

1 Ray William Askins, Jr., *In Propria Persona*,  
2 Respondent  
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7 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
8 FOR THE COUNTY OF SAN BERNARDINO

9 In re the Marriage of ) Case No.: SBFL 36297  
10 Petitioner: DALVA VIRGINIA ASKINS )  
11 vs. ) MOTION  
12 Respondent: RAY WILLIAM ASKINS, JR. ) FOR JUDICIAL DETERMINATION OF  
ARREARAGES FOR RAY WILLIAM  
ASKINS, JR.

13 Respondent, Ray William Askins, Jr., hereby declare that he is  
14 the Respondent in the above-entitled action. The Respondent  
15 further declared that he has first hand knowledge of the facts  
16 set forth herein and assert them to be true.

17  
18 **RESPONDENT DISAGREES WITH**  
19 **SAN BERNARDINO COUNTY DEPARTMENT OF CHILD SUPPORT SERVICES**  
20

21 The Respondent disagrees with San Bernardino County Department of  
22 Child Support Services with the child support arrearages amount.

- 23  
24  
25 • On the "Declaration of Support Payments History" (exhibit  
26 "V") shows the Respondent only paid through August 2003  
27 causing the Department to produce inaccurate ledgers,  
28 inaccurate demands from the Department, and inaccurate  
credit reporting (exhibit "R"). The Petitioner did not

1 disclose to the San Bernardino Department of Child Support  
2 Services on May 3, 2004 anything about any arrangements and  
3 staying ahead to avoid being late for child support  
4 payments. Causing the Respondent's passport to be revoked  
5 (exhibit "J"). In doing so, the Petitioner signed "under  
6 penalty of perjury under the laws of the State of California  
7 that the foregoing is true and correct - (exhibit "V")."

8  
9 The San Bernardino County Department of Child Support agency  
10 states that the Respondent owes support arrearages (after a long  
11 progression of ledgers for higher amounts (exhibit "K")) of  
12 \$17,306.86 plus interest of \$6,236.20 for a total of \$23,543.06  
13 on exhibit "Y" dated July 3, 2007, and "CASES Payment Website!"  
14 likewise showed \$17,306.86 child support and \$6,236.20 for  
15 interest for a total of \$23,543.06 as of July 03, 2007 (exhibit  
16 "X");

17  
18 The Respondent was told in writing on March 14, 2007 (exhibit  
19 "Z") from the San Bernardino County Department of Child Support  
20 Services that they had no Court Order for the Family Code Section  
21 4504 (exhibit "L"); and effected January 1, 2005 AB 2669 - Code  
22 of Civil Procedure Section 695.221 (exhibit "K") credit any money  
23 coming from the Social Security Administration - "SSDI" Family  
24 Maximum" Disability Benefits as the result from the Respondent's  
25 **total and permanent disability** (exhibit "D"). San Bernardino  
26 County Department of Child Support Service has a policy to never  
27 credit any money coming from Social Security Administration and  
28 rarely looks at any **Assembly Bill "AB"** - law changes. "We have a

1 bunch of them" This statement has been made to the Petitioner on  
2 October 29, 2004. Those comments have been made to the  
3 Respondent as recent as May 19, 2007. San Bernardino County  
4 Department of Child Support Services is "circumventing what the  
5 Court had been trying do" (see Court transcript October 02, 2006,  
6 page 50, and line 21 through 22). The Respondent shares the same  
7 concerns with the Court. Child Support "has its way of doing  
8 business" for calculating interest under the *old* - Code of  
9 Civil Procedure Section 695.221 -current payments, interest next,  
10 then principal on arrearages through this current date.

11  
12 COURT ORDERS FROM HEARING DATES

13  
14 Four Court hearing beginning with February 17, 2006; continued to  
15 May 12, 2006; July 10, 2006 was a motion to reinstate the Court  
16 proceeding and the Court granted the reinstatement (exhibit "P"  
17 - "Minute Order"); and continued to October 02, 2006.

