vs. ) No. F007773  
9 JAMES ABBOTT SAWYER, )  
10 Defendant. )  
11 \_\_\_\_\_  
12  
13

14 REPORTER'S TRANSCRIPT OF PROCEEDINGS

15 March 5th, 2014  
16  
17  
18  
19

20 APPEARANCES:

21 For the Department of: EILEEN MADEIRA-CORREA  
22 Child Support Services Attorney at Law  
23 For the Defendant: MITCHELL PAGE  
24 Official Court Reporter: PATRICIA A. BOYD  
25 CSR 9189

1 Watsonville, California

March 5th, 2014

2 --oo--

3 PROCEEDINGS

4

5 MS. MADEIRA-CORREA: Line 29 on page 10.

6 Mr. Sawyer.

7 THE COURT: Okay. Go ahead.

8 MS. MADEIRA-CORREA: This is his motion. I filed  
9 a responsive brief. And at the request of the Court I  
10 attached -- filed subsequently February 13th a summary  
11 of the authorities and exhibits.

12 THE COURT: Yeah. Let me look at it again during  
13 the break, okay?

14 MR. PAGE: That's fine.

15 THE COURT: And we'll take a break, 3:15, 3:20.

16 (Other matters heard not herein transcribed.)

17 THE COURT: Line 29, page 10.

18 Okay. So I have read everything again and again.  
19 And Ms. Madeira-Correa, I see you have your Summary of  
20 Exhibits.

21 Are you requesting the Court to take judicial  
22 notice of them?

23 MS. MADEIRA-CORREA: Of them, yes.

24 THE COURT: Okay. So to summarize, this is  
25 Mr. Sawyer's motion for, physically, equitable relief,

1        asking the Court to find that the Department should be  
2        estopped from collecting payments on child support  
3        arrearages based on his claim that the arrearages are  
4        incorrect?

5            MR. PAGE: Yes. Although if I may slightly modify  
6        the way you're characterizing the problems right off my  
7        papers on our request.

8            I'm not trying to argue that you should accept an  
9        accounting that we haven't had done or his  
10       representation of an accounting, just that we should be  
11       able to do an accounting and credit him with the  
12       payments he has made if he can show proof of payments  
13       substantially in excess that have already been  
14       credited -- then, obviously, a grave injustice has been  
15       done to him. I think the Court has the power to do  
16       that.

17           So I'm not -- I'm looking to -- for you to, once  
18       again as you did back in '06, suspend his payments  
19       until we have an accounting of all that he's paid and  
20       then address the issue at that point. If, in fact, he  
21       is unable to prove anything more than Minnesota has  
22       acknowledged -- the other two counties in California  
23       and Minnesota has acknowledged -- we have nothing  
24       further to do. If, in fact, he has made payments much  
25       more than have been acknowledged --

1                   THE COURT: And have been acknowledged by the  
2                   Minnesota court?

3                   MR. PAGE: Correct, Minnesota.

4                   THE COURT: Ms. Madeira-Correa has submitted a  
5                   responsive brief and copies of various opinions and  
6                   judgments from Minnesota wherein that state did make a  
7                   finding of arrears owed. And it's those arrears owed  
8                   that you wish to contest; correct?

9                   MR. PAGE: And they are growing.

10                  THE COURT: And it's that adjudication?

11                  MR. PAGE: Correct.

12                  THE COURT: So I'm going to have to deny your  
13                  request for that relief because I do not believe that  
14                  California has subject matter jurisdiction over the  
15                  issue that has already been determined by another  
16                  forum.

17                  Okay. I think she does a really good job of  
18                  summarizing the law and statutes --

19                  MR. PAGE: I read it.

20                  THE COURT: -- and I agree.

21                  MR. PAGE: It is a fair summary. On the other  
22                  hand, I think under Family Code Section 4913, 17, and  
23                  19 the Court has the authority to credit for payments,  
24                  determine arrearages.

25                  THE COURT: If there had not been an adjudication

1        by another forum on that issue, I would one hundred  
2        percent agree with you.

3            MR. PAGE: Right. The trouble I had with all of  
4        this -- when Mr. Sawyer's first came in, he presented  
5        as very earnest. And looking at the uphill battle, you  
6        have to have some earnestness to embark on that. So I  
7        spent some time trying to contact people in Minnesota,  
8        but there wasn't any option -- there wasn't any option  
9        that we could find out, and we didn't get much  
10        response.

11           THE COURT: And that's why we have the full-faith  
12        and credit clause.

13           MR. PAGE: I understand. The next thing I did was  
14        look into the court file and found what you found in my  
15        brief which is the Court had asked for an accounting or  
16        reconciliation of payments made and credits, and never  
17        got it. At the time that you did that, you suspended  
18        his payments under the order until that could be done.  
19        But at the next appearance, lifted the suspension, but  
20        there were no inquiries or report about any  
21        reconciliation.

22           THE COURT: I think, too, because up until now  
23        there was not sufficient -- well, I shouldn't say  
24        sufficient, I was accepting representation -- but since  
25        we were going so close to trial, I did require the

1                   Department to provide evidence of these court rulings,  
2                   which they have done.

3                   MR. PAGE: No, I understand that. And the  
4                   exhibits are there. And I have no objection to the  
5                   exhibits as they come in. And they reflect finality.  
6                   They are from Minnesota.

7                   But I do think that equitably the Court has the  
8                   powers to do what is right. And I think if you ask for  
9                   -- finally for a response to that accounting that we'll  
10                  know whether there is some injustice that needs to be  
11                  addressed and then we can look at the jurisdictional  
12                  powers. It may well be that we have nothing more to  
13                  pursue.

14                  To be frank about this, I have not spent the time  
15                  vetting the credits because the hourly expense doing  
16                  that.

17                  THE COURT: Sure.

18                  MR. PAGE: -- unless we get that issue, is stupid.

19                  THE COURT: Sure. Yeah. And I have to defer to  
20                  Minnesota that they've already done that.

21                  MR. PAGE: No, they haven't.

22                  THE COURT: According to the judgment, I have to  
23                  defer to that judgment. I'm required to.

24                  MR. PAGE: What Mr. Sawyer is clarifying is the  
25                  date. They have issued a final judgment. They have

1 never done an accounting. That can be waived, perhaps,  
2 at Mr. Sawyer's feet; or if you find it, it certainly  
3 can be laid at the feet of the attorneys representing  
4 him at that time. All of that is beyond the reach of  
5 any recourse at this point. But his response is not  
6 insincere. There was no accounting done.

7 THE COURT: Yeah. I don't know what -- I'm sure  
8 you pursued potential --

9 MR. PAGE: Well, in Minnesota we did. That  
10 appears to be a dead end as far as my client,  
11 indicating they determined it to be a final judgment  
12 and there is no recourse there.

13 But since this Court is handling collection and  
14 equitable powers are available, I think it's not  
15 inappropriate for you to finally seek the accounting  
16 that you ordered eight years ago.

17 THE COURT: Yeah. No, I'm going to deny the  
18 request. Basically, that they be estopped from  
19 enforcing the judgment because of the failure to comply  
20 with that order.

21 So next step?

22 MS. MADEIRA-CORREA: Well --

23 MR. PAGE: Mr. Sawyer will be purging shortly, so  
24 we can set a date so that that happens.

25 MS. MADEIRA-CORREA: Okay. The current order is

1 MR. PAGE: And staying current.

2 MS. MADEIRA-CORREA: Okay. And time is waived?

3 MR. PAGE: Yes.

4 THE COURT: Wednesday, April 30th at 1:30?

5 MS. MADEIRA-CORREA: This is for theoretically  
6 setting?

7 MR. PAGE: Yes, that will be fine.

8 Again, my appearance is not necessary if he has  
9 paid.

10 THE COURT: And if he has purged, yes.

11 Thank you.

12 (Proceedings concluded.)

13 --ooO--

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24

25

1 STATE OF CALIFORNIA )

2 : ss.  
3 COUNTY OF SANTA CRUZ )

4 I, PATRICIA A. BOYD, certified reporter of the  
5 State of California, hereby certify:

6 That I was present at the times and places herein  
7 set forth and that I reported in shorthand notes the  
8 proceedings had; that I thereafter transcribed my said  
9 shorthand notes into typing, the foregoing being a full,  
10 true and correct transcript thereof, and a full true and  
11 correct transcription of the proceedings had.

12 In said capacity, I have adhered to Civil Code of  
13 Procedure Section 237(a)(2), Sixth District Court of Appeal  
14 redaction, of all references to juror-identifying  
15 information, including but not limited to names, addresses,  
16 and telephone numbers.

17 DATED this March 15th, 2019

18

19

20

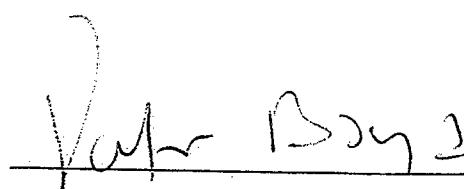
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\_\_\_\_\_  
PATRICIA A. BOYD, CSR Number 9189

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOR THE SIXTH APPELLATE DISTRICT

SANTA CRUZ COUNTY DEPARTMENT  
OF CHILD SUPPORT SERVICES

Plaintiff, Respondent,  
vs.Appeal No. H046558

JAMES ABBOTT SAWYER,  
Defendant, Appellant

Appeal No. H046558

APPEAL FROM THE SUPERIOR COURT OF

## SANTA CRUZ COUNTY

HONORABLE JANA KAST-DAVIDS, COMMISSIONER

REPORTER'S TRANSCRIPT ON APPEAL

OCTOBER 23, 2018

## APPEARANCES:

For the Plaintiff: JENNEVEE HAN deGUZMAN  
DOJ Attorney General's Office  
1300 I. Street, Suite 125  
Sacramento, CA 94244-2550

For the Defendant : **COREY PARKER,**  
**Attorney at Law**  
**1230 Rosecrans Ave, Suite 300**  
**Manhattan Beach, CA 90266**

Official Court Reporter: OSCAR A. MORENO,  
CSR 3441

## Volume 2

Pages 251 - 500/304

\* \* \*

1           A. It ended up being that number, yes.

2           Q. And the judge ordered you to pay that at \$100 per  
3 month?

4           A. Yes.

5           Q. After these proceedings in the Santa Clara County  
6 Superior Court you began complying with the child support  
7 orders?

8           A. No, I began complying with the orders essentially  
9 immediately after the divorce or I continued to comply.

10          Q. Certainly after the Santa Clara Superior Court Judge  
11 made these orders money started to be deducted from your  
12 paycheck; is that accurate?

13          A. Correct. And that's how we got to the 12,000  
14 actually.

15          Q. According to the Minnesota Department of Child  
16 Support between January of 1991 and the end of 2000, a  
17 ten-year period, you paid \$68,180.11. Are you aware that  
18 that's the number that Minnesota has given you credit for?

