

1 THURMAN W. ARNOLD, III, C.F.L.S. [SBN 107101]
The Law Firm of Thurman W. Arnold, III
2 225 South Civic Drive, Suite 1-3
PALM SPRINGS, CA 92262
3 TEL: (760)320-7915
FAX: (760)320-0725

4 Attorney for Respondent,
5 [REDACTED]

6
7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF RIVERSIDE

10
11 IN RE MARRIAGE OF:

12 PETITIONER: [REDACTED]

13 and

14
15 RESPONDENT: [REDACTED]

CASE NUMBER: IND [REDACTED]

EVIDENTIARY OBJECTIONS;
MEMORANDUM OF POINTS AND
AUTHORITIES;
[PROPOSED] ORDER THEREON

DATE: [REDACTED]
TIME: 10:00 a.m.
DEPT: 2H

[Ev. C. § 353; CRC 5.111]

16
17
18 NOTICE:

19 TO ALL PARTIES AND THEIR ATTORNEY(S) OF RECORD, PLEASE TAKE
20 NOTICE THAT: pursuant to Evidence Code § 353 and California Rules of Court, Rule
21 5.111, Respondent [REDACTED] objects to and hereby moves to exclude from
22 evidence portions of the declaration of Petitioner [REDACTED] and the declaration
23 of [REDACTED] as set forth below.

24 *USE NOTE: COPIES OF PETITIONER'S APPLICABLE MOVING PAPERS ARE*
25 *ATTACHED HERETO WITH DELINEATED OBJECTIONABLE PORTIONS THEREOF*
26 *MARKED AND CROSS-REFERENCED WITH THE APPLICABLE OBJECTION MADE*
27 *HEREINBELOW.*

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 I. **IMPROPER ARGUMENT**

3 RFO supporting declarations are for factual allegations. They are not the proper
4 vehicle to present argument. The proper place for argument is in a memorandum in
5 support. *Marriage of Davenport* (2011) 194 CA4th 1507, 1516, 125 CR3d 292, 300
6 [sanctions imposed for, among other things, filing declaration filled with argument];
7 *Marriage of Bardzik* (2008) 165 CA4th 1291, 1297, 83 CR3d 72, 75, fn. 3 [reminding
8 counsel that declarations are supposed to reflect statements of the declarant under
9 oath, not legal argument by counsel]; and *Marriage of Heggie* (2002) 99 CA4th 28, 30,
10 120 CR2d 707, 709, fn. 3 [noting family law practitioners commonly include argument in
11 their declarations, "but it is a sloppy practice which should stop"].

12 Here, objections are made to Petitioner's and her counsel's arguments made in
13 their respective declarations, as stated specifically below.

14 II. **FOUNDATION AND PERSONAL KNOWLEDGE**

15 Declarations must be based on personal knowledge and must explain how the
16 declarant acquired that knowledge. CRC 5.111(b)(2). If a party thinks a declaration is
17 not based on personal knowledge and/or that it does not explain how the declarant
18 acquired that knowledge, he or she must object to the declaration (i) in writing at least
19 two court days before the hearing date; or (ii) upon a finding of good cause, in writing or
20 orally at the time of the hearing. Otherwise, any objection is waived and the declaration
21 may be considered as evidence. CRC 5.111 (c)(1). The burden is on the party offering
22 the evidence to produce sufficient evidence to sustain a finding that the witness has
23 such personal knowledge. Ev.C. § 403(a).

24 Here, objections are made to Petitioner's and her counsel's

25 III. **IMPROPERLY NOTICED REQUESTS**

26 "... all relief requested must be set forth on the FL-300 Request for Order. [See
27 CRC 5.92(a)]. Any desired order not expressly mentioned at checkbox items 1 through
28

1 7 (other than domestic violence restraining orders) should be identified at item 8 (e.g.,
2 appointment of receiver, order to return automobile needed for employment, order to
3 return furniture removed from family residence, etc.)." *Cal. Prac. Guide Family L. Ch.*
4 *5-D: Notice Of Motion/OSC And Stipulation Procedures*, at 5:321.

