

**SAMPLE ACCEPTABLE
APPELLANT'S OPENING BRIEF
DOMESTIC RELATIONS CASE**

(updated August 2015)

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SAMPLE

APPELLANT'S BRIEF

STATEMENT OF THE CASE

Nature of the Action

This is a domestic relations case involving the singular issue of property division. Husband seeks modification of the judgment of dissolution to award him an equalizing judgment of approximately \$[dollar amount].

Nature of the Judgment

After a trial to the court, a Judgment of Dissolution of Marriage was entered. Such judgment forms the basis for this appeal.

Basis of Appellate Jurisdiction

This appeal is taken pursuant to ORS 2.516 and ORS 19.205.

Effective Date for Appeal

The Judgment of Dissolution of Marriage was entered on February 2, 2003, forming the effective date for appeal. The Notice of Appeal was filed on February 18, 2003. An Amended Notice of Appeal was filed on March 3, 2003. Both notices were within the 30 days provided by ORS 19.255.

Question Presented

Whether the trial court properly recognized husband's claim for a share in the enhanced earning capacity of wife.

Summary of Argument

Husband presented substantial evidence on the enhanced earning capacity of wife as a result of her completion of a degree in dental hygiene during the marriage. Despite such evidence, the trial court found that the present value of such enhanced earning capacity was impossible to determine with specificity and declined to attach any value to this asset, except to the extent that it effected a slightly uneven property division. Wife's enhanced earning capacity should have been recognized and valued based on the expert testimony that was provided.

Request for *De Novo* Review

[For cases in which the notice of appeal is filed on or after June 4, 2009, an appellant seeking *de novo* review must request it in the Statement of the Case and concisely state the reasons why the court should do so. *See* ORAP 5.40(8).]

Statement of Facts

ORAP 5.40(9) Summary

Date of Marriage:	[date]	
Age of the Parties:	Husband	46 (DOB [date])
	Wife	42 (DOB [date])
Ages of Minor Children:	Alvin Doe	8 (DOB [date])

Theodore Doe	13 (DOB [date])
Simon Doe	17 (DOB [date])

Custody Status of Minor Children: Husband has custody of Alvin;
wife has custody of Theodore and Simon.

Support: Husband is ordered to pay child support of
\$[dollar amount] per month in accordance
with the split custody provisions of Oregon's
child support guidelines.

General Summary

The parties were married in [month and year] when husband was 24 and wife 19. Husband had completed his education at that time, having received a bachelor's degree in 1976. He had financed at least part of his undergraduate education through loans, which had a balance of approximately \$[dollar amount] at the time of the marriage. Wife was still attending college when the parties were married and had a loan of about \$[dollar amount] relating to this schooling. Both of these loans were paid off during the marriage. (Testimony of husband, Tr at 53-54, 88; testimony of wife, Tr at 125.)

After the parties married, husband was the main source of income for the family. Wife left school after her second year and then had some medical problems that limited her work ability to some extent. These difficulties were resolved, and she was able to attend college in Portland to obtain additional college credits in preparation for her planned entry into dental hygiene school. She

enrolled in OHSU in the fall of [year]. She attended school full time for the two years that were necessary for her to complete her training. Although she worked in the summer between school, husband otherwise supplied the earnings for the family. The total cost of her schooling was \$[dollar amount] for tuition and \$[dollar amount] for books. These sums were paid from the family income and through some small loans,¹ which were paid off after she graduated. Husband, in addition to supplying the great bulk of the income during wife's schooling, also shared in the domestic chores. (Testimony of husband, Tr at 59-61, 68-69; testimony of wife, Tr at 124-25.)

After wife graduated from hygiene school in [year], the family moved to Salem where, after about nine months of unemployment, husband obtained a job with [name of employer], where he still works. Wife also obtained work as a hygienist, initially working for three different employers, which was essentially equivalent to full time. However, after the parties' first child was born in [year], she cut her work to half time and continued in that arrangement as the other children were born. The reduction in her work was by mutual agreement of the parties and allowed wife to spend more time with the children. It was also easier for her to work part time than husband. At the time of the hearing, wife was

¹ Wife testified that the loan in dental school was for furniture, not school expenses. (Testimony of wife, Tr at 263.)

working approximately 32 hours per week and making \$[dollar amount] per hour, for an average monthly gross income of \$[dollar amount]. Husband was making a gross monthly income of \$[dollar amount]. (Testimony of husband, Tr at 70-72; 90-91; testimony of wife, Tr at 105, 108-109; Petitioner's Ex 9.)