19          A. Yeah, I guess.

20          Q. During that ten-year period?

21          A. Um-hmm.

22          Q. Have you read the point and authorities that we  
23 submitted in this case?

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOR THE SIXTH APPELLATE DISTRICT

SANTA CRUZ COUNTY DEPARTMENT )  
OF CHILD SUPPORT SERVICES, )  
Plaintiff/Appellant, ) F A M I L Y C O U R T  
vs. ) NO. H046558  
JAMES ABBOTT SAWYER, ) (Santa Cruz County  
Defendant/Appellant. ) Superior Court  
Case No. FL007773)

**REPORTER'S TRANSCRIPT ON APPEAL**

November 13, 2018

## **APPEARANCES:**

For Plaintiff/Appellant:

OFFICE OF THE ATTORNEY GENERAL  
Department of Justice  
State of California  
BY: JENNEVEE HAN deGUZMAN  
1300 I Street, Suite 125  
Sacramento, CA 94244-2550

For Defendant/Appellant:

JAMES ABBOTT SAWYER  
In Propria Persona  
5485 Ball Drive  
Soquel, CA 95073

Official Court Reporter: TANIS J. O'CONNOR, CSR 7553

Volume 3  
Pages 501 through 509/end

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SANTA CRUZ  
BEFORE JANA KAST-DAVIDS, COMMISSIONER

IN RE THE MATTER OF: )  
 )  
 )  
 )  
 ROSEMARY CATHERINE HILD, ) No. FL007773  
 )  
 Petitioner, )  
 )  
 vs. )  
 )  
 )  
 )  
 JAMES ABBOTT SAWYER, )  
 )  
 Respondent. )

**REPORTER'S TRANSCRIPT OF PROCEEDINGS**

November 13, 2018

## **APPEARANCES**

For Department of Child Support Services:

LINDA KISSINGER  
Child Support Attorney

**For Respondent:**

KEN AZEVEDO  
Deputy Public Defender

Official Court Reporter: TANIS J. O'CONNOR  
CSR No. 7553

1 Watsonville, California

November 13, 2018

2 **P R O C E E D I N G S**

3 --oo--

4 THE COURT: On the record for line 11, the  
5 matter of Catherine -- Rosemary Catherine Hilda versus  
6 James Abbot Sawyer. Case Number FL007773.

7 Appearances, please.

8 MS. KISSINGER: Linda Kissinger for the  
9 Department of Child Support Services.

10 MR. AZEVEDO: Ken Azevedo for Mr. Sawyer, who is  
11 not here. I'm not quite sure why. He knows to be here at  
12 11:00 o'clock.

13 THE COURT: Okay.

14 So this matter was set on today - let's regroup  
15 with the contempt - probation revocation hearing? Is that  
16 where we're at with this, or is it sentencing?

17 MS. KISSINGER: On Sawyer? We haven't done  
18 anything on the contempt.

19 THE COURT: Anything? Nothing on the contempt?

20 MS. KISSINGER: Nothing on the contempt.

21 THE COURT: Okay.

22 MR. AZEVEDO: It was on for setting of a trial  
23 date, I believe.

24 THE COURT: Okay. I was looking through  
25 everything, and we've gone back and forth so many times, I  
26 wanted to clarify.

1                   So nothing has happened with regards to the  
2 setting, and we were trailing the setting issue behind the  
3 registration issue.

4                   Okay. So I was hoping that today I would be in  
5 a position - and you would be in a position - to give the  
6 Court some requests about the contempt, because we  
7 anticipated that I would have a final decision on the  
8 registration issue, and I don't, because -- I just want to  
9 recapture emails on the record, because those are not part  
10 of the record. That's why I wanted this reported, and I'm  
11 glad we have a court reporter today.

12                  So just to summarize, we had the hearing on  
13 October 23rd on Mr. Sawyer's registration -- motion to  
14 vacate the registration, and I don't want to reopen all  
15 those arguments, but I sent an email out to both of you on  
16 October 30th, and in that email I said, "Can you please  
17 file and serve an easy-to-read account summary which  
18 explains how much Mr. Sawyer has paid each calendar year  
19 from April 2000" -- and I later attempted to correct that,  
20 said, ". . . from April 2001 to the present, by Monday  
21 November 5th, and please email me a courtesy copy, since  
22 I'm not always aware of digital filings."

23                  On November 2nd, Mr. Azevedo did send me his  
24 accounting -- or his summary, what payments he believes  
25 have been made since April 2001 to the present.

26                  And then, after the cutoff, on November 6th, the

1 Department of Child Support Services sent their summary  
2 but also lengthy supplemental briefing, which I did not  
3 invite and was not expecting.

4 In all fairness, I asked Mr. Azevedo, "Did you  
5 want to respond to it?"

6 And then I'm not here Thursday and Friday, so  
7 that's why I was not able to get back to your request,  
8 whether you should respond or not.

9 I did see that you filed briefing in response to  
10 the department's brief, and you filed that on  
11 November 9th; correct?

12 MR. AZEVEDO: Last Friday, yes.

13 THE COURT: Yes. So you filed that on  
14 November 9th. Monday was a holiday, yesterday.

15 So I'm going to read it all. I heard -- go  
16 ahead, Mr. Azevedo.

17 MR. AZEVEDO: I just wanted to mention that I  
18 filed that out of abundance of caution in case --

19 THE COURT: Yes.

20 MR. AZEVEDO: -- you overruled my objection to  
21 the department filing supplemental briefing after the  
22 October 23rd hearing.

23 I did object to that in the email, and I  
24 maintain that objection, for what it's worth.

25 THE COURT: Okay. Thank you.

26 And, yeah, next time just stick to what I

1 request, because the matter was submitted, and it makes it  
2 difficult for the Court to act in a timely manner, and it  
3 doesn't give opposing counsel a time to respond to issues  
4 that you might raise in a supplemental briefing.

5 MS. KISSINGER: Well, it was our position that  
6 you requested additional evidence, so it was opened back  
7 up, and we can provide you with that evidence, but we had  
8 a right to explain to the Court why we were objecting to  
9 consideration of that evidence. That was our position.

10 THE COURT: Okay, but I'm just -- the email was  
11 really clear: Just give me an accounting; that's it.

12 And you made it very clear at the hearing and in  
13 your moving -- in your points and authorities previously  
14 filed that the department does not agree that the Court  
15 has authority to grant any relief. I'm aware of your  
16 position. I'm aware of your authority, but the invitation  
17 was not to elaborate on that more. It just extended this  
18 whole process a little bit longer than anticipated. Okay?

19 MS. KISSINGER: Understood.

20 THE COURT: And out of -- just in the future,  
21 perhaps, ask the Court -- if I do ask for more briefing,  
22 or something, I -- I'm usually pretty clear about what I  
23 want. If you want to provide more, then ask the Court if  
24 that's okay, so that way the other side can have an  
25 opportunity to respond and participate too.

26 MS. KISSINGER: Okay.

1                   THE COURT: That's the contempt matter, and the  
2 registration issue -- well, actually, the registration  
3 issue will not be continued, because I'm going to issue a  
4 written order on that. So the contempt issue will be set  
5 for December 18th at 9:30.

6 MS. KISSINGER: And Mr. Sawyer is ordered  
7 personally present?

8 | THE COURT: Yes.

9 MS. KISSINGER: Thank you.

10 THE CLERK: And that's hearing on contempt or  
11 setting?

12 THE COURT: Setting on contempt. Again, that's  
13 set for setting on contempt on December 18th at 9:30 a.m.

14 He's ordered personally present unless excused.

18 | MR. AZEVEDO: Thank you.

19 And for the record, Mr. Sawyer just walked in.

20 THE COURT: Okay. Thank you.

21 THE CLERK: Do you need a court reporter for a  
22 setting date?

23 MR. AZEVEDO: Again, we waive the court reporter  
24 for just setting on the contempt.

(Proceedings adjourned.)

1

509

2

3

4 STATE OF CALIFORNIA )

5 ) ss.

6 COUNTY OF SANTA CRUZ )

7

8

9 I, TANIS J. O'CONNOR, a Certified Shorthand  
10 Reporter, License No. 7553, do hereby certify:

11 That the foregoing proceedings were reported by  
12 me in machine shorthand at the time and place therein  
13 named and were thereafter transcribed by means of  
14 computer-aided transcription, and that the same is a true,  
15 correct and complete transcript of said proceedings, to  
16 the best of my ability.

17

18 Dated this 27th day of March, 2019.

19

20

21



22

TANIS J. O'CONNOR  
Official Reporter, CSR 7553

23

24

25

26

COURT OF APPEAL FOR THE STATE OF CALIFORNIA  
SIXTH APPELLATE DISTRICT

ROSEMARY CATHERINE HILDA  
V  
JAMES ABBOTT SAWYER

SANTA CRUZ COUNTY SUPERIOR COURT  
Case No: FL007773  
H046558  
VOL I OF I, PAGES 1 – 169

---

CLERK'S TRANSCRIPT FOR APPEAL OF THE JUDGMENT ENTERED

DECEMBER 18, 2018

---

JANA KAST-DAVIDS,  
COMMISSIONER OF THE SUPERIOR COURT

---

COREY EVAN PARKER  
1230 ROSECRANS AVE, STE 300  
MANHATTAN BEACH, CA 90266

ATTORNEY FOR RESPONDENT &  
CROSS-APPELLANT

JENNEVEE HAN DEGUZMAN  
DOJ ATTORNEY GENERAL'S OFC  
1300 I STREET, SUITE 125  
SACRAMENTO, CA 94244-2550

ATTORNEY FOR PETITIONER &  
APPELLANT

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<p><b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CRUZ</b>          STREET ADDRESS: 701 OCEAN STREET          MAILING ADDRESS: 701 OCEAN STREET          CITY AND ZIP CODE: SANTA CRUZ, CA 95060          BRANCH NAME: SANTA CRUZ COUNTY SUPERIOR COURT</p>		<p>FOR COURT USE ONLY</p> <p><b>FILED</b></p> <p>MAR 2 1 2005</p> <p>BARBARA J. FOX, CLERK          BY <i>Daren Bouse</i>          DEPUTY, SANTA CRUZ COUNTY</p>
<p>PETITIONER/PLAINTIFF:          ROSEMARY HILDEBRANDT</p> <p>RESPONDENT/DEFENDANT:          JAMES A. SAWYER</p>		<p>CASE NUMBER:</p> <p><b>FL7773</b></p>
<p><b>NOTICE OF REGISTRATION OF OUT-OF-STATE</b>  <input checked="" type="checkbox"/> Support Order <input type="checkbox"/> Income Withholding Order</p>		

1. To (name): **JAMES A. SAWYER**
2. You are notified that an  Out-of-State Support Order  Out-of-State Order for Income Withholding has been registered with this court. A copy of the order and the Registration Statement are attached.
3. The amount of arrears is specified in Item 1 on the attached Registration Statement.
4. The registered order is enforceable in the same manner as a support order made by a California court as of the date the Registration Statement is filed.
5. If you want to contest the validity or enforcement of the registered order, you must request a hearing within 25 days of the date that the notice was mailed to you (see below for clerk's date of mailing). You can request a hearing by completing and filing a *Request for Hearing Regarding Registration of Support Order* (form FL-575).
6. If you fail to contest the validity or enforcement of the attached order within 25 days of the date this notice was mailed, the order will be confirmed by the court and you will not be able to contest any portion of the order including the amount of arrears as specified in Item 1 of the Registration Statement.