18  
19 The Court ordered payments made after January 1, 2005 in  
20 accordance to AB 2669 for Social Security Administration Benefit  
21 payments are receive under the new Code of Civil Procedure  
22 Section 695.221 (exhibit "K") modifying, repeal, and/or add or  
23 modify Family Code Section 4504 is part of this Court order  
24 (exhibit "L"). The Family Code Section 4504 is not disputed as a  
25 California Family Law. See Court transcript dated May 12, 2006  
26 page 17, line 2 through 23. Any money received from "SSA" is to  
27 be credited towards child support states:  
28



1 *Nonexempt Income.* **Family Code Section 4504** provides that if a  
2 court has ordered a non-custodial parent to pay child support,  
3 certain government payments are credited toward the non-custodial  
4 parent obligation. Listed in that statute are Social Security  
5 payments based on the non-custodial parent's retirement or  
6 disability "SSDI". **(Ibid., 4504).**

7  
8 Page 22, second paragraph, line 5 states: The Legislature is  
9 presumed to have meant what it said and the plain meaning of the  
10 language governs." **(People vs. Peccci, supra, 72 Cal App.4<sup>th</sup> at p.**  
11 **1505.)**

12  
13 In re Marriage of Drake (1997)53 Cal.App.4<sup>th</sup> 1139, 62 Cal.Rptr.2d  
14 466 [11]which provides that federal disability benefits arising  
15 from a noncustodial parent's retirement are credited against the  
16 noncustodial parent's child support obligations ... Statutes are  
17 to interpreted to give significance to every word contained  
18 therein" **(County of Tulare v. Campbell, supra, 50 Cal.App.4<sup>th</sup> at**  
19 **p.853).**

20  
21 In re Marriage of Bertrand 33 Cal.App.4<sup>th</sup> 437; 39 Cal. Rptr. 2d  
22 151; 1995 Cal. App. (1b) "the language of section 4504 is  
23 unambiguous. It expressly applies to payments made by the federal  
24 government pursuant to the Social Security Act...because of the  
25 retirement or disability of the noncustodial parent."

26  
27 Barbara Grady, Attorney for the San Bernardino Department of  
28 Child Support Services stated in Court, "it's counsel's position

1 that we follow the laws as it become law in January 1, 2005,  
2 that's what stated in my Points and Authorities, (exhibit "S")  
3 what I stand by this morning" on the Court transcript May 12,  
4 2006 page 15, line 5 through line 9.

5  
6 Charles Dunbar, Attorney for the Department of Child Support  
7 Services stated on the "Responsive Declaration to Order To Show  
8 Cause or Notice of Motion" under (3) (b) (2) other (specify):  
9 "F.C. 4504 CREDITS AS APPROPRIATE" dated October 19, 2005  
10 (exhibit "Q"). Mr. Dunbar has created an "Estoppel" - an  
11 equitable principle that provides that a party is prevented by  
12 his own acts from claiming a right to the detriment of the other  
13 party who is entitled to rely on such conduct and has acted  
14 accordingly. An individual is barred from denying or alleging a  
15 certain fact or state facts because of that individual's previous  
16 conduct, allegations or denial. Mr. Dunbar has agreed by his own  
17 conduct to "F.C. 4504 CREDITS AS APPROPRIATE".

18  
19 JUDICIAL DETERMINATION OF SUPPORT ARREARAGES

20  
21 Respondent is requesting the Court to make a "Judicial  
22 Determination of Support Arrearages", under Family Code Section  
23 17526 (c). All are based on of the facts above. Respondent has  
24 attached a payment history of child support payments paid to the  
25 Petitioner that shows a monthly (exhibit "A"); and weekly  
26 (exhibit "B") October 23, 2000 through February 2004 breakdown of  
27 amounts ordered. These amounts came from 7 different *paid* sources  
28 to child support:

- 1
- 2
- (a) - Wage assignment, direct deposit, and other;
  - 3 • (b) - Social Security Administration Disability "SSDI"  
4 payments to dependent children;
  - 5 • (c) - Garnishment and Intercepts;
  - 6 • (d) - Lump Sum from the Social Security Administration  
7 "SSDI";
  - 8 • (e) - Forged checks by Petitioner for child support; and
  - 9 • (f) - Zero child support effective modification date  
10 November 1, 2005.
- 11

