

IN THE SUPREME COURT OF THE STATE OF MONTANA

Supreme Court Cause No. DA 25-0252

IN RE THE MARRIAGE OF:

KATHRYN JOAN CHRISTOFFERSON,

Petitioner/Appellant,

and

COLIN ORVAL CHRISTOFFERSON,

Respondent/Appellee.

OPENING BRIEF OF APPELLANT

On Appeal from the Montana Fourth Judicial District Court, Missoula County
Before the Honorable Tara Elliott

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STATEMENT OF THE ISSUES

1. Did the District Court abuse its discretion by declining to award retroactive child support despite finding that child support had been substantially miscalculated for over two years?

2. Did the District Court err by failing to make adequate findings of fact on the contested issues presented at hearing, including the number of parenting days, income of the parties, and non-cash benefits?

3. Did the District Court err in calculating child support at \$684 per month when both CSSD and Colin's own trial exhibit showed the correct amount was \$853?

STATEMENT OF THE CASE

This appeal arises from the District Court's March 10, 2025, Order following Appellant Kathryn Christofferson's (hereinafter "Katie") Motion for Recalculation of Child Support. Katie and Appellee Colin Christofferson (hereinafter "Colin") have two minor children and divorced in April 2023. Per their stipulated agreement, child support was to be calculated through Montana Child Support Services Division (CSSD).

CSSD's initial calculation of \$193 per month was based on incorrect information. After extensive proceedings, CSSD determined the correct amount was \$853 per month. Despite this substantial disparity and Katie's financial hardship, the

District Court ordered only \$684 in prospective support and declined to award any retroactive support covering the years of underpayment. The District Court's Findings of Fact, Conclusions of Law and Order failed to include adequate findings of fact on any of the contested issues necessary to support its child support determination. From that order, Katie now appeals.

STATEMENT OF THE FACTS

Katie and Colin Christofferson were married on November 12, 2010, and have two children: R.C., born in 2011; and T.C., born in 2014. The parties separated on January 8, 2021, and their divorce decree was issued on April 14, 2023.

In their *Stipulated Final Parenting Plan*, the parties agreed child support would be calculated according to Montana Child Support Guidelines through CSSD. CSSD issued its initial calculation on October 10, 2023, requiring Colin to pay only \$193 per month, despite Colin purportedly earning approximately \$75,000 annually. (D.C. Doc. 26, *Abstract of Temporary Administrative Order*; 02/10/2025 Tr. at 93-94.) Katie challenged the calculation, filing her *Motion for Recalculation* on January 17, 2024. (D.C. Doc. 25.)

By May 23, 2024, when the District Court set the first hearing, the parties had reached partial agreement on certain calculation inputs. They agreed to 134 parenting days for Colin (though Katie testified she actually counted 130), split tax exemptions, and the cost of Colin's health insurance premium for the children.

(02/10/2025 Tr. at 8-9, 13-14.) However, they could not agree on the support amount or Colin's retroactive obligation. The September 19, 2024, hearing was vacated when settlement appeared imminent, but negotiations ultimately failed. (D.C. Docs. 47-48.)

Katie requested a hearing on November 6, 2024, which was set for January 27, 2025. (D.C. Doc. 50.) At that hearing, CSSD attorney Patrick Quinn noted that he had run updated calculations which resulted in an obligation of \$813. (01/27/2025 Tr. at 26.) The District Court later found that the modified calculation of \$853 was "closer to an accurate reflection of the parties' obligations." (*Order*, Finding ¶ 5.) The District Court continued the matter for final hearing on February 10, 2025. (DC Doc. 55.)

At the February 10 hearing, Katie testified her 2023 income was \$26,939 as a self-employed cosmetologist. (02/10/2025 Tr. at 21-22; *Order*, Finding ¶ 6.) She presented evidence showing monthly expenses exceeding her income by \$942, requiring her to deplete savings and rely on her parents, who were displaced, having vacated their home so Katie and the children would have a place to live. (02/10/2025 Tr. at 21-24, Ex. 4.) Katie testified she had to exhaust savings intended to purchase a home and rely on parental contributions while Colin failed to pay adequate support. (02/10/2025 Tr. at 20; 26.)

