IN 1HE CIRCUIT COURT, FOURTH JUDICIAL CIRCUIT, IN AND FOR DUVAL COUNTY, FLORIDA.

CASE NO.: DIVISION:

16-2004-DR-10379-FM FM-A

ADEYEMI ADEYINKA ONIBOKUN, Plaintiff, vs. ELIJAH TAIWO ABIARA, Defendant.

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PARTIAL ORDER ON PLAINTIFF'S MOTION FOR CONTEMPT AND DEFENDANT'S SUPPLEMENTAL PETITION FOR MODIFICATION OF CIDLD SUPPORT

This cause came on to be heard on August 8, 2012, upon Plaintiffs Motion for Contempt and Defendant's Supplemental Petition for Modification of Child Support. Plaintiff appeared with counsel, Sharon B. Johnson; Defendant appeared with counsel, Ian C. Hurley. The Court, having heard testimony of the parties and argument of counsel, having reviewed the file and the evidence, finds as follows:

A. The parties have three (3) minor children, to-wit: ELIJAH IYANU MICHAEL ABlARA, born August 21, 2004 and currently 8 years of age; NAOMI AN OOLO WA ADE YEM ABIARA, born May9, 2001 and currently 11 years of age; and ESTHERAYOMIDE CHRISTI

 A BIARA, born August 31, 1998 and currently 14 years of age. On December 14,2004, an Order Establishing Child Support and Other Relief was entered. The parties separated on or about the end of May 2005. Plaintiff filed a Supplemental Petition on or about the first of June 2005.

B. The Final Judgment on Plaintiffs Amended Response and Counter-Supplemental Petition

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for Modification of Child Support and Related Relief was entered in this cause on June 22, 2007. Respondent was ordered to pay the sum of $1,564.60 monthly as and for child support, along with

$82.73 monthly as and for 5% additional statut ry

C. Respondent's retroactive child support was established as $21,237.40 as ofJune 30,2007, inclusive. Respondent was ordered to pay the sum of $200.00 monthly toward the retroactive support.

D. Pursuant to the Order on Plaintiffs Amended Motion to Release and Award

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Defendant's AT&T Pension Benefit Plan to Plaintiff entered February 23, 2009, Plaintiff received the net sum of $23,505.71 from Defendant's pension as and for a lump sum payment toward Defendant's child support arrearages. Said payment was received directly by Plaintiff from Defendant's plan administrator. The Child Support Payment History does not reflect said credit being applied toward Defendant's arrearages. Defendant is entitled to credit for said payment.

E. On February 1, 200Defendant filed a Supplemental Petition for Modification of Child Support. No action was taken by Defendant in relation to said petition until Plaintiff filed her Second Motion for Contempt on January 12, 2012. Both actions were heard on August 8, 2012.

F. Defendant testified he has held numerous jobs within the last four (4) years. The, Court heard testimony and received evidence supporting said employment and the applicable pay rates for each. The Court finds that while Defendant has suffered a reduction in income, he is, and has been, deliberately underemployed. Based on the testimony and the evidence, the Court imputes income in the sum of$3,083.00 gross monthly to Defendant. The Court also notes that Defendant received a worker's compensation wash payment of approximately $37,000.00. The timing and exact amount of said settlement is unknown at this time. Plaintiff is entitled to documentation for said settlement.

G. Plaintiff is employed part time and is a1so a student taking nine (9) hours per term toward her master's degree. The Court will impute minimum wage of $1,329.47 gross monthly to Plaintiff. I he Court finds that based on the parties Imputed mcomes, rhe guidel "d

monthly.

H. The Court will reserve on the issues of Plaintiffs Second Motion for Contempt, retroactive child support, Respondent's Workmen's Compensation award, and Plaintiffs request for attorney's fees and costs.

Therefore, it is

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**ORDERED:**

1. Defendant 's Supplemental Petition for Modification is hereby **GRANTED.**

2. Defendant shall receive credit in the sum of $23,505.71 toward his child support arrearage. The Domestic Relations Depository shall correct their records accordingly.

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3. Commencing Friday, September 7 2012, Defendant shall pay the sum of $1,085.00

monthly as and for child support. Said payments shall be paid weekly, at the rate of $250.38, through the State of Florida Disbursement Unit, P.O. Box 8500, Tall af:tassee, Florida 32314-8500.

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4. Commencing Friday, September 7, 2012, Defendant shall pay the sum of$50.00 monthly as and for retroactive child support Said payments shall be paid weekly, at the rate of $11.54, through the State of Florida Disbursement Unit, P.0. Box 8500, Tallahassee, Florida 32314-8500.

5. Within 60 days of date ofhearing or October 9, 2012, Defendant shall provide to attorney for Plaintiff documentation supporting Defendant's Workmen 's Compensation award. Said documentation shall include the amount and date ofpayment(s) of said award.

6. The Court defers ruling on the issues of Plaintiffs Second Motion for Contempt, retroactive child support, Workmen's Compensation award, and Plaintiffs request for attornefye'es

and costs until further hearing. At such time as Defendant has produced documentation of Defendant's Workman's Compensation Award, the parties shall schedule the remaining issues for hearing. Defendant shall be permitted to appear at said hearing telephonically.

7. The Court reserves jurisdiction to enforce or modify where appropriate the terms and conditions of this Order and specifically reserves until further hearing on all issues as identified herein above.

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**ORDERED** in Chambers at Jacksonville, Duval County, Florida on this ***/0*** day of

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Co ies to :

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Domestic Relations Depository

**E.M MA**

**CffiCUIT COURT JUDGE**