5 Here, Petitioner's counsel has buried some requests in ¶s 3 and 8 of his
6 declaration in support that do not appear on Petitioner's RFO Form FL-300: (1) An
7 Order for an alleged delinquency of \$10,000 in attorney's fees, (2) A Writ of Execution
8 to issue on such alleged delinquency by such Order (3) Ongoing \$2,500/month
9 obligation on Respondent for Petitioner's forensic expert fees, and (4) anticipatory
10 evidence sanctions) . Procedurally, these requests should be denied for failing to
11 include them in item 8 of Petitioner's RFO form.

12 Dated: December ____, 20█ RESPECTFULLY SUBMITTED,

13
14 THURMAN W. ARNOLD, III, Attorney for
Respondent █

15 ///
16 ///
17 ///
18 ///
19 ///
20 ///
21 ///
22 ///
23 ///
24 ///
25 ///
26 ///

27 *[Evidentiary Objections and Ruling Thereon to Follow]*

1 **Objection 5:** Form FL-300, item 10 (Facts in Support), p.4 of 4, ¶3, regarding
2 alleged havoc deliberately cause by Respondent's actions. Petitioner has provided no
3 foundation on which her personal knowledge of the events described in this statement
4 can be established. Ev. C. § 702(a); *People v. Babbitt* (1988) 45 C3d 660, 682, 248 CR
5 69, 79. This portion of the declarant's declaration is also argumentative. *Marriage of*
6 *Davenport* (2011) 194 CA4th 1507, 1516, 125 CR3d 292, 300. This portion of the
7 declaration is also speculative and is therefore irrelevant. Ev. C. § 351. *People v.*
8 *Fielder* (2004) 114 CA4 1221, 1234, 8 CR3d 247, 256.

9 **Ruling on Objection 5:**

10 Inadmissible for lack of personal knowledge/foundation:

11 ___ sustained ___ overruled.

12 Inadmissible argument:

13 ___ sustained ___ overruled.

14 Inadmissible speculation/relevancy:

15 ___ sustained ___ overruled.

16
17 **Objection 6:** Form FL-300, item 10 (Facts in Support), p.4 of 4, ¶6, regarding
18 Respondent's alleged vacations with his alleged girlfriend/office manager. Petitioner
19 has provided no foundation on which her personal knowledge of the events described
20 in this statement can be established. Ev. C. § 702(a); *People v. Babbitt* (1988) 45 C3d
21 660, 682, 248 CR 69, 79. This portion of the declaration is also speculative and is
22 therefore irrelevant. Ev. C. § 351. *People v. Fielder* (2004) 114 CA4 1221, 1234, 8
23 CR3d 247, 256.

24 **Ruling on Objection 6:**

25 Inadmissible for lack of personal knowledge/foundation:

26 ___ sustained ___ overruled.

27 Inadmissible speculation/relevancy:

1 ___ sustained ___ overruled.

2
3 **Objection 7:** Form FL-300, item 10 (Facts in Support), p.4 of 4, ¶6, regarding
4 Respondent's alleged conspiracy to defraud. Petitioner has provided no foundation on
5 which her personal knowledge of the events described in this statement can be
6 established. Ev. C. § 702(a); *People v. Babbitt* (1988) 45 C3d 660, 682, 248 CR 69, 79.
7 This portion of the declarant's declaration is also argumentative. *Marriage of Davenport*
8 (2011) 194 CA4th 1507, 1516, 125 CR3d 292, 300. This portion of the declaration is
9 also speculative and is therefore irrelevant. Ev. C. § 351. *People v. Fielder* (2004) 114
10 CA4 1221, 1234, 8 CR3d 247, 256.

11 **Ruling on Objection 7:**

12 Inadmissible for lack of personal knowledge/foundation:

13 ___ sustained ___ overruled.

14 Inadmissible argument:

15 ___ sustained ___ overruled.

16 Inadmissible speculation/relevancy:

17 ___ sustained ___ overruled.

18
19 **Objection 8:** Form FL-300, item 10 (Facts in Support), p.4 of 4, ¶6, regarding
20 alleged skimming of money, secreting money, and falsifying books by Respondent.
21 Petitioner has provided no foundation on which her personal knowledge of the events
22 described in this statement can be established. Ev. C. § 702(a); *People v. Babbitt*
23 (1988) 45 C3d 660, 682, 248 CR 69, 79. This portion of the declarant's declaration is
24 also argumentative. *Marriage of Davenport* (2011) 194 CA4th 1507, 1516, 125 CR3d
25 292, 300. This portion of the declaration is also speculative and is therefore irrelevant.
26 Ev. C. § 351. *People v. Fielder* (2004) 114 CA4 1221, 1234, 8 CR3d 247, 256.

