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IN THE FOURTH JUDICIAL DISTRICT COURT UTAH COUNTY, STATE OF UTAH	
In the matter of the marriage of: SABRINA NEVES and DAVID NEVES	MODIFIED DECREE OF DIVORCE AND JUDGMENT Case No. 234100047 Judge Denise M. Porter Commissioner Marian Ito

This matter is before the court on a bench trial held on December 10, 2025, on competing petitions to modify the Decree of Divorce. David Neves was present and represented by counsel, Aaron P. Dodd. Sabrina Neves was present pro se. The court entered its Findings of Fact and Conclusions of Law on April 27, 2026. Being fully advised in the premises, the court now enters the Modified Decree of Divorce and Judgment.

1. A stipulated Decree of Divorce (“Decree”) was entered in this matter on August 13, 2023.
2. Petitioner, Sabrina Neves, and David are the biological parents of one minor child: L.N., born September 2013.
3. The Decree awards each parent joint legal custody of the minor child with Mother having

primary physical custody of the minor child, subject to Father's reasonable rights of parent time, as indicated herein.

4. The Decree awards David parent-time consistent with Utah Code Annotated § 30-3-35 (now § 81-9-302).
5. At the time of the Decree, David was earning \$25,416 per month for purposes of calculating child support.
6. At the time of the Decree, Sabrina was imputed earning \$2,600.00 per month for purposes of calculating child support. *Id.*
7. The Decree ordered David to pay Sabrina \$2,184 a month in child support pursuant to Utah Child Support Guidelines. *Id.*
8. The Decree states that David shall pay Sabrina alimony as follows:
 - a. Commencing August 1, 2023, David shall pay Sabrina alimony in the amount of \$5,816 per month, through July 31, 2025.
 - b. Commencing August 1, 2025, David shall pay Sabrina alimony in the amount of \$3,816 per month, through July 31, 2028.
 - c. Commencing August 1, 2028, David shall pay Sabrina alimony in the amount of \$816 per month, through July 31, 2029.
 - d. The alimony is due one-half on the 11th and one-half on the 26th of each month.
 - e. The alimony shall automatically terminate upon payment for six (6) years as indicated herein, or upon the death of either party, or upon Sabrina's remarriage or cohabitation as defined under Utah law, whichever occurs first.

9. The Decree awards Sabrina the marital home and the equity therein, and she was given 24 months to refinance the marital home and remove David from all liability on the home.
10. The Decree orders the parties to divide the personal property not otherwise awarded in the Decree within 30 days.
11. The Decree awards David his retirement accounts with an approximate combined value of \$161,992.
12. The Decree orders David to pay \$30,236 of the marital credit card debt and for Sabrina to pay \$7,171 of the marital credit card debt.
13. The Decree orders David to pay off a loan debt of \$20,000.

Requested Modifications

14. David filed a Verified Petition to Modify Decree of Divorce on February 16, 2024, seeking to modify his child support and alimony obligations, due to a change in employment and a reduced income from \$25,416 per month at the time the Decree was entered to \$13,333 per month.
15. On October 15, 2024, David filed an Amended Verified Petition to Modify Decree of Divorce, seeking to further modify his child and alimony obligations, due to losing his employment entirely.
16. On October 29, 2024, Sabrina filed an Answer and Counter-Petition to Modify. *See* Dkt.170. In her Counter-Petition to Modify, Sabrina alleged that the retirement accounts that David was awarded in the Decree should be divided 50/50. Sabrina further requested

an extension of time to refinance the marital home.

17. On March 15, 2025, Sabrina remarried.

Issues Before the Court

18. The issues before the court include: (1) whether material and substantial changes in the circumstances warrant a modification of David's child support obligation; (2) whether David's employment changes were voluntary; (3) whether David's withdrawals from his 401(k) retirement fund is considered income for calculating child support; (4) whether David's income changes were temporary; (5) whether David's income changes constitute material changes of 30% or more under Utah Code § 81-6-212(3)(c)(iii); (6) whether substantial and material changes in the circumstances not expressly stated in the Decree exist to modify David's alimony obligation prior to Sabrina's remarriage, including the needs and income earning ability of Sabrina; (7) whether alimony terminates as of March 15, 2025 or the month following the marriage date; (8) whether Social Security benefits on behalf of the minor child received by David should be paid to Sabrina.

Relevant Law

19. **Child Support Modification.** Utah Code § 81-6-212 governs the modification of a child support order. Under Utah Code § 81-6-212(3), a parent may petition the court to adjust the amount of the child support order "if there has been a substantial change in the circumstances." A substantial change in circumstances include "material changes of 30% or more of the income of a parent". *See* Utah Code § 81-6-212(3)(c)(iii).
20. Upon receiving a petition to modify, and after taking into account the best interests of the

child, the court must:

- (a) determine whether a substantial change has occurred;
- (b) if a substantial change has occurred, determine whether the change results in a difference of 15% or more between the obligor's ordered support amount and the obligor's support amount that would be required under the child support guidelines; and
- (c) adjust the obligor's ordered support amount to that which is provided for in the child support guidelines if:
 - (i) there is a difference of 15% or more; and
 - (ii) the difference is not of a temporary nature.

Utah Code § 81-6-212(4).

- 21. Utah Code § 81-6-101(31) defines “temporary” as follows: “‘Temporary’ means a period of time that is projected to be less than 12 months in duration.”
- 22. Utah Code § 81-6-203(2) sets forth how to determine the gross income for child support:
 - (a) To calculate gross income of a parent, the court or administrative agency may include:
 - (i) prospective income of the parent, including income from earned and non-earned sources, such as salaries, wages, commissions, royalties, bonuses, rents, gifts from anyone, prizes, dividends, severance pay, pensions, interest, trust income, alimony from previous marriages, annuities, capital gains, Social Security benefits, worker compensation benefits, unemployment compensation, income replacement disability insurance benefits, and payments from nonmeans-tested government programs; and
 - (ii) income imputed to the parent as described in Subsection (6).
 - (b) Income from earned income sources is limited to the equivalent of one full-time 40-hour job.
 - (c) If and only if during the time before the original support order, the parent normally and consistently worked more than 40 hours at the parent's job, the court may consider this extra time as a pattern in calculating the parent's ability to provide child support.
- 23. Utah Code § 81-6-203(6) provides for imputation of income to determine child support:
 - (a) The court or administrative agency may not impute income to a parent unless the parent stipulates to the amount imputed, the parent defaults, or, in contested cases, a hearing is held and the court or administrative agency enters

findings of fact as to the evidentiary basis for the imputation.

