F.C.A.§ § 156, 439(a); Article 5-B Form 4-12c

(Order Upon Support Magistrate Determination of Willfulness)

 12/2022

At a term of the Family Court of the State of New York,

held in and for the County of

at , New York,

on , .

PRESENT:

 Hon. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Judge

.........................................................................

In the matter of a Proceeding under

Article(4)(5-B) of the Family Court Act Docket No.

(Commissioner of Social Services, Assignee,

on behalf of , Assignor) ORDER (Order Upon Support Magistrate Determination

Petitioner of Willfulness)

S.S.#: xxxx-xx-

 -against-

Respondent.

S.S.#: xxxx-xx-

.........................................................................

 **NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY RESULT IN**

 **INCARCERATION FOR CRIMINAL NON-SUPPORT OR CONTEMPT.**

 **YOUR FAILURE TO OBEY THIS ORDER MAY RESULT IN SUSPENSION**

 **OF YOUR DRIVER’S LICENSE, STATE-ISSUED PROFESSIONAL, TRADE,**

 **BUSINESS AND OCCUPATIONAL LICENSES AND RECREATIONAL AND**

 **SPORTING LICENSES AND PERMITS; AND IMPOSITION OF REAL OR**

 **PERSONAL PROPERTY LIENS.**

An order in the above-entitled proceeding dated , , having been duly made and entered herein by a Support Magistrate of this Court containing a determination that Respondent has willfully failed to obey an order of the Court pursuant to Section 156 of the Family Court Act and referring the determination to a Judge of this Court for confirmation in accordance with Section 439 (a) of the Family Court Act;

[Delete if inapplicable]:[[1]](#footnote-1) And the Respondent having 🞏 shown 🞏 failed to show good cause for failure to make applications for relief from the order of this court directing payment prior to the accrual of the arrears;

IT IS HEREBY 🞏 ADJUDGED that the Respondent failed to obey the order of this Court and that such failure 🞏 was 🞏 was not willful;

 OR

🞏 ADJUDGED that the Respondent did not fail to obey the order of this Court;

and it is further

 🞏 ADJUDGED that the Respondent knowingly, consciously and voluntarily disregarded (his)(her)obligation under a lawful court order in that Respondent willfully failed to pay the sum of

$ which amount the Court finds to be the arrears due and owing under the Order.

And the name, date of birth and social security number of the child(ren) involved is/are:

NAME DATE OF BIRTH LAST 4 DIGITS OF SOC. SEC. #

The name, address and telephone number of Respondent’s current employer(s) are:

NAME ADDRESS TELEPHONE

NOW after examination and inquiry into the facts and circumstances of the case (and after hearing the proofs and testimony offered in relation thereto) it is hereby

ORDERED that the determination of the Support Magistrate pursuant to Section 156 of the Family Court Act made herein that Respondent willfully failed to obey an order of the Court ❑is ❑is not

hereby confirmed; and it is further

ORDERED that a copy of this order be provided promptly by [check applicable box]:

❑ IV-D cases: Support Collection Unit ❑ Non-IV-D cases: Clerk of Court to the New York

State Case Registry of Child Support Orders established pursuant to Section 111-b(4-a) of the Social Services Law; and it is further

ORDERED

ENTER

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Judge of the Family Court

Dated: , .

Check applicable box:

 🞏 Order mailed on [specify date(s) and to whom mailed ]:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 🞏 Order received in court on [specify date(s) and to whom given]:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 **INFORMATION CONCERNING COST OF LIVING ADJUSTMENTS**

