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REBECCA LOUISE ROBERTSON §
AND §
JAMES A. SCOTT §

IN THE DISTRICT COURT
GARY FITZSIMMONS
DISTRICT CLERK
255TH JUDICIAL DISTRICT, TEXAS
DALLAS COUNTY, TEXAS

PETITIONER'S SPECIAL EXCEPTIONS AND
FIRST SUPPLEMENTAL REPLY TO
RESPONDENT'S AMENDED REPLY TO
PETITIONER'S MOTION FOR SUMMARY JUDGMENT

These Special Exceptions and First Supplemental Reply to Respondent's Amended Reply to Petitioner's Motion for Summary Judgment is brought by Rebecca Louise Robertson, Petitioner in this case, who shows the following in support.

This Reply supplements Petitioner's Objection to Response to Motion for Summary Judgment and Submission of Case Law, and the same is incorporated herein as if fully set forth below.

1. **Special Exceptions.** The Respondent has submitted 14 documents as exhibits, purporting to be evidence supporting his position. The Petitioner specially excepts and objects to each of the following, in part or in whole for the following reasons and requests that the Court deny the admission of any testimony, evidence and refuse to make inferences from any documents submitted.

A. **Authority.** Rule 166a(c) permits the Court to consider the following evidence.

The judgment sought shall be rendered forthwith if (i) the deposition transcripts, interrogatory answers, and other discovery responses referenced or set forth in the motion or response, and (ii) the pleadings, admissions, affidavits, stipulations of the parties, and *authenticated or certified public records*, if any, on file at the time of the hearing...

Rule 166a(c) Tex. Rules of Civ. Pro. (Emphasis Added)

- B. **Evidence Must Be Admissible At Trial.** Simply attaching documents to a summary judgment response does not make them evidence or admissible as evidence. “The summary judgment rule provides that summary judgment proof must contain facts that would be admissible in evidence.” *Chau v. Riddle*, 212 S.W.3d 699 at 704, (Tex.App.—Houston [1st Dist.] 2006), citing *United Blood Servs. v. Longoria*, 938 S.W.2d 29, 30 (Tex.1997).
- C. **Documents Must Be Certified or Authenticated.** The Texas Supreme Court, in *Texas Nat’l. Corp. v. United Systems Int’l.* 493 S.W.2d 738 (Tex. 1973) analyzed Rule 166a of the Texas Rules of Civil Procedure and four of its previous rulings regarding the admissibility of promissory notes as summary judgment evidence. The Court did not declare its holding in this case in one simple sentence, but instead offered that factual statements in pleadings that are neither sworn to nor supported by affidavit will not support a summary judgment and uncertified documents that have not been authenticated are subject to being struck, in accordance with *Youngstown Sheet & Tube Co. v. Penn*, 363 S.W.2d 230 (Tex.1963). *Texas Nat’l.* at 741.
- D. **Affidavits consisting of Conclusory Statements are Insufficient to Defeat Summary Judgment.** “An expert’s testimony will support summary judgment only if it is “clear, positive and direct, otherwise credible and free from contradictions and inconsistencies, and could have been readily controverted”⁴⁴ *Wadewitz v Montgomery*, 951 S.W.2d 464 at 466, (Tex. 1997), citing Tex. Rules

of Civ. Pro. 166a(c). “Conclusory statements by an expert are insufficient to support or defeat summary judgment.” *Id.*, citing *Anderson v. Snider*, 808 S.W.2d 54, 55 (Tex.1991); *Mercer v. Daoran Corp.*, 676 S.W.2d 580, 583 (Tex.1984); and *Brownlee v. Brownlee*, 665 S.W.2d 111, 112 (Tex.1984). “Affidavits consisting only of conclusions are insufficient to raise an issue of fact.” *Brownlee* at 112, citing *Life Ins. Co. of Virginia v. Gar-Dal, Inc.*, 570 S.W.2d at 381.

E. **Admissibility of Expert Testimony.** The United States Supreme Court, in *Daubert v. Merrell Dow Pharmaceuticals, Inc.* has set the standard for determining whether expert testimony offered as evidence should be considered by the trial court.

Ordinarily, a key question to be answered in determining whether a theory or technique is scientific knowledge that will assist the trier of fact will be whether it can be (and has been) tested. ... (“[T]he criterion of the scientific status of a theory is its falsifiability, or refutability, or testability”)...

Another pertinent consideration is whether the theory or technique has been subjected to peer review and publication... But submission to the scrutiny of the scientific community is a component of “good science,” in part because it increases the likelihood that substantive flaws in methodology will be detected... The fact of publication (or lack thereof) in a peer reviewed journal thus will be a relevant, though not dispositive, consideration in assessing the scientific validity of a particular technique or methodology on which an opinion is premised.

Additionally, in the case of a particular scientific technique, the court ordinarily should consider the known or potential rate of error, ... and the existence and maintenance of standards controlling the technique’s operation,...

Finally, “general acceptance” can yet have a bearing on the inquiry... Widespread acceptance can be an important factor in ruling particular evidence admissible, and “a known technique which has been able to attract only minimal support within the community,” ... may properly be viewed with skepticism.

Daubert v. Merrell Dow Pharmaceuticals, 509 U.S. 579, 113 S.Ct. 2786, 125 L.Ed.2d 469, 61 USLW 4805 (1993) (Citations and emphasis omitted)

Further, our own courts require evidence of an expert’s qualifications to be on the record. See, e.g., *Estorque v. Schafer*, 302 S.W.3d 19, 26 (Tex.App. – Fort Worth 2009, no pet.) and *In re M.D.S.* 1 S.W.3d 190, 203 (Tex.App. – Amarillo 1999, no pet.)

F. **Hearsay.** “Hearsay” is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted. Rule 801(d), Tex. Rules of Evidence. Hearsay is not admissible except as provided by statute or these rules or by other rules prescribed pursuant to statutory authority. Rule 802, Tex. Rules of Evidence.

G. **Objections to Specific Documents.**

- i. **Aetna Clinical Policy Bulletin.** The Petitioner objects to this document as hearsay, irrelevant, and unauthenticated. There is no evidence that either party is insured by Aetna and Aetna’s corporate decisions on whether it will pay for medical procedures carries no legal authority.
- ii. **Harry Benjamin International Gender Dysphoria Association’s Standards of Care for Gender Identity Disorders, Sixth Version**

(2001). The Petitioner objects to this document because it is hearsay and unauthenticated. It contains expert opinion without identifying the author. The author, whoever it may be, has not been qualified as an expert in this case, and many of the statements made in the document are conclusory. The statements contained in the exhibit are inadmissible as unqualified opinions that do not meet the *Daubert* standard. In addition, the document offered as evidence is no longer accepted by its purported sponsoring organization. See <http://www.wpath.org/>

- iii. **Gormly's Affidavit.** The Petitioner has no particular objection, although his statement that the other documents were found on the internet does not overcome the other objections to them or make them admissible. Mr. Gormly does not state that he is the author, editor, or publisher, and thus, cannot authenticate the documents to which he refers.
- iv. **Affidavit of Collier Cole.** The Petitioner objects this document as hearsay, uncertified and conclusory. Dr. Cole states that he has edited and reviewed a statement included in his affidavit. In other words, he admits that he did not author the statement. That statement is hearsay and the Petitioner objects to it. In addition, Dr. Cole has not been admitted as an expert in the present case and the Petitioner has had no opportunity to cross examine him. See, Texas Rules of Evidence, 705(b). Further, he has

not been designated by the Respondent as an expert witness.¹ Mr. Cole and the Respondent have indicated that he has never examined the Respondent and any opinion he offers would not be based on the facts in this case. Collier's Cole's affidavit would be inadmissible at trial, and thus, should be excluded from summary judgment evidence. *See Chau* at 704.