(b) If income is imputed to a parent, the court or administrative agency shall base income upon employment potential and probable earnings considering, to the extent known:

- (i) employment opportunities;
- (ii) work history;
- (iii) occupation qualifications;
- (iv) educational attainment;
- (v) literacy;
- (vi) age;
- (vii) health;
- (viii) criminal record;
- (ix) other employment barriers and background factors; and
- (x) prevailing earnings and job availability for persons of similar backgrounds in the community.

(c) If a parent has no recent work history or a parent's occupation is unknown, the court or administrative agency may impute an income to that parent at the federal minimum wage for a 40-hour work week.

(d) To impute a greater or lesser income, the court or administrative agency shall enter specific findings of fact as to the evidentiary basis for the imputation.

(e) The court or administrative agency may not impute income to a parent if any of the following conditions exist and the condition is not of a temporary nature:

- (i) the reasonable costs of child care for the parents' minor child approach or equal the amount of income the custodial parent can earn;
- (ii) a parent is physically or mentally unable to earn minimum wage;
- (iii) a parent is engaged in career or occupational training to establish basic job skills; or
- (iv) unusual emotional or physical needs of a child require the custodial parent's presence in the home.

24. Utah Code § 81-6-203(8)(a) provides that the court “shall credit, as child support, the amount of social security benefits received by a child due to the earnings of the parent on whose earning record the social security benefits are based by crediting the amount against the potential obligation of that parent.”

25. **Alimony Modification.** Utah Code § 81-4-502 governs the court’s determination of

awarding alimony, except that Subsection (4) may not be used as the basis to modify alimony if the petition for divorce was filed before May 1, 2024.

26. Utah Code § 81-5-504 provides the “court has continuing jurisdiction to make substantive changes and new orders regarding alimony based on substantial material changes in circumstances not expressly stated in the divorce decree...”
27. Utah Code § 81-4-503 provides direction to the court for imputing income for alimony purposes.
28. “[A] court has continuing jurisdiction over the alimony award, it may exercise that jurisdiction only to ‘make substantive changes and new orders regarding alimony based on a substantial material change in circumstances not foreseeable at the time of the divorce.’” *Rule v. Rule*, 2017 UT App 137, ¶ 17, 402 P.3d 153 (citing Utah Code § 30-3-5(8)(i)(i), now Utah Code § 81-4-504(1)).
29. “Three factors ... must always be considered [] before awarding alimony: (1) the financial needs and condition of the [recipient spouse]; (2) the ability of the [recipient spouse] to provide a sufficient income for himself [or herself]; and (3) the ability of the [payor] spouse to provide support.” *Jones v. Jones*, 700 P.2d 1072, 1075 (Utah 1985).
“The most important function of alimony is to provide support for the [recipient spouse] as nearly as possible at the standard of living ... enjoyed during the marriage, and to prevent the [recipient spouse] from becoming a public charge.” *Jones v. Jones*, 700 P.2d 1072, 1075 (Utah 1985).
30. “[R]egardless of the payor spouse’s ability to pay more, the recipient spouse’s

demonstrated need must constitute the maximum permissible alimony award.” *Eberhard v. Eberhard*, 2019 Utah App 114, 36, 449 P.3d 402 (citation omitted).

31. “[I]n considering these factors, the trial court is required to make adequate factual findings on all material issues, unless the facts in the record are ‘clear, uncontroverted, and capable of supporting only the findings in favor of the judgment.’” *Haumont v. Haumont*, 793 P.3d 421, 424 (Utah App. 1990).
32. “[W]e have established a process to be followed by courts considering an award of alimony that is applicable generally, including cases ultimately involving shortfall situations. First, the court should ‘assess the needs of the parties, in light of their marital standard of living.’ This means that the court must determine the parties’ needs ‘reasonably incurred, calculated upon the standard of living ... enjoyed during the marriage.’ Next, the court should determine the extent to which the receiving spouse is able to meet her own needs with her own income. If the court determines that the receiving spouse is able to meet all her needs with her own income, ‘then it should not award alimony.’ *Rule*, 2017 UT App 137, ¶ 19 (internal citations omitted).
33. “If the court finds, however, that the receiving spouse is not able to meet her own needs, it should then ‘assess whether [the payor spouse’s] income, after meeting his needs, is sufficient to make up some or all of the shortfall between [the receiving spouse’s] needs and income.’ This step should be undertaken ‘with an eye towards equalizing the parties’ standard of living only if there is not enough combined ability to maintain both parties at the standard of living they enjoyed during the marriage.’ Too often, this dilemma that a

divorce court must confront – the parties’ combined resources do not stretch far enough to meet the legitimate needs of what are now two households rather than one. Although we have referred to this approach of ‘equalization of income,’ it is best described as the ‘equalization of poverty,’ and its goal ‘is to ensure that when the parties are unable to maintain the standard of living to which they were accustomed during marriage, the shortfall is equitably shared.’” *Rule*, 2017 UT App 137, ¶ 20 (internal citations omitted).

34. “District courts generally have ‘broad discretion in selecting an appropriate method of assessing a spouse’s income.’” *Eberhard*, 2019 Utah App 114, ¶ 20 (citation omitted); *see also Davis v. Davis*, 2003 UT App 282, ¶ 10 n.3, 76 P.3d 716 (concluding that “while the trial court could have considered [a portion of the wife’s monthly paycheck that she saved for retirement] as income, the court did not exceed its permitted range of discretion in choosing not to do so”). “Indeed, Utah law specifically grants district courts ‘flexibility to consider all sources of income’ without mandating that the court treat all sources as income for purposes of calculating alimony.” *Eberhard*, 2019 UT App 114, ¶ 20. District courts “must be able to consider all sources of income that were used by the parties during the marriage to meet their self-defined needs from whatever source ... as well as unearned income.” *Id.* at ¶ 21 (citation omitted). “But while this caselaw directs district courts to consider all sources of income when determining alimony, it does not dictate that all sources of income be counted as income received by a spouse for that purpose. Rather, we read this caselaw as preserving a district court’s broad discretion to treat sources of income as the court see fit under the circumstances.” *Id.*

35. “Retirement benefits accrued during the marriage must normally be ‘considered a marital asset subject to equitable distribution upon divorce.’” *Burt v. Burt*, 799 P.2d 1166, 1170 (Utah App. 1990) (citation omitted).
36. **Alimony Termination.** Utah Code § 81-4-505(1)(a) provides, “Except as provided in Subsection (1)(b), or unless a decree of divorce specifically provides otherwise, any order of the court that a payor pay alimony to a payee automatically terminates upon the remarriage or death of that payee.” (emphasis added).
37. Utah Code § 81-4-505(1)(b) is not relevant to this action as Sabrina’s remarriage has not been annulled.

