

34 Franklin St.
Lyons, NY 14489
August 30, 2011

Wayne County Family Court
54 Broad Street
Lyons, NY 14489

RE: Docket No.
File No.

Dear Court Clerk,

Attached you will find a Support Modification petition which contains a joint agreement to settle this matter. You should also find three affidavits in support of the petition: from myself, my former spouse, and from our son. There is also a proposed settlement order.

Our son recently graduated from High School and has started college. My former spouse and I have negotiated this settlement over the past several months and have coordinated our affidavits. We have each had the opportunity to have it reviewed by an attorney. Our son also supports this. His affidavit was done in his own words and has not been edited by either of us.

None of us plan on being represented by Counsel and my former spouse and also our son (if necessary) will be available by phone. We hope this matter can be dealt with quickly as it will be a significant help with college finances.

Sincerely yours,

John Murtari

FAMILY COURT OF THE STATE OF NEW YORK
 COUNTY OF WAYNE

In the Matter of a **Support** Proceeding

File #:

Docket #:

John Murtari

Petitioner,

CSMS #:

– against –

Adrienne Phillipson Mathers

Respondent.

**PETITION FOR MODIFICATION OF AN
 ORDER OF SUPPORT**

The undersigned Petitioner respectfully shows that:

.1 Petitioner, **John Murtari, resides at 34 Franklin Street, Lyons, NY 14489.**

Petitioner, John Murtari, is the ex-spouse of the respondent, Adrienne Phillipson Mathers.

Petitioner, John Murtari, is the non-custodial party of and is the father of the child, Domenic Murtari.

Respondent, **Adrienne Phillipson Mathers, resides at 9123 E. Ohio Avenue, Apartment 20-304, San Diego, CA 92122.**

Respondent, Adrienne Phillipson Mathers, is the ex-spouse of the petitioner, John Murtari.

Respondent, Adrienne Phillipson Mathers, is the person with physical and legal custody of and is the mother of the child, Domenic Murtari.

.2 An order dated on or about **January 20, 2007** was entered in **Onondaga County, NY** wherein **John Murtari shall pay to Adrienne Phillipson Mathers the amount of \$144.00 weekly.** A true copy of the order is attached and made part of this Petition.

.3 The name, present address, and date of birth of each child who is the subject of this proceeding are as follows: <u>Name</u>	<u>Address</u>	<u>Date of Birth</u>
Domenic Murtari	9042 Lackey East San Diego, CA 92155	12/15/92

.4 Since the entry of said order, there has been a change of circumstances in that:

The Respondent and I have reached an agreement to settle all pending arrears in exchange for a cash payment as described in both our attached affidavits and a proposed settlement order.

Our son Domenic has graduated from High School and now plans to pursue an Aerospace Engineering Degree at the University of California in San Diego. The settlement agreement would allow me to help him much more as a parent than at present. Domenic has also completed a statement in support of the terms of this settlement.

DMV recently informed me (June 2011) that I would NOT be eligible for a restricted license because of the long period of suspension AND that I was ineligible to apply for a license because of the current Child Support suspension. I can barely take care of myself presently and, if a financial resolution is not reached I will be unable to assist my son financially while he attends college or in the foreseeable future.

.5 By reason of said subsequent change of circumstances, this order should be modified in the following respects:

The order of support to be terminated with wording similar to the proposed settlement order. This settlement has been a long time in negotiation. We welcome any action from the Court to facilitate this process. We both wish to avoid any change in wording that may prolong the process or result in settlement terms no longer acceptable to the other party.

The sooner all orders, restrictions and liens against me are lifted, the sooner I will be able to help Domenic in the way he deserves. Both Adrienne and I are well educated, and along with Domenic, we all agree this would be in his best interest.

We both understand our legal obligations to continue to support Domenic until he is 21.

.6 No previous application has been made to any court or judge including a native American tribunal, or is presently pending before any judge or court, for the relief requested in this petition..

