

1 **ORDR**  
2 WILICK LAW GROUP  
3 MARSHAL S. WILICK, ESQ.  
4 Nevada Bar No. 002515  
5 3551 E. Bonanza Road, Suite 101  
6 Las Vegas, NV 89110-2198  
7 (702) 438-4100  
8 Attorneys for Defendant

FILED

FEB 2 2 41 PM '07

*Cheryl [Signature]*  
CLERK OF THE COURT

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

JENNIFER MAE MASON,  
Executrix of the Estate of  
Rod E. Mason, Deceased,

Plaintiff,

vs.

MARTINE CUISENAIRE,

Defendant.

CASE NO: D-273923  
DEPT. NO: C

DATE OF HEARING: 02/02/2007  
TIME OF HEARING: 9:30 A.M.

**ORDER**

This case is on remand from the Nevada Supreme Court *Opinion* in *Mason v. Cuisenaire*, 122 Nev. \_\_\_, 128 P.3d 446 (Adv. Opn. No. 6, Feb. 9, 2006). The Plaintiff, Rod Mason, is deceased; his estate has substituted in (during the appeal) for him. The case was remanded for three remaining issues:

1. Child support arrearages applying North Carolina child support guidelines.
2. Determining rights to the military Survivor Benefits Plan (SBP).
3. Attorney's Fees and Costs.

Plaintiff's representative and/or counsel were not present. Defendant, Martine Cuisenaire, was not present, but was represented by and through her attorneys, the WILICK LAW GROUP.

1 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

2 **A. CHILD SUPPORT ARREARS:**

3 Rod's gross income at the time of the North Carolina *Decree of Divorce* was \$2,790.60 per  
4 month. Applying this amount to compute his retroactive child support using the Child Support  
5 Guidelines from North Carolina results in a monthly payment of \$528. Using this figure and the date  
6 of divorce while crediting Rod with the payment of \$7,952.94 that was collected from him via  
7 garnishment and \$600.00 in direct payment, Martine is owed \$15,238 in principal and interest up  
8 to Rod's death on August 13, 2005.<sup>1</sup>

9  
10 **B. MILITARY SURVIVOR BENEFITS PLAN**

11 SBP is available to beneficiaries of members who died in the line of duty with less than  
12 twenty years of creditable service.<sup>2</sup> Rod died on August 13, 2005, which was forty-five days short  
13 of attaining twenty years of creditable service. His death, short of retirement eligibility, resulted in  
14 Martine receiving no share of the "retirement benefit" *per se*, as none was ever paid or due.  
15 However, Rod's death was determined to be "in the line of duty" and thus triggered the availability  
16 of SBP payments based on 55% of his earned retirement benefit.

17 Congress determined that as of November 14, 1986, a court with jurisdiction is explicitly  
18 empowered to order members to elect to provide SBP annuities to former spouses, irrespective of  
19 the date of divorce, or retirement.<sup>3</sup> This Court recognizes that survivorship interests accrued during  
20 marriage are a valuable property right that is part of the pension to be divided.

21 Rod and Martine were married for eleven years, all of which was during Rod's military  
22 service. Rod obtained a *Decree of Divorce* from the North Carolina court on September 9, 1999.

23 At some later date before he died in 2005, Rod married Jennifer. Martine, the former spouse,  
24 has a 55% marriage/service overlap. Jennifer has approximately a 15% marriage/service overlap.

25  
26 <sup>1</sup> N.C. Gen. Stat. Ann. Art. 1. § 24-1; see also: *Taylor v. Taylor*, 128 N.C. App. 180, 493 S.E.2d 819 (1997).

27 <sup>2</sup> 10 U.S.C. § 1448(d).

28 <sup>3</sup> Pub. L. No. 99-661 (Nov. 14, 1986).

1 From all indications, Martine received essentially none of the assets of the marriage, and  
2 Audrey was shorted a considerable amount of support during Rod's life, and received nothing from  
3 his estate.

4 It is fair and equitable that the survivor's benefit should follow the largest insurable interest,  
5 and it is fair and equitable that Martine and Audrey should each receive some value for all they have  
6 been deprived of under the facts of this case.

7  
8 **C. ATTORNEY'S FEES AND COST**

9 The facts of this case demonstrate significant abuse of the judicial process by Rod, from the  
10 time he secured a divorce in North Carolina up until the moment of his death. Thousands of dollars  
11 worth of attorney time were incurred (*pro bono*) to recover the child, which Rod had wrongfully  
12 retained. Rod's actions throughout all the subsequent litigation were unreasonable, at the trial level  
13 and on appeal, consuming vastly more time and money than was warranted on the merits.

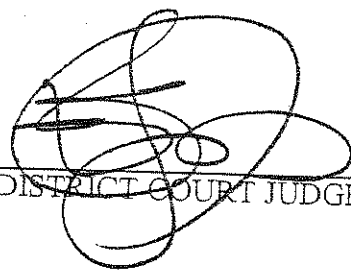
14  
15 **NOW, THEREFORE, IT IS HEREBY ORDERED**

- 16 1. Martine is awarded child support arrearages in the amount of \$15,238, which is  
17 hereby reduced to judgment, and collectable by any and all lawful means. This *Order*  
18 supersedes the statement of arrearages entered by this Court in 2002, prior to the  
19 appeal.
- 20 2. Martine is deemed the "Mandatory Former Spouse" for Survivor's Benefit Plan  
21 (SBP) annuity payments. The Defense Finance and Accounting Service is directed  
22 to modify or institute payments to Martine effective the date of this order and  
23 institute payment to her through her attorneys, the WILLICK LAW GROUP.
- 24 3. Martine is awarded attorney's fees and costs in the sum of \$117,582.84, which is  
25 hereby reduced to judgment, and collectable by any and all lawful means.
- 26  
27  
28

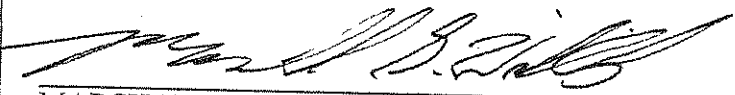
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

4. This *Order* is a final disposition in this case and resolves all matters on remand from the Nevada State Supreme Court; no further appearances or proceedings appear necessary, and the case can be closed.

DATED this 2<sup>nd</sup> *February* day of ~~January~~, 2007.

  
DISTRICT COURT JUDGE

Submitted by:  
WILLICK LAW GROUP



MARSHAL S. WILLICK, ESQ.  
Nevada Bar No. 002515  
RICHARD CRANE, ESQ.  
Nevada Bar No. 009536  
3551 East Bonanza Road, Suite 101  
Las Vegas, Nevada 89110-2198  
(702) 438-4100  
Attorneys for Defendant

P:\wp12\cuisena\LP8034.WPD