Relevant Factual Findings

38. On or about October 18, 2023, just sixty-six (66) days after the divorce was finalized, David was unexpectedly fired from his job.
39. David was given severance pay for 6 pay periods, in the amount of \$69,905.23, less deductions, withholdings, and applicable taxes. David presented to the court as Exhibit 1, the Separation Agreement & General Release he entered into with his former employer, setting forth the terms and conditions of the severance and release of claims.
40. At trial, David was questioned about the reason for his job loss. David indicated this job loss was through no fault of his own. There was no testimony or other evidence to the contrary. The Court finds that David’s job loss was involuntary and there was no malfeasance on his part in David losing this job.
41. David informed Sabrina of his job loss, and Sabrina went to the Office of Recovery

Services (“ORS”) in October 2023 and ORS subsequently began collecting child support and alimony from David’s employer.

42. David immediately started looking for work in the same industry and found a job in the same industry with Buyers Edge Platform, earning a gross salary of \$13,333.34 per month.
43. David provided the court paystubs from his new employment, as Exhibits 2 and 4.
44. Due to the unexpected and substantial change in income, David filed a Verified Petition to Modify Decree of Divorce on February 16, 2024, seeking to modify his child support and alimony obligations, based on his reduced income.
45. Sabrina was served the Verified Petition to Modify Decree of Divorce, and a copy of the Summons, on February 18, 2024.
46. Due to the change of employment, David’s income decreased by \$12,082.66 a month due to the loss of his job; a decrease of nearly 47.5%.
47. David offered testimony and written documentation of his substantial job search efforts. The Court finds that David made appropriate and significant job search efforts where he quickly and reasonably found new employment, even though it was at a substantially lower pay. The Court further finds this lower pay was not due to any attempt at voluntary unemployment but was due to lack of other job offers or opportunities.
48. Based on the testimony and paystubs provided, David was paid twice per month by Buyers Edge Platform. Each month, David’s tax deductions were as follows:

Federal Income Tax:	\$1,951.08
Social Security Tax:	\$797.05
Medicare Tax:	\$186.41

UT State Income Tax: \$563.72
Total tax deductions: \$3,498.26

49. The court finds that while David was working at Buyers Edge Platform, his after tax income was \$9,835.08 per month.
50. An employee with the Office of Recovery Services (“ORS”) testified at trial, and Exhibit 47 was submitted as evidence. Exhibit 47 is the full case account history regarding payments made for child support and alimony and the outstanding balances. While David was working at Buyers Edge Platform, ORS took an average of about \$4,960 from David’s paycheck each month.
51. Based on David’s paystubs from Buyers Edge Platform and the ORS case history document, after all tax deductions, other deductions, and support payments were deducted from David’s paycheck, David took home on average \$3,673.14 per month while he was employed at Buyers Edge Platform.
52. Based on David’s testimony and his 2024 tax return that was received as Exhibit 17, because his take home pay was so low after taxes and support garnishments, and due to his living expenses, the debts he was required to pay from the Decree, and to pay his attorney fees in the present action, David was required to withdraw approximately \$80,000 from his 401(k) retirement accounts in 2024.
53. On September 4, 2024, David was unexpectedly terminated from his employment with Buyers Edge Platform.
54. David admitted into evidence Exhibit 5, which is his Separation Agreement with Buyers

Edge Platform, also known as Dining Alliance, LLC.

55. David was provided two weeks of severance pay at the rate of his then current salary, less all appropriate taxes and other deductions, plus an additional payment of \$400.
56. Again, David testified at trial that this loss of employment was through no fault of his own and that as the most junior person in his department, he was the first person to be terminated when cutbacks were necessary. No evidence was received to contradict this testimony. The Court again finds no malfeasance or attempts at voluntary unemployment by David in this loss of employment.
57. On October 15, 2024, David filed an Amended Verified Petition to Modify Decree of Divorce, seeking to further modify his child and alimony obligations, based on his reduced income from losing his employment at first job, and also based on losing his second job at Buyers Edge Platform. *See* Dkt.167.
58. On October 29, 2024, Sabrina filed an Answer and Counter-Petition to Modify. *See* Dkt.170. In her Counter-Petition to Modify, Sabrina alleged that the retirement accounts that David was awarded in the Decree should be divided 50/50. Sabrina also requested additional time to refinance the home.
59. After being terminated on September 4, 2024, David again began actively looking for employment.
60. After David did not immediately find employment, David applied for and received unemployment benefits from October 5, 2024, to March 29, 2025, in the amount of \$746.00 per week, less applicable taxes and garnishments from ORS.

61. David admitted Exhibit 14 into evidence, which was his weekly payment history for unemployment.
62. Both Exhibit 14 and Exhibit 47 (the Office of Recovery Services Full History Case report), shows that ORS was taking \$373 per week from David's unemployment benefits.
63. After being unable to find employment, and with no other source of income other than unemployment benefits, David elected to apply for social security retirement benefits on or about November 13, 2024. To be clear, David testified at trial that he did not desire to retire at that time, but financially, this was his only available option given that his job search was not going well. David was also of an age to begin receiving those retirement benefits but at a reduced amount.
64. Exhibit 21 is David's Social Security Benefit letter, showing that David received social security income for one month in 2024, and that month was December 2024 in the amount of \$3,186.
65. Exhibit 47 shows that ORS was originally taking \$1,800.60 per month from David's social security benefit by March 2025, and then by May 2025, ORS was taking \$1,808.40 of David's social security benefit for child support and alimony. *See also* Exhibit 20, letter from Social Security.
66. The court finds that even though David retired and was receiving social security benefits, David continued to make reasonable efforts to find gainful employment in similar scope and stature to the employment he enjoyed at the time of his divorce.
67. David testified that he applied for hundreds of jobs after he lost his job from Buyers Edge

Platform on September 4, 2024, until he found another job and started working on September 22, 2025, at ATG Entertainment.

