E-FILED
Wednesday, 19 July, 2017 08:36:47 PM
Clerk, U.S. District Court, ILCD

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
URBANA DIVISION

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, **Plaintiff,** **v.** **RENT-A-CENTER EAST, INC.,** **Defendant.**	**Case No. 16-cv-2222** **Judge Bruce** **Magistrate Judge Long**

PLAINTIFF'S REPLY TO DEFENDANT'S RESPONSE TO
MOTION FOR PARTIAL SUMMARY JUDGMENT

INTRODUCTION

Failure to mitigate lost wages is an affirmative defense, and thus Defendant Rent-A-Center (RAC) has the burden to produce evidence supporting each element of the defense: (1) that Kerr's efforts to find work were *unreasonable*, and (2) that with reasonable diligence she had a reasonable probability of finding work *comparable* to her job at RAC. RAC has not met this burden. Indeed, Kerr applied extensively for new work and found it.

Accordingly, partial summary judgment should be granted on the affirmative defense of failure to mitigate lost wages.

RESPONSE TO DEFENDANT'S ADDITIONAL STATEMENT OF FACTS

A. Undisputed Material Facts

The following additional facts asserted by Defendant in its response to the Motion are material and undisputed, except as noted below:

10.

B. Disputed Material Facts

The following additional facts asserted by Defendant in its response to the Motion are material and disputed, except as noted below:

None.

C. Disputed Immaterial Facts

The following additional facts asserted by Defendant in its response to the Motion are immaterial and disputed, except as noted below:

1. The asserted fact misstates the evidence. Kerr's resume does not state that she "received a B.A." The reference to a Bachelor of Arts on her resume referred to the type of degree that she was pursuing. *See* Exh. A, Kerr Tr., p. 164:6-13. Kerr's resume states that she attended Moraine Valley Community College from 2014-2015. An employer who knows what a B.A. is will likely know that B.A.s are not granted after one academic year.

4. Kerr in fact received a certificate indicating she completed basic EMT training. Exh. B, Grayson Community College EMS Education Course Completion Certificate (EEOC0429). However, to work as an EMT after receiving an EMT-basic certificate, a person must also take either "the National Registry of Emergency Medical Technicians examination or the [Illinois Department of Public Health's] examination." Ill. Admin. Code tit. 77, § 515.530(b).

Even if Kerr passed all the steps to be a licensed EMT the license is valid for only four years. Ill. Admin. Code tit. 77, § 515.540(d). There is no evidence that Kerr completed the additional steps needed to be employed as an EMT, much less that any such licensure was current at the time she was discharged from RAC. Moreover, this fact is immaterial because even if Kerr were licensed to work as an EMT, it is well established that a victim of discrimination "need not go into another line of work" to satisfy her duty to mitigate lost wages. *See Ford Motor Co. v. EEOC*, 458 U.S. 219, 231 (1982); *see also Wheeler v. Snyder Buick, Inc*., 794 F.2d 1228, 1234–35 (7th Cir. 1986) ("Title VII claimants are not obliged to ... go into another line of work...." (internal quotation marks omitted)).

8. Kerr did not list Calvin Davis on all of her resumes. *See* RAC Exh. 3. Furthermore, it is immaterial to RAC's burden of proving its affirmative defense whether Davis received any phone calls.

D. Undisputed Immaterial Facts

The following additional facts asserted by Defendant in its response to the Motion are immaterial and undisputed, except as noted below:

2. See EEOC's response to Defendant's Statement of Additional Facts ("DSAF") No. 1.

3. EEOC does not dispute that RAC Exhibit 4 indicates that Kerr withdrew from Moraine Valley classes. However, this is disputed to the extent that Exhibit 4 does not mention the receipt of a Pell grant. In any event, as discussed in response to DSAF No. 1 this is immaterial to RAC's affirmative defense.

5. Kerr's discharge form (a document which there is no reason to believe any prospective employer ever would have seen) and her military pay grade are immaterial to

whether Kerr exercised either reasonable diligence and the likelihood of obtaining post-RAC employment.