Colin submitted only two exhibits at the hearing, both proposed child support calculations: Exhibit A (\$193/month) and Exhibit B (\$853/month). (02/10/2025 Tr. at 91.) No calculation presented at the hearing reflected the \$684 figure the District Court ultimately adopted. After the hearing, Colin submitted “Respondent’s Proposed Findings” with an attached “Exhibit D.” (DC Doc. 59.) The “Exhibit D” was a child support calculation never authenticated or admitted into evidence reflecting an obligation of \$684 monthly support.

The District Court issued its Findings of Fact, Conclusions of Law and Order (hereinafter “Order”) on March 10, 2025, adopting the never-admitted Exhibit D and ordering Colin to pay \$684 monthly. (DC Doc. 61.) The District Court made no findings about Katie’s actual income, instead reciting only that she “testified” to \$26,939. The District Court made no findings about Colin’s income, no findings about non-cash benefits despite testimony about Colin’s employer-provided vehicle and his trust income, and made no findings about the number of parenting days despite this being contested. The District Court denied retroactive support, finding: “No testimony was presented indicating that the children have suffered any harm.” (*Order*, Finding ¶ 8.) From that order, Katie now appeals.

SUMMARY OF THE ARGUMENT

The District Court committed fundamental errors requiring reversal. First, it failed to make findings of fact necessary to support any child support determination.

The District Court merely recited what witnesses testified without determining what facts were true. Support orders must be supported through specific factual findings that justify and explain the ultimate conclusion. Here, the District Court made no findings about actual income, actual parenting days, or other contested issues essential to calculating support. Without these findings, this Court cannot conduct meaningful appellate review.

Second, the District Court ordered \$684 in monthly support based on “Exhibit D,” which was never introduced, authenticated, or admitted at trial. This document appeared only in Colin’s post-trial proposed findings submitted two weeks after the hearing. The \$684 figure appears nowhere in the trial record. By contrast, CSSD calculated \$853, Colin’s own trial exhibit showed \$853, and the District Court acknowledged \$853 was “closer to an accurate reflection” of the parties’ obligations. By adopting the post-trial submission implicitly making factual determinations that appear nowhere else, the District Court violated basic principles of due process and evidence.

Third, the District Court abused its discretion by denying retroactive support despite Colin paying less than 30% of the support owed for 33 months. The District Court applied a legally erroneous “harm” standard, finding retroactive support unnecessary because Colin “supplied the children with what they needed.” Montana law calculates support through objective Guidelines, not subjective assessments of

necessity. While the underpayment totaled approximately \$23,000, Katie depleted her savings and relied on her parents who vacated their home to provide the children adequate housing. The District Court's approach rewards strategic underpayment and penalizes custodial parents who sacrifice to meet their children's needs.

These errors require reversal and remand with instructions to award support based on evidence actually presented at trial.

STANDARD OF REVIEW

This Court reviews a district court's child support decisions for abuse of discretion. *In re Marriage of Craib*, 266 Mont. 483, 490, 880 P.2d 1379, 1384 (1994). In deciding whether a district court abused its discretion, this Court determines whether "the trial court acted arbitrarily without employment of conscientious judgment or exceeded the bounds of reason resulting in substantial injustice." *In re Marriage of Kovarik*, 1998 MT 33, ¶ 21, 287 Mont. 350, 954 P.2d 1147; *Albrecht v. Albrecht*, 2002 MT 227, ¶ 7, 311 Mont. 412, 56 P.3d 339.

Importantly, "a district court must apply its discretion in a realistic manner, taking into account the actual situation of the parties." *Albrecht*, ¶ 7 (citing *In re Marriage of Noel*, 265 Mont. 249, 252, 875 P.2d 358, 359 (1994)). A District Court abuses its discretion when it accepts one party's proposed findings without proper consideration of the facts and demonstrates a lack of independent judgment. *In re Marriage of Kukes*, 258 Mont. 324, 328, 852 P.2d 655, 657 (1993).