68. Beginning January 1, 2025, David's full monthly social security benefit is \$3,199.30, and \$184.40 was automatically deducted from that amount each month for medical insurance premiums, leaving David with a monthly Social Security payment of \$3,014 per month in 2025, less garnishments from ORS.
69. Social security also paid to David the benefit for his daughter – in December 2024 it was \$1,886; it increased to \$1,894 per month from January to March 2025.
70. Beginning April 1, 2025, Sabrina began receiving \$1,894 each month as payee for social security benefits on behalf of the parties' minor child, which benefit is based on David's earning record with Social Security.
71. On March 15, 2025, Sabrina remarried.
72. ORS continues to collect child support and alimony payments from David, as shown in Exhibit 47, the Full Case Account History.
73. According to the Full Case History, from October 2023 to December 3, 2025, ORS shows that the combined amount of child support and alimony that David was ordered to pay to Sabrina was \$163,252.32. ORS withheld \$80,113.87 from David, and ORS has given David credit for \$19,856.61 in payments he made directly to Sabrina. According to ORS, David's outstanding child support and alimony obligation to Sabrina, through December 3, 2025, is \$63,281.84.
74. However, ORS's records show that ORS did not give David a reduction for Sabrina being

married on March 15, 2025, as they charged David the entire month of March 2025 for a \$5,816 alimony obligation.

75. The Court finds that David lost his employment in October 2023, and he subsequently obtained new employment earning \$13,333.34 gross income per month.
76. The Court finds that by February 2024, David's gross income was reduced from \$25,416 per month to \$13,333.34 per month, a decrease of \$12,082.66 per month.
77. David testified that he applied for hundreds of jobs after he lost his job from Buyers Edge Platform on September 4, 2024, until he found another job and started working on September 22, 2025, at ATG Entertainment.
78. Exhibit 30 is David's paystubs from his new employment, and David earns a gross salary of \$17,500 per month.
79. The court finds that David made reasonable efforts to find new employment during the time period that he was unemployed and that there was no malfeasance on David's part for being unemployed.
80. The Court finds that David's reduction in income from losing his employment just after the Decree was entered, and through his unemployment and retirement, and until he found new employment on September 22, 2025, constitutes a substantial and material change in circumstances, and that it is in the best interests of the parties' minor child to modify David's child support obligation beginning the month after Sabrina was served the petition to modify. *See* Utah Code § 81-7-102(5)(b). While David's income has returned to an income somewhat similar to what he enjoyed at the time of the divorce, his

loss of two different jobs and a period of lengthy unemployment financially then forced him into applying for social security retirement benefits to survive. The Court finds David did not believe this lack of employment was temporary in nature given his significant job search without results and would have loved to have been reemployed more quickly at the same or higher rate of pay. Quite frankly, David's application for social security retirement benefits has now become a significant burden to him and also financially harmful in the long term now that he was lucky¹ enough to regain well-compensated employment.

81. The court further finds that David's loss of income was not temporary, regardless of David's belief as noted above. Utah Code § 81-6-101(31) defines "temporary" as a period of time that is projected to be less than 12 months of duration." While David certainly hoped he would find new employment quickly, the reality was that this did not occur. David's income reduction was longer than a period of 12 months. In fact, David's income changed no later than January 2024, where he was receiving a gross monthly income of \$13,333. Then on September 4, 2024, David lost his employment again and was receiving unemployment benefits up through March 2025 and began receiving social security retirement benefits. Even with David's new employment, beginning September 22, 2025, David's income reduced more than 30% since the Decree was entered.

¹ The Court uses the phrase "lucky enough" advisedly because David testified at trial that his current improved employment status was not due to his own detailed personal search for employment but was the result of the company reaching out to him based on his LinkedIn profile alone. He did not search for or initiate the application procedure for his current employment, they found him

82. The Court does not count the money that David withdrew from his 401(k) retirement accounts in 2024 to count as income for purposes of determining gross income for child support purposes. Utah Code § 81-6-203(2)(a)(i) does not include 401(k) retirement income as gross income². Moreover, the Court finds and concludes withdrawals from a 401(k) account is not to be counted as earned income and the Court considers this money as a previously divided asset and not income. David had to rely upon this previously divided asset to pay off the debts he was required to pay as part of the Decree of Divorce, daily living expenses while he was unemployed, and to pay his attorney's fees in this action.
83. Sabrina testified that she started school part-time and she was working part-time after the Decree was entered.
84. Sabrina's Financial Declaration, admitted as Exhibit 31 and on file with the court as docket 100, states she was earning \$22.00 per hour at her part-time job.
85. Sabrina testified that she chose to leave the job earning \$22 per hour because she could not make enough money in that field.
86. Sabrina testified that she has no disabilities or impairments that would prevent her from working full-time.
87. Sabrina is 35 years-old with no criminal history. She is in good health and was well spoken at trial and intelligent.

² The Utah Code does include the term "pension" in the referenced section but a pension is a separate and distinct defined benefit and repeating source of income for someone in retirement while a 401(k) is simply a tax advantaged savings account owned by an individual most often used for retirement income.