After receiving this basic historical evidence, the trial court divided the parties' assets and liabilities with no specific recognition of a value for wife's enhanced earning capacity. The division of property resulted in a net disparity in favor of husband of about \$[dollar amount]. The court stated:

"I find that this is a case calling for an award of something on account of the wife's enhanced earning capacity * * *. However, in consideration of the benefits already received by husband during this 20-year marriage, both financial and intangible, I don't believe that further litigation on that issue would really be cost effective. (Wife's enhanced ability to work flexible hours during the marriage benefitted both parents and their children.) It seems likely to me that the current disparity in the property award roughly approximates husband's equitable share of wife's enhanced earning capacity. Accordingly, while * * * (husband's counsel) * * * has reserved the right to present testimony on this issue, both parties may well be better off settling along the lines outlined above."

Letter Opinion of 8-25-98 (emphasis in original). ER-1.

Husband then did present expert testimony on the future value of wife's enhanced earning capacity. Robert Expert, a qualified expert on the subject, calculated the present value of wife's enhanced earning capacity, assuming that she would be working full time. He basically compared the earnings of wife as a four-year college graduate in dental hygiene to a person of her same age with some

college but no degree, her status at the time of the marriage. He projected expected work lives of these different categories, relying on available government statistics. He used a 3.9% annual wage growth and a discount rate of 5.4%, the yield on treasury notes. He then compared the future earnings of these two groups in three different ways. The first was using the current high wage in Oregon for a four-year college graduate in dental hygiene and comparing that to the current high wage in Oregon of a worker with some college but no degree. He then did the same analysis using the current mean wage in Oregon for both groups and finally performed such calculations based on a federal study that takes into account the fact that earnings fluctuate through certain age groups over five-year spans, rather than increasing at a constant rate.² He then reduced the difference in future income between these groups to present value, yielding amounts of \$[dollar amounts] respectively. (Testimony of Mr. Expert, Tr at 169-170, 175, 175-187, 190-198, 219-223; Exs 13-14.)³

However, in attaching a value to the enhanced earning capacity, at least for purposes of domestic proceedings, Mr. Expert discounted the figures by one-half, opining that wife's innate characteristics were responsible for that portion of the

² The study indicated that incomes of women go down between the ages of 42 and 48 and then rise again after age 60. (Testimony of Mr. Expert, Tr at 194-195.)

³ Exhibit 14 is contained in the excerpt of record.

enhanced earning capacity and that education was responsible for the rest.⁴ The range of values was thus between \$[dollar amount] and \$[dollar amount]. Husband asked the trial court to determine a reasonable value for the enhanced earning capacity of wife and then award an appropriate offsetting judgment in his favor. (Testimony of Mr. Expert, Tr at 197-200; testimony of husband, Tr at 242-249; Exs 14, 20.)

The court, after hearing such testimony, found as follows in the Judgment of Dissolution:

"16.1 The present value of Respondent's enhanced earning capacity as of December, 1998, is impossible to ascertain with specificity.

"16.2 In determining the appropriate value to place on Respondent's enhanced earning capacity, the factual issues considered by the court include Respondent's past, current and future income, Respondent's probable work life expectancy, and income information provided by Petitioner's expert. The court found the testimony of Dr. Expert to be credible, but rather speculative and of limited practical value in determining the ultimate issue.

"16.3 In arriving at a just and proper division of property, the factual issues considered by the court include but are not limited to the length of the marriage, each party's respective contribution to the other party's education and earning capacity, the extent to which the overall marital estate, both tangible and intangible, has benefitted from the parties' respective earning capacities, the parties' respective incomes, and the overall division of property. The court is of the opinion that whatever contributions Petitioner made to the enhanced

⁴ Counsel on appeal does not necessarily feel that this is an appropriate function of the expert, as opposed to merely calculating the differences in income and reducing them to present value.

earnings of Respondent were not of such a nature that there was any sacrifice to Petitioner's career or earning capacity."

The court's prior division of property was thus left undisturbed in light of the additional evidence submitted.

ASSIGNMENT OF ERROR

Preservation of Error

The trial court erred by failing to properly value and consider the enhanced earning capacity of wife, thus skewing the property division in a manner that was inequitable under all the circumstances. The pertinent portion of the record is the Judgment of Dissolution of Marriage. The particular portion of the judgment dealing with the treatment of enhanced earning capacity is set forth verbatim in the portion of the Summary of Facts immediately preceding this Assignment of Error.

