

1 **THURMAN W. ARNOLD, III, SBN: 107101**
2 **Certified Family Law Specialist**
3 **225 South Civic Drive, Suite 1-3**
4 **PALM SPRINGS, CA 92262**
5 **TEL: (760)320-7915**
6 **FAX: (760)320-0725**

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8 **Attorney for Respondent,**
9 **JANE DOE**

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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF RIVERSIDE, RIVERSIDE BRANCH**

13 IN RE THE MATTER OF:

14 PETITIONER: JOHN DOE

15 and

16 RESPONDENT: JANE DOE

CASE NUMBER: RID

DECLARATION OF THURMAN W. ARNOLD, III, CFLS, RE ATTORNEY FEES AND COSTS AND TO TRANSFER CASE TO INDIO BRANCH

DATE:
TIME:
DEPT:

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18 1. I am an attorney at law duly licensed to practice before all Courts of
19 the State of California, and am the attorney of record for the Respondent, JANE DOE
20 (herein "JANE"). The facts stated below are based upon my personal knowledge and
21 as to facts stated on information and belief I believe them to be true, and if called as a
22 witness, I could competently testify thereto. I offer this Declaration in lieu of personal
23 testimony, pursuant to §§ 2009 and 2015.5 of the California Code of Civil Procedure;
24 Rule 1225 of California Rules of Court; pursuant to the authority of *Reifler v. Superior*
25 *Court* (1974) 39 CA3rd 479; and *Marriage of Stevenot* (1984) 154 CA3rd 1051.

26 2. I provide this declaration in support of JANE's RFO for attorney's fees
27 and a transfer of this proceedings to the Indio Branch of the Riverside County Superior
28 Court. It is intended to be made in supplement of form FL-158 (Supporting Declaration

1 for Attorney's Fees and Costs Attachment) and form FL-157 (Spousal or Partner
2 Support Declaration Attachment).

3 3. I was licensed to practice law in 1982. I have practiced family law since
4 1982, but my practice previously included civil and criminal jury trial work until 1992.
5 From 1992 to 2008 ninety percent of my practice was devoted to divorce and family law
6 matters (the remaining practice mostly included civil litigation including real estate
7 matters). I now only practice family law. I have tried numerous complex family law
8 cases in the Riverside and San Bernardino County Superior Courts and regularly serve
9 as a temporary judge in family law matters in Indio and occasionally Hemet. I am a
10 Certified Family Law Specialist. I was the Chair of the Family Law Section of the Desert
11 Bar Association in 2012 and 2013. In 2013 I helped establish the Indio voluntary family
12 law mediation program together with Barrie Roberts, which was developed from the
13 downtown Riverside program created by Judge Jackson Lucky.

14 4. In the past 24 months I have undertaken over 120 hours of family law
15 seminar training not only covering substantive family law, but separately specializing in
16 mediation and collaborative law processes. I also own and operate *Desert Family*
17 *Mediation Services* in Palm Springs, which is a mediation practice devoted to assisting
18 family law litigants in resolving their affairs economically with the minimum of conflict.
19 The California Family Code attorney fee provisions make clear that the legislature's
20 intent includes ensuring equal and adequate access to lawyers and justice in family law
21 litigation, particularly as it relates to 'out-spouses' and a recognition that cases tend to
22 settle and to settle equitably and so unburden the Family Courts when the disputants
23 have competent legal representatives.

24 5. My practice philosophy is consistent with my mediation training; I hope to
25 avoid the time and expense of trial in this matter, but can only accomplish that if my
26 client has adequate financial resources for her to present her case. In this proceeding I
27 believe that at least \$7,500 in attorney's fees from the Petitioner is required, especially
28 since, as JANE makes plain in her RFO declaration, she has zero resources. Said

1 \$7,500 will allow for me to continue to do the general work needed for disposition of this
2 case, either by settlement or through trial. As JANE affirms in her declaration.

3 6. My rate is \$425 per hour for this matter. My associate Michael C.
4 Peterson's rate is \$335 per hour (Mr. Peterson recently took the examination to become
5 a Certified Family Law Specialist and is awaiting the results). My hourly rate is
6 reasonable for this community based upon my certification, my years of experience and
7 training, and the complexity of the issues presented by this case. Mr. Peterson's hourly
8 rate is likewise reasonable for this community, in light of his five licensed years of legal
9 practice of family law, his 100+ hours of training/education in the past year for
10 mediation and preparation of becoming a certified family law specialist, and his
11 research, analytical, oral argument, and law and motion capabilities.