ARGUMENT

I. THE DISTRICT COURT ERRED BY FAILING TO MAKE SUFFICIENT FINDINGS OF FACT.

This Court has consistently held that district courts must make adequate findings of fact when modifying child support. *In re Marriage of Mills*, 2006 MT 149, ¶ 20, 332 Mont. 415, 138 P.3d 815 (“[T]he District Court must set forth the essential and determining facts underlying its child support decision.”). “Adequate findings of fact and conclusions of law are required, as without them this Court is forced to speculate as to the reasons for the District Court’s decision.” *In re Marriage of Banka*, 2009 MT 33, ¶ 9, 349 Mont. 193, 201 P.3d 830. When a court fails to set forth an evidentiary basis demonstrating that statutory criteria were properly considered, it abuses its discretion. *In re Marriage of Griffin*, 260 Mont. 124, 141, 860 P.2d 78, 88 (1993).

In the present matter, the District Court failed to make adequate findings, leaving the parties to speculate as to the reasons for its decision. The District Court’s findings merely recite what witnesses testified without making actual determinations on contested issues like income, parenting days, or non-cash benefits. The District Court failed to make any findings on six of the ten contested issues and based its \$684 support order on “Exhibit D,” a document never introduced, authenticated, or admitted at trial. Without knowing what facts the District Court actually found true,

as opposed to what was merely offered through testimony, this Court cannot conduct meaningful appellate review.

The District Court's "Findings of Fact" fundamentally misunderstand what constitutes a judicial finding. True findings of fact require the court to weigh evidence and make determinations about credibility in order to determine what is true and what is false. Instead, the District Court merely provided a recitation of each party's testimony, without making any determinations about credibility or accuracy. That determination is the essence of a factual finding.

This critical distinction is most apparent in how the District Court handled Katie's income. Finding 6 states that "Katie testified that her income in 2023 was \$26,939, with a rough estimate for expected income of approximately \$29,000 for 2024." This is simply a statement that Katie testified to these amounts, not a finding that her testimony was credible or that these amounts were accurate. The District Court then adopted Exhibit D, which calculated support based on Katie having \$30,000 in income, a figure that appears nowhere in the testimony and for which the District Court made no finding.

This same pattern repeats throughout the District Court's decision. Regarding parenting days, the District Court recites that the parties disagreed about whether Colin had 134 or 155 parenting days annually, but never resolves the issue by determining how many parenting days each parent has. Without finding the true

number of parenting days, the District Court cannot properly calculate support under the guidelines.

Similarly, the District Court found Colin “testified consistent with information provided to CSSD” regarding his income but never determined what his actual income is. Nevertheless, without further explanation, the Exhibit D calculation adopted wholesale by the District Court uses \$83,316. On the record before this Court, there is no finding supporting this figure nor evidentiary basis for determining it.

In addition to failing to resolve factual disputes, the District Court also omitted inconvenient facts. For example, despite testimony about Colin’s employer-provided vehicle and trust income, the District Court makes no findings about whether these benefits exist or should be included in the calculation.

As this Court has made clear, the District Court must “set forth the essential and determining facts underlying its child support decision.” *Marriage of Mills*, ¶ 20. Simply repeating witness testimony is not making a finding of fact. Inherent in the term “finding” is the notion of determination or resolution. The Court must determine which testimony to credits, what facts it finds proven, and explain how those facts support its legal conclusions. The difference between “Katie testified her income was X” and “The Court finds Katie’s income is X” is not semantic, it is the

difference between a District Court that has exercised its judicial function and one that has not.

This Court's decision in *Marriage of Helzer*, provides direct guidance on the insufficiency of the District Court's findings here. *In re Marriage of Helzer*, 2004 MT 352, 324 Mont. 371, 102 P.3d 1263. In *Helzer*, the District Court adopted an expert's income calculation that included \$15,000 in unreported income, but the record provided no mathematical basis for how he arrived at that number. *Helzer*, ¶¶ 24-25. This Court reversed, holding that when an expert's calculations cannot be traced to actual evidence, the district court abuses its discretion by adopting those calculations. *Id.*

The *Helzer* Court established a critical principle: District Courts cannot simply adopt conclusions without ensuring they are traceable to specific factual findings supported by admitted evidence. While *Helzer* involved an expert whose methodology was untraceable, this case involves a District Court order presenting an entirely untraceable decision-making process. The District Court made no findings about actual income, actual parenting days, or actual non-cash benefits, yet somehow arrived at \$684 in support. Like the "alchemy" rejected in *Helzer*, the District Court's \$684 figure materialized without a traceable mathematical or evidentiary path.