6. See response to DSAF No. 5.

7. The July 6, 2016, Order also shows that Kerr had already obtained employment at Demon Dawgs by the time of the hearing. Exh. C, July 6, 2016, Order (RAC0346-0349).

9. Whether or not Kerr made spelling errors in her mitigation efforts is immaterial as to whether she undertook reasonable efforts and the likelihood of success of those efforts.

ARGUMENT

A. Partial Summary Judgment on an Affirmative Defense is Not "Premature"

RAC's contention that the instant motion for partial summary judgment is "premature" is incorrect. An affirmative defense is an entirely appropriate subject for a motion for partial summary judgment — prior to trial, just like any other claim or defense. *See Certain Underwriters of Lloyd's v. General Acc. Ins. Co. of America*, 909 F.2d 228 (7th Cir. 1990) (pre-trial grant of partial summary judgment on affirmative defenses affirmed). The contention that a victim of employment discrimination has failed to mitigate her lost wages is an affirmative defense. *See Hanna v. American Motors Corp.*, 724 F.2d 1300, 1306 (7th Cir. 1984).[1]

Accordingly, courts grant partial summary judgment on failure to mitigate when, as here, the defendant has failed to meet its burden of production with respect to elements of the defense. For example, in *Hill v. Household Intern.*, the court granted a motion for partial summary judgment similar to that at issue here. *See* 1997 WL 461080, *3 (N.D.Ill. August 8, 1997).[2] There is nothing procedurally improper about a motion to test whether an affirmative defense is trial-worthy.

B. RAC (not the EEOC) Has the Burden of Production and RAC Has Not Met It

RAC's focus on the credibility of the EEOC's evidence is misplaced, because it is RAC that bears the burden of proof on this affirmative defense, not the EEOC. As the moving party,

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[1] "In light of Hanna's repeated and continuous efforts to secure employment, and the absence of any proof by AMC concerning Hanna's lack of reasonable diligence or the availability of comparable employment, we conclude that AMC failed to meet its burden of proof on the issue of mitigation."

[2] *See also E.E.O.C. v. High Speed Enterprise, Inc.*, 833 F.Supp.2d 1153, 1161-62 (D. Ariz. 2011); *E.E.O.C. v. Joe Ryan Enterprises, Inc.*, 2013 WL 1294696, *8 (M.D. Ala. Mar. 28, 2013); *Karl v. City of Mountlake Terrace*, 2011 WL 1304885, *1-*2 (W.D. Wash. Apr. 4, 2011); and *Huffman v. City of Conroe, Tex.*, 2009 WL 361413, *13 (S.D. Tex. Feb. 11, 2009).

the EEOC need not produce any evidence at all to prevail on summary judgment, but rather need only "point[] out to the district court — that there is an absence of evidence to support the nonmoving party's case." *Celotex Corp. v. Catrett*, 477 U.S. 317, 325 (1986). Instead of producing specific evidence to affirmatively support the elements of its defense, RAC simply seeks to *discredit* the evidence produced by the EEOC: that Kerr looked for work and eventually found it.

Arguing that the EEOC's evidence might not be credited is not enough to meet RAC's burden of production. As set forth in the EEOC's Motion for Partial Summary Judgment, RAC needed to produce specific evidence to support *each* of two elements of the failure to mitigate defense: (1) that Kerr's efforts to find work were *unreasonable*, and (2) that with reasonable diligence she had a reasonable probability of finding work *comparable* to her job at RAC. *See* Motion [ECF No. 38] at 3-4. RAC has not pointed to evidence that supports either element. For example, it has not produced any evidence that Kerr turned down any job interviews, turned down any job offers, failed to pursue any particular comparable employment opportunities of which she was aware, or stopped looking for work during any portion of the relevant time period.[3] *See E.E.O.C. v. Joe Ryan Enterprises, Inc.*, 2013 WL 1294696, *8 (M.D. Ala. Mar. 28, 2013) (granting partial summary judgment because "[t]here is no evidence that [the plaintiff] refused a job offer for a position that was (or even was not) substantially comparable to her former employment with [the defendant].") Nor has it produced any evidence about employment opportunities comparable to her job at RAC that might have been available where Kerr lived. *See*

[3] RAC's argues that Kerr should have sought employment as an EMT. However, as explained in response to DSAF No. 4, above, RAC's assumption that a basic EMT training certificate qualifies a person to work as an EMT is not correct, and there is no evidence that the basic EMT training Kerr received in 2005 was in any event still current a decade later when she was discharged by RAC.

