

FAMILY COURT OF THE STATE OF NEW YORK  
COUNTY OF WAYNE

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IN THE MATTER OF A PETITION FOR SUPPORT MODIFICATION

John Murtari,

Petitioner

-- against --

Adrienne Phillipson

Respondent

**OBJECTIONS TO ORDER OF SUPPORT  
MAGISTRATE**

**Docket No. F-00446-09/09A**

**File No. 10762**

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TO THE FAMILY COURT:

I filed a petition for Support Modification with the Wayne County Family Court on March 16, 2009. The initial appearance was held on May 4<sup>th</sup>, 2009, in front of Support Magistrate Farber. An order was issued on May 4<sup>th</sup> dismissing the petition for failure to state a change in circumstance and this letter contains my objections to that order.

- 1 The [petition was clear](#) in laying out a significant change in circumstances since the last Support Modification hearing was held in November of 1998, ten years ago. There were changes in family circumstances and changes in income.
- 2 My [prepared financial affidavit](#), which included my tax return from 2008, shows a significant drop in income due to business losses.
- 3 Due to a license suspension because of support arrears. I took my car off the road in November of 2008 and have not driven since then. My office is located in Baldwinsville, NY, and if not for the efforts of a dedicated co-worker – the business would have failed. Without a license I can't fulfill basic responsibilities regarding work, my home, and my family. I live alone and have no brothers or sisters to help.
- 4 I love my son, Domenic, who is now 16, very much and I bear no ill will toward my former spouse. I filed the petition in hopes of being able to drive again and also move towards a just settlement. The status quo is not helping any of us and I had hoped my former spouse and I were close to settling this matter between ourselves – that seemed to fall apart as the Court date approached.
- 5 I was surprised the entire appearance lasted less than 10 minutes and I wasn't given an opportunity to present my position. An automatic COLA (Cost of Living Adjustment) order had been issued in 2007. I was not even aware of it until after filing my petition. Magistrate Farber just wanted me to answer her question regarding what had changed since then. I told her my income was lower and that business was bad in the last year.

6 I believe the limitation of time frame was improper. COLA orders contain a standard sentence stating, “(5) *The application of a COLA in no way limits, restricts, expands, or impairs the rights of any part to file for a modification...*”

7 At the end I asked about my driver's license. She left that to the discretion of opposing counsel – who wanted it to continue. I was not granted any relief. I simply can't understand how anyone could expect my financial situation to improve without a driver's license.

8 This may be unnecessary, but I want to make clear there has been no cheating on income. As part of peaceful reform efforts I was prosecuted by the US Attorney's office in Syracuse in 2005 and then had an unpaid fine. I was subpoenaed for ALL my personal and business financial records and then had a two hour deposition conducted by attorneys and a financial expert from the DOJ staff.

They found no wrong doing and a complete transcript is available.

9 In the summer of 2006, as part of a support violation proceeding that was held in Syracuse, an investigation was done by Wayne County Probation and both my son & I were interviewed. A favorable report was written and that should be available.

10 If the matter is reinstated, I hope a temporary order can immediately be issued to remove my license suspension.

Date: May 21, 2009

Sincerely yours,

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John Murtari  
34 Franklin Street  
Lyons, NY 14489