The District Court's failure to make actual findings, as opposed to merely summarizing testimony, leaves this Court unable to conduct meaningful appellate review under *Helzer*. Without knowing what facts the District Court actually found convincing, this Court cannot determine whether the \$684 support figure has any evidentiary basis. *Helzer* requires the ability to trace the path from the admitted evidence to the findings of fact to the application of law to the ultimate conclusion. Here, that path doesn't exist. The District Court jumped directly from reciting conflicting testimony to ordering \$684, with no intervening findings of fact to bridge the gap or provide a guide to the reasoning.

The District Court essentially acknowledged that the parties testified in various ways and then jumped to a determination that child support be \$684. It wholly failed to connect the testimony to the conclusion through actual factual findings and legal reasoning. This approach violates the requirement that District Courts provide the essential and determining facts that support their decisions.

The District Court cannot fulfill its obligation to make findings on contested issues by silently adopting numbers embedded in a post-trial exhibit. This approach prevents meaningful appellate review.

These omissions are particularly problematic given the direct impact these unaddressed issues have on child support calculations. The number of parenting days each parent exercises is a major component of the Guidelines calculation, directly

affecting the support amount. The District Court's failure to make any finding on this issue means the support calculation lacks foundation. The income imputed to Katie by CSSD was contested, yet the District Court made no findings about whether imputing was appropriate or what Katie's actual income should be for support purposes.

Likewise, the unaddressed issue of Colin's non-cash benefits from his employer and family farm could significantly impact his available income for support purposes. Montana law requires consideration of all financial resources, not just cash wages. See A.R.M. 37.62.106. According to that rule:

Income means actual gross income from any source ... including, but not limited to salaries, wages, tips and gratuities, commissions, net income from business or self-employment, interest and dividends, pensions and retirement benefits, social security benefits, workers' compensation benefits, unemployment insurance benefits, annuity payments, income from trust accounts, gifts and pries to the extent they are recurring or will be used to reduce the support obligation, rental income net of reasonable and necessary expenses, severance pay, capital gains, spousal maintenance received, income from contracts, and income from any other source.

By failing to address this issue, the District Court may have understated Colin's actual ability to provide support. The various tax-related issues, including who claims the children as exemptions, the child tax credit, and earned income tax credit, all have financial implications that affect the parties' respective abilities to support the children.

This Court has repeatedly emphasized that District Courts must make sufficient findings to enable meaningful appellate review. Without findings on these contested issues, it is impossible to determine whether the District Court properly considered all relevant factors in making its support determination. The District Court's selective approach to addressing only some issues while ignoring others suggests an arbitrary exercise of discretion rather than the conscientious judgment required in family law matters.

II. THE DISTRICT COURT ERRED BY AWARDING SUPPORT IN THE AMOUNT OF \$684.

In *Marriage of Griffin*, this Court made clear that a District Court abuses its discretion when it establishes a child support award “without setting forth an evidentiary basis which demonstrated that the statutory criteria were properly considered.” *Marriage of Griffin*, 260 Mont. at 141, 860 P.2d at 88. The *Griffin* Court emphasized that “the statute clearly requires a court to consider the statutory criteria when making its award” and remanded with instructions that the court “enter findings of fact which support its child support award.” *Id.* Here, as in *Griffin*, the District Court provided no evidentiary basis for its \$684 figure, violating both statutory requirements and this Court's mandate for adequate findings.

The District Court's determination that Colin pay \$684 in monthly child support represents perhaps the most troubling error in this case, as it lacks an evidentiary foundation and appears to have been drawn from thin air. The District

Court's order states it is setting support "Pursuant to Exhibit D of Respondent's Proposed Findings of Fact, (CSSD Guideline's Sheet)[.]" This is factually incorrect.