- v. **Collier Cole's Curriculum Vitae.** The Petitioner objects to this document as hearsay, uncertified, and unauthenticated.
- vi. **Respondent's Affidavit.** The Petitioner objects to all hearsay statements within the Respondent's affidavit, such as statements made by doctors or others to the Respondent and stated as if true. The Petitioner further objects to any speculative statements by the Respondent, such as "I knew I was a man" and "none identified as lesbian."
- vii. **An affidavit and letters from an individual (Jaime J. Vasquez).** The Petitioner objects to this Exhibit as hearsay, the opinions offered are made by an individual that has not qualified as an expert in this case, and the statements are conclusory. In fact, the Respondent states in her affidavit that she was treated by a Dr. Vasquez for a sinus condition, and never mentions him for treating her for any other condition. The second and third letters attached are not authenticated. In addition, Jaime J. Vasquez

¹ While this Supplemental Reply was being prepared, the Respondent sent a request to supplement discovery responses and designate Collier Cole as an expert. In the request, the Respondent acknowledged that the time for supplementation of discovery responses is long overdue. He claims that designating a witness he has never met,

has not been admitted as an expert in the present case and the Petitioner has had no opportunity to cross examine him. *See*, Texas Rules of Evidence, 705(b). Further, he has not been designated by the Respondent as an expert witness. Jaime J. Vasquez' affidavit and letters would be inadmissible at trial, and thus, should be excluded from summary judgment evidence. *See Chau* at 704.

- viii. **Decree Granting Name Change.** The Petitioner objects to this document because the Respondent denied being a party to any previous lawsuit in his responses to Petitioner's Request for Admissions (See Exhibits B and C, attached to the Petitioner's Motion for Summary Judgment). That fact has been conclusively established and the Respondent cannot now produce evidence to the contrary. In addition, any court order issued by a Texas court ostensibly changing a person's gender is void on its face, since Texas trial courts have no authority to issue an order changing sex or gender, unlike other states. *See In Re Heilig*, cited by Respondent. Further, the Respondent has not plead the affirmative defense of res judicata, which would not apply anyway, since the Petitioner was not a party to any other lawsuit with the Respondent
- ix. **Birth Certificate.** The Petitioner objects to this document as hearsay. In addition, based on the Iowa law supplied by the Respondent, the facts

and will cost thousands of dollars to depose does not constitute surprise. The Petitioner disagrees. In any event, Mr. Cole cannot offer any additional facts for the Court to consider, only opinions.

stated in the birth certificate may or may not be accurate. If admitted, the facts stated therein are subject to rebuttal, see discussion below.

- x. **Marriage License.** The Petitioner objects to this document as hearsay and because it is not certified or authenticated.
- xi. **Jean Martin Affidavit.** The Petitioner objects to this document as hearsay and irrelevant. The Petitioner has not had the opportunity to cross examine the witness, the affidavit would be inadmissible at trial, and the testimony should be excluded. *See Chau* at 704.
- xii. **Incomplete Tax Returns.** The Petitioner objects to these documents as hearsay, are incomplete (the Rule of Optional Completeness, , and because they is not certified or authenticated.

H. **Failure to Designate Experts.** The Petitioner sent the Respondent a Request for Disclosure in which the Respondent was requested to disclose any experts he intended to use at trial. The Respondent failed to designate any experts. See Counter-Petitioner James Allen Scott's Responses to Counter-Respondent's Rebecca Louise Robertson's Request for Disclosure, attached as Exhibit A. "Unless otherwise ordered by the court, a party must designate experts within a specified time frame. *See Tex.R. Civ. P. 195.2.* A party has a duty to amend or supplement responses to discovery when the party learns that the discovery was incomplete or incorrect. *See Tex.R. Civ. P. 193.5*". *Chau* at 704. "The affidavit of an expert who is not properly designated may not be used as evidence in a summary judgment context. *Cunningham v. Columbia/St. David's Healthcare,*

185 S.W.3d 7, 10-11 (Tex.App.-Austin, no pet.); *Ersek v. Davis & Davis, P.C.*, 69 S.W.3d 268, 274 (Tex.App.-Austin 2002, pet. denied). Where the expert's testimony will be excluded at trial on the merits, it will be excluded from a summary judgment proceeding. *Ersek*, 69 S.W.3d at 273." *Id.*

I. **Request.** The Petitioner requests that the Court refuse to consider and documents submitted by the Respondent that are hearsay, speculative, unauthenticated, uncertified, or fail to meet the evidentiary requirements of expert testimony required by Texas and the United States Supreme Court.

2. **Supplemental Reply to Respondent's Response.**

A. **No Genuine Issue as to Any Material Fact.** In his response, the Respondent states that the Petitioner's affidavit is incorrect as to the Respondent's birth location, timing of some surgery, and the location of name change lawsuit. The Petitioner concedes the location of the Respondent's birth and the timing of whatever surgery was performed on the Respondent. Those facts are immaterial to the Court's analysis and decision. Since the Respondent has already denied being a party to any other lawsuit, the location of any previous lawsuit, if any, is irrelevant, since the lack of a lawsuit has been conclusively established. The Respondent offers his birth certificate to show proof of sex, yet acknowledges being born female and wanting to be male. The inclusion of Iowa's law permitting birth certificates to be changed only confirms that Iowa has a law permitting someone born in Iowa to change their gender designation on their birth certificate can (Texas does not) and

that Texas courts should not rely on Iowa's birth certificates to determine sex for purposes of marriage.

- B. **A Question of Law.** Since no material facts are disputed, the decision must be a question of law. In his Response, the Respondent attempts to refute *Littleton v. Prange, Mireles v. Jack*, and ignore the holdings from five of our sister states, then asks the Court to follow rulings from other jurisdictions where laws have been passed recognizing same sex marriages. The Respondent also offers the Court conclusory statements that a minor, technical correction in the Texas Family Code changed years of jurisprudence.
- i. *Littleton.* The Respondent praises the dissent in *Littleton* and claims that the majority just "got it wrong." The Respondent fails to understand that the majority opinion is authoritative and not the dissent. His dislike of the opinion is understandable.
 - ii. *Mireles.* The Respondent misunderstands this case when he states that the Court held that the Petitioner should have brought a collateral attack on the underlying judgment instead of a Bill of Review. The holding was that how the parties attacked the judgment was irrelevant, since the underlying judgment was void. The underlying judgment was void because it was a divorce decree between a woman and transsexual man. The trial court could not divorce the two because, under Texas law, the marriage was void as being between two women.

- iii. **Cases from New York, New Jersey, and England.** The Respondent claims that the cases from New York and England were overruled by operation of law. Assuming he means that they were overturned by statute, the Petitioner agrees. Virtually every court, from Texas, to Kansas, to Ohio, has stated in their opinions that it is up to the legislature to issue a law stating that a transsexual can marry a person of the same sex to which they were born. The Texas legislature has not done so and the Court should follow the rulings from the Texas appellate courts.
- iv. **Change to Texas Family Code.** The Respondent asserts that a technical correction to the Texas Family Code, at §2.005(b)(8) changes Texas law to recognize transsexual marriages. He goes on to state that the modification “clearly establishes a transsexual’s right to marry” and that the modification “establishes that there was legislature intent to recognize” this right. However, the Respondent offers no authority for his assertions, and research by the Petitioner indicates that there was no discussion or debate by the legislature the bill was passed by both houses unanimously. *See* House Bill 3666 of the 81st Legislature, Regular Session, text and history located at <http://www.legis.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HB3666>. This bill simply changed the previous law requiring county clerks to accept only birth certificates or certificates from other states to an exhaustive list of documents establishing identity. *Id.* Instead of

evidencing clear intent from the legislature to authorize transsexual marriages, it simply permits an applicant to use a court order changing name or sex change. Stating that the only purpose of this law is to permit individuals who were the same sex at their births overlooks the obvious and opposite conclusion, that two people who appear to be the same sex were, at the time of their births, different and thus, eligible for a marriage license. Finally, even if the Court accepts the Respondent's argument that the Texas Legislature intended by this law to permit transsexual and thus, same sex marriages, it was enacted over a decade after the parties in our case married, and Texas courts, as well as other states have found that transsexual marriages are void *ab initio*.

