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PATRICIA PHILLIPS (Bar No. 41516)
GREGORY W. JESSNER (Bar No. 121920)
ADAM N. KING (Bar No. 216996)
PHILLIPS JESSNER LLP
One California Plaza
300 South Grand Avenue, 14th Floor
Los Angeles, CA 90071
Telephone: (213) 687-2650
Facsimile: (213) 687-2651
E-mail: crt@phillipsjessner.com

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MAY 22 2009

**LOS ANGELES
SUPERIOR COURT**

Attorneys for Respondent
STEPHEN SOHMER

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

In re Marriage of

DEIDRE HALL,

Petitioner,

and

STEPHEN SOHMER,

Respondent.

Case No. BD 420 214

[Assigned to Judge Thomas Trent Lewis]

**RESPONDENT'S OBJECTIONS TO
STATEMENTS OF DECISION ON
ISSUES OF CHILD SUPPORT AND
ATTORNEY'S FEES AND COSTS**

1 Respondent Stephen Sohmer respectfully submits, pursuant to California Rule of Court
2 3.1590(f), the following objections to the Court's Statement of Decision on Child Support, served
3 on May 13, 2009, and to the Court's Statement of Decision on Attorney's Fees and Costs, served
4 on May 7, 2009.

5 **A. Child Support**

6 *1. Respondent's net monthly disposable income of each parent.* Respondent
7 objects to the DissoMaster Printout attached to the statement of decision on child support because
8 it does not identify the factual bases for the findings regarding Respondent's income. The
9 DissoMaster Printout states that Respondent's income from "[w]ages + salary" is \$11 a month
10 and that his income from "[o]ther taxable income" is \$32,276 a month. These are precisely the
11 same amounts that are contained in the DissoMaster Printout attached to the previous support
12 order, entered on or about December 20, 2007. As the statement of decision accurately reflects,
13 however, Respondent submitted a timely updated Income and Expense Declaration in connection
14 with this proceeding, as well as an updated forensic analysis regarding his gross cash flow
15 available for support. According to Respondent's Income and Expense Declaration and his
16 forensic accountant's gross cash flow analysis, Respondent's current monthly income is
17 approximately \$22,000 a month. Petitioner never disputed this amount. The statement of
18 decision provides no legal or factual basis for ignoring Respondent's undisputed Income and
19 Expense Declaration and computing child support under the guideline formula using
20 Respondent's 2007 income levels.

21 *2. Petitioner's deductions from gross income.* Respondent similarly objects
22 to the DissoMaster Printout attached to the statement of decision because it does not identify the
23 factual bases for the findings regarding Petitioner's deductions from gross income. The
24 DissoMaster Printout states that Petitioner's itemized deductions total \$6,499 a month, the same
25 amount that is contained in the DissoMaster Printout attached to the previous December 2007
26 support order. According to Petitioner's most recent Income and Expense Declaration, however,
27 her itemized deductions are at least \$6,923 a month (\$4,593 a month for mortgage-interest
28 payments and \$2,330 a month for real property taxes). Respondent never disputed this amount.

1 The statement of decision provides no legal or factual basis for ignoring Petitioner's undisputed
2 deductions and computing child support under the guideline formula using Petitioner's 2007
3 itemized deductions.

4 3. *Retroactivity.* Respondent objects to the modification of the child support
5 order retroactive to November 15, 2008, because the statement of decision does not contain the
6 finding required by California Family Code section 3653(b) regarding Petitioner's first date of
7 unemployment. Where support orders are modified because of a party's unemployment, the
8 earliest date of retroactivity is "the *later* of the date of the service on the opposing party of the
9 notice of motion or order to show cause to modify or termination or the date of unemployment."
10 *Id.* (emphasis added). But Petitioner never asserted a specific date of unemployment—she did
11 not submit evidence regarding when her contract expired, when her last compensation was
12 received, or even when she filmed her last episode of *Days of Our Lives*—and, therefore,
13 provided the Court with no factual basis to establish the date of service of the order to show cause
14 as the earliest date of retroactivity.

15 **B. Attorney's Fees and Costs**

16 1. *Parties' respective incomes and needs.* Respondent objects to the
17 computation of the award of attorney's fees and accountant's fees because the statement of
18 decision does not adequately explain the Court's reliance on the findings in the accompanying
19 statement of decision on child support. Although the statement of decision on attorney's fees and
20 costs expressly relies upon the findings in the statement of decision on child support concerning
21 the parties' respective incomes and deductions, the relationship lacks specificity. As noted above,
22 Respondent has several objections to the statement of decision on child support, and while it is
23 apparent that any resulting amendments to the statement of decision on child support should also
24 result in amendments to the statement of decision on attorney's fees and costs, there is currently
25 no explanation regarding how substantial changes in the support order would affect the
26 computation of the award of attorney's fees and costs.

27 2. *Estimate of future legal services to be performed, costs to be incurred, and*
28 *the necessity therefor.* Respondent further objects to the computation of the award of attorney's

1 fees because the statement of decision does not adequately explain the factual bases for the
2 Court's award of attorney's fees in the amount of \$200,000. Consistent with the Court's
3 comments at the April 20 hearing that the issue of attorney's fees is based on Petitioner's
4 prospective needs, repeated references in the statement of decision make clear that the attorney's
5 fees award is driven by the recent change in Petitioner's employment and the concomitant change
6 in Petitioner's income. But the statement of decision contains no findings that adequately explain
7 that an award of attorney's fees in the amount of \$200,000, rather than another amount, is
8 reasonably necessary to maintain the existing parity in legal representation between the parties in
9 this proceeding. Among other things, the statement of decision contains no findings with respect
10 to the estimate of future legal services to be performed or the costs to be incurred. Petitioner
11 initiated this proceeding on January 28, 2005, and, according to her counsel's reply declaration,
12 Petitioner incurred \$228,682 in attorney's fees and costs through December 20, 2008. With
13 discovery expected to be completed by the Trial Setting Conference currently scheduled for
14 September 17, 2009, the statement of decision does not adequately explain why Respondent
15 should pay nearly *four years'* worth of Petitioner's litigation costs when this case is estimated to
16 go trial within just one year.

17 3. *Estimate of future accounting services to be performed, costs to be*
18 *incurred, and the necessity therefor.* Respondent similarly objects to the computation of the
19 award of accountant's fees because the statement of decision does not adequately explain the
20 factual bases for the Court's award of accountant's fees in the amount of \$50,000. Although the
21 statement of decision contains a finding that "[w]ading through the financial records in this matter
22 will require the assistance of forensic accountants," there are no findings with respect to the
23 estimate of future accounting services to be performed or the costs to be incurred. In the moving
24 papers, Petitioner's accountant estimated "the additional fees that will be incurred for [her]
25 preparation and attendance at trial" to be \$9,800-\$18,400. (*See* Declaration of Jill K. Bombino,

26 ///

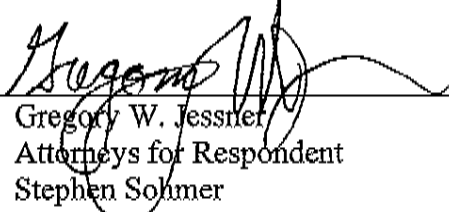
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1 C.P.A. at ¶¶ 5-7.) The statement of decision provides no legal or factual basis for ignoring
2 Petitioner's own estimates and concluding that the award of accountant's fees should be \$50,000.

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4 Dated: May 22, 2009

PHILLIPS JESSNER LLP

5 By: 
6 Gregory W. Jessner
7 Attorneys for Respondent
8 Stephen Solmer

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