changed to cover the Blazer and collision coverage was to be added. Paragraph 13 alleges that the damages itemized in paragraph 12, viz., damages to the vehicle and towing charge, were covered by the collision portion of the insurance policy. We conclude that the plaintiff has sufficiently set forth the substance of the insurance policies. In addition, paragraph 6 of the amended complaint provides the insurance policy number and the defendant should have available a copy of the policy. When the defendant has a copy and is a party to the writing, the attachment requirement may be waived, *Leiby v. New Hampshire Ins. Co.*, 51 D&C 2d 643 (1971).

In addition, this cause of action is not based solely on the writing but on the defendant's breach of promise to provide proper coverage. The defendant's preliminary objection in the nature of a motion to strike, paragraph 6, is dismissed.

Motions to strike Nos. 7 and 9, concern count 2, paragraph 18 and 20 of the amended complaint. Count 2, as above noted, is against defendant, Ohio Casualty Insurance Company only, and not the defendant Lum. Thus, Lum's preliminary objections to count No. 2 are dismissed for lack of standing to object on behalf of the corporate defendant.

The defendant, in his motion for a more specific complaint, first contends that paragraph 4 of the amended complaint lacks specificity as to facts in support of the allegation that defendant Lum is an agent of the Ohio Casualty Insurance Company. Paragraph 4 of the amended complaint alleges that defendant Lum "is in the business of selling insurance and is an agent for Ohio Casualty Insurance Company." This averment, together with the allegation of paragraph 6 that the plaintiff "purchased through Howard M. Lum, Jr. with the Ohio Casualty Insurance Company" the insurance policy, is sufficient for the averment of agency and this preliminary objection is dismissed.

In paragraph 10 of the motion for more specific complaint, the defendant desires to know the manner, time, and place of the promise alleged in paragraph 9 of the amended complaint. Paragraph 9 specifically states that this defendant orally agreed to include the collision coverage during a phone call on November 2, 1977. The defendant is sufficiently informed of the material facts to enable him to investigate the plaintiff's claim and prepare a responsive pleading. The motion for a more specific pleading is dismissed.

We also dismiss paragraph 11 of the preliminary objections, for plaintiff avers in paragraph 14 of the amended

complaint that he orally notified the defendant of the accident on November 12, 1977, and defendant Lum assured him he had collision coverage. We find the paragraph sufficiently specific.

Finally, defendant objects in the nature of a motion for more specific complaint to paragraph 15 of the amended complaint which states:

> "Subsequent to the notice to Howard M. Lum, Jr., the exact date and time and method of notice being unknown, the plaintiff was informed by Ohio Casualty insurance Company and Howard M. Lum, Jr., separately that no collision coverage was on the Chevrolet Blazer at the time of the accident."

Defendant Lum wishes more facts on date, time and method of notices. The plaintiff has not specifically averred time and place of the notice. However, if the exact time is not a material factor, then it need not be specifically pleaded. Goodrich-Amram, 153 Section 1019(f). The plaintiff stated that the notice of not being covered for collision was given to him subsequent to the plaintiff giving notice of the accident to defendant Lum on November 12, 1977. The fact that there was no collision coverage in the policy is the main issue in this action. The date, time, and method of notice from defendants to the plaintiff that there was no collision coverage on the Blazer at the time of the accident is neither material nor necessary to the preparation of a responsive pleading. Accepting the plaintiff's allegation under oath that the exact date, time and method of notice is unknown to him, it is difficult to imagine how he could be ordered to plead with more specificity that which he does not know. Preliminary objection No. 12 is dismissed.

ORDER OF COURT

NOW, this 1st day of March, 1979, the defendant's preliminary objections are dismissed. The plaintiff will replead paragraph 16.5(a) of the amended compla-nt to comply with this Opinion within twenty (20) days of date hereof.

Exceptions are granted the plaintiff and defendant.

STEPHEY v. STEPHEY, C.P., Franklin County Branch, F.R. Docket 1978-317-S

Non-support - Modification of Order - Parent's Right to Continue Education

1. While the Court recognizes a parent's right to continue the reasonable pursuit of education and the subsequent attainment of future goals, it will not ignore the parent's responsibility to participate in the maintenance and support of the child where the parent is only attending school two days a week.