88. Sabrina testified that the parties' minor child, who is 12 years old, has no special or unusual emotional or physical needs that would prevent Sabrina from working full-time outside of the home.
89. Sabrina testified that she left her previous employment and obtained her real estate license on or about October 2024. At trial, Sabrina's testimony was that the chosen field of study was not sufficiently remunerative with job prospects to justify continuing to study/pursue the degree she had chosen or her field of study chosen given her changed life plan and status and that she had to make new plans. This was, she explained, her reasoning for following through with a decision to become a realtor and then pursuing this line of work.
90. Sabrina was originally imputed a gross monthly income of \$2,600 in the Decree. Given Sabrina's shift in employment given her own change in plan from studying to employment, the Court accordingly factored in her new earning numbers to reflect these decisions in these findings and conclusions.
91. The Court finds that Sabrina is capable of working full-time. Although Sabrina is a licensed real estate agent and she recently sold her first property, there was little evidence presented regarding Sabrina's earning ability as a licensed real estate agent.
92. With that said, given that Sabrina is no longer a part-time student and she is capable of working full-time, the court finds that imputing Sabrina at \$22 per hour is reasonable, given her recent prior work history at earning \$22 per hour; her good health and lack of impairments; her going to college even though she did not obtain a degree; her acquisition of

her real estate license; her age; her lack of criminal record; and the lack of any special or unusual needs of the parties' minor child requiring a higher than normal level of care.

93. The Court also finds that the parties do not need daycare for their minor child given the child's current age and lack of special needs.
94. The Court finds that Sabrina's income for child support purposes shall be imputed at \$3,813.33 per month.
95. David's income since his petitions to modify were filed have changed over time due to another job loss, then a lengthy period of unemployment, and eventually re-employment.
96. From February 2024 to September 2024, David's gross monthly income was \$13,333.
97. David began receiving unemployment benefits October 5, 2024, in the gross amount of \$746 per week, through March 29, 2025, for a period of 26 weeks, or \$3,232 per month. David began receiving social security retirement benefits in December 2024 in the amount of \$3,186 per month in 2024 and then \$3,199 per month in 2025. David also received the monthly social security benefit for his daughter of about \$1,886 for December 2024; and \$1,894 from January 2025 to March 2025.
98. David asserts that the court should not require David to pay this benefit to Sabrina as the benefit is for the parties' minor child and David was the payee during December 2024 to March 2025 and was paying child support during this time. David paid an average of \$2,079.38 in support payments between October 1, 2024 and September 3, 2025. The Court disagrees with this assessment. The money secured from the Social Security Administration for the benefit of David's daughter should have gone directly to her and

not be used to prop up David's decimated income. Additionally, because a significant amount of that money may need to be repaid, the Court also finds it in all parties' interest to keep those payments calculated on one side of the ledger as it were.

99. David's gross monthly income beginning October 1, 2025, is \$17,500 for child support purposes. The Court finds that even though David is still receiving social security retirement benefits, given his income level, David will likely have to pay essentially all of his social security benefit back to the government in taxes. Accordingly, the Court finds it reasonable and appropriate not to consider David's social security retirement benefit when calculating his gross income, and such discretion is specifically allowed under Utah Code § 81-6-203(2)(a), wherein the court "may" include various income sources as gross income. The Court does note that in the addendum chart and in these findings the Court considered his social security as "income" for when he was jobless to show why there should be adjustments in support and alimony to reflect his actual employment and efforts to become re-employed. As noted above, he will have to nevertheless pay all of this back as income, so David has not benefited from this framework.
100. Because David's overall reduction in income was not temporary and lasted well over 12 months, the Court finds it proper to retroactively modify David's child support obligation between March 1, 2024 and September 30, 2024, based on his gross monthly income of \$13,333 per month and Sabrina's imputed income of \$2,600 per month.
101. Under Utah Code § 81-7-102(5), and the child support guidelines, David's child support obligation, beginning March 1, 2024 to September 30, 2024, is retroactively modified to

\$1,168 per month.

102. The Court finds that David's job loss in September 2024 constitutes a substantial and material change in the circumstances, and that it is in the best interests of the child that David's child support obligation be modified retroactively beginning October 1, 2024.
103. The Court is choosing not to include in Sabrina's gross income the social security benefit she received on behalf of the parties' minor child during this time period. Under the child support guidelines, the court beginning October 1, 2024, David's child support obligation is retroactively modified to \$394 per month. This is so because the court has done a month-to-month calculation to account for David's job loss in September 2024, and Sabrina's real estate license increase in earning potential. Thus, for October-November 2024, the Court assessed David as having an income of \$3,232 and Sabrina of \$3,813. Under the calculated guidelines, this results in a support payment for these months of \$394.
104. Beginning October 1, 2025, with David's gross monthly income of \$17,500 and Sabrina's imputed income of \$3,813 per month, David's child support obligation is retroactively modified to \$1,445 per month.
105. The Court finds that Sabrina receives and has been receiving the Social Security benefit on behalf of the parties' minor child since April 1, 2025, which benefit is \$1,894 per month.
106. Under Utah Code § 81-6-203(8)(a), David is credited, as child support, the amount of social security benefits Sabrina received on behalf of the parties' minor child. Sabrina

began receiving the child's social security benefit on April 1, 2025, and accordingly, David is credited as paying the full child support obligation since April 1, 2025 for as long as Sabrina receives the social security benefit that is equal to or greater than his child support obligation. However, additional evidence was taken on March 23, 2026, regarding the potential clawback of David's social security benefits, due to David becoming re-employed on September 22, 2025. Sabrina received paperwork from social security, stating that the social security benefits to the parties' minor child terminated as of January 2026 due to David's reemployment. Sabrina did, however, receive those social security benefits through March 2026 on behalf of the minor child. Accordingly, it is expected that social security will clawback benefits paid to Sabrina on behalf of the minor child. While it is unknown when and how social security may enact the clawback, if social security takes money back from Sabrina due to an overpayment regarding the minor child, David is ordered to reimburse Sabrina for any money Sabrina has to pay back for which David was credited as child support. For example, if on a given month David's child support obligation was 1,400 and Sabrina received \$1,800 from social security on behalf of the parties' minor child, and later Sabrina was required to pay and did pay back social security \$1,800 for that given month, then David is ordered to pay Sabrina \$1,400 for that month's child support obligation. Sabrina would be solely responsible for the remaining \$400 obligation to social security. For Sabrina to be reimbursed from David, she must submit proof to David within 30 days of Sabrina's receipt of payment to social security and the paperwork from social security which

required Sabrina to pay back the overpayment. David is ordered to reimburse Sabrina his portion within 30 days of proof of payment and proof from social security of Sabrina's requirement to be reimbursed.

