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LEAVHAM & WYNN PLC
Two North Camelback Mountain Skyscape
Suite 4500
Phoenix, AZ 85016

Anne A. Turney (Attorney for Petitioner)

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

IN RE THE MARRIAGE OF:	Case No. FC2018-99448603
JANE DOE,	PETITIONER'S MOTION FOR LEAVE TO AMEND PETITION
Petitioner,	
and	
JOHN DOE,	
Respondent.	Assigned to the Honorable Fred E. Fairness

NOW COMES Petitioner, by and through undersigned counsel, and hereby submits her Motion for Leave to Amend her Petition for Dissolution of Non-Covenant Marriage (the "Petition") pursuant to Rule 34, Arizona Rules of Family Law Procedure. According to that rule, Petitioner wishes to amend the Petition to plead two (2) additional claims and to supplement and amend one (1) claim already pleaded with additional information. In accordance with this rule and the local rules of practice, Petitioner attached the proposed First Amended Petition containing red lined changes, as **Exhibit A**. For ease of comparison, Petitioner further attached a clean version of the proposed First Amended Petition as **Exhibit B**.

Rule 34(A) states that "[l]eave to amend shall be freely given when justice requires." The underlying purpose of this rule is to ensure that cases are decided on their merits rather than on pleadings or other procedural technicalities. *See Clemens v. Clark*, 101 Ariz. 413, 414, 420 P.2d 284, 285 (1966). Here, it is necessary for Petitioner

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1 to amend her Petition to adjudicate additional claims that otherwise would be
2 foreclosed, contrary to the interests of justice, if this Motion were denied.

3 THEREFORE, based upon the foregoing, Petitioner respectfully requests that
4 this Court grant her leave to amend her Petition.

5 **RESPECTFULLY SUBMITTED** this 4th day of January, 2019.

6 /s/ Anne A. Turney _____

7 Anne A. Turney
8 Attorney for Petitioner

9 ORIGINAL of the foregoing filed
10 this same date with:

11 The Clerk of the Court
12 Maricopa County Superior Court

13 COPIES of the foregoing e-delivered*/mailed via USPS
14 this same date to:

15 The Honorable Fred E. Fairness*
16 Judge of the Superior Court

17 Shay D. Billings
18 Ditcher Quick Lee & Hyde LLP
19 20th - 25th Floors
20 Phoenix, AZ 85016
21 Attorneys for Respondent

22 By: /s/ Legal Assistant

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EXHIBIT A

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Anne A. Turney (Attorney for Petitioner)

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

IN RE THE MARRIAGE OF:

JANE DOE,

Petitioner,

and

JOHN DOE,

Respondent.

Case No. **FC2018-99448603**

**FIRST AMENDED PETITION FOR
DISSOLUTION OF NON-COVENANT
MARRIAGE
(WITH MINOR CHILDREN)**

Assigned to the Honorable Fred E. Fairness

NOW COMES Petitioner, JANE DOE, and hereby alleges as and for her **First Amended** Petition for Dissolution of Non-Covenant Marriage with Children as follows:

1. Petitioner, JANE DOE, born January 16, 1980, currently resides at 1234 NE Pro Per Blvd., Scottsdale, Arizona 85260. Petitioner is currently unemployed.
2. Respondent, JOHN DOE, born April 11, 1976, currently resides at 98743 Separated Soon Ave., Apt. 8B, Phoenix, Arizona 85016. Respondent is self employed and owns a widget manufacturing and distribution business.
3. Petitioner and Respondent have been domiciled in the State of Arizona for more than ninety days immediately preceding the filing of this action.
4. The parties were married on November 2, 2000, in Truckee, California and since that date have lived as husband and wife. The parties do not have a covenant marriage pursuant to A.R.S. § 25-901.
5. The parties' marriage is irretrievably broken with no reasonable prospect of

1 reconciliation. The conciliation provisions of A.R.S. § 25-381.09 either have been met or
2 do not apply.

3 6. Neither party is currently in the military.

4 7. Petitioner is not currently pregnant.

5 8. The parties have three minor children in common, their information provided
6 on the sensitive data sheet.

7 9. Pursuant to A.R.S. § 25-1031, this Court has exclusive jurisdiction to
8 determine issues of parenting time, legal decision-making, and child support.

9 10. Petitioner has not participated as a party, witness, or in any other capacity
10 in any other litigation concerning the custody of the children in this or any other state or
11 foreign country.

12 11. Petitioner does not have any information regarding any custody proceeding
13 concerning the minor children pending in a court of this or any other state or foreign
14 country.

15 12. ~~Petitioner requests the court award joint legal decision-making authority~~
16 ~~over the parties' three (3) children, with Petitioner having final say in the event the~~
17 ~~parties disagree.~~ There has been a history of significant domestic violence between the
18 parties, pursuant to A.R.S. § 25-403.03. Accordingly, Petitioner requests an award of
19 sole legal decision-making.

20 13. Petitioner requests she be designated as the children's primary residential
21 parent. Respondent's parenting time should be ordered consistent with the children's
22 best interests and the factors prescribed by A.R.S. § 25-403.

23 14. Child support should be calculated pursuant to the Arizona Child Support
24 Guidelines.

25 15. Child support should commence as of May 1, 2018, the first day of the

1 month after the parties physically separated on or about April 26, 2018.

2 16. Respondent should be ordered to maintain health, dental, and vision
3 insurance for the minor children.

4 17. During the marriage, the parties acquired certain joint, common and
5 community property and incurred certain debts and obligations, which should be divided
6 equitably.