- C. **Controlling Authority.** The Respondent is incorrect when he states that the Texas Supreme Court and the United States Supreme Court have not reviewed this issue. *Littleton v. Prange* was appealed to both Supreme Courts. Texas Supreme Court received briefs and denied review on March 2, 2000 (See Orders Pronounced on March 2, 2000 at <http://www.supreme.courts.state.tx.us/historical/2000/mar/030200.htm>) and also denied Littleton's request for a rehearing on May 18, 2000 (See Orders Pronounced May 18, 2000 at <http://www.supreme.courts.state.tx.us/historical/2000/may/051800.htm>). The Respondent is correct in his statement from the Texas Rules of Appellate Procedure, in that the Court, upon review, saw no reversible error and no error

important to the jurisprudence of this state. Certiorari was sought from The United States Supreme Court on the issue of whether Article 4, §1, and the 14th Amendments to the Constitution (Full Faith and Credit Clause and Equal Protection Amendment) were violated and was denied on October 2, 2000 (See Journal, October Term 2000, at <http://www.supremecourt.gov>).

3. **Rebuttal of Respondent's Arguments in the Order Presented.**

A. **Parties are Legally Married.**

- i. **Texas Law Inapplicable.** The Respondent asserts that Texas law limiting marriage to one man and one does not apply because he is a transsexual man. By admitting throughout his brief that he is a transsexual man, the Respondent makes the point that he is not a man, plain and simple, without limiting adjectives. In addition, the Respondent fails to support his assertion with any legal authority. Texas law is clear and simple. A marriage is a legal partnership between one man and one woman. Not a one transsexual man and one woman. This summarizes the consistent rulings from Texas and other states that, absent legislation to the contrary, the Court will not add the word transsexual to the statute.
- ii. **No Clear Test to Determine Sex.** The Respondent claims that there is no statute or clear test to determine whether a transsexual is a woman or a man. The appellate courts from England to Texas have provided tests for the trial courts to use in determining this question. In Texas, a person's

sex, for marital purposes, determined at birth, and no amount of surgery or documentation can change that. *See, Littleton.*

- iii. **Case Law Inapplicable.** The Respondent states that none of the case law applies, since Dallas trial courts only have to follow 5th District Court of Appeals, Texas Supreme Court, and U.S. Supreme Court. However, trial courts and appellate courts often look to others for guidance and the Respondent admits that case law from other states are persuasive authority. In addition, the Texas and United States Supreme Courts have reviewed the *Littleton* case, as discussed above.
- iv. ***Littleton* Overturned by Operation of Law.** The Respondent states that the *Littleton* opinion was overturned by operation of law, but cites no authority, including legislative history or committee reports confirming his assertion that it was overturned. Further, the statute referred to by the Respondent could be read in a different way. If James Scott wanted to marry a man, he could use the Court order to show that he was, in fact, a woman. Finally, the law was passed in 2009, more than ten years after the parties were married. Our courts and other states find transsexual marriages void from the beginning. *See Mireles v. Jack* and previous discussion.

B. Strong Presumption that Marriage is Valid.

- i. **Statutory Authority.** The Respondent offers a partial quote from §1.01 of the Texas Family Code, but leaves out the provision of the statute that

states that there are three purposes for the presumption. 1. Stability for the parties, 2. orderly determination of parentage, and 3. security for the children. The Respondent also leaves out the rest of the statute, which states that the marriage presumption does not apply when made void by Chapter 6, as this marriage is.

- ii. **Case Law.** The Respondent's quote from *Texas Emp. Ins. Assn. v. Elder*, 282 S.W.2d 371 (Tex. 1955) is actually from 55 C.J.S., Marriage, § 43, pages 892-893, the legal encyclopedia. In the *Texas Employers* case, the parties had fourteen children, had been living together for 18 years, and the wife's previous husband had also remarried. The Court stated what is now statutory, that there is a presumption that a marriage is valid, which shifts the burden of proof to the opposing party to prove that it is invalid. This does not apply in our case, which is a void marriage by statute. The Respondent also quotes *Schacht v. Schacht*, 435 S.W.2d 197 (Tex.App.—Dallas 1968) in which the court looked at determining whether a man's third marriage was void. His first marriage resulted in two children, his second and third marriages none. Second marriage was dissolved by divorce, but wife claimed that first marriage was still in place. The Dallas Appellate Court could not maintain this "strong presumption" for all three marriages. The Respondent leaves out the portion of this case in which the court states "However, such a presumption, though strong as it may be, is a rebuttable one." And further states "A legal impediment being clearly

demonstrated, the subsequent marriage was wholly void.” *Schacht* at 201.

The Court voided the third marriage.

C. No Test Exists To Determine Sex.

- i. The Petitioner would point the Court to the holdings in all of the cases cited in the Petitioner’s Motion for Summary Judgment refuting this point.
- ii. The Respondent cites *In Re Heilig*, 816 A.2d 68 (Md. 2003) for its opinion that determining gender as a matter of law is a mistake. This was a case where an individual sought a court order without opposition. The trial court denied his request for lack of jurisdiction. The appellate court held that the trial court did have jurisdiction. *Id.* At 723. Part of the Court’s decision was based on the Maryland law recognizing gender change. *Id.* at 715. However, the court expressly refused to consider the ramifications on the marriage aspect, citing Littleton as one example of courts that determine gender at birth. *Id.* at 723, Note 9. The Court also confirmed that the “prevailing sentiment in the United States seems to be that, absent legislation to the contrary, marriage between a transsexual and a person of the transsexual’s initial assigned gender is not permitted, even when the transsexual has undergone surgery.” *Id.*
- iii. The Respondent cites no case law explaining his demand for a “high burden” or strong presumption, nor for his conclusion that declaring a marriage void requires clear and compelling proof. In any event, the

acknowledged fact that James Scott was born female overcomes any level of proof required and rebuts the presumption, strong or not.

D. ***Littleton* Discussion.** The Respondent claims that, absent a statutory definition of man or woman, Petitioner has failed to meet her statutory burden of proof. There is no statutory burden of proof (or at least none cited by the Respondent) and *Littleton* gives the court a test. The Respondent claims that the majority author states that the court can make no law where none exists, but that quote is for the Justice's support of the position that a person born as a male will not be found to be female by the Court without statutory authority. *See Littleton*, at 230. The Respondent complains of the majority author's reliance on §192.011(a) of the Tex. Health & Safety Code, claiming that it authorizes birth certificate amendments for adoptions. The birth certificate change due to adoptions is actually §192.008 of the Tex. Health & Safety Code. The *Littleton* Court relied on the section permitting changes when there is a mistake on the certificate. The Respondent then concludes that the *Littleton* decision is wrong, but offers no legal authority for his opinion.