107. If Sabrina receives social security benefits on behalf of the parties' minor child, David shall be credited the amount of social security benefits received by the parties' minor child against his child support obligation.
108. As set forth above, if the Social Security Administration claws back social security benefits paid to Sabrina on behalf of the parties' minor child, and if Sabrina is required to reimburse the Social Security Administration for the overpayments, then David is obligated to reimburse Sabrina for any credit he received against his monthly child support obligation, as set forth in the above relevant paragraph. Sabrina will be responsible for any reimbursement she must make that is above David's monthly child support obligation.
109. In the event that the Social Security Administration determines that an overpayment has occurred, "repayment" or "claw back" definitions are to include any method used by the SSA to recoup overpayments. This will include direct reimbursement, offsets, withholding, or reduction of current or future benefits. These recoveries are to be treated as a claw back regardless of whether funds are paid by Petitioner and are to be included in determining Respondent's reimbursement obligation under these rulings and orders.

Child Support Adjustments

110. Based on the findings, with David's child support obligation retroactively modified to

\$1,164 for the months of March 1, 2024, to September 30, 2024, David shall receive an adjustment towards his child support obligation. Under the Decree, David was ordered to pay \$2,184 per month. David shall receive a credit each month between March 1, 2024 to September 30, 2024 in the amount of \$1,020 per month ($\$2,184 - \$1,164$), for a total credit of \$7,140.

111. Accordingly, ORS shall make adjustments to the amount David owed for child support between March 1, 2024, to September 30, 2024, in the amount \$1,020 per month, for a total credit of \$7,140 during this time period.
112. David's child support obligation between October 1, 2024 to November 30, 2024, is to be \$392, based on his unemployment income of \$3,232 and Sabrina's imputed income in the amount of \$3,813. This results in a monthly credit for David of 1,792.
113. Accordingly, ORS shall make adjustments to the amount David owed for child support between October 1, 2024 to November 30, 2024 in the amount of \$392 per month, for a total amount of \$784. The monthly credit will be \$1,792 for both months.
114. David's child support for December 2024 (when he began taking social security) is as follows. David began receiving a social security Check in December on top of unemployment, so his income became \$6,418 per month; when taken with Sabrina's income of \$3,813 per month, his support payment per month was \$652 per month. This results in a monthly credit for David of \$1,532.
115. David's support for January - March of 2025 is \$653, as David's income was \$6,431, and Sabrina's income remained \$3,813. This means David gets a monthly credit of \$1,531.

116. David's support for April 2025 - September 2025 (when David's unemployment ran out), he had only social security and so his child support dropped to \$389. He shall therefore receive a monthly credit of \$1,795.
117. With David's child support obligation modified to \$1,445 beginning October 1, 2025, David shall receive an ongoing monthly \$739 credit (\$2,184-\$1,445).
118. If further adjustments to the monthly child support obligation are necessary after entry of the Modified Decree, ORS shall make the necessary adjustments and give David the proper credits for the child support the child received under § 81-6-203(8).

Alimony Modifications

119. The Court finds that Sabrina remarried on March 15, 2025.
120. Utah Code § 81-4-505(1) provides in relevant part that "any order of the court that a payor pay alimony to a payee automatically terminates upon the remarriage or death of that payee."
121. Paragraph 18(e) of the parties' Decree provides, "The alimony shall automatically terminate ... upon Sabrina's remarriage or cohabitation as defined under Utah law, whichever occurs first."
122. The court finds that the parties' Decree provides that alimony terminates upon Sabrina's remarriage.
123. The court finds that Utah Code § 81-4-505(1)(a) provides that alimony terminates automatically upon Sabrina's remarriage.
124. There is no statute or rule that provides that the payment of alimony must continue

through the end of the month, when a payee receiving alimony remarries prior to the end of a calendar month, especially where the language of the Decree provides that alimony terminates upon remarriage.

125. Accordingly, the court finds that David's alimony obligation of \$5,816 per month terminated as of March 15, 2025, the date of Sabrina's remarriage.
126. The Court also finds that David has met the burden to show a substantial and material change in the circumstances exists to retroactively modify alimony back to when the petition to modify was filed, and that the change was not foreseeable nor expressly stated in the Decree.
127. David suffered a substantial change in income, wherein he started to earn \$13,333 per month no later than January 2024. In September 2024, David then lost that income and was unemployed for almost 12 months. During this time of unemployment, David was forced to retire and take social security income, even though he was diligently searching for employment. Because David took social security retirement benefits earlier than he planned, he will now receive less money each month in social security benefits than he otherwise would have received had he not lost his jobs and been able to retire at a later date.
128. That David found a new job in September 2025, earning \$17,500 gross per month, is not especially relevant to the Court's determination on modifying alimony, given that Sabrina remarried on March 15, 2025. David's change in income was not temporary, as his income was substantially reduced from January 2024 to September 2025, a period of well

over 18 months. During this time of reduced income, David had to claim his social security retirement just to live, and by taking his social security retirement benefits early, David will not receive as much from social security that he expected to receive. In addition, the assets David received from the divorce are also substantially less than when the Decree was entered, as his assets mainly consisted of the two 401(k) retirement accounts. David had to take out most of the money in those 401(k) accounts due to his substantial decrease in income so he could pay the debts he was ordered to pay as part of the Decree and so he could pay his attorney fees in this action. On the other hand, Sabrina still has her main asset she obtained from the divorce, i.e., the marital home. Sabrina also testified at trial that she is debt free, other than the mortgage payment on the home. Accordingly, it is reasonable and proper in this case for the Court to not count David's withdrawals from his 401(k) accounts as income when determining his alimony obligation.

129. At the time David filed his Verified Petition to Modify, David's alimony obligation to Sabrina was \$5,816 per month. This was based on David's income of \$25,416 per month.
130. As of March 1, 2024 to September 30, 2024, David's income was cut almost in half, to \$13,333 per month. After taxes, David was bringing home \$9,835.08 per month during that period of time.
131. Even retroactively modifying David's child support obligation to \$1,137 per month during that time, the Court finds that David did not have the ability to pay Sabrina \$5,816 per month in alimony.