Huffman v. City of Conroe, Tex., 2009 WL 361413, *13 (S.D. Tex. Feb. 11, 2009) (granting partial summary judgment where defendant produced no evidence of available, comparable job opportunities).

In an effort to meet its burden on the first element, RAC: (a) presents a table of spelling errors it found in Kerr's job application materials and (b) cites a state court order from a child support proceeding. RAC's critique of Kerr's spelling misunderstands the standard for mitigation of damages. As the EEOC's motion explained (Motion at 4) the standard is not whether RAC can think of ways Kerr's applications could be more polished, but whether she made a reasonable effort to find new work. While RAC alleges that there were other errors in some of Kerr's resumes, there is no evidence that any employers were aware of them or considered them in any way.

As for the state court order, RAC has provided no basis for determining what legal standard the state court might have applied, or exactly what evidence was before that court. Even if RAC could establish that the court in that matter was applying the same standard as in a federal employment discrimination case, this is a trial de novo and it is up to this Court to evaluate the evidence for itself. If RAC believed that there was evidence supporting the state court order that was sufficient to meet RAC's burden here, RAC could have offered that evidence here. But RAC did not.

With respect to the second element of the defense, RAC asserts, without any citation to evidence, that Kerr's job at RAC was "not a highly skilled or rare position nor an unusually high salary." Response at 13. To the extent RAC is suggesting that the second prong of the mitigation standard only applies to cases involving "highly skilled" jobs or those with "an unusually high salary," it offers no legal authority to support that proposition. If RAC is making

a factual claim about how Kerr's assistant store manager position at RAC compared to available jobs in the relevant parts of Illinois, then that factual claim must be supported by evidence and not simply asserted in a brief. *See E.E.O.C. v. High Speed Enterprise, Inc.*, 833 F.Supp.2d 1153, 1161-62 (D. Ariz. 2011).[4] RAC is correct that it is "entitled to present evidence on the issue of whether similar positions were available to Kerr," Response at 13, but this was its opportunity to do so. *See Hill*, 1997 WL 461080, *3 ("[D]efendant has failed to produce this evidence at the appropriate time, that is, in its response to plaintiff's motion for partial summary judgment.").

C. The Undisputed Material Facts Foreclose RAC's Affirmative Defense

The undisputed facts preclude RAC from proving a failure to mitigate in this case. The undisputed facts show that: 1) after being discharged by RAC in 2014, Kerr looked for work (PSF No. 2); 2) she took her job search seriously and estimates that she applied for hundreds of jobs (PSF Nos. 4 & 5)[5]; 3) she succeeded in obtaining two or three job interviews and eventually took a part-time job working at a restaurant from on or about May 8, 2016, until July 30, 2016 (PSF Nos. 6 & 7); and 4) that she obtained a part-time job at Guitar Center that became a full-

[4] "The time to present such evidence is now. Defendant must present admissible evidence to defeat summary judgment. It has not done so. Summary judgment will be granted in favor of Plaintiff on Defendant's failure to mitigate defense because Defendant has failed to demonstrate a genuine issue of material fact as to the first requirement of this affirmative defense." *High Speed*, 833 F.Supp.2d at 1161-62.

[5] Defendant's sole basis for disputing Plaintiff Statements of Fact (PSF) Nos. 4 & 5 is that they are supported by Kerr's testimony, which RAC describes as "self serving." *See* Response [ECF No. 41] at 10. Seventh Circuit caselaw unambiguously forbids disregarding evidence on that basis, however. "As [the Seventh Circuit has] repeatedly emphasized over the past decade, the term 'self serving' must not be used to denigrate perfectly admissible evidence through which a party tries to present its side of the story at summary judgment." *Hill v. Tangherlini*, 724 F.3d 965, 967 (7th Cir. 2013). Testimony is valid evidence of a factual assertion if it is "based on personal knowledge or firsthand experience." *Berry v. Chicago Transit Authority*, 618 F.3d 688, 691 (7th Cir. 2010). Kerr plainly has personal knowledge of her own job search. RAC cannot dispute the facts supported by her testimony simply by calling them "self-serving." Contrary evidence is required to establish a genuine dispute of fact, and RAC has pointed to none.

time position.