Standard of Review

Review is *de novo*. *Denton and Denton*, 326 Or 236, 238, 951 P2d 693 (1998); ORS 19.415(3). [For cases in which the notice of appeal is filed on or after June 4, 2009, an appellant seeking *de novo* review must request it in the Statement of the Case and concisely state the reasons why the court should do so. See ORAP 5.40(8).]

ARGUMENT

This case may well be as much about the proper methodology to utilize in enhanced earning capacity as it is about the specifics of this particular litigation. Particularly, it involves the proper manner in which earning capacity should be determined and valued in a domestic sense and the clarity to be employed by the trial court.

In this case, the trial court found that the case was one "calling for an award of something on account of wife's enhanced earning capacity * * *," thus triggering a proper determination of the sum to be allocated to such award. The first logical step in such calculation is the recognition, preferably and probably necessarily through expert testimony, of the raw figures representing the enhanced earning capacity of the party in question. In this case, such calculations were performed by taking the future earning capacity of a person with some college but no degree (wife's premarital status) and comparing that to the earnings of a dental hygienist with a four-year degree (wife's education acquired during the marriage). The differences in income between these groups was then reduced to present value. This is exactly the approach that was used in *Denton*, above. (See Petition for Review at 6-7;⁵ see also *Denton and Denton*, 145 Or App 381, 930 P2d 239 (1996)

⁵ Indeed, this was the approach used in *Denton* by the same expert, before the same trial judge, who accepted such calculations.

(dissenting opinion of Riggs, J., at 421-22).) Not only is it the approach that was used, but it seems to be the only reasonable way to perform the necessary calculations. However, this method was rejected by the trial court as being speculative.⁶ It would seem that some rational approach to this issue should be available to bench and bar in an effort to determine an appropriate way to generate the figures necessary to a determination of value.

Generating fiscal data, however, is but the first step in determining a value for enhanced earning capacity to be utilized in a domestic case. Mr. Expert, in this case, reduced the raw figures by 50%, reflecting the intrinsic contribution of wife to her own enhanced earnings. The trial court also considered the extent to which husband and the family had profited from wife's enhanced earning capacity, both in a financial sense and in relation to her ability to have more flexibility to remain at home with the children. However, the trial court approached the problem with a broad brush, generally opining that a slight disparity in property division properly recognized wife's enhanced earning capacity while avoiding any specificity in valuing this asset. This seems contrary to the guidance that has been provided by the Supreme Court in *Denton* when it remanded the case because it was "impossible to discern * * * the factual basis" for the trial court's award. The same

⁶ It did not seem that the trial judge felt that the foundation for the opinion was speculative. There was certainly no challenge to the viability of the approach used, although Mr. Expert was cross-examined at length.

problem exists in this case to the extent that the trial court found that the value of wife's enhanced earning capacity was "impossible to ascertain with specificity," but essentially found that its value was offset by the \$20,000 disparity in the property award. Husband is not intending to be overly critical of the trial court. He acknowledges that determining a value for enhanced earning capacity that is just and equitable in a particular domestic case is much more difficult than conducting the mathematical computations that were performed by the expert. However, it is unclear whether the court's finding that the present value of the enhanced earning capacity was impossible to ascertain referenced the professional opinion of Mr. Expert or the court's ultimate responsibility to determine an equitable value. If it is the former, then such conclusion is contrary to the evidence. If the latter, then it is contrary to the responsibility of the court under *Denton*.

Husband contends that the court must make a determination of the mathematical value of enhanced earning capacity based on the evidence that is presented. The court may then examine a number of equitable factors to determine what portion of such value should be utilized in determining an equitable division of property. This process should be precise enough to afford the parties a reasonable change to analyze the methodology employed and also to provide this court with some basis for review. If the trial court can instead merely attach an

arbitrary value, relying on general rules of equity, then there are essentially no guidelines for bench and bar and no meaningful review.

