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Lincoln County - NV
Leslie Boucher - Recorder

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Book- 276 Page- 0269



0142520

RECORDING REQUESTED BY AND RETURN TO:

**STATE OF NEVADA
ELKO PROGRAM AREA OFFICE
CHILD SUPPORT ENFORCEMENT
1020 RUBY VISTA DR, #101
ELKO, NV 89801**

**ORDER CONFIRMING COURT MASTER'S FINDINGS AND
RECOMMENDATIONS FOR SUPPORT
AND
COURT MASTER'S FINDINGS AND RECOMMENDATIONS FOR SUPPORT**

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FILE NO: CV 1042012
DEPT. NO: 2

2013 JAN -3 PM 2:28
LINDSEY W. SLEA

IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF LINCOLN

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DIVISION OF WELFARE AND
SUPPORT SERVICES, and
JULIE LAMB,
Obligee

ORDER CONFIRMING COURT
MASTER'S FINDINGS AND
RECOMMENDATIONS FOR SUPPORT

vs

ROBERT LAMB,
Obligor

THE COURT HAVING REVIEWED THE MASTER'S FINDINGS AND
RECOMMENDATIONS FOR SUPPORT AND ALL PLEADINGS AND PAPERS ON
FILE, FINDS THAT NO TIMELY OBJECTIONS HAVE BEEN FILED WITH THE
COURT THEREFORE;

IT IS HEREBY ORDERED: that the Master's
Recommendations from the hearing held on November 21, 2012, and
Recommendations from the hearing filed on December 10, 2012
are hereby affirmed and adopted by the Court.

Dated this 2nd day of January 2013

Dan L. Papp
DISTRICT JUDGE



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County Clerk's Office at (907) 485-2200
or visit our website at www.alaska.gov

11th January 13
[Signature]



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2012 DEC 10 PM 1:36

LINCOLN COUNTY CLERK

MB

1 FILE NO: CV 1042012

2 DEPT. NO: 2

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4 IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
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6 IN AND FOR THE COUNTY OF LINCOLN

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-oOo-

8 DIVISION OF WELFARE AND
9 SUPPORT SERVICES, and
10 JULIE LAMB,
11 Obligee

10

vs

COURT MASTER'S FINDINGS AND
RECOMMENDATIONS FOR SUPPORT

11

12 ROBERT LAMB,
13 Obligor

13

14 **THIS MATTER** having regularly come for hearing before
15 the Court Master on the 21ST day of November, 2012; the
16 Obligee being (X) present ()not present, and represented
17 telephonically by Christopher Karr, Esq.; and the Obligor
18 being duly served and (X)present telephonically ()not present,
19 and represented by ; Kimberly Ramirez of the Nevada State
20 Welfare Division, Child Support Enforcement office appearing
21 and representing the State of Nevada's interest in the support
22 and welfare of the child(ren) pursuant to law. After hearing
23 all of the evidence and being fully advised in the premises,
24 the Court Master makes the following findings and
25 recommendations:
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FINDINGS OF FACT AND CONCLUSIONS OF LAW

1.(X) The State of Nevada has/is taking continuing exclusive jurisdiction pursuant to the Full Faith and Credit Support Orders Act (28 U.S.C. 1738b)

2.(X) The Court has jurisdiction of the parties and of the subject matter of this case.

3. () The parties and the child(ren) reside outside the State of Nevada.

4. () No child support order exists for the support of the minor child(ren).

5.(X) The Obligor is the parent of the following child(ren):

NAME (S)	DOB (S)
JULIANN M. LAMB	2-22-2001
CHAP A. LAMB	4-29-2002

6.(X) The Obligor has a duty to support the above named child(ren);

7.(X) The Obligor owes support arrears to the Obligee in the amount of \$ 2010.06 from 3-1-12 through 9-30, 2012 which includes interest to be set forth below.

8. () Benefits have been received on behalf of the minor child(ren) in the form of: () Medicaid () TANF

9.(X) The Obligor's Gross Monthly Income is \$ 9,708.36 and 25% of the amount is \$ 2,427.09;

10.(X) The Obligor's child support obligation pursuant to NRS 125B.070 (), 125B.080 (X) or Existing order() is \$ 1688.00 per month;

11.(X) The amount of the child support obligation determined by the Court Master deviates from the NRS 125B.070 percentage formula on the following grounds: the statutory cap of \$844 per child was applied ;

1 12. (x) This modifies the previous Order in Case No. CV-
2 0829007 entered on the 9th day of March, 2012 in the
3 Seventh Judicial District Court, Lincoln County, Nevada. ALL
4 PROVISIONS NOT MODIFIED HEREIN SHALL REMAIN IN FULL FORCE AND
5 EFFECT.