Exhibit D was not "CSSD's Guidelines Sheet." It was instead a calculation prepared by Colin and submitted with his proposed findings after trial. The case register confirms this procedural irregularity. Colin submitted his Proposed Findings on February 24, 2025, which included the Exhibit D calculation that became the basis for the District Court's Order. (D.C. Doc. 59.) This was fourteen days after the hearing, the actual venue for offering and admitting evidence. This mischaracterization is significant because it suggests the District Court appeared to believe it was relying on CSSD's official calculation when it was actually adopting Colin's post-trial submission.

Notably, the \$684 figure appears nowhere in the trial record. At trial, Colin submitted his Exhibit B suggesting he pay \$853 per month for the two children. His suggestion from trial largely matched CSSD's official calculation, which Patrick Quinn stated was "closer to an accurate reflection of the parties' financial obligations." No witness testified that \$684 was appropriate, no exhibit offered and admitted at the hearing showed this calculation, and no party argued for this amount. The figure materialized only in Colin's post-trial proposed findings, without explanation or justification for the nearly \$170 monthly reduction from what

evidence showed was correct. Much like in *Helzer*, the alchemy remains unexplained.

More than just being absent from trial, “Exhibit D” contains implicit factual findings in its line items. By adopting these embedded findings wholesale, without analysis or explanation, the District Court made findings of fact wholly unsupported by the evidence at trial and the record. This represents not just an evidentiary error, but a fundamental violation of judicial process.

By adopting this unsupported figure, the District Court violated basic principles of due process and evidence. Katie had no opportunity to challenge the \$684 calculation because it was never presented at trial. She could not cross-examine any witness about how this figure was derived or why it differed from CSSD’s calculation. The District Court essentially allowed Colin to present new evidence after trial through his proposed findings, then adopted that evidence without giving Katie any opportunity to respond.

The District Court’s error is particularly egregious because Montana law creates a rebuttable presumption that the Guidelines calculation is correct. As this Court held in *Albrecht*, “a district court must follow the Child Support Guidelines unless clear and convincing evidence is produced demonstrating that the application of the standards and guidelines is unjust to the child or to any of the parties, or is inappropriate in that particular case.” *Albrecht*, ¶ 11. The District Court deviated

from CSSD's \$853 calculation when it adopted the result from the unadmitted Exhibit D. But compounding the error, it did so without any clear and convincing evidence; instead adopting a figure without evidentiary support. This arbitrary exercise of discretion deprived the children of approximately \$170 per month in support to which they are entitled under the Guidelines.

Under *Marriage of Mills*, District Courts must “set forth the essential and determining facts underlying its child support decision.” *Marriage of Mills*, ¶ 20. The *Mills* Court emphasized that while it does “not require specific findings of fact on every element of the child support guidelines, the district court must set forth the essential and determining facts underlying its child support decision.” *Id.* The District Court's complete failure to explain its reasons for rejecting CSSD's \$853 calculation in favor of a figure that appeared nowhere in the record is an error of law.

This Court cannot conduct meaningful appellate review when the District Court provides no explanation for its decision. As this Court stated in *Banka*, “adequate findings of fact and conclusions of law are required, as without them this Court is forced to speculate as to the reasons for the District Court's decision.” *Banka*, ¶ 9. The District Court failed to meet that standard here.

The District Court justified the \$684 figure by citing Exhibit D, but the exhibit's validity depends on factual findings the District Court never made. The

District Court cannot bootstrap its way to a valid support order by citing a document that itself requires factual determinations the District Court failed to make explicitly. Because the calculation ultimately ordered by the District Court was not actually in line with the child support Guidelines, the District Court was required to comply with the law as it relates to variances. It failed to do so.