RAC cites *Hutchison v. Amateur Electronic Supply, Inc.* to suggest that even with facts akin to those above, the court could still find that Kerr failed to mitigate her lost wages. 42 F.3d 1037, 1044 (7th Cir. 1994). However, in *Hutchinson* the issue of mitigation "came down to a battle of the experts," and the "trial court concluded that a reasonable jury could have accepted defendants' expert's opinion." *Id*. at 1044. RAC has offered no affirmative evidence of its own, expert or otherwise, to meet its burden.

RAC also cites *Hutchison* for the proposition that Kerr should have "adjusted" her notion of "comparable employment." This argument is flawed for several reasons. First, it is a misreading of *Hutchison*. In that case, the court did not hold that a plaintiff must eventually lower her sights simply based on her lack of success in obtaining new employment. Indeed that would be contrary to Seventh Circuit caselaw, which expressly provides that a lack of success, by itself, does not make a job search effort unreasonable.[6] Kerr in any event *did* adjust her expectations; it is undisputed that she accepted a part-time job at a hot dog restaurant, and only later found another part-time retail sales job that eventually turned into full-time work.

CONCLUSION

As RAC failed to produce evidence supporting its affirmative defense, the Court should grant the EEOC's motion for partial summary judgment on RAC's affirmative defense of failure to mitigate lost wages.

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[6] *See Karl v. City of Mountlake Terrace*, 2011 WL 1304885, *1-*2 (W.D. Wash. Apr. 4, 2011) (granting partial summary judgment regarding mitigation even though the plaintiff actually turned down an offer of employment because "[a] plaintiff is not required to accept a position with a "significantly lower salary. *EEOC v. Pape Lift, Inc.*, 115 F.3d 676, 683 (9th Cir.1997)…").

July 19, 2017

Respectfully Submitted,

s/ Justin Mulaire
U.S. Equal Employment
Opportunity Commission

s/ Miles Shultz
U.S. Equal Employment
Opportunity Commission
500 West Madison St., Ste. 2000
Chicago, IL 60661
312-869-8053

CERTIFICATE OF SERVICE

I hereby certify that on today's date, I caused the PLAINTIFF'S REPLY TO DEFENDANT'S RESPONSE TO MOTION FOR PARTIAL SUMMARY JUDGMENT to be served upon counsel to Defendant via the court's Electronic Case Filing system, pursuant to Local Rule 5.3(A).

July 19, 2017

Respectfully Submitted,

s/ Miles Shultz
U.S. Equal Employment
Opportunity Commission
500 West Madison St., Ste. 2000
Chicago, IL 60661
312-869-8053
Miles.Shultz@EEOC.Gov

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Exhibit A
Megan Kerr Deposition

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff, No. 16-CV-2222

vs.

RENT-A-CENTER EAST, INC.,

Defendant.

The videotaped deposition of MEGAN VANNA, called for examination pursuant to the Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before CHERYL L. SANDECKI, Certified Shorthand Reporter for the State of Illinois, at 321 North Clark Street, Chicago, Illinois, on January 17, 2017, at the hour of 9:00 a.m.

REPORTED BY: CHERYL L. SANDECKI, CSR, RPR
LICENSE NO.: 084-03710
JOB NO.: 548721

THE WITNESS: Not officially, no.
BY MR. TRUSEVICH:
Q. Franchisee at Enzo's, '94 to '96. Do you see that?
A. Yes.
Q. Okay. Then it says under education, Moraine Valley Community College, bachelor of arts, BA, grade 4.0. Do you see that?
A. Yes.
Q. You do not have a BA degree?
MR. SHULTZ: Objection. Foundation.
THE WITNESS: I do not. It is just something I was working on.
BY MR. TRUSEVICH:
Q. Let's go to 310. And, by the way, you don't have any objection with us asking for your military records about that E -- to corroborate that you were ever an E6? You have no objection to that, do you?
MR. SHULTZ: Objection. Form.
THE WITNESS: I do, actually.
BY MR. TRUSEVICH:
Q. What would your objection be?
MR. SHULTZ: Objection.

