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Shay D. Billings\*  
**\* Certified Family Law Specialist Specializing In Family Law**

Attorneys for Respondent

**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  
  
**RESPONSE TO PETITIONER’S  
MOTION FOR LEAVE TO AMEND  
PETITION**  
  
Assigned to the Honorable Fred E. Fairness

NOW COMES Respondent, JOHN DOE (hereinafter “Husband”), by and through undersigned counsel and hereby responds to *Petitioner’s Motion For Leave To Amend Petition* (“Motion”). Petitioner/Wife should not be granted leave to amend as it was requested in bad faith and would cause undue delay and prejudice to Husband.

Although leave to amend “shall be freely given when justice requires,” Ariz. R. Fam. Law P. 34(A)(1), the Court may deny leave because of “undue delay, bad faith or dilatory motive on the party of the movant ... [or] ... undue prejudice to the opposing party by virtue of allowance of the amendment[.]” *Walls v. Ariz. Dep’t of Pub. Safety*, 170 Ariz. 591, 826 P.2d 1217 (App. 1991). Individually, either of these factors is sufficient basis to deny leave to amend. All three are present in this case.

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**A. Undue Delay**

Wife intentionally waited until after this Court set the matter for a resolution management conference to request leave to amend to add novel claims and allegations based entirely on information possessed prior to when Wife filed her original petition for dissolution.

**B. Bad Faith**

Wife plainly seeks to amend her petition to add slanderous allegations and financially punitive claims to retaliate against Husband for dutifully protecting the safety and welfare of his children in his responsive pleadings. Now Wife suddenly recalls a history of significant domestic violence not pleaded in her original petition. Wife’s obvious goal is further illustrated in her “waste” claim where Wife vindictively accuses Husband of unlawfully spending community funds on extramarital affairs. Like the allegation of domestic violence, this claim is based entirely on events and circumstances that predated Wife’s petition. There is no other explanation for Wife’s amendment other than to retaliate against Husband with an attempt to punish him for his response.

**C. Undue Prejudice**

Wife’s new allegations, particularly the allegation that the disclaimer deed was procured by fraud and the allegation that community funds were spent on extramarital affairs dramatically expand the scope of discovery in this case. This will cause Husband to incur additional attorney’s fees to defend himself, beyond what he must incur to oppose unjust amendment. Wife already has wasted significant judicial resources to what is obviously litigation gamesmanship. Unrelenting avarice, not equity or justice, was the central theme of Wife’s proposed amendment. Each proposed change explicitly sought to manipulate the financial factors of this case to extract more money from Husband.

1 **CONCLUSION**

2 Husband requests that Wife’s Motion be denied and that the case proceed as  
3 pleaded originally without amendment. Husband also requests reimbursement of his  
4 attorney’s fees and costs pursuant to Ariz. Rev. Stat. § 25-324.

5 **RESPECTFULLY SUBMITTED** this 17th day of January, 2019.

6 /s/ Shay D. Billings  
7 Certified Family Law Specialist  
8 Attorney for Husband

9 ORIGINAL of the foregoing e-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\*\*  
14 this same date to:

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

17 Anne A. Attorney\*\*  
18 Leavham & Wynn PLC  
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20 Suite 4500  
21 Phoenix, AZ 85016  
22 Attorney for Wife

23 By: /s/ Paralegal No. 5

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