In this instance, the court was presented with competent expert testimony on the enhanced earning capacity of wife. The figures, properly reduced to present value and reflecting **future** enhanced earning capacity, were in a range of \$[dollar amounts]. Mr. Expert suggested that these values be reduced by one-half to reflect the intrinsic contributions of wife. Husband suggests that a raw value of at least \$[dollar amount] be assigned to wife's enhanced capacity. The determination of the proper amount of this sum to be assigned to wife must then consider many factors, including the nature and extent of the contributions of the parties and the benefit accruing to husband as a result of wife's earning capacity. This latter consideration must be made in light of the fact that the calculations of the expert deal only with the enhanced earnings in the future (post-divorce), not the total enhanced earnings over wife's entire work life. The trial court **should not** base its decision on whether the supporting spouse gave up his or her own opportunities for career advancement, as was apparently done here. Such consideration is directly contrary to the Supreme Court's guidelines in *Denton*.⁷ Husband feels that an equitable value to be attached to this asset, and credited to wife, is \$[dollar

⁷ The court in *Denton* criticized this court so far as it "unduly emphasized what wife may or may not have 'given up' during husband's pursuit of his medical degree[.]" *Denton*, 326 Or at 243.

amount] and that he should thus receive an appropriate equalizing judgment of approximately \$[dollar amount].

CONCLUSION

The trial court failed to properly consider the expert testimony relating to wife's enhanced earning capacity or to otherwise value this asset. The Judgment of Dissolution should be modified.

___**SIGN HERE**___

J. Michael Lawyer (OSB No. 000000)
Of Attorneys for Appellant David Doe

EXCERPT OF RECORD

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General Judgment of Dissolution of Marriage/Domestic Partnership and Money Award.....ER-1-13

(The Judgment is the only required doc to be included in the ER, other docs are at your discretion).

SAMPLE

ER-1

SAMPLE

FORM 11
IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF LINN

In the Matter of the Marriage of:)
)
_____,)
Petitioner,)
)
and)
)
_____,)
Respondent)
and)
)
 _____,)
Child who is at least 18 and under 21 years)
of age, unmarried and unemancipated.)
(ORS 107.108))

Case No. _____

GENERAL JUDGMENT OF DISSOLUTION
OF MARRIAGE/DOMESTIC PARTNERSHIP
and MONEY AWARD

1. This matter came before the Court:

- On the motion and affidavit of Petitioner, the default of Respondent having been found.
- On the motion of Petitioner, the default of Respondent having been found, and Respondent being represented by a guardian ad litem or another person described in Rule 27.
- On the motion and affidavit of Petitioner, Respondent having filed a Waiver of Further Appearance.
- On the stipulations of the parties, as shown by the signatures below.
- At a hearing held _____, at which the following persons were present:
Date)
 - Petitioner Petitioner's attorney _____
 - Respondent Respondent's attorney: _____

2. Findings. The Court considered the: Affidavit Affidavit and stipulations Evidence presented and found that:

- A. Irreconcilable differences have caused the irremediable breakdown of this marriage/domestic partnership.
- B. Spouses Only: Petitioner Respondent has/have been a resident of and domiciled in the state of Oregon continuously for six months immediately prior to the filing of the Petition for Dissolution of Marriage.

GENERAL JUDGMENT OF DISSOLUTION OF MARRIAGE/DOMESTIC PARTNERSHIP; AND MONEY AWARD - Page 1 of 13

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Domestic Partnership Only: One or both of the parties to this case currently live in the county where this petition has been filed, or neither party currently resides in Oregon but the petition has been filed in the county where Petitioner or Respondent last resided.

C. **Children of the Marriage/Domestic Partnership.** The following children were born to/ adopted by the parties before or during this marriage/domestic partnership (list name(s), date of birth(s) and age(s)):

Name	Date of Birth	Age
	Do not list here. List the information on the UTCR 2.130 Confidential Information Form (CIF).	
	Do not list here. List the information on the UTCR 2.130 Confidential Information Form (CIF).	
	Do not list here. List the information on the UTCR 2.130 Confidential Information Form (CIF).	
	Do not list here. List the information on the UTCR 2.130 Confidential Information Form (CIF).	

Petitioner Respondent is not the father, or paternity has not been established, of the children (list names): _____

born during the marriage/domestic partnership on the following date(s): _____

Neither party is now pregnant.

Petitioner Respondent is now pregnant. Petitioner Respondent is not the parent of the child/ren due _____ (date).

D. **Child Custody Jurisdiction.** (Check appropriate boxes)

I. Oregon has jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act to hear the custody parenting time issue because:

Oregon is the child/ren's home state (i.e., the child/ren have lived here continuously for the six month period immediately before this case was filed).

Other reason: _____

II. Oregon does not have jurisdiction under the Uniform Child Custody Jurisdiction Act because: _____

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E. Child/ren Who Are At Least 18 and Under 21 Years of Age.