1 **Ruling on Objection 8:**

2 Inadmissible for lack of personal knowledge/foundation:

3 ___ sustained ___ overruled.

4 Inadmissible argument:

5 ___ sustained ___ overruled.

6 Inadmissible speculation/relevancy:

7 ___ sustained ___ overruled.

8
9 **Objection 9:** Form FL-300, item 10 (Facts in Support), p.4 of 4, ¶6, regarding

10 Respondent's alleged fraudulent scheme. Petitioner has provided no foundation on
11 which her personal knowledge of the events described in this statement can be
12 established. Ev. C. § 702(a); *People v. Babbitt* (1988) 45 C3d 660, 682, 248 CR 69, 79.
13 This portion of the declarant's declaration is also argumentative. *Marriage of Davenport*
14 (2011) 194 CA4th 1507, 1516, 125 CR3d 292, 300. This portion of the declaration is
15 also speculative and is therefore irrelevant. Ev. C. § 351. *People v. Fielder* (2004) 114
16 CA4 1221, 1234, 8 CR3d 247, 256.

17 **Ruling on Objection 9:**

18 Inadmissible for lack of personal knowledge/foundation:

19 ___ sustained ___ overruled.

20 Inadmissible argument:

21 ___ sustained ___ overruled.

22 Inadmissible speculation/relevancy:

23 ___ sustained ___ overruled.

24
25 **Objection 10:** Form FL-158, item 3(b), p.1 of 3, regarding an alleged increase to

26 Respondent's discretionary cash flow. Petitioner has provided no foundation on which
27
28

1 her personal knowledge of the events described in this statement can be established.
2 Ev. C. § 702(a); *People v. Babbitt* (1988) 45 C3d 660, 682, 248 CR 69, 79. The
3 statement is also speculative and is therefore irrelevant. Ev. C. § 351. *People v. Fielder*
4 (2004) 114 CA4 1221, 1234, 8 CR3d 247, 256.

5 **Ruling on Objection 10:**

6 Inadmissible for lack of personal knowledge/foundation:

7 ___ sustained ___ overruled.

8 Inadmissible speculation/relevancy:

9 ___ sustained ___ overruled.

10
11 **Objection 11:** Attachment 3C to Form FL-158 (Declaration of [REDACTED]),
12 p.1/9-12, ¶ 2 regarding Respondent's alleged breach of fiduciary duties and discovery
13 compliance. Petitioner has provided no foundation on which his personal knowledge of
14 the events described in this statement can be established. Ev. C. § 702(a); *People v.*
15 *Babbitt* (1988) 45 C3d 660, 682, 248 CR 69, 79.

16 **Ruling on Objection 11:**

17 Inadmissible for lack of personal knowledge/foundation:

18 ___ sustained ___ overruled.

19
20 **Objection 12:** Attachment 3C to Form FL-158 (Declaration of [REDACTED])
21 p.1/15-16, ¶ 3 regarding a requested order for a determination of an alleged \$10,000 in
22 delinquent attorney's fees owed by Respondent, and for a writ of execution to issue
23 thereon. This request is improperly noticed. CRC 5.92(a)(1); see also *Cal. Prac. Guide*
24 *Family L. Ch. 5-D: Notice Of Motion/OSC And Stipulation Procedures*, at 5:321.

25 **Ruling on Objection 12:**

26 Denial of request for improper notice:

1 ___ sustained ___ overruled.

2
3 **Objection 13:** Attachment 3C to Form FL-158 (Declaration of [REDACTED]),
4 p.2/2-3, ¶ 7 regarding anticipated obstructive and fraudulent tactics by Respondent.
5 This statement is speculative and therefore irrelevant. Ev. C. § 351. *People v. Fielder*
6 (2004) 114 CA4 1221, 1234, 8 CR3d 247, 256.

7 **Ruling on Objection 13:**

8 Inadmissible speculation/relevancy:

9 ___ sustained ___ overruled.