E. **Transsexualism Explained.** The Respondent attempts in four pages of text to explain transsexualism, but fails to support his opinions with even one legal citation. Instead, the Respondent asks the Court deny this motion based on his unqualified opinion and on unqualified opinions from individuals that have not been authorized as experts by this court. The Respondent's theories should be excluded as they are supported by inadmissible evidence. There is no indication

that either the Respondent or his attorney is qualified to inform the Court as to these matters.

F. **Scott Should Be Recognized as a Man.** Again, the Respondent cites no legal authority, but supports the claim with his personal viewpoint that “Scott considered himself to be... a heterosexual man.” A person that considers themselves Martian, a mythical being from the planet Mars, is not a Martian and certainly not born there. In addition, while the Respondent has alleged that there are medical opinions that consider him male, did the Respondent deny being female when being treated for endometriosis? Such as, “I can’t be treated for that, I am a man.” Again, any discussion about prior litigation should be denied by the Court as the Respondent’s denial of any litigation concludes that issue.

G. **Consummation of Marriage.** The Respondent spends two and a half pages of text responding to an argument the Petitioner did not make. The Petitioner never put forth the proposition that the marriage should be voided because it wasn’t consummated. It wasn’t, but that is not the reason why it is void. The Respondent cites a case showing that common law marriage is a fact issue for the court. *Jordan v. Jordan*, 938 S.W.2d 177 (Tex. App.—Houston [1 Dist.] 1997). There is no dispute as to whether the parties entered into a marriage. The issue is whether that marriage is void. The Respondent then argues against annulment. That remedy is not sought here. He continues to argue against a requirement that the marriage be consummated by citing the *Lawrence* decision in which the U.S. Supreme Court struck down sodomy laws, as an invasion of privacy. The

Respondent again mistakenly thinks that Petitioner is asking the Court to declare the marriage void because it was not consummated. That is simply a factor that other courts have considered. The Respondent states that all statutes regarding same sex marriage are irrelevant and do not apply to transsexuals marrying, but offers no statutory or other legal support.

H. **Full Faith and Credit.** Again, The Respondent offers no legal support for his position. Claiming that, since Iowa law permits birth certificates to be changed by a clerk upon receipt of a doctor's notarized statement, that Texas should accept what would be a fraudulent document here. He does not even cite the specific clause or amendment of the U.S. Constitution on which he relies. This position was fully briefed to and rejected by an Ohio Appellate court in *In Re Application For Marriage License For Nash*, 2003-Ohio-7221, Cases 2002T0149, 2002T0179, (OHCA11). In addition, the Courts have consistently treated birth certificates, passports, or other identifying documentation as simply rebuttable presumptions². The presumption that the Respondent is a male human has been rebutted by its admission that it was born with female genitalia. Regarding any court order from Texas, that issue has already been discussed herein, and the Petitioner directs to Court to review if necessary.

² The Court is familiar with paternity suits. Even if a child was born during the course of a marriage and the husband's name is listed on the birth certificate, a different man can request a scientific test to determine biological parentage. Except in unusual cases not relevant here, if the test shows the requesting person to be the father, the presumption of paternity has been rebutted.

- I. **Equal Protection and Fundamental Right to Marry.** Again, this argument was reviewed and rejected by the Ohio Appellate Court in *In Re Nash*. The majority of The Respondent's analysis lacks any legal foundation. Finally at the end, the Respondent cites *Loving v. Virginia* 388 U.S. 1 (1967), *Turner v. Safley* 482 U.S. 78 (1987), and *Zablocki v. Wisconsin* 434 U.S. 374 (1978) for the contention that the right to marry is a fundamental right under the U.S. Constitution. *Loving* was an unconstitutional statute denying interracial marriage, in *Turner*, it was a statute requiring warden permission for prisoner's marriage, and *Zablocki* was a statute requiring a child support obligor to get a court order before he/she could marry. All of these cases were striking down statutes limiting an individual's right to marry. These are all inapplicable here since the constitutionality of the statute prohibiting same sex marriage has not been called into question. The Respondent expressly states that he does not object to the statute requiring marriage to be between a man and a woman. The Respondent states that a policy supported by Littleton is unconstitutional, but does not identify the policy.
- J. **Equitable Estoppel.** The Respondent cites no legal authority for his position, only that it would be unfair. "Fairness" would not make a void marriage valid. For example, a marriage between a brother and sister would not be valid, even if they acted as husband and wife for twenty years.
- K. **Presumption of Validity.** The Respondent repeats his unsupported opinion that the state has a policy that a marriage should be presumed valid, then ignores the statutes that make a variety of marriages void. See, §§6.201 – 6.206, Tex. Fam.

Code. He cites an amendment to the statute authorizing the use of a court order showing a gender change as proof that transsexuals are permitted to marry under Texas law. However, the law was changed long after the current marriage was celebrated, the law does not state that transsexuals can marry, only that a county clerk can accept a court order showing changed gender as identification, and the Respondent infers legislative intent, when there was, in fact, none. *See* previous discussion herein.

L. **Rebuttal.** The Respondent finally responds to the motion.

- i. The Respondent relies on his flawed analysis of Littleton, then claims that Mireles only dealt with the issue of whether the case was a bill of review or collateral attack on the previous judgment. First of all, a bill of review *is* a collateral attack on a judgment and the court's holding was that you don't have to prove the elements of a bill of review if the judgment is void. The parties stipulated that Mireles was a transsexual man, therefore the trial court found the marriage, and subsequent divorce decree void. Houston appellate court agreed. The Respondent thinks that the Mireles court's holding was that a collateral attack can be used to declare divorce decree void. The Respondent may not have read the rest of the case, in which the marriage was found to be void, and thus, the judgment was void.
- ii. The Respondent attacks the *Corbett* decision as being overruled by operation of law (perhaps he means overruled by statute), but fails to provide a citation and misses the point. *Corbett* is cited for its analysis, not

for its current validity in its home forum. Even if it was overruled later, it was relied on by the *Littleton* court, which has not been overruled.

- iii. Respondent then objects to the Petitioner's citation of *Anonymous v. Anonymous*, incorrectly stating that it could have been annulled because of fraudulent concealment of the bride's transsexualism. This statement reflects a failure by the Respondent to read the opinion. The marriage was annulled because the court found that the marriage was between a man and a transsexual woman, not a man and a woman. Respondent goes on to state that the ruling is irrelevant because New York passed a statute authorizing same sex marriage. Again, Respondent states that the ruling is nullified, when, in fact, it was overturned by statute. However, the analysis is important because it was relied on by the *Littleton* court.
- iv. Respondent claims that *Ladrach* is distinguishable, but goes on to agree with Petitioner that the reasoning behind the decision is that "without statutory guidance, the court ruled against the validity of the marriage (presumably Respondent meant the Court upheld the denial of the license)."
- v. The Respondent mistakenly believes that the Petitioner cited the *M.T. v. J.T.* ruling for the proposition that it only applies to women. The point was that the wife in that case had undergone extensive surgery that would prohibit her from returning to her life as a man. The Respondent has only had surgery that millions of women have had, as a result of which, they

remained women. Respondent claims that the ruling was misstated, but then fails to state what he believes the correct ruling to be.