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Exhibit B
Grayson Community College EMS Education
Course Completion Certificate

Grayson County College
EMS Education

EMS
Emergency Medical Services
Grayson County College

COURSE COMPLETION CERTIFICATE

NAME OF CANDIDATE:	**Jason M. Kerr**
SOCIAL SECURITY #:	REDACTED
PROGRAM NAME:	**Grayson County College**

LEVEL OF TRAINING COMPLETED:	**Initial – EMT Basic**
HOURS OF TRAINING COMPLETED:	**144 Classroom 80 Clinical**
COURSE LOCATION:	**Grayson County College** **6101 Grayson Drive** **Denison, TX 75020**
COURSE COMPLETION DATE:	**05-11-2005**
SCHOOL #:	**113169-134**

AS THE CERTIFIED COORDINATOR OF RECORD FOR THE TRAINING PROGRAM IDENTIFIED ABOVE, I CERTIFY THAT THIS CANDIDATE HAS SUCCESSFULLY COMPLETED THE COURSE OF STUDY AND ALL REQUIREMENTS PRESCRIBED IN ACCORDANCE WITH RULES ADOPTED UNDER CHAPTER 773 OF THE TEXAS HEALTH AND SAFETY CODE TO BE ELIGIBLE FOR CERTIFICATION EXAMINATION OR RECERTIFICATION EVALUATION BY THE TEXAS DEPARTMENT OF HEALTH.

REDACTED

COORDINATOR SIGNATURE: _____

COORDINATOR NAME (PRINTED): **Lorie L. Lefevers**

COORDINATOR'S SS#: REDACTED DATE: 5-11-2005

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Exhibit C
July 6, 2016, Order

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
CHAMPAIGN COUNTY, ILLINOIS

THE PEOPLE OF THE STATE OF ILLINOIS,)
ex rel. Megan Kerr,)
Petitioner,) No. 13-D-97
vs.) IV-D No. C3072697
)
Kelley A. Shaffer f/k/a Cornwell-Kerr,)
Respondent.)

FILED
SIXTH JUDICIAL CIRCUIT
REDACTED
CLERK OF THE CIRCUIT COURT
CHAMPAIGN COUNTY, ILLINOIS

UNIFORM ORDER FOR SUPPORT

☒ Agreed
☒ Initial Order ☒ Temporary
☐ Modification ☐ Permanent
☐ Default ☐ Amended

Definitions:
Obligor- An individual who owes a duty to make support payments pursuant to an order for support.
Obligee- An individual to whom a duty of support is owed or the individual's legal representative.
Payor- Any payor of income to an Obligor.
Unallocated Support- A total amount for maintenance and child support and not a specific amount for either.

The Court finds:
a) ☒ The net income of the Obligor as of the date of this order is $413.88 biweekly.
b) ☒ The amount of child support arrearage is reserved.
c) ☐ The amount of child support cannot be expressed exclusively as a dollar amount because all or a portion of the Obligor's net income is uncertain as to source, time of payment, or amount.

It is ordered that Megan Vanna, Obligor, is to provide:

☐ **MAINTENANCE** ***OR*** ☐ **UNALLOCATED SUPPORT**

Payment Amount:

Current Maintenance or Unallocated Support Payment: $_____

Arrearage Payment: $_____

Payments Begin: _____ (date)

Payment Frequency:
☐ every week
☐ every other week
☐ monthly
☐ twice each month on ____ & ___ (date)
☐ every year
☐ other _____

☒ **CHILD SUPPORT** (Do not complete this section if Unallocated Support is ordered.)