_____ (child/ren's name) is at least 18, 19, or 20 years of age, is unmarried and unemancipated and has:

- Waived further appearance in these proceedings.
- Signed and stipulated to the terms of judgment evidenced by the signature below.
- Fully participated in the proceedings and the judgment effectively binds him/her to the terms.

NOW, THEREFORE, IT IS HEREBY ORDERED:

The terms of this judgment are effective immediately. The marital/domestic partner status of the parties shall terminate on the date this judgment is signed by the judge.

1. Parenting Plan

Custody of the child/ren is awarded as follows:

- Petitioner is awarded sole custody of the following child/ren (list names): _____
- Respondent is awarded sole custody of the following child/ren (list names): _____
- The parties have agreed to joint custody of the following child/ren (list names): _____

Petitioner Respondent should have parenting time with the child/ren as set forth in the attached Parenting Plan, labeled Exhibit ____, or Other: _____

Petitioner Respondent shall not have parenting time because this would endanger the health and safety of the child/ren.

Parenting time shall be supervised by _____ Any cost of the supervision shall be paid by Petitioner Respondent Other: _____

Petitioner and Respondent shall each provide contact addresses and contact telephone numbers to the other and notify each other of any emergency circumstances or substantial changes in the child/ren's health.

Neither parent shall move to a residence more than 60 miles further distant from the other parent without giving the other parent reasonable notice of the change of residence and providing a copy of such notice to the court, or the requirement of ORS 107.159 regarding notice of move is suspended for good cause found.

2. Cash Child Support.

Complete either (a) or (b) below:

- (a) Cash child support must be paid by Petitioner to Respondent (or) Respondent to Petitioner beginning on the first or _____ of the month following the date of the judgment and continuing on the same day of each month thereafter. The total payment per month is \$ _____ for _____ children.

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The cash child support:

- Worksheet on which the support amount was calculated is labeled "Exhibit ____" and attached to and incorporated in this judgment; and
- Is the amount presumed to be appropriate under the support guidelines, or
- Is different from the presumed appropriate amount of \$_____ because (list reasons) _____

- (b) This order shall modify and replace the following existing order: _____

(List court/agency and case no.)

because the court finds that the existing order was issued by an Oregon court or agency, one of the parents or the child/ren receiving support under the order still resides in Oregon and circumstances have changed since this order was entered.

- (c) No cash child support is ordered in this judgment because:
 - An order, including medical support, for child support in the monthly amount of \$_____ has already been ordered in Circuit Court case number _____ in _____ County, Oregon.
 - Other reason: _____

3. Medical Support. Complete section (a) or (b) below. Also complete section (c) or (d) below.

Complete (a) or (b):

(a) Private Health Care Coverage is Appropriate and Available.

Petitioner Respondent Both Petitioner and Respondent has/have appropriate private health care coverage available for the parties' child/ren through an employer, spouse, domestic partner or other source. Petitioner Respondent Both Petitioner and Respondent is/are ordered to obtain and/or maintain this coverage throughout the period of the support obligation for the benefit of the parties' child/ren.

Health care coverage is not ordered in this judgment because it has already been ordered in another case as described in section 2(b) above.

(b) No Private Health Care Coverage is Appropriate or Available.

Neither Petitioner nor Respondent has appropriate private health care coverage available for the parties' child/ren. Petitioner Respondent Both Petitioner and Respondent must provide appropriate private health care coverage for the child/ren when such coverage becomes available to them at a reasonable cost through any source.

The custodial parent shall enroll or maintain the child/ren in public health care coverage.

Complete (c) or (d):

(c) **Cash Medical Support Ordered.**

- Because the parent receiving cash child support is ordered to maintain private health care coverage and the parent paying cash child support is not ordered to maintain private health insurance, in addition to cash child support Petitioner/ Respondent must pay \$_____ for cash medical support to Petitioner/ Respondent, or
- Because neither parent has appropriate private health care coverage available for the parties' child/ren: Petitioner/ Respondent must pay cash medical support in the monthly amount of \$_____ to Petitioner/ Respondent

(d) **Cash Medical Support Not Ordered.**

- Cash medical support is not ordered for the following reasons:
 - The parent paying cash child support is also providing health care coverage.
 - Section (e) below requires the parties to share the cost of the child/ren's uninsured medical expenses.
 - Petitioner's Respondent's gross monthly income is at or below the Oregon minimum wage for full-time employment.
 - Other reason: _____

(e) **Responsibility for Uninsured Health Expenses.**

After the custodial parent pays the first \$250 per year per child, Petitioner must pay _____% and Respondent must pay _____% of the reasonably incurred uninsured health, accidental, dental, orthodontic, and optical costs incurred by the child/ren, including costs for prescriptions. This obligation is in addition to instead of any cash medical support ordered above in paragraph 2 as part of the child support award.