- vi. Respondent cites a case from New Zealand and one from Pennsylvania, but provides none of the analysis and since they were unreported, the Court cannot confirm the Respondent's bold conclusory statements that those courts upheld the ability to transsexuals to marry persons of the same sex. The Petitioner requests that the Court disregard any unpublished opinions.
- vii. Respondent cites a federal case from Georgia [*Glenn v. Brumby*, 724 F.Supp2d 1284 (N.D. Ga. 2010)] in which the Respondent baldly asserts that the federal appellate court determined that statements from the World Professional Association for Transgender Health were accepted in medical community and admissible for summary judgment purposes. First of all, *Glenn* was an employment discrimination case and the holding had nothing to do with the admissibility of evidence. WPATH statements were entered into evidence without objection and there was no discussion by the Court on their admissibility. In the current case, the Petitioner has objected. Second, federal rules of evidence (in Georgia) are not the same rules of evidence in Texas District Court. Finally, summary judgment evidence is not the same.
- viii. The Respondent cites the *In Re Heilig* case (inaccurately) for its dicta that the lower court erred in finding that gender is not subject to modification of adjustment. This case is discussed more extensively above and its

applicability to the situation in the present case was specifically excluded by that court. *In Re Heilig* at 723, Note 9.

- ix. Even the Respondent acknowledges that the *Morin* case out of Vermont is not on point and offers a conjecture that the Vermont court would find in his favor. It's value is negligible, since the Vermont Supreme Court ordered that it not be published. *Morin v. Morin*, 927 A.2d 790 (Vt. 2007).

4. **Conclusion.**

A. **No Material Facts Are Disputed.** The Respondent attempts to cloud the issues, but the facts are simple. Susan A. Lowry, aka James A. Scott, aka Jason, was born female, with female genitalia. She had surgeries that millions of women have each year to prevent or cure life threatening diseases. She dresses in a masculine manner. She has adopted a masculine name. She claims to be a man, trapped in a woman's body. The Respondent does not deny these facts, but admits them. Please note, her claim that she is a man is *solely* dependent on her statements that she wants to be a man. The Petitioner does not deny that she has this desire. None of the facts support a determination that she is male.

B. **The Petitioner is Entitled to Judgment as a Matter of Law.** When there are no material facts in dispute, the Petitioner is entitled to judgment based on the law. No further testimony is needed, no trial is necessary. The vast majority of the Respondent's response centers on non-legal arguments asking the Court to validate the Respondent's stated desire that she is a man, disregard the facts, and

ignore the law. The Respondent points to no legal authority overturning Texas case law finding that marriage between a transsexual and someone of the same initial (and in this case, biological) sex is void by statute. The Petitioner requests that the Court follow the law established in Texas and declare this marriage void.

5. **Attorney's Fees.**

A. **Initial Claim.** It was necessary for the Petitioner to retain counsel to prosecute her claim to declare the marriage void and \$27,000.00 is a reasonable fee for so doing. See Affidavit of Thomas A. Nicol, attached as Exhibit B. Petitioner requests that the Court award her \$27,000.00 and post judgment interest and ask that the fees be taxed as costs.

B. **Appeal.** If the Respondent appeals this Court's judgment, it will be necessary for the Petitioner to retain counsel and defend the appeal. \$20,000.00 is a reasonable fee for doing so. See Affidavit of Thomas A. Nicol, attached as Exhibit 2. Petitioner requests that the Court award her \$20,000.00 in the event of an appeal and asks that the fees be taxed as costs.

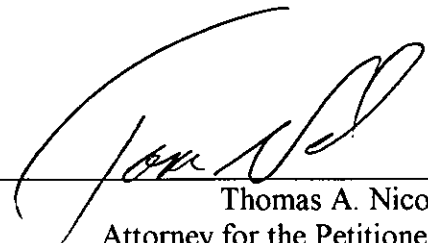
6. **Return of Funds Paid Pursuant to Temporary Orders.** This Court ordered the Petitioner to pay the Respondent temporary spousal support in the amount of \$650.00 every paycheck from May 13, 2011 through September 30, 2011 for a total of \$6,500.00. See, Agreed Temporary Order dated May 6, 2011 and Associate Judge's ruling from August 22, 2011 in the Court's file. Since these funds were paid pursuant to the presumption that a valid marriage existed, and none does, Petitioner requests a judgment

against the Respondent in the amount of \$6,500.00 plus post judgment interest and asks that the judgment be taxed as costs.

7. **Prayer.**

- A. The Petitioner prays that the Court deny admission into evidence of all documents submitted by the Respondent for the reasons they are objected to herein.
- B. The Petitioner prays that this Court grant its motion for summary judgment based on the law and admissible evidence presented.
- C. The Petitioner prays that this Court declare the parties' marriage void and dismiss the Respondent's counter claim and revoke all previous orders based on the presumed validity of the marriage.
- D. The Petitioner prays for attorney's fees, expenses, and costs.
- E. The Petitioner prays for judgment for monies paid the Respondent pursuant to court orders presuming the marriage valid.
- F. The Petitioner prays for general relief, and to all such other and further relief to which she has shown herself entitled.

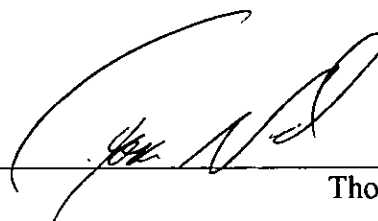
Respectfully Submitted,



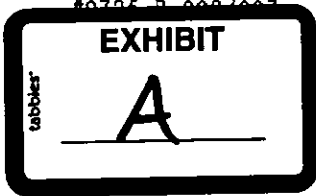
Thomas A. Nicol
Attorney for the Petitioner
Bar Card #15015200
901 Main Street
Suite 6300
Dallas, Texas 75202
Telephone (214) 722-7400

Certificate of Service

I hereby certify that the above entitled Petitioner's Special Exceptions and First Supplemental Reply to Respondent's Amended Reply to Petitioner's Motion for Summary Judgment was served on James A. Scott by delivering it to his or her attorney of record, Eric K. Gormly, located at 6211 West Northwest Highway, Suite 251, Dallas, Texas 75225, by facsimile transmission to (214) 242-0597 on October 7, 2011.



Thomas A. Nicol



CAUSE NO. DF-10-16083

MATTER OF THE MARRIAGE OF	§	IN THE DISTRICT COURT
REBECCA LOUISE ROBERTSON,	§	
COUNTER-RESPONDENT/ PETITIONER,	§	255TH JUDICIAL DISTRICT
AND	§	
JAMES ALLAN SCOTT,	§	DALLAS COUNTY, TEXAS
COUNTER-PETITIONER/ RESPONDENT	§	

**COUNTER-PETITIONER JAMES ALLAN SCOTT'S RESPONSES TO
COUNTER-RESPONDENT'S REBECCA LOUISE ROBERTSON'S
REQUEST FOR DISCLOSURE**

TO: Petitioner/Counter-Respondent Rebecca Louise Robertson, by and through her attorney of record, Thomas A. Nicol, The Nicol Law Firm, PLLC, 901 Main Street, Suite 6300, Dallas, Texas 75202.

COMES NOW, Counter-Petitioner, James Allan Scott, pursuant to Rule 194 of the Texas Rules of Civil Procedure, serves these answers to Counter-Respondent, Rebecca Louise Robertson's Request for Disclosure:

REQUEST NO. 1: State the correct names of parties to the lawsuit under Rule 194.2(a).

ANSWER: Counter-Petitioner believes that the parties are correctly named.

REQUEST NO. 2: State the names, address and phone numbers of potential parties under Rule 194.2(b).

ANSWER: Respondent is not aware of any other potential parties to the lawsuit, but reserves the right to supplement this disclosure as discovery continues.

REQUEST NO. 3: State the legal theories regarding the division of property and, in general, the factual basis of the claims or defenses of James Allan Scott under Rule 194.2(c).