Martha B. Walker, Esq., Counsel for Petitioner

Thomas M. Painter, Esq., Counsel for Respondent

OPINION AND ORDER

KELLER, J., April 9, 1979:

On August 18, 1976, this Court entered the following order:

> "NOW, August 18, 1976, the within Stipulation and Agreement in the above captioned proceedings is hereby approved, and it appearing to the Court that the respondent, K. Eugene Stephey, is earning approximately $250.00 and the Petitioner, Kay I. Stephey, is earning approximately $76.00 per week net
>
> "It is ordered that K. Eugene Stephey pay the costs of these proceedings, enter into his own bond in the amount of $3,000.00 to guarantee faithful compliance with this order and commencing Monday pay, via the Collection Officer of this Court, to Kay I. Stephey the sum of $90.00 plus $.20 service charge and a like sum of $90.20 each Monday thereafter until further order of court for the support of Tracy Dawn Stephey, born March 24, 1967 and Gina Kay Stephey born April 17, 1969; Further, Respondent shall maintain the fullest medical coverage on said minor children available through his place of employment."

On December 26, 1978, the petition of K. Eugene Stephey, defendant herein, seeking modification of the existing support order on the grounds that circumstances have changed in hat Tracy Dawn Stephey is no longer with and being cared for by the plaintiff, and is in the custody and care of the defendant. An order was signed on December 26, 1978 directing that a Rule issue upon Kay I. Stephey to show cause why the order of court entered August 18, 1976 should not be modified. A full hearing was held on January 24, 1979, and counsel for the parties submitted their briefs on January 31, 1979.

We enter the following Findings of Fact:

FINDINGS OF FACT

1. The plaintiff is Kay I. Stephey, who resides at 155 Snider Avenue, Waynesboro, Pennsylvania.

2. The defendant is K. Eugene Stephey, who resides at 202 Park Street, Waynesboro, Pennsylvania.

3. The plaintiff and defendant were formerly married and two children were born of the marriage, viz.; Tracey Dawn Stephey, born March 24, 1967, and Gina Kay Stephey, born April 17, 1969.

4. At the time of the stipulation and order of August 18, 1976, the parties were separated, but not divorced.

5. The parties were divorced on March 4, 1977.

6. The defendant married his present wife Cheryl on June 5, 1978.

7. The defendant, his present wife and her three-year old son, Brock, have lived together at the 202 Park Street address which they rented.

8. Cheryl Stephey receives $45.00 per week from her former husband for the support of Brock.

9. At approximately the end of November 1978, the parties' daughter, Tracy, began to live with the defendant, his present wife, and stepson.

10. On December 28, 1978, an order was entered by this Court pursuant to the stipulation and agreement of the parties vesting primary custody of Tracy in the defendant subject to visitation rights with the plaintiff.

11. Commencing November 20, 1978, the defendant commenced to pay support in the amount of $102.50 bi-weekly rather than the amount of the order of August 18, 1976. The arrearage of record as of March 19, 1979 is $1,020.00 plus $.90 service charge.

12. In the past arrearages have accumulated as a result of the defendant's being paid on a ten month contract on the 15th and 30th of each month. On November 8, 1978 the plaintiff remitted arrearages in the amount of $900.00.

13. The defendant is an elementary school teacher in the

Washington County, Maryland School System and receives a net income of approximately $250.00 per week for ten months, or a net weekly income of approximately $192.00.

14. The defendant has been unsuccessful in securing employment during the two summer months for the last three years, despite his efforts to secure the same. He attempted to accept employment in landscaping in the summer of 1978, but was unable to continue it due to a disc operation on December 26, 1977.

15. The defendant has his Master's Degree plus 30 credit hours.

16. The defendant's wife, Cheryl, has been employed as an Avon representative since November 1978, and earned a gross of $35.00 to $40.00 bi-weekly until after Christmas, Since Christmas her gross has averaged approximately $7.00 bi-weekly.