10
11 **Objection 14:** Attachment 3C to Form FL-158 (Declaration of [REDACTED]),
12 p.1/15-16, ¶ 8 regarding a requested order for an ongoing order for Respondent to pay
13 \$2,500 per month to a forensic accounting expert for Petitioner. This request is
14 improperly noticed. CRC 5.92(a)(1); see also *Cal. Prac. Guide Family L. Ch. 5-D: Notice*
15 *Of Motion/OSC And Stipulation Procedures*, at 5:321.

16 **Ruling on Objection 14:**

17 Denial of request for improper notice:

18 ___ sustained ___ overruled.

19
20 **Objection 15:** Attachment 3C to Form FL-158 (Declaration of [REDACTED]),
21 p.1/15-16, ¶ 8 regarding a requested order for evidence sanctions. This request is
22 improperly noticed. CRC 5.92(a)(1); see also *Cal. Prac. Guide Family L. Ch. 5-D: Notice*
23 *Of Motion/OSC And Stipulation Procedures*, at 5:321. 79. The statement is also
24 speculative and is therefore irrelevant. Ev. C. § 351. *People v. Fielder* (2004) 114 CA4
25 1221, 1234, 8 CR3d 247, 256.

1 **Ruling on Objection 15:**

2 Denial of request for improper notice:

3 ___ sustained ___ overruled.

4 Inadmissible speculation/relevancy:

5 ___ sustained ___ overruled.

6
7 Dated: December ____, 20█ RESPECTFULLY SUBMITTED,

8
9 THURMAN W. ARNOLD, III, Attorney for
Respondent █

10
11 **ORDER**

12 GOOD CAUSE APPEARING, the forgoing Rulings on the Evidentiary Objections of

13 Respondent █ are hereby ordered as provided hereinabove.

14
15 DATED: December ____, 20█

16 HON. █ JUDGE OF
17 THE SUPERIOR COURT

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
 [REDACTED]
 Long Beach, California 90802
 TELEPHONE NO.: (562) [REDACTED] FAX NO. (Optional):
 E-MAIL ADDRESS (Optional):
 ATTORNEY FOR (Name): Petitioner, [REDACTED]

FOR COURT USE ONLY

FILED
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF RIVERSIDE

NOV 04 2013

Clark
 M. Valadez
 Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
 STREET ADDRESS: 46-200 Oasis Street
 MAILING ADDRESS: 46-200 Oasis Street
 CITY AND ZIP CODE: Indio, California 92201
 BRANCH NAME: INDIO BRANCH

PETITIONER/PLAINTIFF: [REDACTED]
 RESPONDENT/DEFENDANT: [REDACTED]
 OTHER PARENT/PARTY:

REQUEST FOR ORDER
 Child Custody
 Child Support
 Attorney Fees and Costs

MODIFICATION
 Visitation
 Spousal Support

Temporary Emergency Court Order
 Other (specify):
 Acct. Fees/Direct Deposit SS

CASE NUMBER:
 [REDACTED]

1. TO (name): [REDACTED] AND HIS ATTORNEY OF RECORD

2. A hearing on this Request for Order will be held as follows: If child custody or visitation is an issue in this proceeding, Family Code section 3170 requires mediation before or at the same time as the hearing (see item 7.)

(Handwritten signature)

a. Date: [REDACTED] Time: 10:00 Dept: 2H Room: [REDACTED]

b. Address of court same as noted above other (specify):

3. Attachments to be served with this Request for Order:

a. A blank Responsive Declaration (form FL-320)

b. Completed Income and Expense Declaration (form FL-150) and a blank Income and Expense Declaration

c. Completed Financial Statement (Simplified) (form FL-155) and a blank Financial Statement (Simplified)

d. Points and authorities

e. Other (specify): Declaration of [REDACTED]

Date: [REDACTED] \$ [REDACTED]

(TYPE OR PRINT NAME) (SIGNATURE)

COURT ORDER

4. YOU ARE ORDERED TO APPEAR IN COURT AT THE DATE AND TIME LISTED IN ITEM 2 TO GIVE ANY LEGAL REASON WHY THE ORDERS REQUESTED SHOULD NOT BE GRANTED.
5. Time for service hearing is shortened. Service must be on or before (date):
6. Any responsive declaration must be served on or before (date):
7. The parties are ordered to attend mandatory custody services as follows:
8. You are ordered to comply with the Temporary Emergency Court Orders (form FL-305) attached.
9. Other (specify):