132. Sabrina's Financial Declaration, submitted as Exhibit 28 and filed with the Court on March 27, 2024, shows that her stated need is \$10,301.88 per month. The Court finds that this need is overstated, as \$2,000 per month for food and household supplies for herself and minor daughter is inflated; there was no support for retirement deposits of \$500 per month; there was no support for extracurricular activities of \$750 per month; and various other items appear to be inflated. However, even if this amount accurately portrays Sabrina's need during the marriage, the Court finds that substantial and material changes in the circumstances have occurred and that the parties can no longer afford the same standard of living that existed during the marriage.
133. The Court observes that in Sabrina's recent Updated Financial Declaration, filed with the Court on November 18, 2025, and admitted as Exhibit 32, Sabrina's stated needs are \$7,352.57 per month. The Court finds that Sabrina's Updated Financial Declaration is a more reasonable explanation of her needs as they have existed since the Petition to Modify was filed. For example, Sabrina states in her earlier Financial Declaration that the mortgage is \$2,864 per month. However, in her Updated Financial Declaration, she states her mortgage is \$2,311.15 per month. No explanation is given for the discrepancy. The Court notes that Sabrina did not refinance the mortgage, but she assumed the mortgage, which normally keeps the same interest rates and payments as before the loan was assumed. Thus, the Court finds that the mortgage amount was overstated. The Court finds that the food and household supplies were also overstated and that \$1,000 per month is a reasonable amount for Sabrina and her minor child. Sabrina also testified that she had no

debt (other than the mortgage), so there are no credit card payments of \$450 per month.

The Court finds that the extracurricular activities for the child are \$500 per month, and not \$750 as stated in Sabrina's original Financial Declaration, as both David and Sabrina each listed that they have a \$250 monthly expense for extracurricular activities for their child. The Court also finds that a retirement deposit of \$500 was not being made by Sabrina. Given these discrepancies between Sabrina's original Financial Declaration and her updated Financial Declaration, the Court finds that Sabrina's needs during the period after the Petition to Modify was filed is \$7,352.47 per month.

134. Looking at David's Financial Declaration that was prepared shortly after the filing of his Petition to Modify, and admitted as Exhibit 28, David lists his stated need as \$6,492.30 per month (after subtracting alimony and child support payments, which were the support payments he was making to Sabrina and should not be included in his monthly expenses). The Court finds that David's stated needs are lower than the standard of living that existed during the marriage, inasmuch David rents a basement apartment from his son for \$800 per month. David testified that he was initially living at his son's office when he first lost his job and then he has been living at his son's basement, which is much lower than the standard of living than existed during the parties' marriage.
135. David's recent Updated Financial Declaration, filed with the court on November 11, 2025, and admitted as Exhibit 29, lists his stated expenses of \$9,011.89 per month. These higher expenses coincide with David's recent income of \$17,500 per month. David testified that a housing expense of \$2,500 per month was not an expense he was recently

incurring, but it was more in line with the standard of living that existed during the marriage and that he was looking to rent an apartment in that price range soon. David's Updated Financial Declaration also included additional expenses from his other Financial Declaration, such as higher health insurance payments that he was not incurring initially after he filed his Petition to Modify; higher church donations; and retirement deposits.

136. The Court finds that David's reasonable needs between March 1, 2024 and March 15, 2025 are \$8,003.30 per month. This is determined by using David's 2024 Financial Declaration, and giving him a housing rental expense of \$2,311 per month, which is the same mortgage expense Sabrina incurs each month. David's needs are greater than Sabrina's as he has higher health care expenses, higher donations, and other deductions from his income.
137. Given that David took home \$9,835 per month after taxes, and that his reasonable expenses during the period of March 2024 to September 30, 2024 was \$8,003.30 per month, David had \$1,831.70 left over each month during this time period to pay child support and alimony.
138. The Court finds that between the months of March 2024 to September 30, 2024, the parties' income cannot meet their needs. With David's reduction in income down to a gross of \$13,333 per month, there is not enough money to keep the parties at the same standard of living that existed at the time the Decree was entered, nor at the time the Verified Petition to Modify was filed. Under *Rule v. Rule*, it is appropriate to equalize the poverty between the parties.

139. During the time period between March 1, 2024 and September 30, 2024, David's adjusted child support obligation is \$1,164. Subtracting \$1,164 from the \$1,831.70 David had left over after paying his reasonable needs, that would leave David with \$667.70 to pay towards alimony for Sabrina during this time period.
140. The Court has imputed Sabrina an income of \$2,600 per month. Assuming a tax rate of 25% leaves Sabrina with a take home income of \$1,950 per month. Adding Sabrina's adjusted child support payment of \$1,164 per month leaves her with \$3,114 to cover her needs; which needs are: \$7,352.57 per month.
141. During the time period between March 1, 2024 and September 30, 2024, Sabrina had a shortfall of \$4,238.57 each month. After paying the adjusted monthly child support amount of \$1,164 to Sabrina, David would only have \$667.70 left over each month during this time period.
142. If David was ordered to pay Sabrina the entire amount of the \$667.70 that he would have remaining each month between March 1, 2024 and September 30, 2025, Sabrina would still have a shortfall of \$3,570.87 each month.
143. Equalizing the poverty to each party, the Court will divide Sabrina's shortfall of \$3,570.87 per month equally between the parties, which is \$1,785.44 each. Thus, David's alimony obligation between March 1, 2024 to September 30, 2024 shall be \$1,785.44 plus \$667.70, which equals \$2,453.14 per month during this time period.
144. Accordingly, ORS shall adjust the alimony David owed to Sabrina between March 1, 2024, to September 30, 2024, to \$2,453.14 per month (giving David a credit of \$5,816 -

\$2,453.14 each month, for a total credit of \$3,362.86 per month), for a total credit of \$23,540.02 during this time period.