Payment Amount

Current Child Support Payment: $115.88
Current Medical Support Payment $_____
Arrearage Payment: $_____

Payments Begin: July 6, 2016 (date)

Payment Frequency:
☐ every week
☒ every other week
☐ monthly
☐ twice each month on ____&____ (date)
☐ every year
☐ other _____

☐ **PERCENTAGE AMOUNT OF CHILD SUPPORT** (Complete this section only if finding c) is checked above.)

In addition to the specific dollar amount of support ordered above, current child support shall be paid in the amount of _____% of Obligor's _____ payable _____. The Obligor is further ordered to provide income records sufficient to determine and enforce the percentage amount of child support, **within 7 days** of receipt of income subject to this percentage assessment, to the ☒ Obligee and ☐ Clerk of the Court.

☒ **PAYMENT ARRANGEMENTS**

Check only One

☒ **(Payments must be sent to the STATE DISBURSEMENT UNIT if this box is checked.)** A Notice to Withhold Income shall issue immediately and shall be served on the employer at the address listed in this Order. Payments shall be made payable to the State Disbursement Unit and sent to the State Disbursement Unit at P.O. Box 5400, Carol Stream, IL 60197-5400. Payments must include CASE NUMBER, COUNTY of the Court issuing this Order, and Obligor's name and social security number. Any subsequent employer may be served with a Notice to Withhold Income without further order of Court.

☐ The parties have entered into a written agreement providing for an alternative arrangement for the payment of support that is approved by the Court and attached to this Order, meeting all requirements of, and consistent with, applicable law. An income withholding notice is to be prepared and served only if the Obligor becomes delinquent in paying the order for support. Payments shall be made in accordance with the written agreement of the parties attached hereto. In the event the income withholding notice is served, payments shall be made to the State Disbursement Unit as set forth above.

☐ State law does not require payment to the State Disbursement Unit and the parties have not entered into a written agreement as provided above. Payments shall be made payable to _____ and sent to THE CLERK OF THE CIRCUIT COURT at 101 E. Main Street, Urbana, IL 61801. Payments must include CASE NUMBER and COUNTY of the Court issuing this Order.

☒ In addition to and separate from amounts ordered to be paid as maintenance or child support, the Obligor shall pay a $36 per year Separate Maintenance and Child Support Collection Fee. This sum shall be paid directly to the Clerk of the Circuit Court of Champaign County at 101 E. Main Street, Urbana, IL 61801 and **not** to the State Disbursement Unit.

☒ **DELINQUENCY**

If the Obligor becomes delinquent in the payment of support after the entry of this Order for Support, the Obligor must pay, in addition to the current support obligation, the sum of (a) $23.18 for child support per the payment frequency ordered above for child support, and (b) $_____ for maintenance or unallocated support per the payment frequency ordered above for maintenance or unallocated support, until the delinquency is paid in full. (This additional amount, the total of (a) and (b), shall not be less than 20 percent of the total of the current support amount and the amount to be paid periodically for payment of any arrearage stated in the order for support.) A support obligation, or any portion of a support obligation which becomes due and remains unpaid for 30 days or more shall accrue interest at the rate of 9% per annum. Any portion of a support obligation that remains unpaid at the end of a month, excluding the support that came due for that month, shall accrue interest provided in Section 12-109 of the Code of Civil Procedure.

☒ **TERMINATION**

This obligation to pay child support terminates on May 31, 2023 (date) unless modified by written order of the Court. (Insert a date no earlier than the date that the youngest child reaches the age of 18 or is expected to graduate from high school, whichever comes later.) **This termination date does not apply to any arrearage that may remain unpaid on that date.** The child/children covered by this order is/are: Redacted and Redacted.

☐ **INSURANCE**

The ☐Obligor, ☐Obligee, ☐Obligor **and** Obligee, shall provide health insurance for the child(ren) by enrolling them in any health insurance coverage available through the ☐ Obligor's, ☐Obligee's, ☐Obligor's **and** Obligee's, employment; or, securing a private health insurance policy, accepted by the Obligor and Obligee or approved by the Court, which names the child(ren) as beneficiary.