.7 Petitioner is not eligible for child support services.

WHEREFORE, John Murtari respectfully prays that the said order be modified in these respects set forth above and for such other relief as to the Court may seem just and proper.

NOTE: (1) COURT ORDER OF SUPPORT RESULTING FROM A PROCEEDING COMMENCED BY THIS APPLICATION (PETITION) SHALL BE ADJUSTED BY THE APPLICATION OF A COST OF LIVING ADJUSTMENT AT THE DIRECTION OF THE SUPPORT COLLECTION UNIT NO EARLIER THAN TWENTY-FOUR MONTHS AFTER SUCH ORDER IS ISSUED, LAST MODIFIED OR LAST ADJUSTED, UPON THE REQUEST OF ANY PARTY TO THE ORDER OR PURSUANT TO PARAGRAPH (2) BELOW. SUCH COST OF LIVING ADJUSTMENT SHALL BE ON NOTICE TO BOTH PARTIES WHO, IF THEY OBJECT TO THE COST OF LIVING ADJUSTMENT, SHALL HAVE THE RIGHT TO BE HEARD BY THE COURT AND TO PRESENT EVIDENCE WHICH THE COURT WILL CONSIDER IN ADJUSTING THE CHILD SUPPORT ORDER IN ACCORDANCE WITH SECTION FOUR HUNDRED THIRTEEN OF THE FAMILY COURT ACT, KNOWN AS THE CHILD SUPPORT STANDARDS ACT.

(2) A PARTY SEEKING SUPPORT FOR ANY CHILD(REN) RECEIVING FAMILY ASSISTANCE SHALL HAVE A CHILD SUPPORT ORDER REVIEWED AND ADJUSTED AT THE DIRECTION OF THE SUPPORT COLLECTION UNIT NO EARLIER THAN TWENTY-FOUR MONTHS AFTER SUCH ORDER IS ISSUED, LAST MODIFIED OR LAST ADJUSTED BY THE SUPPORT COLLECTION UNIT, WITHOUT FURTHER APPLICATION BY ANY PARTY. ALL PARTIES WILL RECEIVE A COPY OF THE ADJUSTED ORDER.

(3) WHERE ANY PARTY FAILS TO PROVIDE, AND UPDATE UPON ANY CHANGE, THE SUPPORT COLLECTION UNIT WITH A CURRENT ADDRESS, AS REQUIRED BY SECTION FOUR HUNDRED FORTY-THREE OF THE FAMILY COURT ACT, TO WHICH AN ADJUSTED ORDER CAN BE SENT, THE SUPPORT OBLIGATION AMOUNT CONTAINED THEREIN SHALL BECOME DUE AND OWING ON THE DATE THE FIRST PAYMENT IS DUE UNDER THE TERMS OF THE ORDER OF SUPPORT WHICH WAS REVIEWED AND ADJUSTED OCCURRING ON OR AFTER THE EFFECTIVE DATE OF THE ADJUSTED ORDER, REGARDLESS OF WHETHER OR NOT THE PARTY HAS RECEIVED A COPY OF THE ADJUSTED ORDER.

Date

John Murtari, Petitioner

9. Domenic is now 18 years old and has graduated from High School. His current plan is to attend the University of California at San Diego. Both Mr. Murtari and I plan on giving Domenic financial assistance as our conditions permit, but there are no promises between either of us regarding timing or amounts.

10. Domenic also agrees that he will update his college financial plans (as do all students) based on what both of us can contribute.

11. I am currently on the faculty at the University of California and have a Ph.D. in Communications..

12. We are all in agreement on this and I hope our goals are clear. None of us can afford attorney's fees and we ask the Court to address this matter in the most expeditious manner possible.

13. We both understand the moral obligation we have to support our son and also the legal obligation to support him as expected by New York till the age of 21.

Adrienne Phillipson Mathers

Sworn to this _____ day of August 2011

Notary Public

by my inability to take care of basic family obligations, care for myself, and most of all help Domenic in his life.