 **AND MODIFICATIONS**

 (1) THIS ORDER OF CHILD SUPPORT SHALL BE ADJUSTED BY THE

APPLICATION OF A COST OF LIVING ADJUSTMENT AT THE

DIRECTION OF THE SUPPORT COLLECTION UNIT NO EARLIER THAN

TWENTY-FOUR MONTHS AFTER THIS ORDER IS ISSUED, LAST

MODIFIED OR LAST ADJUSTED, UPON THE REQUEST OF ANY PARTY

TO THE ORDER OR PURSUANT TO PARAGRAPH ( 2) BELOW. UPON

APPLICATION OF A COST OF LIVING ADJUSTMENT AT THE

DIRECTION OF THE SUPPORT COLLECTION UNIT, AN ADJUSTED

ORDER SHALL BE SENT TO THE PARTIES WHO, IF THEY OBJECT TO

THE COST OF LIVING ADJUSTMENT, SHALL HAVE THIRTY-FIVE (35)

DAYS FROM THE DATE OF MAILING TO SUBMIT A WRITTEN

OBJECTION TO THE COURT INDICATED ON SUCH ADJUSTED ORDER.

UPON RECEIPT OF SUCH WRITTEN OBJECTION, THE COURT SHALL

SCHEDULE A HEARING AT WHICH THE PARTIES MAY BE

PRESENT TO OFFER EVIDENCE WHICH THE COURT WILL CONSIDER

IN ADJUSTING THE CHILD SUPPORT ORDER IN ACCORDANCE WITH

THE CHILD SUPPORT STANDARDS ACT.

(2) A RECIPIENT OF FAMILY ASSISTANCE SHALL HAVE THE CHILD

SUPPORT ORDER REVIEWED AND ADJUSTED AT THE DIRECTION OF

THE SUPPORT COLLECTION UNIT NO EARLIER THAN TWENTY-FOUR

MONTHS AFTER SUCH ORDER IS ISSUED, LAST MODIFIED OR LAST

ADJUSTED WITHOUT FURTHER APPLICATION OF ANY PARTY. ALL

PARTIES WILL RECEIVE NOTICE OF ADJUSTMENT FINDINGS.

(3) WHERE ANY PARTY FAILS TO PROVIDE, AND UPDATE UPON ANY

CHANGE, THE SUPPORT COLLECTION UNIT WITH A CURRENT

ADDRESS TO WHICH AN ADJUSTED ORDER CAN BE SENT, AS REQUIRED

BY SECTION 443 OF THE FAMILY COURT ACT. THE SUPPORT OBLIGATION

AMOUNT CONTAINED THEREIN SHALL BECOME DUE AND OWING ON THE

DATE THE FIRST PAYMENT IS DUE UNDER THE TERMS OF THE ORDER OF

SUPPORT WHICH WAS REVIEWED AND ADJUSTED OCCURRING ON OR

AFTER THE EFFECTIVE DATE OF THE ORDER, REGARDLESS OF WHETHER

OR NOT THE PARTY HAS RECEIVED A COPY OF THE ADJUSTED ORDER.

 (4) IN ADDITION TO A COST OF LIVING ADJUSTMENT, EACH PARTY HAS

 A RIGHT TO SEEK A MODIFICATION OF THE CHILD SUPPORT ORDER UPON

 A SHOWING OF: (I) A SUBSTANTIAL CHANGE IN CIRCUMSTANCES; OR

 (II) THAT THREE YEARS HAVE PASSED SINCE THE ORDER WAS ENTERED,

 LAST MODIFIED OR ADJUSTED; OR (III) THERE HAS BEEN A CHANGE IN

 EITHER PARTY'S GROSS INCOME BY FIFTEEN PERCENT OR MORE SINCE

 THE ORDER WAS ENTERED, LAST MODIFIED, OR ADJUSTED; HOWEVER,

 IF THE PARTIES HAVE SPECIFICALLY OPTED OUT OF SUBPARAGRAPH (II)

 OR (III) OF THIS PARAGRAPH IN A VALIDLY EXECUTED AGREEMENT OR

 STIPULATION, THEN THAT BASIS TO SEEK MODIFICATION DOES NOT APPLY.

 PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM

 THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY

APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE

ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER

SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE

APPELLANT, WHICHEVER IS EARLIEST.

1. To be used in instances of spousal support or maintenance. [↑](#footnote-ref-1)