III. THE DISTRICT COURT ABUSED ITS DISCRETION BY DECLINING TO AWARD RETROACTIVE CHILD SUPPORT.

“Whether child support is awarded retroactively to the date of notice of a motion for modification is clearly within the discretion of the district court.” *Welch v. Welch*, 273 Mont. 497, 505, 905 P.2d 132, 137 (1995) (citing *In re Marriage of Hill*, 265 Mont. 52, 57, 874 P.2d 705, 707 (1994)). See also *In re Marriage of Gebhardt*, 240 Mont. 165, 783 P.2d 400 (1989); and *In re Marriage of Saylor*, 232 Mont. 294, 756 P.2d 1149 (1988). However, in exercising that discretion, “[t]here is no reason to distinguish between the support necessary after the court’s order and the children’s needs from the time of [the] petition until the order was entered.” *Welch*, 273 Mont. at 505 (citing *Marriage of Hill*, 874 P.2d at 709).

The District Court’s denial of retroactive support constitutes a clear abuse of discretion that fundamentally misunderstands the nature of child support obligations under Montana law. Child support is not a discretionary benefit that can be waived based on subjective assessments of whether children were adequately cared for. Rather, it represents a legal entitlement calculated according to objective Guidelines

designed to ensure children receive support commensurate with their parents' financial abilities.

The District Court failed to apply its discretion “in a realistic manner, taking into account the actual situation of the parties” as required by *Albrecht*. The District Court’s conclusion that retroactive support was unnecessary because the children were “not harmed” instantiates a standard that appears nowhere in the law and ignores the actual situation. Katie, with an income under \$30,000, struggled financially while Colin underpaid by \$491 monthly. The District Court’s focus on whether children suffered “harm,” rather than whether they received the support to which they were entitled, represents an arbitrary exercise of discretion divorced from the actual financial realities the parties faced. This approach “exceeded the bounds of reason resulting in substantial injustice” to Katie and the children. *Marriage of Kovarik*, ¶ 21.

A realistic application of discretion, and the relevant legal standard, would recognize that a custodial parent earning less than \$30,000 annually who receives only 30% of entitled support for four years has suffered substantial injustice, regardless of whether the children had food and shelter. Moreover, ensuring the children were adequately cared for required both Katie and her parents to endure financial hardship and housing insecurity. The District Court’s failure to consider

Katie's actual financial situation while she subsidized Colin's underpayment constitutes an abuse of discretion.

The District Court's reasoning that "no testimony was presented indicating that the children have suffered any harm" improperly shifts the analysis from an objective calculation to a subjective evaluation. This standard appears nowhere in the Montana Child Support Guidelines and contradicts their fundamental purpose. Instead, "Montana's child support laws "emphasize one fundamental principle: child support should be sufficient to maintain the standard of living a child enjoyed before dissolution after his or her parents have separated." *In re Marriage of Jackson*, 2025 MT 177, ¶ 11, ___ Mont. ___, 573 P.3d 812 (citing *Albrecht*, ¶ 41 (additional citations omitted)). "Where child support is inadequate, children suffer the consequences." *Jackson*, ¶ 11.

Montana law therefore requires courts to follow statutory criteria and Montana's Child Support Guidelines whenever awarding or modifying child support, always considering the parties' financial circumstances at that time. *See* Mont. Code Ann. § 40-4-204(3)(a); *In re Marriage of Martinich-Buhl*, 2002 MT 224, ¶¶ 15, 19, 311 Mont. 375, 56 P.3d 317; *Albrecht*, ¶ 12. The purpose of the mathematical formulas is precisely to avoid such subjective determinations and ensure consistent, adequate support across cases.

The magnitude of the underpayment here cannot be ignored. Until entry of the Order, Colin paid only \$193 per month when, by the District Court's own determination, he should have been paying \$684 per month. This represents a monthly shortfall of \$491, meaning the children received less than 30% of the support to which they were entitled. Over the 33-month period from the date of the Petition through the final order, this amounts to nearly \$23,000 in unpaid support.

Katie's testimony established the real-world impact of this underpayment. With an annual income of under \$30,000, she could not cover her monthly expenses. While Colin underpaid by hundreds of dollars each month, Katie struggled to make ends meet and provide for the children's needs from her limited resources.