145. For the period between October 1, 2024, to November 2024, David's average gross monthly income was \$3,232 per month, giving him a take home pay of \$2,424. After paying his modified child support obligation of (\$392) he had \$2,032 to meet his \$8,003.30 needs. Leaving him with a shortfall of \$5,971.30.
146. Using Sabrina's imputed take home income of \$3,813 per month (the increase showing this is when she received her realtor license and thus justifies the elevated number), with a similar 25% tax, this leaves 2,859.75 in take home pay. Adding \$392 per month for child support, this gives Sabrina \$3,251.75 to meet her needs of \$7,352.57 per month. This leaves Sabrina with a monthly shortfall of \$4,100.82 per month.
147. December 2024 (unemployment plus social security) David's gross income increased to \$6,418, giving him a take-home pay of \$4,813.50 after taxes. After paying his modified \$652 child support, he would have \$4,161.50 left over. His needs remained \$8,003.30. Thus, he had a shortfall of \$3,841.80.
148. For December 2024, Sabrina's take home pay of \$3,813, less taxes, her take home pay was \$2,859.75. Adding \$652 in child support, she had \$3,511.75. Again her needs were \$7,352.57; thus, she was left with a shortfall of \$3,840.82. David's shortfall was about a dollar or so greater than Sabrina's for this period.
149. January 2025 to March 2025 (unemployment plus 2025 social security rate), David's gross income increased slightly to \$6,431, giving him a take-home pay of \$4,823.25.

After paying his modified \$653 child support obligation, he had \$4,170.25.

150. April 2025 to September 2025, David's monthly need remained \$8,003.30 per month. His take home pay was \$3,199. If we perform a 25% tax assessment, his take home is \$2,399.25. He then pays a child support payment of \$389. This means he has \$2,010.25 remaining to cover his needs. He is short \$5,993.05. Sabrina also has a shortfall. That is, Sabrina's income during these months remains \$3,813, less 25% taxes, which is \$2,859.75. With the \$389 in child support she has a total of \$3,248.75 to meet needs of \$7,352.57, leaving her with a shortfall of \$4,103.82.
151. Because David's monthly shortfall is greater than Sabrina's shortfall between the months of October 1, 2024 to March 15, 2025, and equalizing the poverty to both parties, the Court finds that David's alimony obligation during this time period is terminated.
152. Accordingly, ORS shall give David a credit for alimony between the time period of October 1, 2024 to March 15, 2025 in the amount of \$5,816 per month. The total credit that ORS shall give David during this period of time is \$34,896, because the ORS Full Account Case History charged David the full amount of alimony for the entire month of March 2025.
153. The total adjustment and credit that ORS shall give to David for alimony between March 1, 2024 to March 2025 is \$58,436.02.

Total Alimony and Child Support Credit and Overpayment

154. The total child support credit that ORS shall provide to David is \$28,358, from March 1, 2024 to December 3, 2025. As set forth above, additional adjustments and credits may

need to be made after December 3, 2025. And the total alimony credit that ORS shall give to David between March 1, 2024 and March 2025 is \$58,436.02. Accordingly, ORS shall adjust its “current due” amount in the Full Case Account History for Case Number C001499054, between October 2023 to December 3, 2025, from **\$163,252.32 to \$76,458.30.**

155. Between October 2023 to December 3, 2025, David paid child support and alimony in an amount totaling **\$99,970.48** (payments plus adjustments).
156. The Court finds that David overpaid child support and alimony to Sabrina, between October 2023 and December 3, 2025, in the amount of **\$23,512.18.**
157. Further, the Court orders that David’s Social Security retirement benefits and the Social Security dependent benefits for the minor child shall be excluded from his gross income calculations going forward. The parties are ordered to exchange their 2025 tax filings to verify the tax consequences of these benefits.
158. The Court orders that judgment be entered against Sabrina Neves in the amount of **\$23,512.18** for overpaid child support and alimony, and in favor of David Neves.

Social Security Payments on Behalf of the Minor Child

159. The Court asked the parties for information regarding social security payments that were paid directly to David on behalf of the parties’ minor child. The documents provided to the Court show that David received one payment in December 2024 and three payments in 2025. By April 2025, Sabrina began receiving these payments.
160. The Court observes that Utah Code § 81-6-203(8)(a) provides that the Court “shall credit,

as child support, the amount of social security benefits received by a child due to the earnings of the parent on whose earning record the social security benefits are based by crediting the amount against the potential obligation of that parent.” The Court finds that a credit would only be applicable if the parent receiving child support payments is also the parent receiving the social security benefit on behalf of the minor child.

161. Inasmuch as David received the social security payments on behalf of the parties’ minor child between December 2024 and March 2025, the Court will not grant David any credit during those time periods based on the social security benefit for the minor child. Instead, David is responsible for the entire child support obligation based on the adjusted child support award, as set forth above, during that time period.
162. Sabrina testified that she has filed paperwork with the Social Security Administration regarding David having inappropriately received those benefits. The Court will leave it to the Social Security Administration to determine whether David will have to pay back the money he received on behalf of the parties’ minor child, especially considering that the Court has no jurisdiction or control over what the Social Security Administration will do on this issue.

Sabrina’s claims

163. Sabrina filed a Counter Petition to Modify on October 29, 2024.
164. Sabrina requests that David be required to split his retirement account 50/50 with Sabrina.
165. Sabrina also requests that she be given an additional 24 months to refinance or assume

the loan on the marital home. However, this issue was resolved as Sabrina was able to assume the mortgage and David is no longer liable for the mortgage.

166. Sabrina further alleges that when David lost his first job, that he lied to Sabrina and stated he was not receiving his severance and that David failed to inform the Court of other payments he is receiving and that David does contractor work on the side, making \$300 per hour
167. The Court finds that Sabrina has not provided proof of her claims, and accordingly, the Court denies her request for relief.
168. Sabrina presented no evidence or valid argument as to why the Court should modify the Decree and award Sabrina half of David's retirement.
169. The Court finds that in the Decree, Sabrina was awarded the marital home and that David took on most of the debt. The Court finds that the property division was fair and equitable and there is no basis to modify the property division.
170. The parties are ordered to pay their own attorney's fees and costs.
171. All other provisions in the Decree of Divorce that were not modified herein remain in full force and effect. The parties testified that personal property has yet to be divided. The parties should attend mediation to address this issue before bringing the issue of the division of personal property before the court.

**Order becomes effective on the date when electronically signed
by the Court on the first page.**

Approved as to form:

Sabrina Bitter, Petitioner

CERTIFICATE OF SERVICE

I certify that on the 30th day of April 2026, I caused a true and correct copy of the foregoing to be served by email upon the following:

Sabrina Bitter
sabrinat12380@gmail.com

/s/ Aaron P. Dodd
Aaron P. Dodd