4. Length of Child Support.

The support obligations ordered in paragraphs 2 and 3 above shall continue until the child reaches 18 years of age or is otherwise emancipated, or until the child reaches age 21, so long as the child is a student attending school, as defined by Oregon law.

NOTICE ABOUT PERIODIC REVIEWS

If you are receiving child support services through the Department of Justice, either parent may request that the Department of Justice/Division of Child Support review the amount of support ordered after three years from the date the order took effect or at any time upon a substantial change of circumstances.

5. Payment of Child Support

Pursuant to ORS 25.378(1), an income withholding order shall be issued to enforce the child support obligation unless an exception is indicated below.

- Exceptions to withholding.** Income withholding is not ordered at this time because there is no support arrearage, the paying parent has not previously been granted an exemption from withholding, and:
 - The parents, and the State, if support rights are assigned, have agreed in writing to an alternative arrangement; or
 - Good cause not to require withholding is found because there is proof of timely payment of previously-ordered support and income withholding would not be in the best interests of the child.

GENERAL JUDGMENT OF DISSOLUTION OF MARRIAGE/DOMESTIC PARTNERSHIP; AND MONEY AWARD - Page 5 of 13

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All payments of child support shall be made (check either (a) or (b) below):

- (a) To the Oregon Department of Justice, Child Support Accounting Unit, P.O. Box 14506, Salem, Oregon, 97309 or by electronic payment withdrawal (EPW) or electronic funds transfer (EFT).
- (b) Pursuant to the above exception, directly to Petitioner's Respondent's checking or savings account. A receipt of deposit shall be kept by the parent paying support as proof of payment. A canceled check is also prima facie evidence that payment has been made. The person receiving support shall provide the paying parent with current deposit slips and/or bank name, account name and account number.

NOTICE OF INCOME WITHHOLDING

This child support order is enforceable by income withholding under ORS 25.378 to 25.390, 25.414 to 25.372 and 25.375. Withholding shall occur immediately, whenever there is an arrearage at least equal to the support payment for one month, whenever the obligated parent requests such withholding, or whenever the obligee requests withholding for good cause. The District Attorney or, as appropriate, the Division of Child Support of the Department of Justice, will assist in securing such withholding. Exceptions may apply in some circumstances.

6. Dependents for Tax Purposes.

- Petitioner Respondent shall be entitled to claim the following child(ren) as dependent(s) for tax purposes beginning the year this judgment is entered (*list names*): _____
- _____
- OR
- Other (*specify*): _____
- _____

7. Life Insurance Coverage for Child/ren.

Petitioner Respondent shall obtain and maintain life insurance for the benefit of the parties' child/ren throughout the period of the support obligation if he/she is insurable. The coverage shall be in the amount of \$_____.

8. Spousal Support and Life Insurance.

- No spousal support or spousal life insurance is ordered in this case.
- The terms indicated on the inserted Supplement to Judgment shall be in effect.

9. Real Property Distribution.

- Neither Petitioner nor Respondent has any interest in any real property located in this or in any other state.
- Petitioner Respondent has/have an interest in real property located at the address of _____

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This property shall be distributed as follows: _____

- Additional page labeled "Paragraph 9 - Real Property Distribution continued" attached.
- The legal description of the property is attached as "Exhibit _____" and incorporated into this Judgment.
- Petitioner Respondent shall be responsible for the preparation, signing and recording of a deed, transferring the real property as required by this judgment.
- Distribution of this property is not within the jurisdiction of this court.

10. Personal Property Distribution (including motor vehicles).

The Petitioner and Respondent have divided between them all personal effects, household goods and other personal property they own separately or together, and each shall be awarded those items now in their possession.

The Petitioner is awarded the following personal property: _____

Additional page labeled "Paragraph 10 - Petitioner's Personal Property Distribution continued" attached.

The Petitioner is awarded his/her retirement benefits, pension plan, profit-sharing plan, deferred compensation plan, and/or stock option plan held by Petitioner's current or past employer, free of any interest in the Respondent.

The Respondent is awarded his/her retirement benefits, pension plan, profit-sharing plan, deferred compensation plan, and/or stock option plan held by Respondent's current or past employer, free of any interest in the Petitioner.