The District Court's finding that Colin "supplied the children with what they needed during this time period" fundamentally misunderstands the nature of child support obligations. Parents cannot unilaterally decide what children "need" and limit their support accordingly, nor should the Courts encourage such reckless behavior. The Guidelines determine support based on parental income and the number of parenting days, not on subjective assessments of necessity. By accepting Colin's voluntary provision of undefined items as sufficient, the District Court allowed him to determine his own support obligation for those 33 months, contrary to Montana law.

Furthermore, the District Court's decision creates perverse incentives that undermine the entire child support system. While Colin paid \$192 a month, Katie was able to sustain that "keep them in the style to which they had otherwise previously been accustomed to" by depleting her savings and displacing her parents from their home. If instead, Katie had taken Colin's approach and made meager contributions to the children's welfare the situation would certainly have suffered the harm the District Court sought. Instead of encouraging parents to provide adequate support, the District Court's approach encourages parents to leave children without necessities so they can qualify for retroactive support.

Katie's unrefuted testimony painted a stark picture of the financial devastation Colin's underpayment caused. She testified she was forced to deplete savings intended for purchasing a home, stating "I would not have had to dip into my savings account that was to go towards purchasing a home" and "I would not have had to rely on help from my parents." (02/10/2025 Tr. at 20.) The financial strain was so severe that her parents displaced themselves from their own home so Katie and the children would have somewhere to live. (02/10/2025 Tr. at 24.)

When asked how she was managing financially, Katie admitted she was "taking money out of my savings account" just to survive. (02/10/2025 Tr. at 45.) She testified she needs "\$942 just to break even" each month, and described being

“devastated” when she received the initial \$190 calculation. (02/10/2025 Tr. at 21 and 65.)

This testimony demonstrates the concrete harm Katie and the children suffered while Colin paid less than 30% of his true obligation. The District Court’s finding that the children suffered no harm ignores Katie’s unrebutted testimony that she exhausted her savings, relied on her parents’ charity, and sacrificed her ability to purchase a home, all while Colin continued receiving trust income and driving employer-provided vehicles.

The District Court’s approach is particularly troubling given that it acknowledges the dramatic underpayment yet refuses any remedy. The District Court essentially tells Katie that despite receiving less than one-third of the support her children were entitled to for over four years, she has no recourse because the children survived. As *Welch* recognized, the children’s needs exist from the time of separation regardless of when the court ultimately enters its order. The District Court’s denial of retroactive support here constitutes an abuse of discretion. The Order should be reversed and this matter should be remanded with instructions to award retroactive support.

CONCLUSION

The District Court’s errors resulted in substantial injustice to Katie and her children. They were deprived of over \$24,000 in retroactive support and face a

monthly \$169 shortfall as compared to the CSSD calculation. The Court's failure to make findings on most contested issues, its adoption of an unsupported bottom line amount never presented at trial, and its resolution of contested issues through silent adoption of a post-trial exhibit compound these errors.

Based on the foregoing, Katie respectfully requests that this Court reverse the District Court's child support order and remand with instructions to award retroactive child support based on an accurate Guidelines calculation supported by explicit findings based solely on the evidence presented at the hearing. This evidence-based determination must form the basis for the prospective child support amounts as well.

DATED: September 11, 2025.

MEASURE LAW, P.C.

By: /s/ Marybeth M. Sampsel
Marybeth M. Sampsel

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 11 of the Montana Rules of Appellate Procedure, I certify that this Appellant's Opening Brief is printed with a proportionately spaced Times New Roman text typeface of 14 points; is double-spaced except for footnotes and for quoted and indented material; and the word count calculated by Microsoft Word for Windows is not more than 10,000 words, excluding the certificate of service and the certificate of compliance.

MEASURE LAW, P.C.

By: /s/ Marybeth M. Sampsel
Marybeth M. Sampsel

APPENDIX

Findings of Fact, Conclusions of Law and OrderApp. A

Exhibit D App. B

CERTIFICATE OF SERVICE

I, Mary-Elizabeth Marguerite Sampsel, hereby certify that I have served true and accurate copies of the foregoing Brief - Appellant's Opening to the following on 09-11-2025:

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