6 **OTHER FINDINGS:**

7 The underlying Decree of Divorce was filed on March 9, 2012
8 in Lincoln County, case number CV-0829007. (It should be noted
9 that the template used for the Decree was obtained from the
10 self-help center and was not actually signed by the Obligor.)
11 The Obligor requested a modification of the underlying order on
12 October 4, 2012 based upon a change of income.

13 The Decree of Divorce states that the Obligor shall pay
14 \$3200 dollars per month for child support. (Section 8, p. 3).
15 However, section 9 of the Decree which specifically addresses
16 the amount of support and how the amount was determined was not
17 completed. (Section 9, p. 3). The Decree does not determine the
18 Obligor's gross monthly income and does not determine the
19 percentage of support owed for the children as required by NRS
20 125B.070. Additionally, the Decree does not address deviations
21 from the statutory formula as required by NRS 125B.080.

22 Oblige through her counsel, argues that such a support
23 amount is allowable under *Fernandez v. Fernandez*, 126 Nev.--,
24 22 P.3d 1031 (2010), and the parties have discretion to
25 stipulate to said amount. The Oblige is incorrect, no where in
26 *Fernandez* are the parties given discretion to disregard Nevada
law. (*Id.*) The underlying order clearly does not comply with NRS
125B.070 and NRS 125B.080. In *Fernandez*, the Nevada Supreme
Court found that attempted stipulations to make child support
awards non-modifiable are unenforceable as such is against
public policy. (*Id.*) The Court notes that the statutory scheme

1 does not admit a child support order that cannot be modified
2 based upon a material change in circumstances. (Id, at p.
3 1032). Hence, an order can always be modified if the
4 circumstances warrant modification. In this case, modification
5 is necessary in order to comply with Nevada law. The underlying
6 obligation for \$3200 per month is actually 33% of the Obligor's
7 income, rather than the 25% allowable pursuant to NRS 125B.070.

8 The Obligea testified that she had requested the high
9 amount of support in the Decree instead of alimony. The
10 Obligea was advised by the Master - that is not the purpose of
11 child support. Child support is strictly for the support and
12 maintenance of the children as addressed by NRS 125B.020.
13 Alimony is separate issue regarding a debt for maintenance
14 owed between the adults. The care of the children may be
15 considered in awarding alimony, but the reverse is not true,
16 and the care of the spouse is never included in child support.
17 (See NRS Chapters 125 and 125B).

18 Additionally, the Obligea's request for an upward
19 deviation for time spent with the children is denied. No
20 evidence was presented that would warrant such a deviation
21 above the statutory cap, with the exception that the Obligor
22 had not been able to exercise his visitation as much.

23 **IT IS HEREBY RECOMMENDED THAT:**

24 1. (x) The Obligor shall pay \$ 1688.00 per month as and
25 for ongoing child support, beginning 10-1, 2012.

26 2. (x) A judgment of support arrears is entered in favor
of the Obligea and against the Obligor in the amount of
\$ 2010.06 from 3-1-12 through 9-30, 2012; The total arrears
represents \$ 2000.00 in principal arrears owed; and \$ 10.06 in
interest accrued. Obligor is to pay \$ 100.00 per month
beginning 10-1, 2012 and also continuing each and every month



1 thereafter until paid in full.

2 3. ALL PAYMENTS NOT COLLECTED BY INCOME WITHHOLDING SHALL
3 BE MADE BY MONEY ORDER, CASHIER'S CHECK, or BUSINESS CHECK AND
4 PAYABLE TO "SCaDU". PERSONAL CHECKS WILL NOT BE ACCEPTED. NO
5 CREDIT WILL BE GIVEN FOR PAYMENTS PAID DIRECTLY TO THE OBLIGEE.
6 ALL SUCH PAYMENTS SHALL CONTAIN THE OBLIGOR'S NAME (PAYOR),
7 OBLIGOR'S SOCIAL SECURITY NUMBER, CASE NUMBER, AND THE
8 OBLIGEE'S NAME (PAYEE) ALL SUCH SHALL BE PAYABLE AND MUST BE
9 DELIVERED BY THE OBLIGOR TO:

10 **STATE COLLECTION AND DISBURSEMENT UNIT**
11 **(SCaDU)**
12 **PO BOX 98950**
13 **LAS VEGAS, NV 89193-8950**

14 4.(X) The Obligor shall provide health insurance coverage
15 that is reasonable in cost and accessible for the child(ren)
16 through:

- 17 a. Obligor's employer or group policy; or
- 18 b. private policy; or
- 19 c. any other means available to Obligor, other than
20 Medicaid.