ANSWER: Please see Counter-Petitioner's Counter Petition for Divorce, filed February 22, 2011, Item 8, *Grounds for Divorce*, Item 10, *Division*

of Community Property, Item 15, Causes of Action for Assault for current legal theories, claims and defenses; however, Counter Petitioner reserves the right to supplement this response as discovery continues.

REQUEST NO. 4: State the amount and any method of calculating economic damages under Rule 194.2(d).

ANSWER: Counter-Petitioner refers Counter-Respondent to Counter-Petitioner's Counter Petition for Divorce Item 16, *Actual Damages for Resulting Personal Injuries*, and Item 17, *Attorney's Fees, Expenses, Costs and Interest* are and have been ongoing calculations with methods and amounts yet to be determined. Reasonable attorney's fees, expenses and cost are continuing calculations and amounts that increase as time passes. Once these are fully determined, Counter-Petitioner reserves the right to supplement this response.

REQUEST NO 5: State the names, address and phone numbers of persons having knowledge of relevant facts, with a brief statement of each person's connection with the case under Rule 194.2(e).

ANSWER:
Thomas A. Nicol, Esq.
The Nicol Law Firm, PLLC
901 Main Street, Suite 6300
Dallas, Texas 75202
(214) 722-7400
(214) 722-7401 Facsimile

Attorney for
Counter-Respondent

Rebecca Louise Robertson
c/o Thomas A. Nicol, Esq.
The Nicol Law Firm, PLLC
901 Main Street, Suite 6300
Dallas, Texas 75202
(214) 722-7400
(214) 722-7401 Facsimile

Counter-Respondent
in divorce action

Eric K. Gormly, Esq.
The Gormly Law Firm, PLLC

8144 Walnut Hill Lane, Suite 1080
 Dallas, Texas 75231
 (214) 242-0596
 (214) 739-8959 Facsimile

Attorney for
 Counter-Petitioner

James Allan (Jason) Scott
 c/o Eric Gornly, Esq.
 The Gornly Law Firm, PLLC
 8144 Walnut Hill Lane, Suite 1080
 Dallas, Texas 75231
 (214) 242-0596
 (214) 739-8959 Facsimile

Counter-Petitioner
 in divorce action

Timothy Perkins, Esq.
 Kathryn Flowers Samler, Esq.
 Laurel A. Clemant, Esq.
 Underwood Perkins, P.C.
 5420 LBJ Freeway
 Two Lincoln Centre, Suite 1900
 Dallas, Texas 75240
 (972) 661-5114
 (972) 661-5691 Facsimile

Prior attorneys
 for Counter
 Respondent in
 divorce action

Bill W. Bolding, Esq.
 Law Offices of Bill W. Bolding, P.C.
 3102 Maple Avenue, Suite 450
 Dallas, Texas 75219
 (214) 953-9396
 (214) 953-9397 Facsimile

Prior attorney
 for Counter
 Respondent in
 divorce action

Counter-Petitioner, James Allan Scott, designates all persons with relevant knowledge of facts in this case identified by the Counter-Respondent, and incorporates that list as part of this disclosure. Counter-Petitioner reserves the right to supplement this response as discovery continues.

REQUEST NO. 6: For any testifying expert under Rule 194.2(f),

- A. state the expert's name, address, and telephone number;
- B. state the subject matter on which the expert will testify;
- C. state the general substance of the expert's mental impressions and opinions and a brief summary of the basis or otherwise subject to the control of James A. Scott, documents reflecting such information;

- D. if an expert is retained by, employed by, or otherwise subject to the control of James A. Scott, produce the originals or copies of the following:
- i. all documents, tangible things, reports models, or data compilations that have been provided to, reviewed by or for the expert in anticipation of the expert's testimony; and
 - ii. the expert's current resume and bibliography.

ANSWER: Counter-Petitioner, James Allan Scott, has not yet designated any experts, but reserves the right to supplement this response as discovery continues.

REQUEST NO. 7: Produce the originals or copies of any indemnity and insuring agreements described in Rule 194.2(f). Rule 194.2(f) of the Texas Rules of Civil Procedure provides as follows: *Indemnity and Insuring Agreements*. Except as otherwise provided by law, a party may obtain discovery of the existence and contents of any indemnity and insurance agreement under which any person may be able to satisfy part or all of a judgment rendered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

ANSWER: Counter-Respondent incorrectly cites and quotes Rule 194.2(f). Assuming Counter-Respondent refers to Rule 194.2(g) of the TRCP, Counter-Petitioner James Allan Scott is unaware of the existence of any insuring or indemnity agreements under Rule 194.2(g), but reserves to the right to supplement this response as discovery continues.

REQUEST NO. 8: Produce the originals or copies of any settlement agreements described in Rule 194.2(g). Rule 194.2(g) provides as follows: *Settlement Agreements*. A party may obtain discovery of the existence and contents of any relevant portions of a settlement agreement.

ANSWER: Counter-Respondent incorrectly cites and quotes Rule 194.2(g). Assuming Counter-Respondent refers to Rule 194.2(h) of the TRCP, Counter-Petitioner James Allan Scott is unaware of Counter-Petitioner, James Allan Scott, is unaware of the existence of any settlement agreements, but reserves the right to supplement this response as discovery continues.

REQUEST NO. 9: Produce the originals or copies of any witness statements described in Rule 194.2(h) of the Texas Rules of Civil Procedure. Rule 194.2(h) provides as follows: *Statement of Persons with Knowledge of Relevant Facts*. A party may obtain discovery of the statement of any person with knowledge of relevant facts – a “witness statement”- regardless of when the statement was made. A witness statement is (1) a written statement signed or otherwise adopted or approved in writing by the person making it, or (2) a stenographic, mechanical, electrical, or other type of recording of a witness’s oral statement, or any substantially verbatim transcription of such a recording. Any person may obtain, upon written request, his or her own statement concerning the lawsuit, which is in the possession, custody or control of any party.

ANSWER: Counter-Respondent incorrectly cites and quotes Rule 194.2(h). Assuming Counter-Respondent refers to Rule 194.2(i) of the TRCP, Counter-Petitioner James Allan Scott is unaware of any existing witness statements as described in Rule 194.2(i) of the Texas Rules of Civil Procedure, but reserves the right to supplement this response as discovery continues.

REQUEST NO. 10: Produce the originals or copies of all medical records and bills that are reasonably related to the injuries and damages asserted or, in lieu thereof, an authorization permitting the disclosure of such medical records and bills under Rule 194.2(j).

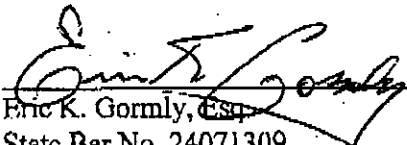
ANSWER:

Counter-Petitioner, James Allan Scott, is currently unaware of medical records or bills that would comply with this request under Rule 194.2(j) of the Texas Rules of Civil Procedure, but is in the process of gathering all documents relevant to this cause of action. Counter-Petitioner reserves the right to supplement this response if such documents are identified as discovery continues.

Respectfully submitted,

The Gormly Law Firm, PLLC
8144 Walnut Hill Lane, Suite 1080
Dallas, Texas 75231
(214) 242-0596
(214) 739-8959 Facsimile

By:


Eric K. Gormly, Esq.
State Bar No. 24071309

Attorney for Counter-Petitioner
James Allan Scott

Certificate of Service

I certify that a true and correct copy of Respondent/Counter-Petitioner's Response to Petitioner/Counter-Respondent's Request for Disclosure, by and through her attorney of record, Thomas A. Nicol, Esq., 901 Main Street, Suite 6300, Dallas, Texas 75202 by facsimile transmission to (214)722-7401, on June 3, 2011, before 5:00 p.m.