Date: _____ JUDICIAL OFFICER

To the person who received this Request for Order: If you wish to respond to this Request for Order, you must file a Responsive Declaration to Request for Order (form FL-320) and serve a copy on the other parties at least nine court days before the hearing date unless the court has ordered a shorter period of time. You do not have to pay a filing fee to file the Responsive Declaration to Request for Order (form FL-320) or any other declaration including an Income and Expense Declaration (form FL-150) or Financial Statement (Simplified) (form FL-155).

PETITIONER/PLAINTIFF: [REDACTED] RESPONDENT/DEFENDANT: [REDACTED] OTHER PARENT/PARTY: [REDACTED]	CASE NUMBER: [REDACTED]
--	-------------------------

4. SPOUSAL OR PARTNER SUPPORT (An earnings assignment order may be issued.)
- a. Amount requested (monthly): \$ _____
 b. Terminate existing order
 (1) filed on (date): _____
 (2) ordering (specify): _____
 c. Modify existing order
 (1) filed on (date): _____
 (2) ordering (specify): _____
 d. The Spousal or Partner Support Declaration Attachment (form FL-157) is attached (for modification of spousal or partner support after judgment only)
 e. An Income and Expense Declaration (form FL-150) must be attached
5. ATTORNEY FEES AND COSTS are requested on Request for Attorney Fees and Costs Order Attachment (form FL-319) or a declaration that addresses the factors covered in that form. An Income and Expense Declaration (form FL-150) must be attached. A Supporting Declaration for Attorney Fees and Costs Order Attachment (form FL-158) or a declaration that addresses the factors covered in that form must also be attached.
6. PROPERTY RESTRAINT To be ordered pending the hearing
- a. The petitioner respondent claimant is restrained from transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, except in the usual course of business or for the necessities of life.
 The applicant will be notified at least five business days before any proposed extraordinary expenditures, and an accounting of such will be made to the court.
 b. Both parties are restrained and enjoined from cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of any insurance or other coverage, including life, health, automobile, and disability, held for the benefit of the parties or their minor children.
 c. Neither party may incur any debts or liabilities for which the other may be held responsible, other than in the ordinary course of business or for the necessities of life.
7. PROPERTY CONTROL To be ordered pending the hearing
- a. The petitioner respondent is given the exclusive temporary use, possession, and control of the following property that we own or are buying (specify): _____

 b. The petitioner respondent is ordered to make the following payments on liens and encumbrances coming due while the order is in effect:
- | <u>Debt</u> | <u>Amount of payment</u> | <u>Pay to</u> |
|-------------|--------------------------|---------------|
| | | |
8. OTHER RELIEF (specify):
- A. Order payment of \$5,000 retainer and ongoing monthly payments for petitioner's forensic accounting services, and prevent respondent from introducing his own accounting reports or testimony unless has has complied with this order; and B. Order direct deposit of spousal support from the operating bank account of the medical practice and prevent payments to respondent or his creditors until spousal support has been paid.

NOTE: To obtain domestic violence restraining orders, you must use the forms Request for Order (Domestic Violence Prevention) (form DV-100), Temporary Restraining Order (Domestic Violence) (form DV-110), and Notice of Court Hearing (Domestic Violence) (form DV-109).

PETITIONER/PLAINTIFF: [REDACTED]	CASE NUMBER: [REDACTED]
RESPONDENT/DEFENDANT: [REDACTED]	
OTHER PARENT/PARTY:	

9. I request that time for service of the *Request for Order* and accompanying papers be shortened so that these documents may be served no less than (specify number): _____ days before the time set for the hearing. I need to have this order shortening time because of the facts specified in item 10 or the attached declaration.
10. **FACTS IN SUPPORT** of orders requested and change of circumstances for any modification are (specify):
 Contained in the attached declaration. (You may use Attached Declaration (form MC-031) for this purpose. The attached declaration must not exceed 10 pages in length unless permission to file a longer declaration has been obtained from the court.)