The Respondent is awarded the following personal property: _____

Additional page labeled "Paragraph 10 - Respondent's Personal Property Distribution continued" attached.

11. Distribution of Debts.

The debts shall be paid as follows:

Name of Creditor (who money is owed to)	What debt is for	Amount	Who shall pay (Petitioner or Respondent)

Additional page attached, labeled "Paragraph 11 - Distribution of Debts continued".

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Each party shall be responsible for the payment of all debts incurred by him/her individually since the date of the separation; all debts which are distributed to him/her by the court; and all debts which are secured by property distributed to that party. Also, if any creditor asks the spouse/domestic partner not responsible for a debt to pay all or a portion of it, and s/he does so, the spouse/domestic partner responsible for that debt shall reimburse the other spouse/domestic partner for any monies s/he paid to the creditor after the date this judgment was entered.

The date of separation (when you began living apart) was: _____.

12. Transfer of Property and Debts.

Within thirty (30) days of the date of this judgment, each party shall execute, acknowledge and deliver whatever documents are necessary to accomplish the distribution of debts and property ordered by the court. The judgment shall operate to convey title to the party awarded the property if the other party fails to comply with this requirement.

13. Former Name.

Petitioner's Respondent's former name of _____ is restored.

14. Additional Provisions: _____

Additional page attached labeled "Paragraph 14 - Additional Provisions continued".

15. Court Costs and Fees.

A. Deferred Costs and Fees

Any court costs and service fees (if service was completed by the Sheriff) that were deferred (required to be paid at a later date) by the court shall be paid by:

- Petitioner Respondent.
- Both parties equally

B. Costs and Fees Paid by the Parties

- Each party shall be responsible for paying his/her own court costs and service fees for this case.
- To be paid by both parties equally
- Petitioner Respondent shall reimburse the other spouse for his/her court costs and service fees for this case.

Other: _____

Judgment shall be entered according to the cost and fee allocation listed above.

16. Information Required by ORS 25.020 and ORS 107.085.

Based on a finding that the health, safety, or liberty of Petitioner Respondent or a child, _____, would unreasonably be put at risk by disclosure of the following information, Petitioner Respondent has been allowed not to disclose this information.

Both parties shall inform the Court and the Department of Justice (P.O. Box 14506, Salem, Oregon 97309) in writing of any change in the below information required by ORS 25.020 within ten (10) days of such change, unless a finding of unreasonable risk has been made in this case. If the court has ordered that a party be allowed not to disclose information, the Department of Justice or the District Attorney shall not disclose the information in the following section to the other parent.

Otherwise:

	Petitioner	Respondent
Full Name		
Former Legal Name(s)	Do not list here. List the information on the UTCR 2.130 Confidential Information Form (CIF).	Do not list here. List the information on the UTCR 2.130 Confidential Information Form (CIF).
Age		
Address or Contact Address		
Telephone Number		
Social Security Number	Do not list here. List the information on the UTCR 2.130 Confidential Information Form (CIF).	Do not list here. List the information on the UTCR 2.130 Confidential Information Form (CIF).
Driver License Number	Do not list here. List the information on the UTCR 2.130 Confidential Information Form (CIF).	Do not list here. List the information on the UTCR 2.130 Confidential Information Form (CIF).
Employer Name/Address/Phone	Do not list here. List the information on the UTCR 2.130 Confidential Information Form (CIF).	Do not list here. List the information on the UTCR 2.130 Confidential Information Form (CIF).

Additional page labeled "Paragraph 16 - Required Information continued" attached.

Date of marriage/domestic partnership: _____

Place of marriage/domestic partnership: _____

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17. **Money Award.** Child Support Obligation included not included.
 Spousal Support included not included.

	PETITIONER	RESPONDENT
Full Name		
Address or Contact Address		
Attorney's Name, Telephone Number and Address (if applicable)		
Year of Birth		
Last Four Digits of Driver License Number and State of Issuance		
Last Four Digits of the Support Obligor's Social Security Number		
The following information is to be provided by any party entitled to receive a money award (a "judgment creditor") as listed in this Judgment.		
Others Entitled to Portions of Judgment Payable to PETITIONER	The following person(s) or public bod(ies) are known by Petitioner to be entitled to a portion of a payment made on the judgment (other than Petitioner's attorney): <input type="checkbox"/> None or <input type="checkbox"/> _____ _____	
Others Entitled to Portions of Judgment Payable to RESPONDENT	The following person(s) or public bod(ies) are known by Respondent to be entitled to a portion of a payment made on the judgment (other than the Respondent's attorney): <input type="checkbox"/> None or <input type="checkbox"/> _____ _____	