17. The defendant's present bi-weekly payments of $102.50 to the Collection Office of this Court are based on his assumption that the current support order should be modified retroactively to $45.00 per week, plus $6.50 should be applied to the existing arrearage.

18. The plaintiff was employed by Henson Aviation, Inc. with an average net weekly take-home pay of $128.68, which included overtime. (Her base net weekly pay with appropriate exemptions was $122.54.) The plaintiff either worked the early shift from 5:00 A.M. to 2:30 P.M., or the late shift from 2:30 P.M. until 11:00 P.M., which required her to be away from her home and her children a substantial amount of each day.

19. The plaintiff resigned her employment effective January 12, 1979, and registered at Hood College on January 15, 1979, where she intends to secure her bachelor's degree in sociology.

20. The Plaintiff attended Shippensburg State College during the time the parties were married, and completed her freshman year and all of her sophomore year, except 2 credits. She, therfore, will be required to complete two full years plus secure the 2 credit hours at Hood College before she will have her degree.

21. At the time of the hearing the plaintiff was working on a part-time basis for Henson Aviation training her replacement. She did not know what her compensation would be nor how

long the part-time employment would be available.

22. The plaintiff commutes from Waynesboro to Hood College 2 days a week, and attends classes from 8:00 A.M. until 2:35 P.M.

23. The plaintiff's tuition cost for the current semester is $1,700.00. She has received a grant of $600.00 to apply to the tuition and has borrowed $1,200.00 from a local bank. No payment is required on the loan until 9 months after graduation and no interest is accrued.

24. The plaintiff has personal savings of approximately $1,200.00.

25. The plaintiff proposes to pay her education expenses and family living expenses from the $1,200.00 plus what she receives from child support from the defendant.

26. The plaintiff's plan to secure a non-paying full-time internship at a future date which might lead to future employment cannot be considered at the present time.

27. The plaintiff intends to seek employment as a social research worker after she secures her degree at Hood College, but she has no knowledge of the prospective income for such employment with a bachelor's degree.

28. At the present time the plaintiff is uncertain whether she will attend summer school or not.

29. Both Hood College and Shippensburg State College offer night classes, but the plaintiff did not inquire about night school because she desired to spend that time with her daughter, Gina, and because she would have to employ a sitter for the child.

30. The plaintiff has had no employment experience except with a travel agency in Waynesboro and with Henson Aviation, Inc.

31. The plaintiff believes that she can advance herself by completing her college education, and become self-supporting and supporting of her children.

32. The plaintiff testified that she has not foreclosed the thought of securing part-time employment and has advised her former employer that she will be available for such employment.

33. The plaintiff made no effort to look for or secure part-time employment before terminating her former employment.

DISCUSSION

In the case at bar, the defendant contends that the current order for support in the amount of $90.00 per week should be reduced to $45.00 on the grounds that he and the plaintiff each now have one of the children of the marriage. The plaintiff agrees that the defendant is entitled to some modification of the existing order because he is now fully maintaining and supporting the older daughter in his home. However, the plaintiff contends this Court should consider her as having no income or earning capacity because she terminated her employment in January of this year to become a full-time student, secure her bachelor's degree and thus enhance her future employment opportunities and earning capacity.

The plaintiff relies on *Commonwealth ex. rel. Giamber v. Giamber*, Pa. Super. , 386 A. 2d 160 (1978) as authority for the proposition that a wife who is pursuing further education to obtain greater employment opportunities is not required to work, and her earning capacity will not be taken into consideration in determining the amount of a support order. In *Giamber* the husband wanted his wife's earning capacity to be taken into consideration in determining the amount of an order for their child's support. The wife was not employed and was securing further education. Prior to the separation, the wife had been employed by her husband as a receptionist, secretary and nurse. In declining to consider the wife's earning capacity the Superior Court held:

> "...to compel her to seek employment would require her to *forego further education* which she is now involved in and which she needs to gain better employment in the field of community counselling" (italics ours) p.162.