12 All 7 different ***paid*** sources reflected in exhibit "**A**" (monthly  
13 payment history FL-421) is based on the "Respondent's records or  
14 Respondent's recollection." Respondent declares that the  
15 information on the attached pages, ledger showing the ordered,  
16 and the amounts paid are true, and correct for child support on  
17 exhibit "**C**" (Family Court Judgment, page 2, and line 10 through  
18 line 19). The Respondent paid total towards child support is  
19 ***\$94,667.62***. The total child support required to pay (61 months  
20 times \$1,500 beginning October 01, 2000 through October, 2005) is  
21 ***\$91,500.00***. ***Based on those figures above the Respondent has over***  
22 ***paid towards child support and the Respondent owes nothing***  
23 ***towards the arrearages of child support***. The break down is as  
24 follows:

25

26 **(a) - CHILD SUPPORT DIRECT PAYMENTS**

27 **(a) - Child Support payments** paid by "**Wage Assignment**" of \$346.15  
28 each Tuesday of each week as made by Respondent from October 23,

1 2000 (exhibit "C") through February 2004 in the total amount of  
2 **\$55,860.25** per Court order (exhibit "A" - month payment history -  
3 *pages 1 through 4; and* (exhibit "B" *pages 1 through 189* as weekly  
4 proof of direct payments for child support to Petitioner). The  
5 Respondent's dependent children has received all of the direct  
6 payments **\$55,860.25**.

7  
8 Respondent started direct deposit and other to the  
9 Petitioner and "**Wage Assignment**" stopped shortly after the  
10 business closed November 15, 2001 which resulted from his  
11 ***total and permanent disability*** (exhibits "D") Social  
12 Security Administration disability benefits letter dated  
13 March 23, 2007, page 2 "Type of Social Security  
14 Administration Benefit Information"; "SSA" Award letter  
15 dated January 25, 2006 for "SSDI"; Rajeev Gupta, M.D.,  
16 internist's letter; Andres N. Jacobo, M.D, Neurologist's  
17 pathology letter; and Patrick Wolcott, M.D., Specialist all  
18 shows ***total and permanent disability*** (exhibit "D").  
19

20 **San Bernardino County Department of Child Support Services**  
21 (exhibit "Y") is giving the Respondent less credit towards child  
22 support paid to the Petitioner during the period October 23, 2000  
23 through February 2004.

24 **BREAK DOWN FOR NO CREDIT SHOWN ON CHILD SUPPORT LEDGER**

25 **July 03, 2007 (exhibit "Y")**  
26

27 On FL-450 The question 3 (a) (1) (a) (b) total amount of  
28 arrearages claimed as owing is incorrect and Respondent did not



1 receive credit for all of the payments made. Respondent has made  
2 a detailed break down of those payments not credited by the  
3 Department for child support as follow:  
4

5 **(a) DIRECT PAYMENTS MADE BY RESPONDENT**  
6

- 7 • **CLOSE OF BUSINESS** - The Petitioner picked up the child  
8 support check at Accura Insurance Crestline Office. The  
9 Respondent began paying **ahead by one week \$350.00 beginning**  
10 **in the month of November 2001** (weekly exhibit "P")  
11 corresponding with the closing of the business resulting  
12 from the Respondent's **total and permanent disability**  
13 (exhibits "D"). The Respondent lived out of the area where  
14 the Petitioner lived. All checks had to be mailed to the  
15 Petitioner beginning in November 2001 (weekly exhibit "P").  
16 This did not work out, and the Respondent begins making  
17 direct deposits into the Petitioner's checking account with  
18 the Petitioner provided deposit slips. Bank of America was  
19 not reliable to credit those payments from the Respondent  
20 timely for the Petitioner's use and asked with each deposit  
21 for immediate deposit credit to the Petitioner's bank  
22 account;
- 23
- 24 • **EVENTS** of the Respondent's strokes (causing memory problems)  
25 and his **total and permanent disability**, it was easier to  
26 remember to pay \$350.00 per week and the Petitioner agreed  
27 to the excess \$346.15 could be applied toward future child  
28 support (\$3.85 per week times 83 weeks = total (weekly

1 exhibit "P") \$319.55;