Prior to obtaining an order for temporary spousal support in November 2010, I had to survive by borrowing from friends and selling my personal property such as jewelry I was given during our marriage. After the order was made, however, my personal finances have continued to suffer [due to [REDACTED] deliberate refusal to pay on a timely basis.] **Objection 1**

#2 He made no payments on time in 2010, 26 late payments in 2011, 39 late payments in 2012, and 13 late payments this year. When he does make a payment [he will maliciously wait till one minute before the bank closes before making the deposit into the account from which my support payments are received.] **Objection 2**

As a direct consequence of his contemptuous acts of non-compliance with the court's order, I have sustained **#4** approximately \$10,000 in late and nsf charges because my checks including ones for rent have bounced. [My attorney has had to call his lawyer's office routinely to obtain compliance resulting in substantial legal fees. My car was repossessed because I was unable to make timely car payments. The emotional distress and financial havoc deliberately caused by [REDACTED] persistent record of inadequate and late payments is tremendous.] I will seek monetary damages at trial for this deliberate harm. **Objection 4**

To prevent his continuous contempt, however, I urge the court to order that he immediately implement direct deposit into my account from the general operating account of the medical practice and that such payments be made before he is allowed to pay himself or his personal creditors including his mortgage.

I also ask that such priority payment arrangements be ordered for all attorney and forensic accounting fees that the court may order pursuant to the instant and subsequent fee requests. Specifically, I ask the court to order direct deposit of such monthly fees before he is allowed to make any payments to his attorney and accountant.

#6 [REDACTED] has managed to take multiple and extensive vacations with his girlfriend/office manager and his lavish lifestyle has continued since we separated while I have suffered a dramatic deterioration in my standard of living during this post-separation period. He continues to maintain that the medical practice has zero value, and he is conspiring with others including his office manager and bookkeeper to defraud me and this court. He has skimmed hundreds of thousands of dollars from the practice and secreted the monies and falsified his books. It will take a great deal of skilled legal and forensic accounting work to prove his breach of fiduciary duties and fraud at the time of trial, but my team and I are dedicated to provide this court with competent and convincing evidence of his fraudulent scheme. **Objection 6**

#9 I respectfully urge this court to insure that I survive and that my team has the resources to prepare my case for trial.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: [REDACTED]

 (TYPE OR PRINT NAME)

[REDACTED SIGNATURE]

 (SIGNATURE OF APPLICANT)



Requests for Accommodations
 Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the proceeding. Contact the clerk's office or go to www.courts.ca.gov/forms for *Request for Accommodations by Persons With Disabilities and Response* (form MC-410). (Civil Code, § 54.8.)

PETITIONER/PLAINTIFF: [REDACTED] RESPONDENT/DEFENDANT: [REDACTED] OTHER PARTY:	CASE NUMBER: [REDACTED]
--	----------------------------

REQUEST FOR ATTORNEY'S FEES AND COSTS ATTACHMENT

1. I am completing this form because:
 - a. I need to have enough money for attorney's fees and costs to present my case adequately;
 - I am receiving free legal services from an attorney at a nonprofit legal services agency or a volunteer attorney.
 - b. I have less money or limited access to funds to retain or maintain an attorney compared to the party that I am requesting pay for my attorney's fees and costs; and
 - c. the party that I want the court to order to pay for my attorney's fees and costs has or is reasonably likely to have the ability to pay for attorney's fees and costs for me and himself or herself.

2. I am asking the court to order that *(check all that apply)*:
 - petitioner/plaintiff respondent/defendant
 - other party *(specify)*: _____

pay for my attorney's fees and costs in this legal proceeding as follows:

 - a. Fees: \$ \$25,000
 - b. Costs: \$ 5,000

3. The requested amount includes *(check all that apply)*:
 - a. a fee in the amount of: \$ _____ to hire an attorney in a timely manner before the proceedings in the matter go forward.
 - b. attorney's fees and costs incurred from the beginning of representation until now in the amount of: \$ _____
 - c. estimated attorney's fees and costs in the amount of: \$ 30,000
 - d. attorney's fees and costs for limited scope representation in the amount of: \$ _____