**CLERK'S CERTIFICATE OF MAILING**

1. I certify that I am not a party to this cause and that a copy of the registration statement with a copy of the out-of-state order were sent to the person named in item 1 by first-class mail. The copies were enclosed in an envelope with postage fully prepaid. The envelope was addressed to the person named in item 1 only at the address in the registration statement, sealed, and deposited with the United States Postal Service  
 at (place): *MAR 18 2005*  
 on (date): *MAR 18 2005*
2. Copy sent to local child support agency on (date): *MAR 18 2005*

Date: *MAR 18 2005* Clerk, by *Daren Bouse*, Deputy



## REGISTRATION STATEMENT

Responding IV-D Case No. 001071193701 Initiating IV-D Case No. 087 0001860 01

Responding Docket No.  Initiating Docket No. DM-F4-87-23798

**I. Case Summary** (Background of this Matter: Court / Adminstrative Actions)

Date of Support Order <u>02-13-2001</u>	State and County Issuing Order <b>RAMSEY</b>	MN	Tribunal Case No. <b>DM-F4-87-23798</b>
Support Amount/Frequency <b>\$</b>	Date of Last Payment <b>03/07/2005</b>	Amount of Arrears <b>\$ 89,182.15</b>	Period of Computation <b>UNKNOWN</b>
		Date	thru

**II. Mother Information**  Obligor  Obligee

Full Name and Aliases  
(First, Middle, Last)  
**ROSEMARY HILDEBRANDT**

Address (Street, City, State, Zip)

Employer (Name, Street, City, State, Zip)

**III. Father Information**  Obligor  Obligee

Full Name and Aliases  
(First, Middle, Last)  
**JAMES A. SAWYER**

Address (Street, City, State, Zip)

Employer (Name, Street, City, State, Zip)

**POCKETSCIENCE INC.**  
**2540 MISSION COLLEGE BLVD**  
**SANTA CLARA, CA 95054**

SSN: **475-64-7124**

**IV. Caretaker (If Not a Parent)** Relationship to Child(ren) MOTHER

Full Name and Aliases  
(First, Middle, Last)  
**ROSEMARY HILDEBRANDT**

Address (Street, City, State, Zip)

SSN: **475-64-7124**

**V. Additional Case Information**

This order is registered in the following states:

**CALIFORNIA**

Description and location of any property not exempt from execution:

Other:

**VI. Verification / Certification**

Under penalties of perjury, all information and facts concerning the arrearage accrued under this order are true to the best of my knowledge and belief.

**03-11-205**

Date

Party seeking Registration

Records Custodian  
**MARGARET M. VASQUEZ**

**SANTA CRUZ**  
**CALIFORNIA**

Sworn to and Signed Before Me This  
Date, County/State

**NOTARY PUBLIC**

Notary Public, Court/Agency Official and Title

Commission Expires

STATE OF MINNESOTA

FILED D  
FEB 1 2001  
DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

In Re the Marriage of:

Marriage Dissolution With Children  
Assigned Judicial Officer: Earl F. Beddow, Jr.

Rosemary Catherine Sawyer,

**ORDER**

and

James Abbott Sawyer,

File No. DM-F4-87-23798

Respondent.

This matter came on before the undersigned Referee of District Court, Family Court Division, on the 29th day of January, 2001 upon the motions of the parties. Petitioner appeared personally and was represented by her attorney, Robb L. Olson, Meslow & Olson, PLLC, 2125 Second Street, White Bear Lake, MN 55110. James Sawyer was not present, but was represented by his attorney, Robert J. Hajek, Warchol, Berndt & Hajek, P.A., 3433 Broadway Street Northeast, Suite 110, Minneapolis, MN 55413.

The Court, having reviewed the file, records, affidavits and arguments of counsel, now makes the following:

**ORDER**

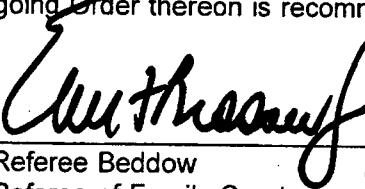
1. That the Judgment and Decree of Dissolution of January 20, 1989 be and hereby is amended to provide that the parties shall have joint legal custody of Jamison Alexander Sawyer, with Respondent being awarded primary physical custody, subject to reasonable visitation by Petitioner.

2. Commencing February 1, 2000, on the first day of each month thereafter, Petitioner shall pay to Respondent \$200 in child support. Such support shall continue until the minor child is 18 years of age, or will continue thereafter until the child graduates from high school or attains the age of 20, whichever shall first occur.

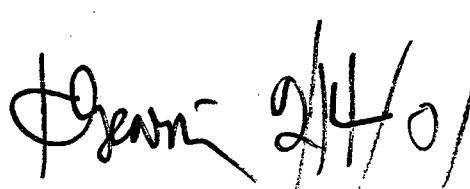
3. That Respondent's motion for child support shall be retroactive to September 1, 2000. That the retroactive amount shall be based upon \$80 per month, and the total arrearage from September 1, 2000 through January 31, 2001 is \$400. That said arrearages shall be deducted from any arrearages in child support owing by Respondent to Petitioner.

4. That Petitioner has alleged child support arrears owing by Respondent to Petitioner in the amount of \$89,582.15. That judgment shall be entered on said arrears unless, within sixty (60) days from the date of this Order, the parties agree that a different amount is owing, or Respondent proceeds before this Court by Notice of Motion and Motion within that sixty (60) day period.

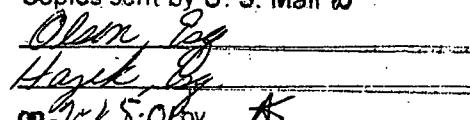
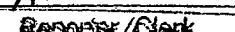
The foregoing facts were found by me after due hearing, and the foregoing Order thereon is recommended.

  
Referee Beddow  
Referee of Family Court

2/13/01

  
KATHLEEN GEARIN

Copies sent by U. S. Mail to

  
on 3/15/01 by 

Reporter/Clerk

COURT

FL-570

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CRUZ		FOR COURT USE ONLY
STREET ADDRESS: 1 SECOND ST RM 300 MAILING ADDRESS: 1 SECOND ST RM 300 CITY AND ZIP CODE: WATSONVILLE 95076-6189 BRANCH NAME: WATSONVILLE BRANCH COURTHOUSE		FILED FEB 25 2009 ALEX CALVO, CLERK BY <i>Dawn Bense</i> DEPUTY, SANTA CRUZ COUNTY
PETITIONER/PLAINTIFF: ROSEMARY CATHERINE SAWYER RESPONDENT/DEFENDANT: JAMES ABBOTT SAWYER		
NOTICE OF REGISTRATION OF OUT-OF-STATE SUPPORT ORDER		CASE NUMBER:

## REGISTRATION STATEMENT

Responding IV-D Case Number 0870001860-01

Responding Tribunal Number FL7773

Initiating IV-D Case Number 001071193701

Initiating Tribunal Number DM-F4-87-23798

Action:  Register for Enforcement

Register for Modification

### I. Case Summary (Background of this Matter: Court / Administrative Actions)

Date of Support Order

2/13/01

State and County Issuing Order

Ramsey, MN

Tribunal Case Number

DM-F4-87-23798

Support Amount/Frequency

\$ 200.00 /month

Date of Last Payment

03/17/2008

Amount of Arrears

\$ 98,476.19

Period of Computation

01/01/1991

01/31/2009

Tribunal Has Determined This to Be Controlling Order

Only Order

Date

Date

### II. Mother Information

Obligor

Obligee

Full Name

(first, middle, last)

Rosemary Hildebrandt

Address (Street, City, State, Zip)

Employer (Name, Street, City, State, Zip)

Aliases, Maiden Name

1845 S. Ferry St #304  
Anoka, MN 55303

Social Security Number:

475-64-7124

### III. Father Information

Obligor

Obligee

Full Name

(first, middle, last)

James A. Sawyer

Address (Street, City, State, Zip)

Employer (Name, Street, City, State, Zip)

Aliases

5485 Ball Dr  
Sacramento, CA 95073

Social Security Number:

475-70-1442

IV. Caretaker (If Not a Parent) Relationship to Child(ren)  Has legal custody/guardianship of child(ren)

Full Name  
(first, middle, last)

Address (Street, City, State, Zip)

Aliases

N/A

Social Security Number:

### V. Additional Case Information

Nondisclosure Finding Attached

This order is registered in the following states:

CALIFORNIA

Description and location of any property not exempt from execution:

Other:

### VI. Verification / Certification

Under penalties of perjury, all information and facts concerning the arrearage accrued under this order are true to the best of my knowledge and belief.

02/12/2009\*

DANA ST.PIERRE

Dana St.Pierre

Date

Party Seeking Registration

Records Custodian

Sworn to and Signed Before Me This  
Date, County/State

Notary Public, Court/Agency Official and Title

Commission Expires

Registration Statement

OMB No. 0970 - 0085 Expiration Date: 01/31/2011

Page 1 of 1

## INSTRUCTIONS FOR REGISTRATION STATEMENT

### **PURPOSE OF THE FORM:**

The Registration Statement is completed by the initiating jurisdiction to request registration of an existing order for enforcement and/or modification. The purpose of the form is to refer specific order information to the responding State. This form can be used in IV-D and non-IV-D interstate cases. It should be included with the other appropriate forms and directed to the responding State's central registry. In non-IV-D cases, contact the responding State central registry to determine appropriate procedures. It is important to remember that a separate Registration Statement is needed for each order that the initiating State is requesting be registered by the responding State.

*Italicized text that appears within a "box" refers to policy or provides additional information.*

### **HEADING/CAPTION:**

- In the appropriate spaces, if applicable and if known, enter the Responding jurisdiction's IV-D case number, and Tribunal number.