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Both the Obligor and the Obligee shall be provided a copy of the insurance policy and the insurance card. The name of the health insurance provider and the number of the insurance policy regarding dependent benefits/coverage on the date of this order are as follows:

Name of Health Insurance Provider (s):	Policy No.(s):

It is further ordered that:

The Obligor shall give written notice to the Clerk of the Court, and if a party is receiving child and spouse services under Article X of the Illinois Public Aid Code, to Healthcare and Family Services, **within 7 days**, of:

- any new residential, mailing address or telephone number;
- the name, address and phone number of any new employer, and;
- the policy name and identifying number(s) of health insurance coverage available.

The Obligor shall submit a written report of termination of employment and of new employment, including name and address of the new employer, to the Clerk of the Court and the Obligee **within 10 days**. Obligor and Obligee shall advise each other of a change of residence **within 5 days** except when the Court finds that the physical, mental or emotional health of a party or that of a minor child, or both, would be seriously endangered by disclosure of the party's address. An Obligee receiving payments through income withholding shall notify the Clerk of the Court and the State Disbursement Unit **within 7 days**, of a change in residence. The Obligor and Obligee shall report to the Clerk of the Court any change of information included in the Child Support Data Sheet (Exhibit 1) **within 5 business days** of such change.

☐ **DEVIATION**

☐ Child Support payment amount deviates from the amount required by statutory minimum guidelines. The amount of support that would have been required under the guidelines is $ _____.

Reasons for deviation: _____

☒ **ADDITIONAL CONDITIONS OR FINDINGS:**

The Obligor *must* notify the Illinois Department of Healthcare and Family Services within *7 days* of any new residential or mailing address or phone number. If a health insurance provider is named in this order it is only as a statement of the insurance in effect at the time of the entry of this order, not as a limitation of coverage. The Obligor is required to continue insurance according to the terms of the order even if the name of the insurance provider available changes. If an arrearage is stated the failure to include a calculation of the interest due does not operate as a waiver of interest required by law. If on the termination date of this order there is an unpaid arrearage or delinquency equal to at least one month's support obligation, then the periodic amount required to be paid for current support shall automatically continue to be an obligation, not as current support but as a periodic payment toward satisfaction of the unpaid arrearage or delinquency. This periodic payment shall be in addition to any periodic payments previously required for satisfaction of the arrearage or delinquency.

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This order has been entered ☐ upon evidence, ☐ by default, ☒ by agreement.
The Obligor has appeared ☒ personally, ☐ not, ☐ by counsel.
The Obligee has appeared ☒ personally, ☐ not, ☐ by counsel.
The Illinois Department of Healthcare and Family Services provides IV-D services in this case and has appeared by counsel.
☒ Any monies retained by the Clerk of the Circuit Court shall be remitted through the State Disbursement Unit to: ☒ the Obligee, ☐ Healthcare and Family Services.
☐ The arrearages are to be distributed pursuant to PRWORA.
☒ The issue of any child support arrearage due by the Obligor is reserved.
☐ The issue of any medical support or medical support reimbursement due by the Obligor is reserved.
☐ It is unknown if the Obligor has insurance available at this time because the Obligor did not appear for hearing.
☒ The Obligor does not have insurance available through employment or at reasonable cost.
☐ The issues of child support prior to filing and birthing expenses are reserved
☐ The Obligor is ordered to pay $93.00 by certified funds to the Illinois Department of Healthcare and Family Services to pay for genetic testing.
☒ There is no just reason to delay enforcement or appeal of this order.
☐ Other: _____

The "Child Support Data Sheet" attached hereto, as Exhibit 1, is part of this Order.
☐ It is ordered that the Circuit Clerk impound Exhibit 1 until further order of this Court.

REDACTED

DATED: July 6, 2016 **ENTER:** _____

FAILURE TO OBEY ANY OF THE PROVISIONS OF THIS ORDER MAY RESULT IN A FINDING OF CONTEMPT OF COURT

Prepared by:
Susan W. McGrath
Senior Assistant State's Attorney
Office of the Champaign County State's Attorney
101 E. Main St., P. O. Box 127
Urbana, IL 61803-0127
(217) 384-3850