Eric K. Gormly, Esq.

**Exhibit
B**

CAUSE NUMBER 10-16083

IN THE MATTER OF THE MARRIAGE OF	§	IN THE DISTRICT COURT
	§	
REBECCA LOUISE ROBERTSON	§	255TH JUDICIAL DISTRICT
AND	§	
JAMES A. SCOTT	§	DALLAS COUNTY, TEXAS

AFFIDAVIT IN SUPPORT OF ATTORNEY'S FEES AND DAMAGES

BEFORE ME, the undersigned authority, on this day personally appeared Thomas A. Nicol, who swore on oath that the following facts are true.

"My name is Thomas A. Nicol. I am over 18 years of age, of sound mind, and fully competent to make this affidavit. I have personal knowledge of the facts stated herein and they are all true and correct."

"I am licensed to practice law in the State of Texas and have been so since 1992 and I am currently in good standing with the State Bar."

"My practice is generally limited to family law and I have practiced in that area almost exclusively since 1992."

"I am familiar with the rates charged in this area and I believe that my rate of \$300.00 per hour is a reasonable rate to charge for the work on this matter. I supervise a paralegal when has been employed by me for 4 years who I charge an hourly rate of \$95.00 per hour and I also testify that these rates are reasonable and customary in this area for the experience and knowledge of my staff."

"On or about April 19, 2011, Rebecca Robertson employed me in connection with the above styled case. The statement from my office is attached hereto accurately reflects the amount of time and attorney fees (including legal professionals under my supervision) expended in this matter. The statement is incorporated into this affidavit by reference as if set forth in full. I am the custodian of

records and state that the records are made at or near the time the work is done and that they accurately reflect the billing and payments from and to The Nicol Law Firm, PLLC on this matter.”

“Ms. Robertson is entitled to recover the reasonable attorney’s fees requested herein pursuant to the Texas Family Code.”

“It is my opinion that these fees are reasonable attorney’s fees based upon the following factors. The novelty and difficulty of the issue involved, the skill required to provide the legal services properly, and the experience, reputation, and expertise of the lawyer or lawyers performing the services, the time and labor involved to perform the legal services properly, and, the fee customarily charged in this community for similar services.”

“I believe that it was necessary for Ms. Robertson to retain counsel to pursue her cause of action and defend against the counterclaim. At the time I was retained, Ms. Robertson was under the impression that the financial issues were almost resolved, but she wanted to move out of the house owned by the parties. In addition, there were problems with discovery due to multiple sets of discovery sent by opposing counsel by improper service methods. After attending the first hearing (at least five more were to follow), the Respondent’s intent to take the majority of Ms. Robertson’s savings and future income became apparent. Research on same sex and voidable marriages commenced, followed quickly by a motion for summary judgment on these issues. The Respondent’s continued requests for temporary and interim orders for its counter claim for divorce required constant attention, research, and response.”

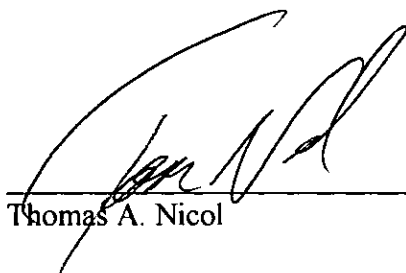
“It is my opinion that attorney’s fees in the amount of \$27,000.00 are reasonable for the legal services required to be performed on this suit to declare marriage void and defend against the Respondent’s counter claim.”

“The Respondent has indicated a desire for appeal if the Court grants the Petitioner’s

request for summary judgment. It is also my opinion, based on the actions, motions, and arguments of the Respondent so far, that it will be necessary for Ms. Robertson to retain counsel and that \$20,000.00 would be a reasonable fee incurred by Ms. Robertson in defending any appeal.”


“On May 6, 2011, Ms. Robertson was ordered to pay the Respondent \$6,500.00 for interim spousal support, which she did. Upon the marriage and all orders based on the parties’ marriage being declared void, the Respondent will owe Ms. Robertson \$6,500.00.”

“This concludes my testimony.”

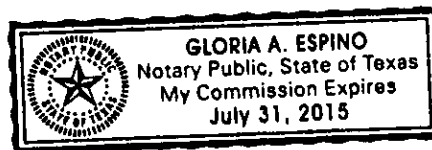


Thomas A. Nicol

Sworn to and subscribed before me on October 7, 2011.