Under "IV-D case number", enter the number/identifier identical to the one submitted on the federal case Registry, which is a left-justified 15-character alphanumeric field, allowing all characters except asterisk and backslash, and with all characters in uppercase. Under "tribunal number", you may enter the docket number, cause number, or any other appropriate reference number that the responding State may use to identify the case, if known. The Responding jurisdiction is the jurisdiction that is working the case at the request of the initiating jurisdiction.

- In the appropriate spaces, enter the Initiating jurisdiction's IV-D case number, and tribunal number.

Under "IV-D case number", enter the number/identifier identical to the one submitted on the federal case Registry, which is a left-justified 15-character alphanumeric field, allowing all characters except asterisk and backslash, and with all characters in uppercase. Under "tribunal number", you may enter the docket number, cause number, or any other appropriate reference number which the initiating tribunal or agency has assigned to the case. The initiating jurisdiction is the jurisdiction that referred the case to the responding jurisdiction for services.

### **ACTION:**

Check the appropriate box indicating whether you are registering this order for enforcement or modification. NOTE that registration for enforcement should be accompanied by Transmittal #1. Registration for modification should be accompanied by Transmittal #1, Uniform Support Petition, and General Testimony.

### **SECTION I, CASE SUMMARY**

Provide complete information for all court/administrative actions regarding support for dependents. Use a separate Registration Statement form for each court/administrative order you are requesting be registered. For the listed order, under "Period of Computation", enter the month, day, and year for both the beginning of the current support obligation and the end date of the computation. The information in this section will be used to aid in verifying calculated arrearages and to assist in determining/verifying which order is controlling and which State has continuing exclusive jurisdiction. The arrears statement/payment history must support this calculation. If this order was determined by a tribunal to be the controlling order, check the appropriate box. If this is the only order, check "Only order".

Attach the required number of copies of all pertinent orders that relate to support. You will generally need to attach two copies, one of which is certified, of any support order. NOTE, however, that some responding States may be able to take certain administrative enforcement actions (e.g., interstate income withholding) without having a certified copy of the order, although a regular copy is necessary.

### **SECTION II, MOTHER INFORMATION:**

This section provides basic information about the child(ren)'s mother. Check the appropriate box to indicate if the mother is the obligor or obligee. Provide the mother's full name (first, middle, last) as well as aliases and maiden name, and all other information. Provide the name and full address of the mother's employer. If the mother's name does not match with the court or administrative order, explain in Section V.

**SECTION III. FATHER INFORMATION:**

This section provides basic information about the child(ren)'s father. Check the appropriate box to indicate if the father is the obligor or obligee. Provide the father's full name (first, middle, last) as well as aliases, and all other information. Provide the name and full address of the father's employer. If the father's name does not match with the court or administrative order, explain in Section V.

**SECTION IV. CARETAKER (IF NOT A PARENT):**

Complete this section only if the child(ren)'s caretaker is not the child(ren)'s parent. In the space labelled "Relationship to Child(ren)", indicate the relationship of the caretaker to the child(ren). Provide the caretaker's full name (first, middle, last) as well as aliases or maiden name, and all other information. Indicate whether the caretaker has legal custody/guardianship of child(ren), if known.

**SECTION V. ADDITIONAL CASE INFORMATION:**

In this section, provide additional information which may be useful to the responding jurisdiction in working the case, such as a complete listing of all States where the child support order has previously been registered and a description, including the location, of all known property or assets not exempt from execution. In addition to the requested information, use this portion of the form to provide other information which may assist the responding jurisdiction in its efforts to register the order.

**SECTION VI. VERIFICATION / CERTIFICATION:**

- The Registration Statement may be signed by either the party seeking registration or an authorized IV-D representative/records custodian. Check the appropriate box to indicate who has signed this form.
- The verification signature requires a notary.

**The Paperwork Reduction Act of 1995**

This information collection is conducted in accordance with 42 U.S.C. 651 et seq. and 45 CFR 303.7 of the child support enforcement program. Standard forms are designed to provide uniformity and standardization for interstate case processing. Public reporting burden for this collection of information is estimated to average under half an hour per response. The responses to this collection are mandatory in accordance with the above statute and regulation. This information is subject to State and Federal confidentiality requirements; however, the information will be filed with the tribunal and/or agency in the responding State and may, depending on State law, be disclosed to other parties. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

0870001860-01

12

STATE OF MINNESOTA  
COUNTY OF RAMSEY

DISTRICT COURT  
SECOND JUDICIAL DISTRICT  
CASE TYPE: 04 - DISSOLUTION

In Re the Marriage of:

Rosemary Catherine Sawyer,

Petitioner, **FILED**  
and  
James Abbott Sawyer, JAN 05 2009

FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
ORDER FOR DISMISSAL

Respondent, BY 00 DEPUTY IV-D Case No. 0010711937-01  
Court File No. F4-87-23798

Definitions: The County means Ramsey County. The State means the State of Minnesota. The Obligee/Petitioner means Rosemary Catherine Hildebrandt, f/k/a Rosemary Catherine Sawyer and the Obligor/Respondent means James Abbott Sawyer.

The above-entitled matter came on for hearing before Colla F. Caisel, presiding Child Support Magistrate, at Ramsey County on November 25, 2008 pursuant to the Respondent's motion relating to arrears. The record closed on December 22, 2008.

The Petitioner was present without counsel. The Petitioner's mailing address is 3433 77<sup>th</sup> Avenue North, Brooklyn Park, MN 55443.

The Respondent was not present. The Respondent was represented by counsel, Donald Beauclaire, Esq., 3433 Broadway Street N.E., Suite 110, Minneapolis, MN 55413-1759.

Anne Jolliffe, Assistant County Attorney, appeared on behalf of Ramsey County. Anne Jones, Child Support Officer, was also present.

The Child Support Magistrate, upon reviewing the files, affidavits and proceedings herein, and upon hearing the testimony of the parties presented, and being fully advised, does hereby make the following:

#### STATEMENT OF THE ISSUE

The issue in this case is whether the Respondent's motion to determine arrears:

- states a claim upon which relief can be granted; and,
- if it does, whether the dismissal of the motion should be with or without prejudice.

#### FINDINGS OF FACT

1. The Petitioner currently receives non-public assistance child support services.
2. The Respondent's birth date is September 10, 1956. The Petitioner's birth date is June 11, 1951.

3. The Respondent is not a member of the armed services.
4. The social security numbers of the Respondent, Petitioner, and the joint child are incorporated as stated on Confidential Form 11.1 on file with the Court.
5. This matter originally came on for hearing on November 4, 2008 based upon the Respondent's motion served by mail on the Petitioner and the County on October 15, 2008.
6. At the November 4, 2008 hearing the Respondent renewed his request for a continuance which had been denied the previous week. When that was denied, the Respondent moved to dismiss his motion.
7. In response the County requested that the dismissal be with prejudice and that the court impose sanctions on the Respondent under Minn.R.Civ.P. 11.03 or other applicable law.
8. The present hearing was scheduled to resolve those issues as well as whether there should be other conditions imposed on the dismissal and whether the Respondent should be required to pay attorney's fees to the County.
9. The County has withdrawn its request for sanctions and attorney's fees leaving only the question of whether the dismissal should be with prejudice or whether there should be conditions imposed on a subsequent filing of the motion.
10. The record was left open to allow both parties to submit memoranda of law regarding whether the Respondent's motion states a claim upon which relief can be granted<sup>1</sup>.
11. Based upon the order dated February 13, 2001, there was a judgment entered in this matter determining arrears as of January 31, 2001.
12. While the Respondent characterizes his motion as a request to determine arrears, the motion ignores or mistakes the effect of the judgment entered pursuant to the February 13, 2001 order.
13. A judgment is a final determination of an issue. In this case, it is a final determination of the amounts owed by the Respondent for child support through January 31, 2001. The judgment was necessarily a determination of both amounts owed and amounts paid as of that date.
14. The Respondent's motion, *inter alia*, seeks to redo the calculation of the amounts he owed and the amounts he paid through January 31, 2001.
15. Since those issues were necessarily decided by the judgment authorized by the order dated February 13, 2001, any request that the Court determine the amount owed and the amount paid through January 31, 2001 is necessarily an attack on the judgment and is foreclosed by the judgment.

<sup>1</sup> While both the County's and the Respondent's memoranda refer to summary judgment, the Court is addressing the broader question of whether the Respondent's motion states a claim upon which relief can be granted.

16. The Respondent's motion is most properly characterized as a motion to vacate a judgment.

17. The Expedited Child Support Process creates a court of limited jurisdiction.

18. The judgment at issue in this case was granted by the District Court.

19. While there may be jurisdiction in the Expedited Child Support Process to hear a motion to vacate a judgment granted in the Expedited Child Support Process, there is absolutely no jurisdiction to hear a motion to vacate a judgment entered in the District Court.

20. This Court is not at liberty to treat the Respondent's motion as a motion to vacate a judgment in order to proceed to a hearing on the merits.

21. The Respondent's motion to determine arrears through January 31, 2001 fails to state a claim upon which relief can be granted.

22. The Respondent's motion also raises some questions regarding amounts owed and amounts paid since January 31, 2001. The presentation of those issues is so intertwined with the Respondent's allegations relating to matters through January 31, 2001, it is impractical for the Court to separately determine those issues based upon the motion before the Court.

23. Because the Respondent's motion may state a claim upon which relief can be granted, as to arrears alleged to have accumulated after January 31, 2001, the issue remains as to whether the dismissal of the Respondent's motion as to that claim should be with or without prejudice.

24. The County and the Petitioner allege that the Respondent owes arrears in excess of \$100,000.

25. The last payment of any kind toward the arrears was a tax intercept in March 2008 for just over \$2000.

26. There is a contempt action pending in California, where the Respondent lives, against the Respondent for willful nonpayment.

27. The California child support authority has declined to proceed further with that action until the Respondent's present action to determine the amount of arrears is resolved.

28. As the result of the Respondent's motions to determine arrears the California contempt action has been delayed by at least a year.

29. And, based upon the Respondent's representations that he was going to file a motion, the delay appears to have been closer to 2 years.

30. In addition to not receiving the money owed to her and the emotional toll of having this matter drag on, the Respondent's repetitive actions to determine arrears are preventing what is hopefully an effective enforcement tool from going forward.

31. One concern for the Court is that allowing the Respondent to again file the motion would result in further delay in collecting the child support owed to the Petitioner.

32. If the Respondent is to be allowed to refile, he should be required to deposit a sum of money toward arrears to ameliorate the effects of any delay.

33. The Court does not have any income information available for the Respondent.

34. However, based upon the large amount of arrears and the fact that a further motion, together with applicable appeal periods, could delay the contempt proceedings by another year, the Respondent should be required to deposit \$10,000 against his arrears as a condition of again filing a motion to determine arrears.