2  
3 • **EXTRA MONEY** - The Respondent paid the Petitioner extra money  
4 with the understanding and it was agreed to credit towards  
5 future child support for July 3, 2002 for \$50.00; July 25,  
6 2002 for \$100.00; September 10, 2002 for \$50.00; April 1,  
7 2003 for \$100.00; May 12, 2003 for \$10.00; all for a total  
8 of (weekly exhibit "P") \$310.00;

9  
10 • **BRAZIL** - Then on April 2, 2002 for \$200.00; April 30, 2002  
11 for \$300.00; and August 6, 2002 for \$200.00 sent child  
12 support money to Brazil while Maysa and Stephanie were  
13 staying with grandma, Emila Bueno da Silva, the Petitioner's  
14 mother for child support (weekly exhibit "P") \$700.00;

15  
16 • **MEXICO** - Respondent again paid ahead by one week beginning  
17 with the month of June 2002 corresponding with the move to  
18 Mexico. The Respondent did not want to fall behind with the  
19 child support payments to Petitioner (weekly exhibit "P")  
20 \$350.00;

21  
22 • **FEMA** - paid November 24, 2003 in the amount of \$710.15 % by  
23 2 = (weekly exhibit "P") The Respondent's children has  
24 received the \$355.08;

25  
26 • **DECEMBER 2003** - Department did not applied total weekly  
27 support to their ledger (exhibit "Y") compared to listed in  
28 the (weekly exhibit "P") **the Respondent's children has**

1 received of \$1,228.00;

2  
3 All of the above direct payments total equal to found posted on  
4 weekly and monthly exhibit "P" (FL-421 monthly payment history)  
5 The Respondent's children have received \$3,512.63. Included in  
6 the total direct payments is \$56,429.15

7  
8 **OTHER PAYMENTS MADE BY THE RESPONDENT:**

9  
10 (b) - "SSDI"- San Bernardino County Department of Child  
11 Support Services stopped crediting beginning on their ledger  
12 dated July 03, 2007 (exhibit "Y") the Respondent's Social  
13 Security Administration disability benefits "SSDI" for his  
14 children from November, 2005 through September 2007 for 23  
15 payments in the total amount of <\$13,662.00> (exhibit "P" FL-  
16 421 monthly payment history) from the Social Security  
17 Administration (SSDI) benefits including the \$13,662.00.  
18 Respondent's children have received total of \$28,442.00 from the  
19 Social Security Administration covering "SSDI".

20  
21  
22 (c) - Garnishment and intercept (exhibit "F") \$4,234.10;

23  
24 (d) - **LUMP SUM** - San Bernardino County Child Support Services  
25 decided (exhibit "Y")with the "Lump Sum" from Social Security  
26 (exhibit "G")gave no credit towards either child support  
27 arrears or interest on arrears of(exhibit "P" FL-421 monthly  
28 payment history)and the Respondent's children has received the  
"SSDI" \$2,026.00.

1 Court Order Transcript October 02, 2006 page 34, line 4  
2 through 12 states:

3 **Court:** "Social Security disability payments paid after  
4 January 1<sup>st</sup>, 2005 which are in excess of the support order  
5 are too applied to arrears,  
6

7 **Mr. Askins:** In excess?

8 **The Court:** In excess.

9 **Mr. Askins:** And the excess - if there's any excess left?

10 **The Court:** If there's excess, it's going to be applied to  
11 the arrears.

12 Lump sum "SSDI" payment, consisting of payments representing more  
13 than one month, the non-custodial is to receive credit for each  
14 month the lump sum payment was intended. The local child support  
15 agency may apply any remaining excess federal credit amount to a  
16 non-custodial parent's IV-A or non-IV-A arrears,

17 **(e) - Deposited Checks** - were used for child Support per  
18 Petitioner in writing and verbally (exhibit "R") from the  
19 Respondent's company Accura Insurance Services commission checks.  
20 All checks ere deposited into Petitioner's personal checking  
21 account number 01892-14507 with Bank of America (exhibit "R" -  
22 20 pages) and weekly exhibit "P" and exhibit "P" (FL-421)  
23 monthly payment history. The Petitioner and the Respondent have  
24 a written and verbal agreement that those checks allows the  
25 child support order to be paid by an alternative method. The  
26 Respondent's children have received in the total amount of  
27 \$3,536.37;  
28

1 (f) - Zero child support effective modification date November 1,  
2 2005.