21 Further, Obligor shall provide all reasonable and
22 necessary assistance to enable the Obligee to obtain the
23 medical benefits offered by the policy of insurance pursuant to
24 NRS 125B.085.

25 5.() The Obligee is required to provide health insurance
26 coverage at this time because () it is available at this time
and/or () she is receiving Medical Cash compensation. Further,
Obligee shall provide all reasonable and necessary assistance
to enable the Obligor to obtain the medical benefits offered by
the policy of insurance pursuant to NRS 125B.085.

6. Pursuant to NRS 125B.080.7, expenses for health care
which are not reimbursed through insurance, including expenses
for medical, surgical, dental, orthodontic and optical
expenses, must be borne equally by both parents in the absence
of extraordinary circumstances.

7. The Obligor shall notify the Family Support Unit of
the District Attorney's office of any change of address, change
in employment or change in the availability of health insurance
coverage within ten (10) days of such coverage.

8. **THIS IS AN INCOME WITHHOLDING ORDER.** A mandatory wage
withholding shall be initiated against the Obligor's wages or
commissions. This does not preclude the use of other means to
collect any arrears or enforce this order, including
garnishment, liens, attachments, execution on real or personal
property or interception of Federal Income tax refunds.

26



1 9. **NO CREDIT WILL BE GIVEN FOR PAYMENTS NOT MADE BY**
2 **WAGE/INCOME WITHHOLDING OR DIRECTLY THROUGH THE STATE**
3 **COLLECTION AND DISBURSEMENT UNIT (SCaDU).**

4 10. Pursuant to NRS 125B.145, this Order must be reviewed
5 every three years, upon the request of either party, and is
6 subject to modification or review and adjustment as provided by
7 law.

8 11. Unless a stay of this Order is obtained from the
9 District Court, all enforcement procedures, including but not
10 limited to wage withholding, garnishment, liens and the
11 interception of Federal Income tax refunds, will be undertaken
12 upon entry of this Order.

13 12. **The obligor is hereby given notice that failure to**
14 **comply with the terms of this order may result in contempt**
15 **proceedings.** The obligor is required to inform the Court of
16 his ability or inability to pay at all times. THE OBLIGOR IS
17 FURTHER NOTICED that his/her ability to pay shall directly
18 affect the determination of the Court during a contempt
19 hearing.

20 13. (X) Interest upon the amount of the judgment for
21 arrears shall accrue at the rate set by NRS 99.040. A 10%
22 penalty may be assessed on each unpaid installment, or portion
23 thereof, of an obligation to pay support for a child, pursuant
24 to NRS 125B.095. If you pay your child support through income
25 withholding and your full obligation is not met by the amount
26 withheld by your employer, you are responsible to pay the
difference between your court ordered obligation and the amount
withheld by your employer directly to the state disbursement
unit. If you fail to do so you will be subject to the
assessment of penalties and interest. You may avoid these
additional costs by making your current child support payments
each month.

IT IS SO RECOMMENDED.

Dated: Dec 6th, 2012

RITA D. FOWLER
COURT MASTER

NOTICE

Objections to this recommendation are governed in part by
NRS 425.3844. You have ten (10) days from receipt of this
recommendation to file an appeal. This recommendation is
governed by the "Review and Adjustment" guidelines of the
Federal Regulations (45 C.F.R. 303.8).



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PURSUANT TO NRS 425.3844 FAILURE TO FILE AN OBJECTION AND
SERVE WRITTEN OBJECTIONS TO THIS RECOMMENDATION WITHIN TEN DAYS
OF RECEIPT WILL RESULT IN THIS RECOMMENDATION BECOMING A FINAL
JUDGMENT DEEMED APPROVED BY THE DISTRICT COURT BY OPERATION OF
LAW.

Dated: Dec 6th, 2012

RITA D. FOWLER
COURT MASTER

COOPER

RECEIVED

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CLERK'S OFFICE