Based upon the foregoing Findings of Fact, the Child Support Magistrate makes the following:

CONCLUSIONS OF LAW

1. This is a IV-D case pursuant to Minn. Stat. § 518A.26, subd. 10.
2. The Child Support Magistrate has jurisdiction in this matter pursuant to Minn. Stat. § 484.702, subds. 1 and 3 and Minn. Gen. R. Prac. 353.01.
3. The Respondent's motion does not state a claim upon which relief can be granted as to arrears through January 31, 2001.
4. The dismissal of the Respondent's request to determine arrears which may have accrued after January 31, 2001 should be dismissed without prejudice, but with conditions.

Based upon the foregoing Findings of Fact and Conclusions of Law, the Child Support Magistrate makes the following:

ORDER

1. The Respondent's motion to determine arrears which accrued through January 31, 2001 is DISMISSED for failure to state a claim upon which relief can be granted.
2. The Respondent's motion to determine arrears which accrued after January 31, 2001 is DISMISSED without prejudice, but with conditions upon refiling.
3. If the Respondent chooses to renew his motion to determine arrears which accrued after January 31, 2001 he must:
  - Serve and file his motion within 30 days of the entry of this order; and,
  - Deposit \$10,000 with the Office of Child Support as a payment toward arrears to be held pending resolution of the Respondent's motion.
4. A copy of this order shall be made upon the parties by first class U.S. mail at the last known mailing addresses, or upon their attorneys, which shall be due and proper service for all purposes.

IT IS SO ORDERED.

Colia F. Ceisel  
COLIA F. CEISEL  
Child Support Magistrate

Dated: January 5, 2009

Copies Sent by U.S. Mail  
PLN DFD City Atty  
att'l Beauchaine  
Date 1/1/09 By OW

## APPENDIX A

### NOTICE IS HEREBY GIVEN TO THE PARTIES:

**I. PAYMENTS TO PUBLIC AGENCY.** According to Minnesota Statutes, section 518A.50, payments ordered for maintenance and support must be paid to the Minnesota child support payment center as long as the person entitled to receive the payments is receiving or has applied for public assistance or has applied for support and maintenance collection services. Parents mail payments to: P.O. Box 64326, St. Paul, MN 55164-0326. Employers mail payments to: P.O. Box 64306, St. Paul, MN 55164.

**II. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS – A FELONY.** A person may be charged with a felony who conceals a minor child or takes, obtains, retains, or fails to return a minor child from or to the child's parent (or person with custodial or parenting time rights), according to Minnesota Statutes, section 609.26. A copy of that section is available from any court administrator.

**III. NONSUPPORT OF A SPOUSE OR CHILD – CRIMINAL PENALTIES.** A person who fails to pay court-ordered child support or maintenance may be charged with a crime, which may include misdemeanor, gross misdemeanor, or felony charges, according to Minnesota Statutes, section 609.375. A copy of that section is available from any district court clerk.

### IV. RULES OF SUPPORT, MAINTENANCE, PARENTING TIME.

- A. Payment of support or spousal maintenance is to be as ordered, and the giving of gifts or making purchases of food, clothing, and the like will not fulfill the obligation.
- B. Payment of support must be made as it becomes due, and failure to secure or denial of parenting time is NOT an excuse for nonpayment, but the aggrieved party must seek relief through a proper motion filed with the court.
- C. Nonpayment of support is not grounds to deny parenting time. The party entitled to receive support may apply for support and collection services, file a contempt motion, or obtain a judgment as provided in Minnesota Statutes, section 548.091.
- D. The payment of support or spousal maintenance takes priority over payment of debts and other obligations.
- E. A party who accepts additional obligations of support does so with the full knowledge of the party's prior obligation under this proceeding.
- F. Child support or maintenance is based on annual income, and it is the responsibility of a person with seasonal employment to budget income so that payments are made throughout the year as ordered.
- G. *A Parental Guide to Making Child-Focused Parenting-Time Decisions* is available from any court administrator.
- H. The nonpayment of support may be enforced through the denial of student grants; interception of state and federal tax refunds; suspension of driver's, recreational, and occupational licenses; referral to the department of revenue or private collection agencies; seizure of assets, including bank accounts and other assets held by financial institutions; reporting to credit bureaus; interest charging, income withholding, and contempt proceedings; and other enforcement methods allowed by law.
- I. The public authority may suspend or resume collection of the amount allocated for child care expenses if the conditions of Minnesota Statutes, section 518A.40, subdivision 4, are met.
- J. The public authority may remove or resume a medical support offset if the conditions of section 518A.41, subdivision 16, are met.
- K. The public authority may suspend or resume interest charging on child support judgments if the conditions of section 548.091, subdivision 1a, are met.

**V. MODIFYING CHILD SUPPORT.** If either the obligor or obligee is laid off from employment or receives a pay reduction, child support may be modified, increased, or decreased. Any modification will only take effect when it is ordered by the court, and will only relate back to the time that a motion is filed. Either the obligor or obligee may file a motion to modify child support, and may request the public agency for help. UNTIL A MOTION IS FILED, THE CHILD SUPPORT OBLIGATION WILL CONTINUE AT THE CURRENT LEVEL. THE COURT IS NOT PERMITTED TO REDUCE SUPPORT RETROACTIVELY.

### VI. PARENTAL RIGHTS FROM MINNESOTA STATUTES, SECTION 518.17, SUBDIVISION 3. UNLESS OTHERWISE PROVIDED BY THE COURT:

- A. Each party has the right of access to, and to receive copies of, school, medical, dental, religious training, and other important records and information about the minor children. Each party has the right of access to information

regarding health or dental insurance available to the minor children. Presentation of a copy of this order to the custodian of a record or other information about the minor children constitutes sufficient authorization for the release of the record or information to the requesting party.

- B. Each party shall keep the other informed as to the name and address of the school of attendance of the minor children. Each party has the right to be informed by school officials about the children's welfare, educational progress and status, and to attend school and parent teacher conferences. The school is not required to hold a separate conference for each party.
- C. In case of an accident or serious illness of a minor child, each party shall notify the other party of the accident or illness, and the name of the health care provider and the place of treatment.
- D. Each party has the right of reasonable access and telephone contact with the minor children.

**VII. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE.** Child support and / or spousal maintenance may be withheld from income, with or without notice to the person obligated to pay, when the conditions of Minnesota Statutes, section 518A.53, have been met. A copy of that section is available from any court administrator.

**VIII. CHANGE OF ADDRESS OR RESIDENCE.** Unless otherwise ordered, each party shall notify the other party, the court, and the public authority responsible for collection, if applicable, of the following information within ten days of any change: residential and mailing address, telephone number, driver's license number, social security number, and name, address, and telephone number of the employer.

**IX. COST OF LIVING INCREASE OF SUPPORT AND MAINTENANCE.** Basic support and / or spousal maintenance may be adjusted every two years based upon a change in the cost of living (using the U.S. Department of Labor, Bureau of Labor Statistics, consumer price index Mpls. St. Paul, for all urban consumers (CPI-U), unless otherwise specified in this order) when the conditions of Minnesota Statutes, section 518A.75, are met. Cost of living increases are compounded. A copy of Minnesota Statutes, section 518A.75, and forms necessary to request or contest a cost of living increase are available from any court administrator.

**X. JUDGMENTS FOR UNPAID SUPPORT; INTEREST. ACCORDING TO MINNESOTA STATUTES, SECTION 548.091:**

- A. If a person fails to make a child support payment, the payment owed becomes a judgment against the person responsible to make the payment by operation of law on or after the date the payment is due, and the person entitled to receive the payment or the public agency may obtain entry and docketing of the judgment without notice to the person responsible to make the payment.
- B. Interest begins accruing on a payment or installment of child support whenever the unpaid amount due is greater than the current support due.

**XI. JUDGMENTS FOR UNPAID MAINTENANCE.** A judgment for unpaid spousal maintenance may be entered and docketed when the conditions of Minnesota Statutes, section 548.091, are met. A copy of that section is available from any court administrator.

**XII. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF CHILD SUPPORT.** A judgment for attorney fees and other collection costs incurred in enforcing a child support order will be entered against the person responsible to pay support when the conditions of Minnesota Statutes, section 518A.735, are met. A copy of that section and forms necessary to request or contest these attorney fees and collection costs are available from any court administrator.

**XIII. PARENTING TIME EXPEDITOR PROCESS.** On request of either party or on its own motion, the court may appoint a parenting time expeditor to resolve parenting time disputes under Minnesota Statutes, section 518.1751. A copy of that section and a description of the expeditor process is available from any court administrator.

**XIV. PARENTING TIME REMEDIES AND PENALTIES.** Remedies and penalties for wrongful denial of parenting time are available under Minnesota Statutes, section 518.175, subdivision 6. These include compensatory parenting time; civil penalties; bond requirements; contempt; and reversal of custody. A copy of that subdivision and forms for requesting relief are available from any court administrator.

(SCAO rev. 01/01/08)

State of Minnesota  
Ramsey County

District Court  
Second Judicial District

Court File Number: 62-F4-87-023798

Case Type: Dissolution with Child

FILE COPY

**Notice of  
Filing of Order and  
Right to Review or Appeal**

and Entry of Judgment  
 and Docketing of Judgment

**In the Marriage of ROSEMARY CATHERINE SAWYER vs JAMES ABBOTT SAWYER**

You are notified that on January 05, 2009 the following occurred:

The attached order was filed. The order is final and effective as of the date it was signed by the child support magistrate, referee, or district court judge.

The attached partial paternity order was filed in the above-entitled matter. Only those issues permanently decided and/or agreed upon by the parties are final and effective as of the date the partial paternity order was signed by the child support magistrate, referee, or district court judge.

Judgment was duly entered in the amount of \$

Judgment was docketed in the amount of \$

**Notice of Rights Regarding Review and Appeal**

You have a right to bring a Motion to Correct Clerical Mistakes, a Motion for Review, a Combined Motion, or you may appeal the attached decision and order directly to the Court of Appeals. Except for appellate procedures, instructions for each option are set forth below.

**NOTE:** If the attached order is a partial paternity order, you have the right to bring a Motion to Correct Clerical Mistakes on any part of the order. You may only bring a Motion for Review or an appeal on matters where the decision by the court is final. If a matter is only temporarily decided, such as temporary child support or temporary physical custody, you do not have the right to bring a Motion for Review or appeal.