4. Have attorney's fees and costs been ordered in this case before?
 - a. No.
 - b. Yes. If so, describe the order:
 - (1) The petitioner/plaintiff respondent/defendant other party must pay: \$ 50,000 for attorney's fees and costs.
 - (a) This order was made on *(date)*: ordered in 2/2011 and 2/2012
 - (b) From the payment sources of *(if known)*:
Respondent's medical business practice.
 - (c) The payments have been made have not been made have been made in part since the date of the order.
 - (2) Additional information *(specify)*: _____

5. Along with this *Request* form, you must complete, file and serve:
 - a. A current *Income and Expense Declaration* (form FL-150). It is considered current if you have completed form FL-150 within the past three months and no facts have changed since the time of completion; and

PETITIONER/PLAINTIFF: [REDACTED] RESPONDENT/DEFENDANT: [REDACTED] OTHER PARTY:	CASE NUMBER: [REDACTED]
--	----------------------------

5. b. A personal declaration in support of your request for attorney's fees and costs that explains why you need an award of attorney's fees and costs (either *Supporting Declaration for Attorney's Fees and Costs Attachment* (form FL-158) or a comparable declaration that addresses the factors covered in form FL-158).
6. The party requesting attorney's fees and costs must provide the court with sufficient information about the following factors:
 - a. The attorney's hourly billing rate;
 - b. The nature of the litigation, its difficulty, and the skill required and employed in handling the litigation;
 - c. Fees and costs incurred until now; anticipated attorney's fees and costs; and why the fees and costs are just, necessary, and reasonable;
 - d. The attorney's experience in the particular type of work demanded; and
 - e. If it is a limited scope fee arrangement, the scope of representation.

Notice to Responding Party

7. To respond to this request, you must complete, file, and serve:
 - a. A *Responsive Declaration* (form FL-320);
 - b. A current *Income and Expense Declaration* (form FL-150). It is considered current if you have completed form FL-150 within the past three months and no facts have changes since the time of completion; and
 - c. A personal declaration explaining why the court should grant or deny the request for attorney's fees and costs (either *Supporting Declaration for Attorney's Fees and Costs Attachment* (form FL-158) or a comparable declaration that addresses the factors covered in form FL-158).
8. Number of pages attached to this *Request* form: _____

I declare under penalty of perjury under the laws of the State of California that the information contained on all pages of this form and any attachments is true and correct.

Date:

[REDACTED]

 (TYPE OR PRINT NAME)

[REDACTED SIGNATURE]

 (SIGNATURE)

PETITIONER/PLAINTIFF: [REDACTED] RESPONDENT/DEFENDANT: [REDACTED] OTHER PARTY:	CASE NUMBER: [REDACTED]
--	----------------------------

SUPPORTING DECLARATION FOR ATTORNEY'S FEES AND COSTS ATTACHMENT

To: **Request for Attorney's Fees and Costs Attachment (form FL-319)**
 Responsive Declaration (form FL-320)

1. I am

- a. the petitioner/plaintiff.
- b. the respondent/defendant.
- c. the other party.

2. I request that the court grant grant in part deny the request for attorney's fees and costs.

3. I am providing the following information in support of in opposition to the request for attorney's fees and costs.

- a. The petitioner/plaintiff respondent/defendant other party has the ability to pay
 - (1) my attorney's fees and costs.
 - (2) his or her own attorney's fees and costs.
 - (3) both my and his or her own attorney's fees and costs.
 - (4) other (specify):

b. The attorney's fees and costs can be paid from the following sources:

[REDACTED] discretionary cash flow from his medical practice was found to be \$32,774 per month based on total "Owner Draws" reported on [REDACTED] 2009 Balance Sheet. [Petitioner believes that [REDACTED] practice has grown since then and that his discretionary cash flow is much greater now.] *Objections*

c. The court should consider the following facts in deciding whether to grant, grant in part, or deny the request for attorney's fees and costs (describe):

See Attachment 3c.

d. If appropriate, describe the reasons why a non-spouse party or domestic partner is involved in the case and whether he or she should or should not pay attorney's fees and costs:

See Attachment 3d.