10. The current situation in which both my former spouse, Adrienne Phillipson Mathers, and I find ourselves is a product of decisions we both made. Neither of us is a victim.

11. Both my former spouse, Adrienne Phillipson Mathers (the respondent), and I feel it is in Domenic's best interest to terminate any current support orders and satisfy all past judgments and arrears that are due under current orders.

12. This is certainly not an attempt to "contract away" the moral obligation we both have to support our son and also the legal obligation to support him as expected by New York till the age of 21.

13. We all (including our son Domenic) wish to terminate any Court involvement in our lives as the best way to move forward as individuals and also to provide future help for our son Domenic. We all feel it is time to replace past stress, recriminations and blame with the goodness and generosity that results from freedom and genuine love for a child.

14. In return for Adrienne's willingness to satisfy all judgments, assist in any actions necessary to implement the proposed settlement, and forgo further Court actions I will pay all legal/filing fees related to this action and prepare any documents necessary to complete the process. This would not include any attorneys or other professional fees and we are assuming the total fees involved would be less than \$500.

15. Within four months after the completion of the entire discharge process I will pay Adrienne \$10,000. My home is currently assessed for \$40,000 and once the liens are lifted, I should be able to arrange a small home equity loan.

16. Domenic is now 18 years old and has graduated from High School. His current plans are to attend the University of California at San Diego. Both Adrienne and I plan on giving Domenic financial assistance as our conditions permit, but there are no promises between either of us regarding timing or amounts.

17. Domenic also agrees that he will update his college plans (as do all students) based on what both of us can contribute.

18. We are all in agreement on this and I hope our goals are clear. None of us can afford attorney's fees and we ask the Court to address this matter in the most expeditious manner possible.

19. We both understand the moral obligation we have to support our son and also the legal obligation to support him as expected by New York till the age of 21.

John Murtari

Sworn to this ____ day of August 2011

Notary Public

FAMILY COURT OF THE STATE OF NEW YORK

COUNTY OF WAYNE

John Murtari,
Petitioner

-- against --

Adrienne Phillipson Mathers
Respondent

**Affidavit by Child of John Murtari &
Adrienne Phillipson Mathers**

Docket No.

File No.

1. I am **Domenic Murtari, the child of the Petitioner and Respondent in this matter**, and I make this affidavit in support of a Petition to settle all support obligations regarding me, as described in the attached proposed Court Order.
2. I have attended four years of high school, graduating with a 3.76 GPA while taking both Advanced Placement and International Baccalaureate courses.
3. I plan to attend the University of California at San Diego starting in the Fall of 2011, where I will pursue a degree in Aerospace Engineering
4. I agree with the proposed settlement of \$10,000 instead of \$120,000 as it would allow my father to move forward without the burden of support orders, or past judgments and arrears.
5. Even without guaranteed college funding, by clearing all support orders and financial obligations, my Father will be able to support my education more than if he was burdened by his current financial obligations.
6. I understand that even though there will be no required payments beyond the \$10,000, my Father will do his best to contribute to financing my education.
7. My Father loves me very much and has always done everything within his means to help me, no matter how much the accumulated financial obligations may have prevented him.

8. My Father has always supported me financially as best as he could, and has always been committed to making sure that our relationship remained strong even though we live far away from each other, spending money on plane tickets in order for us to see each other.

9. It is in my best interest for all of my Father's financial obligations, support orders, and past judgments and arrears to be cleared so he can move on with his life. He would be more able to support me than with the burden he currently has.

10. In the current situation my Father is unable to contribute to my education due to the amount of financial obligations that have accumulated. This new settlement would allow him to contribute as he would be able to clear his obligations

Domenic Murtari

Sworn to this _____ day of August 2011

Notary Public

FAMILY COURT OF THE STATE OF NEW YORK

COUNTY OF WAYNE

John Murtari,
Petitioner

-- against --

Adrienne Phillipson Mathers
Respondent

Order of Settlement & Disposition

Docket No.