3  
4 **RECAP - NOT CREDITED by DEPARTMENT'S CHILD SUPPORT LEDGER:**

5  
6 Forged Checks \$3,536.37

7 "SSA" lump Sum 2,026.00

8 "SSA" - "SSDI" payments 13,662.00

9 Direct payments 3,536.37

10 Grand total not credited **\$22,760.74** and the Respondent's

11 children has received all of the above

12 =====

13 San Bernardino County Department of Child Support Services is  
14 stating on their ledger the Respondent owes \$23,543.06 including  
15 interest as of July 3, 2007 (exhibit "Y").

16  
17 The Respondent is only required to pay \$91,500 and the  
18 Respondent's children have received child support including  
19 \$22,760.74 for a grand total of \$94,667.62. The Respondent has  
20 over paid by \$3,167.62. The Respondent owes nothing to child  
21 support.

22  
23 (f) - **Zero child support** effective with modification date  
24 November 01, 2005 per Court order dated Court Transcript May 12,  
25 2006 - page 21, line 5 through 6; Court transcript October 02,  
26 2006 - page 5, line 17 and page 6, line 19 and 20 (exhibit "A" -  
27 full payment history).

28 **INTEREST CREDIT**

1  
2 Interest adjustment "*shall*" be allowed and can be adjusted by the  
3 Court. Moyse vs. Follows (2006) S127874 in the Supreme Court of  
4 the State of California 39 Cal. 4<sup>th</sup> 179; 138 P.3d 200; 46 Cal.  
5 Rptr. Ed 49; 2006 Cal. does allow interest adjustment for  
6 retroactive facts. Under Section 4, subdivision (h) [] s  
7 exception retroactivity applies for facts. All of the above are  
8 facts. Respondent ask the Court to order interest adjustment for  
9 the facts above towards child support arrearages. The main fact  
10 is the Respondent's ***total and permanent disability*** (exhibit "D").  
11 Additional facts are the Respondent paid towards child support by  
12 or for the Respondent's children. And/or Interest "*shall*" be  
13 correctly credited established by the AB 2669 - Code of Civil  
14 Procedure Section 695.221 (exhibit "K") effective January 1,  
15 2005. There was no interest adjustment made on Department's  
16 ledger (exhibit "Y").

17  
18 TRAVESTY IN THE LAW  
19

20 It would be a travesty in the law if the Respondent is  
21 aggrievedly denied protection under the laws protecting the  
22 disabled with ***total and permanent disability*** (exhibit "D") as the  
23 following series of legislation laws covering Family Code Section  
24 4504 and AB 2669 - Code of Civil Procedure Section 695.221  
25 (exhibit "K") ("*shall*"- application of payments from "SSA"); AB  
26 891 - Family Code Section 5246 (3)\* ("*shall*" limit excess  
27 garnishments); AB 891 - Family Code Section 17500 (c) ++ in  
28 reference to Revenue and Taxation Code Section 19271 (e) (3)

1 ("shall" stop intercepts); and AB 891 - Family Code Section  
2 17400.5 ("shall" start governmental process for change in  
3 circumstances).

4  
5 San Bernardino County Department of Child Support touts it has  
6 the policy to follow the law, but in the Respondent's situation  
7 is treated differently, it's about winning. "It's the  
8 Governments Role - Our Department's goal is to a fair and  
9 equitable child support order" on the web sight "DCSS". Where is  
10 the fairness of the Department towards the Respondent?

11  
12 The Director of the San Bernardino County Department of Child  
13 Support Services, Connie Brunn touts "we are committed and  
14 dedicated to the highest quality of Customer Service delivered  
15 with fairness and respect to all ..." What happens to those  
16 that are *totally and permanently disabled* (exhibit "D")? *Lumped*  
17 *into the same group that can work or should work?* AB 891 and AB  
18 2669 (exhibit "K") changed to separate those that are *totally and*  
19 *permanently disabled*.