**Correction of Clerical Mistakes**

**Right to Request Correction of Clerical Mistakes:** If you believe that the attached order has clerical mistakes, typographical errors, or errors in mathematical calculations, you have a right to request that those mistakes be corrected. You may obtain a form entitled "Motion to Correct Clerical Mistakes" from the Court Administrator. The form includes step-by-step instructions for how to do each of the things listed below. **If you decide to ask the court to correct the mistake, you must do ALL of the following as soon as possible after you discover the mistake (If you fail to complete a, b, and c as listed below, your request will be denied):**

- a. Have a copy of the "Motion to Correct Clerical Mistakes" served on each of the other parties, including the county attorney's office, by U.S. mail or by personal service. You cannot serve

the papers yourself but must have someone else over the age of 18 who is not a party to the case to serve the papers;

- b. File with the Court Administrator the original "Motion to Correct Clerical Mistakes";
- c. File with the Court Administrator proof of service of the motion upon each of the other parties and the county attorney's office; and
- d. If you want to submit a transcript of the hearing as allowed under Rule 366 of the Expedited Child Support Process, complete a "Request for Transcript" form available from the Court Administrator and file it with the court.

**Right to Respond to Request to Correct Clerical Mistakes:** If another party decides to ask the court to correct clerical mistakes, you will receive a copy of that party's "Motion to Correct Clerical Mistakes." If you receive a "Motion to Correct Clerical Mistakes", you may, but are not required to, respond to the motion. You may obtain a "Response to Motion to Correct Clerical Mistakes" form from the Court Administrator. The form includes step-by-step instructions explaining how to do each of the things listed below. **If you decide to respond, you must do ALL of the following within ten (10) days of the date the other party served you with the Motion to Correct Clerical Mistakes (if you fail to complete a, b, and c as listed below, your response will not be considered):**

- a. Have a copy of the "Response to Motion to Correct Clerical Mistakes" served on each of the other parties, including the county attorney's office by U.S. mail or by personal service. You cannot serve the papers yourself but must have someone else over the age of 18 who is not a party to the case serve the papers;
- b. File with the Court Administrator the original "Response to Motion to Correct Clerical Mistakes";
- c. File with the Court Administrator proof of service of the responsive motion upon the other parties, including the county attorney's office; and
- d. If you want to submit a transcript of the hearing as allowed under Rule 366 of the Expedited Child Support Process, complete a "Request for Transcript" form available from the Court Administrator and file it with the court.

#### **Review of Decision and Order**

**Right to Request Review of Decision and Order:** If you believe that the attached decision and order is incorrect, you have a right to request review of the decision and order. You may request the review to be done either by the child support magistrate who issued the order or by a district court judge. You may obtain a "Motion for Review" form from the Court Administrator that includes step-by-step instructions for how to do each of the things listed below. **If you decide to request a review, you must do ALL of the following on or before the following date: January 30, 2009 (if you fail to complete a, b, c, and d as listed below by this date, your request will be denied):**

- a. Have a copy of the "Motion for Review" served on the other parties, including the county attorney's office, by U.S. mail or by personal service. You cannot serve the papers yourself but must have someone else over the age of 18 who is not a party to the case to serve the papers;
- b. File with the Court Administrator the original "Motion for Review";
- c. File with the Court Administrator proof of service of the motion;
- d. Pay any filing fees to the Court Administrator; and
- e. If you want to submit a transcript of the hearing as allowed under Rule 366 of the Expedited Child Support Process, complete a "Request for Transcript" form available from the Court Administrator and file it with the court.

**Right to Respond to Request for Review:** If another party decides to ask the court to review the attached decision and order, you will receive a copy of that party's "Motion for Review." If you receive a Motion for Review, you may, but are not required to, respond to that motion. If you choose to respond, you may obtain a "Response to Motion for Review / Counter Motion" form from the Court Administrator which includes step-by-step instructions for how to do each of the things listed below. **If you decide to respond, and you**

were PERSONALLY served with the Motion for Review, you must do ALL of the following listed below on or before the following date: February 09, 2009.

If you decide to respond and you were served with the Motion for Review BY U.S. MAIL, you must do ALL of the following on or before the following date: February 12, 2009.

*Note: If you fail to complete a, b, c, and d as listed below, your response may not be considered.*

- a. Have a copy of the "Response to Motion for Review / Counter Motion" served on the other parties, including the county attorney's office, by U.S. mail or by personal service. You cannot serve the papers yourself but must have someone else over the age of 18 who is not a party to the case to serve the papers;
- b. File with the Court Administrator the original "Response to Motion for Review / Counter Motion";
- c. File with the Court Administrator proof of service of the responsive motion;
- d. Pay any filing fees to the Court Administrator; and
- e. If you want to submit a transcript of the hearing as allowed under Rule 366 of the Expedited Child Support Process, complete a "Request for Transcript" form available from the Court Administrator and file it with the court.

#### **Combined Motion to Correct Clerical Mistakes and Review Order**

If you intend to bring or respond to both a Motion to Correct Clerical Mistakes and a Motion for Review, the combined motion must be brought by the date listed on page 2, under the Right to Review of Decision and Order paragraph. You CANNOT bring the motions separately. You CANNOT bring first one motion and then the other motion.

#### **Submission of Additional Evidence and Appearance Before Court Not Allowed**

If you bring or respond to any type of motion:

- You CANNOT submit any new evidence or information unless the court grants your request to submit additional evidence or information.
- You DO NOT have a right to a new hearing, and you WILL NOT be allowed to appear before the court, unless the court orders a new hearing.

#### **Right to Appeal to Court of Appeals**

You have a right to appeal the attached decision and order to the Court of Appeals. **Any appeal must be brought within sixty (60) days of the date this notice was mailed to you. If you fail to bring your appeal within the sixty (60) days, the Court of Appeals will deny your appeal.** The sixty (60) days will stop running if a Motion to Correct Clerical Mistakes or a Motion for Review is properly served and filed as required in this Notice.

**Please Note:** The Court Administrator does not have any appellate forms and cannot help you with questions about the appeal process. You must contact the Court of Appeals and refer to the Rules of Civil Appellate Procedure for answers to questions you may have about filing an appeal.

Pursuant to Rule 365.04 of the Expedited Child Support Process, a copy of this Notice has been served by U.S. mail upon the county attorney and upon each party at the party's last known address or, if represented, upon the party's attorney.

Dated: 1/7/2009

Tama L. Hall  
Court Administrator  
Ramsey County District Court  
15 West Kellogg Boulevard Room 160  
St Paul MN 55102  
651-266-2842

cc: ROSEMARY CATHERINE SAWYER  
JAMES ABBOTT SAWYER

Ramsey County Child Support

FEB 06 2009

Tama L. Hall, Court Administrator,  
Ramsey District Court, State of Minnesota.  
Does hereby certify that the attached  
Instrument is a true and correct copy  
of the original on file and of record in my  
office.

Dated this 5 day of Feb 2009

TAMA L. HALL  
Court Administrator  
By W.L.H. Deputy  
File No. FD 87-23793

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address):  
 NOEL C. MURRAY, LEAD CHILD SUPPORT ATTORNEY  
 SANTA CRUZ/SAN BENITO COUNTY DEPARTMENT OF CHILD SUPPORT SERVICES  
 420 MAY AVE  
 SANTA CRUZ CA 95060-2841

0870001860-01  
 TELEPHONE NO. (Optional): (866) 801-3212 FAX NO. (Optional): (831) 454-3752  
 ATTORNEY FOR (Name): Under Family Code §§ 17400 & 17406

## SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CRUZ

STREET ADDRESS: 1 SECOND ST RM 300  
 MAILING ADDRESS: 1 SECOND ST RM 300  
 CITY AND ZIP CODE: WATSONVILLE 95076-5139  
 BRANCH NAME: WATSONVILLE BRANCH COURTHOUSE

PETITIONER/PLAINTIFF: ROSEMARY CATHERINE SAWYER  
 RESPONDENT/DEFENDANT: JAMES ABBOTT SAWYER

OTHER PARENT:

ORDER TO SHOW CAUSE AND  
AFFIDAVIT FOR CONTEMPT

FOR COURT USE ONLY

FILED

JUN 26 2013

ALEX CALVO, CLERK  
 BY *Dawn*  
 DEPUTY, SANTA CRUZ COUNTY

CASE NUMBER: FL007773

## NOTICE!

A contempt proceeding is criminal in nature. If the court finds you in contempt, the possible penalties include jail sentence, community service, and fine.

You are entitled to the services of an attorney who should be consulted promptly in order to assist you. If you cannot afford an attorney, the court may appoint an attorney to represent you.

## AVISO!

Un proceso judicial por desacato es de índole criminal. Si la corte le declara a usted en desacato, las sanciones posibles incluyen penas de prisión y de servicio a la comunidad, y multas.

Usted tiene derecho a los servicios de un abogado, a quien debe consultar sin demora para obtener ayuda. Si no puede pagar a un abogado, la corte podrá nombrar a un abogado para que le represente.

1. TO CITEE (name of person you allege has violated the orders): JAMES ABBOTT SAWYER
2. YOU ARE ORDERED TO APPEAR IN THIS COURT AS FOLLOWS, TO GIVE ANY LEGAL REASON WHY THIS COURT SHOULD NOT FIND YOU GUILTY OF CONTEMPT, PUNISH YOU FOR WILLFULLY DISOBEDIING ITS ORDERS AS SET FORTH IN THE AFFIDAVIT BELOW AND ANY ATTACHED AFFIDAVIT OF FACTS CONSTITUTING CONTEMPT, AND REQUIRE YOU TO PAY, FOR THE BENEFIT OF THE MOVING PARTY, THE ATTORNEY FEES AND COSTS OF THIS PROCEEDING.

a. Date: 09/18/2013 Time: 01:30 PM Dept.: D Rm.:

b. Address of court  same as noted above  other (specify):

Date:

JUN 26 2013

HEATHER D. MORSE

JUDICIAL OFFICER



**AFFIDAVIT SUPPORTING ORDER TO SHOW CAUSE FOR CONTEMPT**

3.  An Affidavit of Facts Constituting Contempt (form FL-411 or FL-412) is attached.
4. Citee has willfully disobeyed certain orders of this court as set forth in this affidavit and any attached affidavits.
5. a. Citee had knowledge of the order in that
  - (1)  Citee was present in court at the time the order was made.
  - (2)  Citee was served with a copy of the order.
  - (3)  Citee signed a stipulation upon which the order was based.
  - (4)  other (specify):
6.  Citee was able to comply with each order when it was disobeyed.
6. Based on the instances of disobedience described in this affidavit
  - a.  I have not previously filed a request with the court that the citee be held in contempt.
  - b.  I have previously filed a request with the court that the citee be held in contempt (specify date filed and results): Filed 11/15/11-Contempt Purged when respondent paid \$1,000.00. Filed 11/08/10 Purged when respondent paid \$1,400.

Continued on Attachment 6b.