File No.

The Court finds that it is in the best interest of the child, Domenic Murtari, that this proposed Settlement be implemented. Based on these findings:

In accordance with their filed affidavits:

The parties agree this settlement ends all financial obligations between them and the list of Obligations & Judgments contained in Appendix A is complete. There are no other obligations between them. If any past obligation and/or judgment is discovered it is agreed that it will be discharged and eliminated.

The parties further agree to forgo any further legal action (except as provided below) against each other in any State Court or Court of the United States.

The parties are both well educated and both have shown they care for and love their son. The parties further understand their obligations to provide support for their son Domenic until the age of 21.

it is the DECISION of this COURT that:

1) It is ORDERED that child support orders are vacated and payments in this matter cease immediately; and

2) It is ORDERED that the Support Collection Unit cease any further collection efforts, or notices; and

3) It is ORDERED that the Support Collection Unit make data updates to show this support account as satisfied with no arrears.

4) It is ORDERED that the Support Collection Unit make data updates to remove any driving license, professional license, passport, or other restrictions currently in effect regarding Mr. Murtari; and

5) It is ORDERED that the Support Collection Unit contact the NY State Department of Taxation and Finance to advise them all judgments have been vacated/satisfied and that any collection efforts should be stopped and any liens should be removed that have arisen from Support Collection; and

6) It is ORDERED that this matter is referred to Supreme Court for resolution if any of the preceding financial items cannot be resolved by action of Family Court and/or Support Collection alone.

7) It is ORDERED that Mr. Murtari shall pay Adrienne Phillipson Mathers \$10,000 after receiving receipt and satisfaction of all past judgments, liens and the performance of items listed above. Failure to pay this entire amount within 4 months (120 days) after completion will result in the Court automatically reinstating the terms of all prior court orders, restrictions and child support judgments.

Dated: _____ The Honorable _____

Appendix A: Current List of Liens/Judgments

This is as reported by the Wayne County Clerk Office. There may be additions/deletions when information from Onondaga County is cross-checked.

Instrument ID, type, date perfected, amount, holder, notes

- L0073692, Judgment, 4/18/1997, \$25,440, Adrienne Phillipson (satisfied?).
- L0102111, Judgment, 7/21/1998, \$10,506, Adrienne Phillipson
- L0102112, Judgment, 12/28/1998, \$9,859, Adrienne Phillipson
- L0102115, Judgment, 9/15/1999, \$14,858, State Tax Commission
- L0102116, Judgment, 3/16/2000, \$3,085, State Tax Commission
- L0102117, Judgment, 9/14/2000, \$3,657, State Tax Commission
- L509954, Judgment, 4/5/2001, \$4,378, State Tax Commission
- L509955, Judgment, 1/17/2002, \$5,206, State Tax Commission
- L503861, Tax Lien, 1/2/2003, \$6,350, Commissioner of Taxation & Finance
- L507439, Tax Lien, 2/5/2004, \$7,570, Commissioner of Taxation & Finance
- L512324, Tax Lien, 5/30/2005, \$9,134, Commissioner of Taxation & Finance
- L515009, Judgment, 1/31/2006, \$35,230, Adrienne Phillipson / Phillipson Adrienne
- L515714, Tax Lien, 4/30/2006, \$11,301, Commissioner of Taxation & Finance
- L520921, Tax Lien, 6/20/2007, \$13,133, Commissioner of Taxation & Finance
- L525577, Tax Lien, 7/23/2008, \$12,207, Commissioner of Taxation & Finance
- L529347, Tax Lien, 7/30/2009, \$9,687, Commissioner of Taxation & Finance
- L532412, Tax Lien, 8/10/2010, \$11,038, Commissioner of Taxation & Finance
- L532412, Tax Lien, 7/2/2011, \$1,110, Commissioner of Taxation & Finance