20  
21 The Petitioner is without clean hands and not be rewarded for her  
22 lies, decent, and out and out fraud to the Department of Child  
23 Support Services, and to the Respondent. The Petitioner claims  
24 child support was only paid through August 2003 (exhibit "V").  
25 The facts tell another story on when, the amount, and how child  
26 support was paid (exhibit "A"). Petitioner failed to follow up  
27 with the Department of Child Support in November 2004 and provide  
28 with additional documents proving the Social Security

1 Administration Disability "SSDI" benefits were being paid to the  
2 Respondent's children. The Petitioner signed the Declaration of  
3 Child Support History on May 3, 2004 under the penalty of perjury  
4 (exhibit "V" and "H"). The Petitioner knew that the Respondent is  
5 *totally and permanently disabled* (exhibit "D").  
6

7 RESPONDENT PRAYS TO THE COURT  
8

9 The Child Support paid "recap" to the Petitioner is as follows:  
10

11 (a) Child Support direct payments	<b>\$56.429.15</b>
12 (b) "SSDI" payments to dependent Children	28,442.00
13 (c) Garnishments and Intercept	4,234.10
14 (d) Lump Sum - "SSDI"	2,026.00
15 (e) Deposited commission checks	<u>3,536.37</u>
16 Total Child Support paid to Petitioner	\$94,667.62
17	=====

18  
19 A total of \$94,667.62 has been paid towards child support for the  
20 Respondent's children. The Respondent prays in all fairness for  
21 the Court to grant the full credit paid towards child support.  
22

23  
24 Dated: August 20, 2007                      respectfully submitted  
25

26  
27 Ray William Askins, Jr., Respondent  
28



**EXHIBITS LIST**

- 1
- 2
- 3 **"A"** - FL-421 Monthly Child Support Payments ledger from October,
- 4 2000 through September, 2007; and from Child Support liberation,
- 5 Inc., monthly ledger;
- 6 **"B"** - Weekly Child Support Payments ledger from October, 2000
- 7 through February 2004; and Copies of all direct (189 Pages)
- 8 payments made to Petitioner 189 pages;
- 9 **"C"** - Family Court Judgment filed April 24, 2002;
- 10 **"D"**- Medical disability: "SSA" Award letter dated January 25,
- 11 2006 for "SSDI"; "SSDI" benefits letter dated March 23, 2007; and
- 12 letters from Rajeev Gupta, M.D., Internist; Jacobo Andreas, MD;
- 13 Neurologist; and Patrick Wolcott, M.D., Specialist for Apnea;
- 14 **"E"** - "SSDI" Social Security Administration Payments to
- 15 Respondent's dependent children (20 pages);
- 16 **"F"** - Garnishments and Intercepts payments;
- 17 **"G"** - Lump Sum from "SSDI" letter dated October 29, 2006;
- 18 **"H"** - Credit letter from Petitioner;
- 19 **"I"** - Deposited commission check copies used for Child support;
- 20 **"J"** - Passport revoked - letter from American Consulate;
- 21 **"K"** - Code of Civil Procedure Section 695.221 provided by
- 22 Assemblywoman Bonnie Garcia (sponsor of AB 2669))
- 23 **"L"** - Family Code Section 4504;
- 24 **"M"** - August 11, 2004 letter to Child Support by Respondent;
- 25 **"N"** - Application to "SSA" for benefits dated October 26, 2004 by
- 26 Petitioner;
- 27 **"O"** -
- 28 **"P"**- Minute Order, July 10, 2006;

- 1 "Q"- Responsive Declaration to Show Cause or Notice of Motion
- 2 dated October 19, 2005 from the Department;
- 3 "R"- Credit Report of Respondent showing lien incorrect amounts
- 4 of child support owing from the Department March 2007;
- 5 "S" - Barbara Grady's Point and Authority May 12, 2006;
- 6 "T" -;
- 7 "U" -;
- 8 "V" - Declaration of Support Payments History dated May 3, 2004
- 9 by Petitioner;
- 10 "W" - Department Child Support's various ledgers historically;
- 11 "X" - Case Payment Website! Dated July 03, 2007;
- 12 "Y" - Child Support ledger Dated July 03, 2007;
- 13 "Z" - March 14, 2007 letter from Child Support;

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