7 18. Each party's sole and separate property or obligations should be
8 confirmed.

9 19. ~~Petitioner may be entitled to an equitable lien against community funds~~
10 ~~used to pay for or improve Respondent's separate property during the marriage.~~
11 Respondent fraudulently induced Petitioner to disclaim her interest in the marital
12 residence. Respondent deliberately misled Petitioner and promised that he would re-
13 add Petitioner to the property deed immediately after closing.-

14 20. During the marriage, Petitioner did not maintain employment and instead
15 cared primarily for the children.

16 21. ~~Petitioner further supported Respondent while he started and grew a~~
17 ~~business during the marriage. She is entitled to an equitable lien against the growth~~
18 ~~enabled by or resulting from community efforts.~~

19 22. Petitioner is entitled to an award of spousal maintenance pursuant to the
20 provisions of A.R.S. § 25-319.

21 23. ~~Respondent wasted community funds during the marriage. Petitioner~~
22 ~~believes that Respondent maintained expensive extramarital affairs and provided his~~
23 ~~mistresses with lavish gifts and travel accommodations to the financial detriment of the~~
24 ~~marital community.~~

25 24. Pursuant to A.R.S. § 25-324, Respondent enjoys significantly greater

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1 financial resources than Petitioner. Accordingly, Petitioner requests that Respondent be
2 ordered to pay her reasonable attorney's fees, expert witness fees, and other costs.

3 25. Petitioner declines to restore her maiden name.

4 **WHEREFORE**, Petitioner respectfully requests the following relief:

5 A. Dissolve the parties' marriage and restore them to the legal status of single
6 persons;

7 B. Award Petitioner ~~final say~~ sole legal decision-making;

8 C. Designate Petitioner as the children's primary residential parenting time and
9 award Respondent parenting time consistent with the children's best interests;

10 D. Award spousal maintenance to Petitioner;

11 E. Equitably divide the parties' community property and debts;

12 F. Confirm the parties' separate property and debts; ~~and~~

13 G. ~~Invalidate the disclaimer deed on the basis of fraud;~~

14 H. ~~Order Respondent to reimburse Petitioner for one half (1/2) of any~~
15 ~~community funds wasted during the marriage;~~

16 I. ~~Order Respondent to pay Petitioner's reasonable attorney's fees and costs;~~

17 ~~and,~~

18 J. Any other relief this Court deems just and appropriate.

19 **RESPECTFULLY SUBMITTED** this ~~11th~~4th day of ~~November~~January,
20 201~~8~~9.

21 Turney

/s/ Jane Doe _____ Anne A.

Jane Doe Anne A. Turney
Attorney For Petitioner

24 ORIGINAL of the foregoing filed
25 this same date with:

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1 The Clerk of the Court
Maricopa County Superior Court

2
3 COPIES of the foregoing e-mailed*/served**
this same date to:

4 The Honorable Fred E. Fairness*
Judge of the Superior Court

5
6 ~~John Doe*/**~~
7 ~~98743 Separated Soon Ave., Apt. 8B~~
8 ~~Phoenix, AZ 85016~~
9 Respondent
Shay D. Billings
Ditcher Quick Lee & Hyde LLP
20th - 25th Floors
Phoenix, AZ 85016
Attorneys for Respondent

10
11 By: /s/ Jane Doe Legal Assistant

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EXHIBIT B

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Anne A. Turney
Attorney for Petitioner

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IN AND FOR THE COUNTY OF MARICOPA**

IN RE THE MARRIAGE OF:

JANE DOE,

 Petitioner,

 and

JOHN DOE,

 Respondent.

Case No. FC2018-99448603

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MARRIAGE
(WITH MINOR CHILDREN)**

Assigned to the Honorable Fred E. Fairness

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3. Petitioner and Respondent have been domiciled in the State of Arizona for more than ninety days immediately preceding the filing of this action.
4. The parties were married on November 2, 2000, in Truckee, California and since that date have lived as husband and wife. The parties do not have a covenant marriage pursuant to A.R.S. § 25-901.
5. The parties' marriage is irretrievably broken with no reasonable prospect of

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3 6. Neither party is currently in the military.

4 7. Petitioner is not currently pregnant.

5 8. The parties have three minor children in common, their information provided
6 on the sensitive data sheet.

7 9. Pursuant to A.R.S. § 25-1031, this Court has exclusive jurisdiction to
8 determine issues of parenting time, legal decision-making, and child support.

9 10. Petitioner has not participated as a party, witness, or in any other capacity
10 in any other litigation concerning the custody of the children in this or any other state or
11 foreign country.

12 11. Petitioner does not have any information regarding any custody proceeding
13 concerning the minor children pending in a court of this or any other state or foreign
14 country.

15 12. There has been a history of significant domestic violence between the
16 parties, pursuant to A.R.S. § 25-403.03. Accordingly, Petitioner requests an award of
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11 cared primarily for the children. Petitioner further supported Respondent while he
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19 believes that Respondent maintained expensive extramarital affairs and provided his
20 mistresses with lavish gifts and travel accommodations to the financial detriment of the
21 marital community.

22 24. Pursuant to A.R.S. § 25-324, Respondent enjoys significantly greater
23 financial resources than Petitioner. Accordingly, Petitioner requests that Respondent be
24 ordered to pay her reasonable attorney's fees, expert witness fees, and other costs.

25 25. Petitioner declines to restore her maiden name.

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1 Shay D. Billings**
Ditcher Quick Lee & Hyde LLP
2 20th - 25th Floors
Phoenix, AZ 85016
3 Attorneys for Respondent

4 By: /s/ Legal Assistant

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