12 7. I bill my legal assistant Diane Dancy at the rate of \$185 per hour,
13 and my certified paralegal Kristin Dancy at the rate of \$115 per hour. Mrs. Dancy
14 (senior) has been employed by me for over 22 years, and utilizing and billing her
15 whenever possible saves my client significant sums that would otherwise be billed at my
16 rates.

17 8. I was retained by JANE on December 12, 2013. JANE paid me an
18 initial retainer of \$3,500 which she borrowed. That sum will likely be completely
19 exhausted by the time this RFO is heard. To date I have invested approximately 5
20 hours into the case, including drafting this RFO and the accompanying pleadings
21 concurrently filed. I anticipate 1 hour for a Reply Declaration, and 5 hours for travel to
22 and from the Riverside Court, including the hearing. From JANE's initial retainer the
23 \$450 filing fee for the Response was paid. The RFO fee is \$90.

24 9. This is not a complicated case and appears to be largely a negative
25 estate except for retirement assets earned mostly during the marriage which are held
26 and controlled by the Petitioner. Although the house where JANE lives was acquired by
27 prior to marriage and was never jointly titled, she declares that it is underwater by a
28 significant amount. Therefore, I do not believe a Moore-Marsden analysis will need to

1 be undertaken. JANE did start a sole proprietorship hair salon during the marriage
2 which I suspect has zero value, but should Petitioner wish to assert otherwise this case
3 will thereby be made more complex and I will return to the Court seeking further fees
4 and forensic costs. This is a long term marriage within the meaning of Fam. Code
5 sections 4320(l) and 4336 of almost 13 years and the Family Code section 4320 factors
6 will need to be analyzed and presented to the Court. Petitioner is presently alleging a
7 date of separation April 11, 2013 which in my opinion and analysis is not at all correct,
8 as more particularly addressed in JANE's Declaration. However, the matter should not
9 require a motion to bifurcate marital status because it will not be greatly to expensive to
10 analyze the marital balance sheet on both alleged date and have the matter finally ruled
11 upon in one trial. The parties appear to have a cooperative joint parenting agreement
12 with a 20% timeshare to the Petitioner and I don't expect child custody to be a major
13 battle although the Respondent has expressed concerns to me that Petitioner may
14 retaliate for her filing her RFO. There is a gross disparity of earnings between the
15 parties in favor of the Petitioner.

16 10. Some basic discovery will need to be accomplished, which includes
17 drafting and answering Form Interrogatories; Special Interrogatories; one production
18 demand; and possibly the Petitioner's deposition. Discovery will entail at last 8 hours. I
19 intend to subpoena his employment and retirement records. We will need to draft
20 Respondent's PDD and we take our client's fiduciary duties seriously and so this will
21 require several hours of time between JANE and Ms. Dancy at my office. Therefore, I
22 reasonably expect at least another 15 hours before this case will be ready for trial or
23 settlement assuming that Petitioner is cooperative and transparent, and twice that
24 amount if he deigns not to be.

25 11. Respondent has requested a transfer of this case to Indio, once this
26 Honorable Court issues its interims orders. This makes complete sense for the
27 convenience of the parties, witnesses, the children, and all evidence relevant to this
28 case is in Palm Springs, CA. It will be much more expensive to litigate this case in

1 downtown Riverside.

2 12. No prior attorney's fees or temporary spousal support order has been
3 previously made in this matter, and JANE has received negligible voluntary support and
4 no attorney's fees contribution from Petitioner since the parties' separation in
5 November, 2013.

6 13. As set forth in JANE's accompanying declaration and in her Income
7 and Expense statement, she has zero ability to pay the attorney's fees, expert's fees,
8 and costs associated with adequate preparation and presentation of his case to the
9 opposition and to the Court. The parties' disparity in income is dramatic in this case
10 (estimated to be about a 1:5 ratio). I submit herewith a brief Points and Authorities in
11 support of the attorney fee request.

12 I declare under penalty of perjury under the laws of the State of California that
13 the foregoing is true and correct and that this declaration was executed on this ___
14 day of January, 2014 at Palm Springs, California.

15 THURMAN W. ARNOLD, III, CFLS
16 Attorney for Respondent
17 JANE DOE
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