Page 1 of 4

Form Adopted for Mandatory Use  
 Judicial Council of California  
 FL-410 [Rev. January 1, 2003]

## ORDER TO SHOW CAUSE AND AFFIDAVIT FOR CONTEMPT

Family Code, § 292;  
 Code of Civil Procedure, §§ 1211.5, 2015.5  
[www.courtinfo.ca.gov](http://www.courtinfo.ca.gov)

ENF TM 3

PETITIONER/PLAINTIFF: ROSEMARY CATHERINE SAWYER RESPONDENT/DEFENDANT: JAMES ABBOTT SAWYER OTHER PARENT:	CASE NUMBER: FL007773
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7.  Citee has previously been found in contempt of a court order (specify case, court, date):

Continued on Attachment 7.

8.  Each order disobeyed and each instance of disobedience is described as follows:

- a.  Orders for child support, spousal support, family support, attorney fees, and court or other litigation costs (see attached *Affidavit of Facts Constituting Contempt* (form FL-411)).
- b.  Domestic violence restraining orders and child custody and visitation orders (see attached *Affidavit of Facts Constituting Contempt* (form FL-412)).
- c.  Injunctive or other order (specify which order was violated, how the order was violated, and when the order was violated):

Continued on Attachment 8c.

d.  Other material facts, including facts indicating that the violation of the orders was without justification or excuse (specify):

The SANTA CRUZ County Department of Child Support Services is providing support enforcement services in this case. JAMES A SAWYER, the judgment debtor, is delinquent in the payment of his/her court ordered support obligation (s).

Continued on Attachment 8d.

e.  I am requesting that attorney fees and costs be awarded to me for the costs of pursuing this contempt action. (A copy of my *Income and Expense Declaration* (form FL-150) is attached.)

**WARNING: IF YOU PURSUE THIS CONTEMPT ACTION, IT MAY AFFECT THE ABILITY OF THE DISTRICT ATTORNEY TO PROSECUTE THE CITEE CRIMINALLY FOR THE SAME VIOLATIONS.**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 06/20/2013

CATHY J MONTGOMERY

(TYPE OR PRINT NAME)



(SIGNATURE)

PETITIONER/PLAINTIFF: ROSEMARY CATHERINE SAWYER RESPONDENT/DEFENDANT: JAMES ABBOTT SAWYER OTHER PARENT:	CASE NUMBER: FL007773
---	--------------------------

## AFFIDAVIT OF FACTS CONSTITUTING CONTEMPT

## Financial and Injunctive Orders

## Attachment to Order to Show Cause and Affidavit for Contempt (form FL-410)

1. a. Orders for child support, spousal support, family support, attorney fees, and court and litigation costs (separately itemize each default on installment payments):

DATE DUE	TYPE OF ORDER AND DATE FILED	PAYABLE TO	AMOUNT ORDERED	AMOUNT PAID	AMOUNT DUE
1. 05/2013	ORDER AFTER HEARING FILED 03/13/2009	SANTA CRUZ County Department of Child Support Services CALIFORNIA STATE DISBURSEMENT UNIT PO BOX 989067 WEST SACRAMENTO CA 95798-9067	\$200.00 \$200.00 \$200.00 \$200.00 \$200.00 \$200.00 \$200.00 \$200.00 \$200.00 \$200.00 \$200.00 \$200.00	\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$200.00 \$200.00 \$200.00 \$200.00 \$200.00 \$200.00 \$200.00 \$200.00 \$200.00 \$200.00 \$200.00 \$200.00
2. 04/2013					
3. 03/2013					
4. 02/2013					
5. 01/2013					
6. 12/2012					
7. 11/2012					
8. 10/2012					
9. 09/2012					
10. 08/2012					
11. 07/2012					
12. 06/2012					
<input type="checkbox"/> Continued on Attachment 1a.					
Summary of contempt counts alleged (including all attachments): Child support: Spousal support: Family support: Attorney fees: Court and other costs:			TOTAL AMOUNT ORDERED	TOTAL AMOUNT PAID	TOTAL AMOUNT DUE
			\$2,400.00	\$0.00	\$2,400.00
<b>Total</b>			<b>\$2,400.00</b>	<b>\$0.00</b>	<b>\$ 2,400.00</b>

b.  Other orders (specify which order was violated, how the order was violated, and when the violation occurred):

c.  Other material facts (specify):

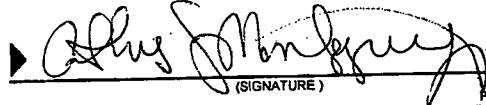
Continued on Attachment 1b

Continued on Attachment 1c

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 06/20/2013

CATHY J MONTGOMERY  
(TYPE OR PRINT NAME)

  
(SIGNATURE)

Page 1 of 1

Form Adopted for Mandatory Use  
Judicial Council of California  
FL-411 [Rev. January 1, 2003]

**AFFIDAVIT OF FACTS CONSTITUTING CONTEMPT**  
Financial and Injunctive Orders

Family Code 1282;  
Code of Civil Procedure,  
T1209, 1211, 1211.5, 2015.5  
www.courtinfo.ca.gov

ENF TM 3

1 MITCHELL PAGE, SBN 062344  
 2 PAGE & DUDLEY  
 3 Attorneys at Law  
 4 605 Center Street  
 5 Santa Cruz, CA 95060-3804  
 6 Telephone: (831) 429-9966  
 7 Facsimile: (831) 427-2132

8 Attorney for Respondent JAMES ABBOTT SAWYER

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FILED  
 DEC 18 2013  
 BY DOLORES SANDOVAL  
 DEPUTY, SANTA CRUZ COUNTY

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA CRUZ

In re the marriage of: }  
 Petitioner: ROSEMARY C. SAWYER, } Case No. FL 007773  
 and } HEARING BRIEF  
 Respondent: JAMES ABBOTT SAWYER. } Date: Jan 24 2014  
 \_\_\_\_\_ } Time: 2:30 p.m. (AP)  
 Dept: B

RESPONDENT'S CONTENTION

It is Respondent's contention that the Department of Child Support Services should be estopped from collecting any payments on the alleged child support arrearage in this case. This court ordered the Department of Child Support Services to reconcile payments and credits with the original Minnesota court order re: arrearage, which would have demonstrated satisfaction of the original child support order.

PROCEDURAL STATEMENT

Respondent, James Sawyer, has been cited for contempt for failure to make installment payments to the Department of Child Support Services as ordered, on a child support debt established by a Minnesota judgment.

Respondent claims to have documentation of payments completely satisfying his child support obligation. His legal pursuit of that claim in the Minnesota courts was, ultimately,

In re marriage of Sawyer  
 Case No. FL007773  
 Hearing Brief

1 dismissed on procedural grounds when Respondent's attorney failed to meet filing deadlines and  
2 proceed to a hearing on the merits. The Minnesota State Court of Appeal so ruled in September,  
3 2009.

4 Through RURESA the Minnesota child support action had been filed in Santa Clara  
5 County, California, in 1989. The court file reflects that in the first two months of 1990, Santa  
6 Clara County acknowledged at least \$7,000.00 in payments. Effective January 1, 1991, a wage  
7 assignment was imposed upon Respondent's paychecks.

8 In August 1997, the collection action was transferred to Santa Cruz County. Respondent,  
9 in pro per, requested a hearing on the registration of the support order, alleging that it was based  
10 upon fraud and questioning the assertion of arrearage. A hearing was set, and the wage  
11 assignment was suspended pending that hearing. When the hearing was finally held, in January,  
12 2000, respondent's objection were overruled and the registration of the foreign order confirmed.

13 In January, 2001, there was a change in child custody, which resulted in an order of child  
14 support in respondent's favor and an offset of some of the alleged arrearage. In February, 2001,  
15 the Minnesota trial court set arrearages at \$89,582.15, without any apparent reconciliation with  
16 the collection actions of Santa Clara or Santa Cruz Counties.

17 On September 11, 2006, this Court ordered the Department of Child Support Services to  
18 reconcile the Minnesota order with the Santa Clara County collection action and suspended  
19 arrearage payments pending that reconciliation.

20 On December 3, 2007, Respondent was again before the Court and was ordered to pay  
21 \$100.00 per month on the arrearage. No reconciliation of payments made on the Minnesota Court  
22 order was ever delivered to the Court, nor does it appear that the Court ever inquired about the  
23 reconciliation it had ordered.

24 POINTS AND AUTHORITIES

25 A party may be forbidden to show the existence of a fact when, by his or her past  
26 conduct, . . . it would work an injustice and injury to an adversary to permit the party to do so.

27 In re marriage of Sawyer  
28 Case No. FL007773  
Hearing Brief

1 | Allen v. Hance (1911) 161 Cal. 189.

ELEMENTS: (a) a representation or concealment of material facts

(b) with knowledge, actual or virtual, of the facts

(c) to a party ignorant of the truth

(d) with the intention that the ignorant party act on it, and

(e) the party was induced to act

"Negligence that is careless and culpable conduct is as a matter of law, equivalent to an intent to deceive and will satisfy the element of fraud necessary to an estoppel." Crestline v. Superior Court (1960) 54 Cal.2d 773 at 778 Cal.Rptr. 448. An estoppel may arise from silence where there is a duty to speak. Dottamanti v. Lompoc (1956) 143 Cal. App. 2d 716 721.

11        "The government may be bound by an equitable estoppel in the same manner as a private  
12 party when the elements requisite to such an estoppel against a private party are present and, in  
13 the considered view of the court of equity, the injustice which would result from a failure to  
14 uphold an estoppel is of sufficient dimension to justify any effect upon public interest or policy  
15 which would result from the raising of an estoppel." McKnight Ranch v. Franchise Tax Board  
16 (2003) 110 Cal.App.4th 978, 2 Cal.Rptr. 3d 339.

17 Specifically, estoppel has been applied against a child support collection agency. In re  
18 marriage of Smith (1989) 209 Cal.App.3d 196.

## CONCLUSION

20 The Department of Child Support Services, having failed to reconcile Respondent's  
21 payments and credits with the Minnesota court order, as ordered by this court in 2007, should be  
22 estopped from collecting any further monies based upon that Minnesota court order.