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Type of Judgment		Amount of Judgment
Child Support Award	WHO PAYS <input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent	\$ _____ <input type="checkbox"/> per month, of which \$ _____ is cash medical support. Starting on <input type="checkbox"/> the first day or (day) _____ of the month following the date of the judgment
	WHO RECEIVES <input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent	
Spousal Support Award	WHO PAYS <input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent	1. \$ _____ per month starting on <input type="checkbox"/> the first day or <input type="checkbox"/> Other: _____ of the month following the date of the judgment, lasting until (date) _____, or the death of either party, whichever comes first; or 2. A lump sum payment of \$ _____ to be paid by (date): _____
	WHO RECEIVES <input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent	
SPOUSAL SUPPORT PAYMENTS ARE TAXABLE TO THE OBLIGEE SPOUSE AND DEDUCTIBLE TO THE OBLIGOR SPOUSE. ALL PAYMENTS TERMINATE UPON THE DEATH OF EITHER PARTY.		
Property Division (if applicable)	WHO PAYS <input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent	1. \$ _____ per month, starting on the <input type="checkbox"/> first day or <input type="checkbox"/> Other: _____ of the month following the date of the judgment until the total amount of \$ _____ is paid in full; or 2. A lump sum payment of \$ _____ to be paid by: _____ (date).
	WHO RECEIVES <input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent	
Prejudgment Interest (Note: ORS 21.607(1) disallows interest on fees that have been deferred.)	WHO PAYS <input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent	\$ _____
WHO RECEIVES <input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent		

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<p>Postjudgment Interest (Note: ORS 21.607(1) disallows interest on fees that have been deferred.)</p>	<p>WHO PAYS <input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent</p> <p>WHO RECEIVES <input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent</p>	<p>Nine percent (9 %) per annum simple interest on the unpaid balance of the total judgment amount(s) of \$_____. Interest accrues from the date the judgment is entered and continues until fully paid.</p>
<p>Accrued Arrears (if any, on judgments to be paid on a periodic basis)</p>	<p>WHO PAYS <input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent</p> <p>WHO RECEIVES <input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent</p>	<p>1. \$_____ per month, starting on the <input type="checkbox"/> first day or <input type="checkbox"/> Other:_____ of the month following the date of the judgment until the total amount of \$_____ is paid in full; or</p> <p>2. A lump sum payment of \$_____ to be paid by: _____ (date).</p>
<p>Costs and Service Expenses (e.g., filing fees, hearing fees, trial fees, process fees)</p>	<p>WHO PAYS <input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent</p> <p>WHO RECEIVES <input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent</p>	<p>\$_____</p>
<p>Attorneys Fees (if any)</p>	<p>WHO PAYS <input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent</p> <p>WHO RECEIVES <input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent</p>	<p>\$_____</p>

DATED this _____ day of _____, 20_____.

Circuit Court Judge

Print Name

**CERTIFICATION OF COMPLIANCE
WITH BRIEF LENGTH AND TYPE SIZE REQUIREMENTS**

Brief length

I certify that (1) this brief complies with the word-count limitation in ORAP 5.05(2)(b) and (2) the word count of this brief (as described in ORAP 5.05(2)(a)) is 2,803 words.

Type size

I certify that the size of the type in this brief is not smaller than 14 point for both the text of the brief and footnotes as required by ORAP 5.05(2)(d)(ii) and 5.05(4)(g).

____**SIGN HERE**____

J. Michael Lawyer (OSB No. 000000)
Of Attorneys for Appellant

PROOF OF SERVICE

I certify that on the 3rd day of April, 2000 the original foregoing Petitioner's Brief was deposited in the United States Post Office at Anycity, Oregon, with first class postage prepaid thereon addressed to:

Appellate Court Administrator
Appellate Courts Records Section Records Section
1163 State Street
Salem OR 97301-2563

I further certify that on the 3rd day of April, 2000 two (2) copies of the foregoing Petitioner's Brief were deposited in the United States Post Office at Anycity, Oregon, with first class postage prepaid thereon addressed to:

Russell Attorney
Attorney for Respondent
[address]

SIGN HERE

J. Michael Lawyer, OSB No. 000000
Of Attorneys for Petitioner