PETITIONER/PLAINTIFF: [REDACTED]	CASE NUMBER: [REDACTED]
RESPONDENT/DEFENDANT: [REDACTED]	
OTHER PARTY:	

4. Has an order already been made for payment of child support in this case?
- a. No.
- b. Yes. If so, describe the order:
- (1) The petitioner/plaintiff respondent/defendant other party must pay: \$ _____ per month for child support.
- (a) This order has been in effect since (date): _____
- (b) The payments have been made have not been made have been made in part since the date of the order.
- (2) Additional information (specify): _____

5. Has an order already been made for payment of spousal, partner, or family support in this case?
- a. No.
- b. Yes. If so, describe the order:
- (1) The petitioner/plaintiff respondent/defendant other party must pay: \$ 11,358 per month for spousal support partner support family support.
- (a) This order has been in effect since (date): 11/19/2010
- (b) The payments have been made have not been made have been made in part since the date of the order.
- (2) Additional information (specify): _____

6. If you are or were married to, or in a domestic partnership with, the person you are seeking fees from, the court must consider the factors in Family Code section 4320 in determining whether it is just and reasonable under the relative circumstances to award attorney's fees and costs. Complete and attach *Spousal or Partner Support Declaration Attachment* (form FL-157) or a comparable declaration to provide the court with information about the factors described in section 4320.

7. You must complete, file, and serve a current *Income and Expense Declaration* (form FL-150). It is considered current if you have completed form FL-150 within the past three months and no facts have changed since the time of completion.

8. Number of pages attached to this *Supporting Declaration*: _____

I declare under penalty of perjury under the laws of the State of California that the information contained on all pages of this form and any attachments is true and correct.

Date:

[REDACTED]
 (TYPE OR PRINT NAME)

[REDACTED]
 (SIGNATURE)

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

ATTACHMENT 3C TO FL-158

DECLARATION OF [REDACTED]

I, [REDACTED] declare and state:

1. I am an attorney licensed to practice law in the State of California.. I have been practicing law since 1981, and I have been concentrating on family law matters for the past several years including successfully presenting evidence of breach of fiduciary duties and fraud in complex family law trials. I am certified as a specialist in family law by the Board of Specialization of the California Bar Association. My hourly rate is \$450.
2. The instant case has become complex and difficult as a result of the [REDACTED] Respondent's failure to meet his fiduciary duties and responsibilities under the discovery act to provide complete and accurate financial records necessary to determine his business income available for support as well as a valuation of the community interest in his medical practice. Obj. 1
3. The court has previously awarded attorney's fees in the total sum of \$50,000, and the respondent has failed to pay the final \$10,000 to date on the false premise that the parties stipulated that he only had to pay \$15,000 of the court's second order for fees in the sum of \$25,000. [It is respectfully requested that he be ordered to pay the delinquency forthwith or allow petitioner to obtain a Writ of Execution for same.] Obj. 1
4. I have left the employ of petitioner's prior counsel [REDACTED] to establish my own family law practice, and I now represent petitioner in that capacity. The cumulative unpaid fees incurred by my former firm is the subject of a Borson Motion, and petitioner supports that effort to collect all reasonable and necessary fees from respondent.
5. The significant balance sought by her prior firm notwithstanding, however, the heavy lifting needed to protect petitioner's interests still lay ahead. The parties' depositions and those of relevant witnesses have not yet occurred. It is anticipated that substantial work will be required to ascertain the true financial performance of the medical practice so that an accurate forensic accounting may be performed for trial.
6. I ask that the court make an initial award for fees in the sum of \$35,000 plus \$5,000 in costs, and that a review hearing be calendared within 90 days to review progress and consider a request for another allotment of fees and costs to further posture this case for trial readiness next year.

DECLARATION OF [REDACTED]

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

7. Petitioner will hasten her requests for appropriate orders from this court in order to move the case as quickly as prudently possible given [the anticipated obstructive and fraudulent tactics of her adversary.]

Obj. 1

8. Although accurate and complete business records are not yet available to petitioner, she seeks an order for respondent to pay for the services of a forensic accountant to assist her in the collection and evaluation of this data. She seeks \$5,000 for a retainer forthwith [and an order for respondent to pay a monthly sum of \$2,500 for ongoing services.] In the event respondent fails to pay as ordered and petitioner is frustrated in her ability to present forensic reports and testimony, it is requested that he be prevented from presenting his own expert accounting evidence for hearings or trial.]

Obj. 1

Obj. 1

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 4th day of November [redacted], at [redacted], California.

[redacted signature]