The facts related in the *Giamber* case do not make it clear what kind of education the wife was pursuing nor the amount of time she dedicated to that pursuit. However, the Superior Court held that it would not require her to "forego further education" to provide her share of child support. In the case before us, the plaintiff is only going to school two days a week. There appears to be no valid reason why she could not obtain part-time employment during the other days to help support her child. We do not find such employment would require her to forego her education.

The plaintiff contends that she may have an internship with the state government, and would then be unable to work. If this plan comes into being, then at that time this Court will consider all of the then existing circumstances. At this time we cannot speculate on the future.

Both parents are required to discharge the obligation of supporting their child in accordance with their capacity and ability. "Support, as every other duty of parenthood, is the equal responsibility of both mother and father." *Conway v. Dana*, 456 Pa. 536, 540, 318 A. 2d 324 (1974). In *Snively v. Snively*, 206 Pa. Super. 278 (1965), the husband quit his job to secure a college education. The Superior Court denied his petition to reduce the amount of his support order, and held:

> "The change of circumstances in this case that affects his earnings and earning power was brought about by the voluntary act of the appellant. His praiseworthy ambition to obtain an education, which may well work to the eventual advantage of his child, cannot be realized at the expense of his obligation to support the child. . . ." (p. 282)

We conclude the plaintiff's present earning capacity must be taken into consideration. She is not at this time entitled to a zero earning capacity.

The plaintiff's responsibility to participate in the maintenance and support of her daughter must be measured against her right under *Giamber* to continue the reasonable pursuit of her education and the attainment of her goals for her future. In our judgment no unreasoable hardship is imposed upon plaintiff by predicating her earning capacity upon 60% of her base income of $122.54 per week of $73.52.

ORDER OF COURT

NOW, this 9th day of April, 1979, it appearing to the Court that the respondent, K. Eugene Stephey, is responsible for the support of his child and has a net weekly take-home pay of approximately $192.00, and the petitioner has a present weekly earning capacity of approximately $73.52;

IT IS ORDERED THAT K. Eugene Stephey, respondent, pay the cost of these proceedings, continue his own bond in the amount of $3,000.00 to guarantee faithful compliance with this Order, and commencing Monday, January 1, 1979, pay via the Collection Officer of this Court to Kay I. Stephey, petitioner, the sum of $61.00 plus $.20 service charge and a like sum of $61.20 each Monday thereafter until the arrearage due and

ich time said weekly payments shall
ner Order of Court for the support
n April 17, 1969. The respondent
n the fullest medical insurance
available through his place of

ons branch of this Court shall
e from the respondent as of January
Order.

ARTMIRE, C.P. Franklin County

onged Test - Underlying Circumstances
o be Seized are at Place to be Searched -
nformant is Reliable - Time of Probable
e on Merits - Circumstantial Evidence -

warrant is based on information from an
forth the underlying circumstances from
ne items to be seized are at the place to be

avit must also set forth a basis on which
ormant involved was reliable and credible.

defendant told the informant he had just
and placed them on his premises, and the

6. In addition to the evidence of the drag trails, and the defendant's statement to the informant, the game protector in this case observed three deer parts in the defendant's refrigerator, and a deer hide in his house, and the defendant displayed a freshly killed deer head to the game protector, without a hide attached to it; accordingly the Commonwealth's burden of proof was met.

John F. Nelson, Esq., Attorney for the Commonwealth

Blake E. Martin, Esq., Public Defender, Attorney for the Defendant

OPINION

EPPINGER, P.J., April 18, 1979:

Paul F. Hartmire, defendant, was charged with possession of anterless deer in closed season and was convicted at a hearing by the court. Prior to the hearing he asked to have the evidence seized by the game protectors suppressed, as being an unlawful search and seizure.

The suppression hearing was held by Judge Keller of this court and the evidence established that Game Protector Frank Clark received a report from a reliable informant that the defendant had shot two doe during buck season and the informant had observed him drag them out of the premises. In making the order refusing to suppress the evidence, the court inadvertently stated that the deer were reported shot on December 19, 1977. The correct date was prior to December 5, 1977, the date before the search warrant was issued.

Clark was also told that the informant had observed two