IN THE CIRCUIT COURT OF THE ­­­­­­\_\_\_\_\_\_\_\_\_ JUDICIAL CIRCUIT,

IN AND FOR \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ COUNTY, FLORIDA

CASE NO.: \_\_\_\_\_\_\_\_\_\_\_\_

FAMILY DIVISION

, Petitioner,

and

, Respondent.

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**PETITIONER’S MOTION FOR CONTEMPT**

COMES NOW, the Petitioner, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, by and through the undersigned counsel, and moves this Honorable Court to enter an order to hold Respondent in contempt of court for the following reasons:

1. Respondent has a child support obligation pursuant to his/her Final Judgment for Dissolution of Marriage or other order of the Court, previously entered on \_\_\_\_\_\_\_. The monthly child support obligation is $\_\_\_\_\_\_\_\_.
2. Attached to this motion is a certified copy from the clerk of this court/ State Disbursement Unit showing the current arrearages OR an affidavit signed by the movant attesting to arrearages through \_\_\_\_\_\_\_ of $\_\_\_\_\_\_\_\_. Respondent has failed to pay the child support obligation from \_\_\_\_\_\_\_\_\_\_\_ through \_\_\_\_\_\_\_. This results in \_\_\_\_\_\_\_ months of delinquency multiplied by the support obligation per month and a resulting arrearage of $\_\_\_\_\_\_\_\_, and additionally all accrued statutory interest thereon.
3. Florida Family Law Rule of Procedure 12.615 governs civil contempt proceedings in support matters related to family law cases. The purpose of Fla. Fam. L.R.P. 12.615 is to “compel compliance with a court order or to compensate a movant for losses sustained as a result of a contemnor's willful failure to comply with a court order.” The purpose of civil contempt proceedings is to preserve and enforce rights of private litigants and to compel obedience to orders and decrees of the court made for the benefit of such parties. *Deter v. Deter*, 353 So.2d 614 (Fla. 4th DCA 1977).
4. At the hearing, after the court makes an express finding that the alleged contemnor had notice of the motion and hearing, the court must determine whether the moving party has established that a prior order directing payment of support was entered and that the alleged contemnor has failed to pay all or part of the support set forth in the prior order. Fla. Fam. L.R.P. 12.615(c)(1).
5. After the movant proves that under Fla. Fam. L.R.P. 12.615(c)(1) the contemnor has failed to pay, if the contemnor is present, the court must determine whether the alleged contemnor has the present ability to pay. Fla. Fam. LRP 12.615(c)(2)(A). Because the contemnor is presumed to have the ability to pay by the dissolution of marriage support order, it is the contemnor’s burden to dispel the presumption. *Bowen v. Bowen*, 471 So. 2d 1274, 1276 (Fla. 1985). If the contemnor is not present, the court must set a reasonable purge amount based on the individual circumstances of the parties and the court may issue a writ of bodily attachment directing that the alleged contemnor be brought before the court within 48 hours for a hearing on whether the alleged contemnor has the present ability to pay. Fla. Fam. L.R.P. 12.615(c)(2)(B).
6. If the court orders incarceration, a coercive fine, or any other coercive sanction for failure to comply with a prior support order, the court shall set conditions for purge of the contempt based on the contemnor’s present ability to comply and the order must state the factual basis. Fla. Fam. LRP 12.615(e). Contemnor has the present ability to comply with a purge amount because he/she owns assets including \_\_\_\_\_\_\_\_\_\_\_\_. See *Bowen v. Bowen*, 471 So.2d 1274, 1279 (Fla. 1985) (holding that “[i]n determining whether the contemnor possesses the ability to pay the purge amount, the trial court is not limited to the amount of cash immediately available to the contemnor; rather, the court may look to *all assets* from which the amount might be obtained.”).
7. In the present case, Petitioner will prove that there was a prior order entered by which Respondent was ordered to pay child support and/or alimony, the alleged contemnor failed to pay, the contemnor has the present ability to pay and the non-payment was willful.
8. Petitioner has retained the undersigned counsel and has agreed to pay to them a reasonable fee for their services for which Respondent should be liable for. Accordingly, Petitioner requests that Respondent reimburse undersigned counsel whom Petitioner retained for this matter in the amount of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Petitioner further requests an award of all taxable court costs.

WHEREFORE, Petitioner respectfully requests that this Honorable Court hold Respondent in contempt of court for violating the Judgment of Dissolution of Marriage entered in this court on \_\_\_\_\_\_ (date) by failing to make support payments from \_\_\_\_\_\_\_ to \_\_\_\_\_\_ in a monthly amount of $\_\_\_\_\_\_\_\_ resulting in an arrearage of $\_\_\_\_\_\_\_\_\_, together with accrued interest, setting an appropriate purge amount and time frame within which to purge contempt, incarceration if appropriate, and any other relief as may be just and proper. Petitioner also respectfully requests reasonable attorney’s fees and for costs.

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2015.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been mailed and/or emailed to Respondent at \_\_\_\_\_\_\_\_\_\_\_\_, email (if known) \_\_\_\_\_\_, this \_\_\_\_ day of \_\_\_\_\_\_\_\_, 2015.

Your Support Solution, P.A. d/b/a

Support Solutions

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