Respectfully submitted,

MITCHELL PAGE, Attorney for Respondent

Dated: December 18, 2013

In re marriage of Sawyer  
Case No. FL007773  
Hearing Brief

FILED

DEC 3 2013

ALEX CALVO, CLERK  
BY   
DEPT. SANTA CRUZ COUNTY

1 NOEL MURRAY  
2 LEAD CHILD SUPPORT ATTORNEY  
3 DEPARTMENT OF CHILD SUPPORT SERVICES  
4 420 MAY AVENUE  
5 SANTA CRUZ, CA 95060  
6 Tel. No.: (831) 454-3719, Fax No.: (831) 454-3752  
7 AILEEN MADERA-CORREA, CHILD SUPPORT ATTORNEY  
8 STATE BAR NUMBER: 71778  
9 Appearing pursuant to Family Code §§ 17400, 17406

7 SUPERIOR COURT OF CALIFORNIA  
8 COUNTY OF SANTA CRUZ

10 ROSEMARY C. SAWYER, )  
11 Petitioner, )  
12 vs. )  
13 JAMES ABBOTT SAWYER )  
14 Respondent. )  
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CASE NO.: FL-007773  
D.C.S.S. NO.: 0870001860-01  
RESPONSIVE BRIEF  
Date: 01-29-2014  
Time: 2:30 pm  
Dept.: D

17 PROCEDURAL HISTORY

18 James Sawyer and Rosemary Sawyer were married in 1979. Ms. Sawyer  
19 petitioned for divorce in 1987 in Minnesota. On January 20, 1989, the parties signed  
20 and stipulated to a dissolution judgment and decree where Mr. Sawyer was ordered to  
21 pay \$1,000.00 per month in child support for the parties' two children. In June 1989 Mr.  
22 Sawyer moved to California.

24 In February 2001, the Minnesota district court issued an order which included a  
25 judgment against Mr. Sawyer in the amount of \$89,582.15 in child support arrears. The  
26 parties were given 60 days to come to a difference agreement or for Mr. Sawyer to file  
27 a Notice of Motion regarding the judgment. Mr. Sawyer did not move the district court  
28

1 nor did the parties come to a different agreement, so the judgment was entered on April  
2 16, 2001. Mr. Sawyer did not appeal the judgment.  
3

4 Six years after the judgment was entered against Mr. Sawyer, he filed a motion  
5 in May 2007 asking the Minnesota court to find that he owed no arrears.  
6

7 Throughout 2007, Mr. Sawyer's motion was continued several times. Eventually,  
8 Mr. Sawyer's attorney requested the matter be stricken. One year later, October 2008,  
9 Mr. Sawyer again motioned the Minnesota court to make a determination that he owed  
10 no arrears. Again, Mr. Sawyer's attorney requested a continuance on the matter. The  
11 Child Support Magistrate (CSM) denied his continuance. During the hearing in  
12 November 2008, the matter was continued by the CSM to determine whether Mr.  
13 Sawyer's motion should be dismissed with or without prejudice. At the second hearing,  
14 the CSM issued an order on January 5, 2009, stating the issue to be decided was  
15 whether Mr. Sawyer stated a claim upon which relief can be granted. After Mr.  
16 Sawyer's attorney and Ramsey County submitted memoranda on the issue, the CSM  
17 determined Mr. Sawyer's request to have his arrears determined to be zero was not a  
18 claim upon which relief could be granted. The Minnesota district court issued a  
19 judgment in 2001 and Mr. Sawyer's request to determine the arrears owed pre-2001  
20 was an attack on the judgment.  
21

22 Mr. Sawyer appealed the CSM's January 5, 2009 ruling. During oral arguments,  
23 Mr. Sawyer's attorney stated that the payments Mr. Sawyer claimed to have made were  
24 made before the 2001 judgment. On September 22, 2009, the Minnesota Court of  
25 Appeals affirmed the CSM's decision not to grant a continuance to dismiss Mr.  
26 Sawyer's claim related to pre-2001 arrears with prejudice. The Court of Appeals  
27 specifically stated: "The 2001 judgment was a final determination of the arrears that he  
28

1 [Mr. Sawyer] owed respondent at that point. His assertion that he paid respondent  
2 certain monies before the 2001 judgment is contrary to final determination of the district  
3 court that appellant owed respondent \$89,582.15. His motion is an attempt to re-litigate  
4 an issue that was resolved eight years ago by the district court."

5 **POINTS AND AUTHORITIES**

6 **UNIFORM INTERSTATE FAMILY SUPPORT ACT (UIFSA) AND THE FULL FAITH  
7 AND CREDIT FOR CHILD SUPPORT ACT (FFACCSOA) APPLY TO THIS CASE**

8       UIFSA took effect in California on January 1, 1998 at Family Code §§4900-4976  
9 and while California enacted UIFSA 2001 in 2002 its taking effect is contingent on  
10 Congress's changing the law. FFACCSOA is found at 28 U.S. C. §1738B. The section  
11 was amended by Public Law §104-193 effective August 22 1996 and again by Public  
12 Law §105-33. Effective August 5, 1997. A recent case has held that Congress did not  
13 intend for FFACCSOA to preempt UIFSA and that they should be construed to work in  
14 harmony. (*LeTellier v. LeTellier* (Tenn 2001) 40 S.W.3d 490)

15       Under UIFSA there shall be only one child support order in effect governing the  
16 support obligation of a specific parent for given children. The first state that enters a  
17 valid child support order becomes the Issuing State of the Controlling Order which will  
18 be the only prospectively enforceable order. Minnesota issued the only child support  
19 order and Minnesota remains the residence of mother. Minnesota continues to  
20 exercise exclusive controlling jurisdiction for any modification and prevents any other  
21 courts from issuing any de novo orders. Family Code §4901 (w) "Support Order"  
22 means a judgment, decree or order, whether temporary, final...for the benefit of a child  
23 that provides for monetary support, ...arrearages or reimbursement and may  
24 include...interest.."

1           In this case a judgment was granted against Mr. Sawyer in the amount of  
2           \$89,582.15 for child support arrears in 2001. This arrearage judgment of 2001 is  
3           considered a support order. Since 2001, Mr. Sawyer has tried challenging this  
4           judgment several times in the Minnesota court system and has been unsuccessful.  
5           Minnesota district court and the Minnesota Court of Appeals have found that Mr.  
6           Sawyer is precluded from collaterally attacking the 2001 judgment.  
7

8           The remedy for legal error is an appeal not a collateral attack. Mr. Sawyer has  
9           certainly pursued his remedies in Minnesota perhaps not a diligently as he should have  
10           nevertheless he cannot pursue a collateral attack in California claiming his rights have  
11           been denied. The decision against Mr. Sawyer rendered by the Minnesota Court of  
12           Appeals is res judicata and he cannot seek to undermine it. California has no subject  
13           matter jurisdiction to determine the arrears.  
14

15           California is required under FFACCSOA (Full Faith and Credit for Child Support Act)  
16           to give credit to the Minnesota Judgment.  
17

#### ARGUMENT

18           Mr. Sawyer comes now and seeks to attack the judgment by claiming that the  
19           Department is estopped from enforcing the arrears because it did not "reconcile"  
20           records that it does not have. This is a Minnesota judgment and any money collected  
21           by both Santa Clara County and Santa Cruz County is sent to Minnesota who is the  
22           custodian of the records. This is not a case of an inter-county transfer where records  
23           exist in the same state system. Santa Cruz County is in the responding state to the  
24           petition from Minnesota.  
25

26           Minnesota renewed its judgment in March 2, 2011. A copy of the Notice of Entry was  
27           served upon the parties. As noted in the documents attached as exhibit A, Mr. Sawyer  
28

1 could have requested a hearing in Minnesota to dispute the calculations should he have  
2 chosen to do so. He did not.

3 Periodically Minnesota sends an Affidavit of Arrears to Santa Cruz County with an  
4 updated arrears calculation. Minnesota charges interest however the interest rate  
5 changes each year. A copy of the most recent Affidavit from Minnesota is attached as  
6 Exhibit B.

7 As to the purported issue of estoppel even were the Department able to do a  
8 reconciliation estoppel would not apply. The court in In Re Marriage of Lugo 170 Cal.  
9 App 3<sup>rd</sup> 427 (1985) ruled that equitable estoppel or laches would not apply in a case  
10 where aid was expended for the children. "...we are persuaded that neither the doctrine  
11 of equitable estoppel nor that of laches has any application to this case. It is well  
12 established that an estoppel will not be raised against a county when to do so would nullify  
13 "a strong rule of policy, adopted for the benefit of the public, . . . ."

14 In the current case the arrears are not owed to State of Minnesota but rather to the  
15 custodial parent Rosemary Sawyer. Estoppel or laches has no applicability at all. Ms.  
16 Sawyer was and is a resident of the State of Minnesota. Minnesota has and has never  
17 lost continuing exclusive jurisdiction.

18

#### CONCLUSION

19 Since the arrears judgment was entered in 2001 and re-entered in 2011 Mr. Sawyer  
20 has never timely availed himself of the remedies open to him in Minnesota which  
21 retains continuing exclusive jurisdiction. He continues to propose spurious legal  
22 positions in California in an attempt to re-litigate issues long since decided and time  
23 barred. He has chosen to spend his money on lawyers in an attempt to collaterally  
24 attack a judgment rather than pay his arrears. Therefore, the Department requests that  
25 Respondent's motion be denied and the matter set for trial.

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Respectfully submitted,



Dated 12/30/2013

AILEEN MADERA-CORREA  
CHILD SUPPORT ATTORNEY

23  
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MAR 4 2011

State of Minnesota  
Ramsey County

District Court  
Second Judicial District

Court File Number: 62-F4-87-023798  
Case Type: Dissolution with Child

**Notice of Entry and Docketing of Judgment**

**RAMSEY COUNTY CHILD SUPPORT  
50 W KELLOGG BLVD STE 415  
ST PAUL MN 55102**

CA# 0870001860-01  
Mn# 0010711937-01

**In the Marriage of ROSEMARY CATHERINE SAWYER vs JAMES ABBOTT SAWYER**

You are hereby notified that a judgment has been entered and docketed in the above entitled matter.

**Judgment Information**

Entered Date	March 02, 2011
Docketed Date	March 22, 2011
Docketed Time	4:51 PM
Debtor(s)	JAMES ABBOTT SAWYER
Creditor(s)	ROSEMARY CATHERINE SAWYER

**Monetary Award:**

Monetary Amount: \$115,320.47

A true and correct copy of this notice has been served by mail upon the parties. Please be advised that notices sent to attorneys are sent to the lead attorney only.

Note: Costs and interest will accrue on any money judgment amounts from the date of entry until the judgment is satisfied in full.

Dated: March 22, 2011

Tama L. Hall  
Court Administrator  
Ramsey County District Court  
15 West Kellogg Boulevard Room 160  
St Paul MN 55102  
651-266-2842

RECEIVED  
RAMSEY COUNTY  
MAY 3 2011 9:37 AM

Until or unless income withholding is in effect, all support payments are payable through:

Mn Child Support Payment Ctr  
PO Box 64326  
St Paul MN 55164-0326

3/1/11  
Date

Stephanie L. Struthers  
Stephanie L. Struthers  
Child Support Staff  
Case: 001071193701  
Court File Number: DM-F4-87-23798  
County Attorney File #:  
Amt\$ 115320.47  
Support Due to: Rosemary Catherine Sawyer

Sworn/affirmed before me this  
1st day of March, 2011.

Constance R. Boeckmann  
Signature of Notary Public

My commission expires 1-31-2012.