Notary Public, In and For the State of Texas



10/07/11

The Nicol Law Firm, PLLC
Sales by Customer Detail
All Transactions

Type	Date	Num	Name	Memo	Item	Qty	Sales Price	Amount	Balance
Robertson, Rebecca									
Invoice	4/27/2011	5355	Robertson, Rebecca	Meeting with c...	TAN	0.45	0.00	0.00	0.00
Invoice	4/27/2011	5355	Robertson, Rebecca	Begin prepari...	TAN	0.55	300.00	165.00	165.00
Invoice	4/27/2011	5355	Robertson, Rebecca	Finish drafting...	TAN	0.87	300.00	261.00	426.00
Invoice	4/27/2011	5355	Robertson, Rebecca	Fee for receivi...	Facsimile...	12	1.00	12.00	438.00
Invoice	4/27/2011	5355	Robertson, Rebecca	(2) Telephone...	GAE	0.75	95.00	71.25	509.25
Invoice	4/27/2011	5355	Robertson, Rebecca	Telephone co...	TAN	0.5	300.00	150.00	659.25
Invoice	4/27/2011	5355	Robertson, Rebecca	Telephone co...	TAN	0.53333	300.00	160.00	819.25
Invoice	4/27/2011	5355	Robertson, Rebecca	Review emails...	TAN	0.25	300.00	75.00	894.25
Invoice	4/27/2011	5355	Robertson, Rebecca	Review emails...	TAN	0.66667	300.00	200.00	1,094.25
Invoice	4/27/2011	5355	Robertson, Rebecca	Prepare first d...	TAN	0.28333	300.00	85.00	1,179.25
Invoice	4/29/2011	5364	Robertson, Rebecca	Review client'...	TAN	1.25	300.00	375.00	1,554.25
Invoice	4/29/2011	5364	Robertson, Rebecca	Fee for receivi...	Facsimile...	15	1.00	15.00	1,569.25
Invoice	5/17/2011	5369	Robertson, Rebecca	Appear in cou...	TAN	2.5	300.00	750.00	2,319.25
Invoice	5/17/2011	5369	Robertson, Rebecca	Tried to locate...	TAN	0.16667	300.00	50.00	2,369.25
Invoice	5/17/2011	5369	Robertson, Rebecca	Research cas...	TAN	1.56667	300.00	470.00	2,839.25
Invoice	5/17/2011	5369	Robertson, Rebecca	Organized do...	GAE	3	95.00	285.00	3,124.25
Invoice	5/17/2011	5369	Robertson, Rebecca	Copies of doc...	Copies	164	0.25	41.00	3,165.25
Invoice	5/17/2011	5369	Robertson, Rebecca	Research on ...	GAE	3.75	95.00	356.25	3,521.50
Invoice	5/17/2011	5369	Robertson, Rebecca	Fee for receivi...	Facsimile...	16	1.00	16.00	3,537.50
Invoice	5/17/2011	5369	Robertson, Rebecca	Begin prepari...	GAE	1.5	95.00	142.50	3,680.00
Invoice	5/17/2011	5369	Robertson, Rebecca	Review previo...	TAN	0.75	300.00	225.00	3,905.00
Invoice	5/17/2011	5369	Robertson, Rebecca	Edit and redra...	TAN	0.58333	300.00	175.00	4,080.00
Invoice	5/17/2011	5369	Robertson, Rebecca	Appear in cou...	TAN	1	300.00	300.00	4,380.00
Invoice	5/17/2011	5369	Robertson, Rebecca	Draft motion t...	TAN	0.38333	300.00	115.00	4,495.00
Invoice	5/17/2011	5369	Robertson, Rebecca	Fee for receivi...	Facsimile...	4	1.00	4.00	4,499.00
Invoice	5/25/2011	5388	Robertson, Rebecca	File Motion to ...	TAN	0.1	300.00	30.00	4,529.00
Invoice	5/25/2011	5388	Robertson, Rebecca	Telephone co...	TAN	0.25	300.00	75.00	4,604.00
Invoice	6/9/2011	5404	Robertson, Rebecca	Review file in ...	TAN	4.25	300.00	1,275.00	5,879.00
Invoice	6/9/2011	5404	Robertson, Rebecca	Review Invent...	TAN	0.76667	300.00	230.00	6,109.00
Invoice	6/9/2011	5404	Robertson, Rebecca	Review docu...	GAE	1.25	95.00	118.75	6,227.75
Invoice	6/9/2011	5404	Robertson, Rebecca	Appear in cou...	TAN	0.75	300.00	225.00	6,452.75
Invoice	6/9/2011	5404	Robertson, Rebecca	Prepared resp...	GAE	0.75	95.00	71.25	6,524.00
Invoice	6/9/2011	5404	Robertson, Rebecca	Review docu...	TAN	1.36667	300.00	410.00	6,934.00
Invoice	6/9/2011	5404	Robertson, Rebecca	Make change...	GAE	1.25	95.00	118.75	7,052.75
Invoice	6/9/2011	5404	Robertson, Rebecca	Review respo...	TAN	0.26667	300.00	80.00	7,132.75
Invoice	6/9/2011	5404	Robertson, Rebecca	Fee for receivi...	Facsimile...	16	1.00	16.00	7,148.75
Invoice	6/27/2011	5410	Robertson, Rebecca	Copies of doc...	Copies	17	0.25	4.25	7,153.00
Invoice	6/27/2011	5410	Robertson, Rebecca	Draft Notice of...	TAN	0.21667	300.00	65.00	7,218.00
Invoice	6/27/2011	5410	Robertson, Rebecca	Fee for receivi...	Facsimile...	89	1.00	89.00	7,307.00
Invoice	6/27/2011	5410	Robertson, Rebecca	Fee for receivi...	Facsimile...	20	1.00	20.00	7,327.00
Invoice	6/27/2011	5410	Robertson, Rebecca	Begin drafting...	TAN	1.53333	300.00	460.00	7,787.00
Invoice	6/27/2011	5410	Robertson, Rebecca	Continue draft...	TAN	1.85	300.00	555.00	8,342.00
Invoice	6/27/2011	5410	Robertson, Rebecca	Review other j...	TAN	1.88333	300.00	565.00	8,907.00
Invoice	6/27/2011	5410	Robertson, Rebecca	Continue rese...	TAN	9.48333	300.00	2,845.00	11,752.00
Invoice	6/27/2011	5410	Robertson, Rebecca	Prepare table ...	TAN	1.08333	300.00	325.00	12,077.00
Invoice	6/27/2011	5410	Robertson, Rebecca	Review statut...	TAN	0	300.00	0.00	12,077.00
Invoice	6/27/2011	5410	Robertson, Rebecca	Review case l...	TAN	0.82	300.00	246.00	12,323.00
Invoice	6/27/2011	5410	Robertson, Rebecca	Continue editi...	TAN	2.01667	300.00	605.00	12,928.00
Invoice	6/27/2011	5410	Robertson, Rebecca	Organized do...	GAE	2.5	95.00	237.50	13,165.50
Invoice	6/27/2011	5410	Robertson, Rebecca	Make final edi...	TAN	2.2	300.00	660.00	13,825.50
Invoice	7/8/2011	5428	Robertson, Rebecca	Review oppos...	TAN	0.45	300.00	135.00	13,960.50
Invoice	7/18/2011	5443	Robertson, Rebecca	Message from...	TAN	0.1	300.00	30.00	13,990.50
Invoice	7/18/2011	5443	Robertson, Rebecca	Review email...	TAN	1	300.00	300.00	14,290.50
Invoice	7/28/2011	5453	Robertson, Rebecca	Telephone co...	TAN	0.95	300.00	285.00	14,575.50
Invoice	7/28/2011	5453	Robertson, Rebecca	Review corres...	TAN	0.25	300.00	75.00	14,650.50
Invoice	7/28/2011	5453	Robertson, Rebecca	Telephone co...	TAN	0.25	300.00	75.00	14,725.50
Invoice	7/28/2011	5453	Robertson, Rebecca	Review emails...	TAN	0.2	300.00	60.00	14,785.50
Invoice	7/31/2011	FC 11...	Robertson, Rebecca	Finance Char...	Fin Chg	1	38.60	38.60	14,824.10
Invoice	8/10/2011	5463	Robertson, Rebecca	Fee for receivi...	Facsimile...	2	1.00	2.00	14,826.10
Invoice	8/10/2011	5463	Robertson, Rebecca	Send opposi...	TAN	0.25	300.00	75.00	14,901.10
Invoice	8/10/2011	5463	Robertson, Rebecca	Reviewed corr...	TAN	1.41667	300.00	425.00	15,326.10
Invoice	8/22/2011	5468	Robertson, Rebecca	Prepare for he...	TAN	1.35	300.00	405.00	15,731.10
Invoice	8/22/2011	5468	Robertson, Rebecca	Appear in cou...	TAN	1.58333	300.00	475.00	16,206.10
Invoice	8/22/2011	5468	Robertson, Rebecca	Meeting with c...	TAN	0.5	300.00	150.00	16,356.10
Invoice	8/22/2011	5468	Robertson, Rebecca	Appear in cou...	TAN	1	300.00	300.00	16,656.10
Invoice	8/25/2011	5473	Robertson, Rebecca	Draft appeal fr...	TAN	0.16667	300.00	50.00	16,706.10
Invoice	8/25/2011	5473	Robertson, Rebecca	Appear in cou...	TAN	1.1	300.00	330.00	17,036.10
Invoice	8/25/2011	5473	Robertson, Rebecca	Telephone co...	TAN	0.33333	300.00	100.00	17,136.10
Invoice	8/25/2011	5473	Robertson, Rebecca	File appeal fro...	TAN	0.25	300.00	75.00	17,211.10
Invoice	8/25/2011	5473	Robertson, Rebecca	Fee for receivi...	Facsimile...	3	1.00	3.00	17,214.10
Invoice	8/31/2011	FC 11...	Robertson, Rebecca	Finance Char...	Fin Chg	1	39.67	39.67	17,253.77
Invoice	9/12/2011	5481	Robertson, Rebecca	Telephone co...	TAN	1	300.00	300.00	17,553.77
Invoice	9/12/2011	5481	Robertson, Rebecca	Appear with cl...	TAN	7.5	300.00	2,250.00	19,803.77
Invoice	9/30/2011	5485	Robertson, Rebecca	Research issu...	TAN	0.33333	300.00	100.00	19,903.77
Invoice	9/30/2011	5485	Robertson, Rebecca	Review file in ...	TAN	1.25	300.00	375.00	20,278.77
Invoice	9/30/2011	5485	Robertson, Rebecca	Research issu...	TAN	0.51667	300.00	155.00	20,433.77
Invoice	9/30/2011	5485	Robertson, Rebecca	Review respo...	TAN	1.73	300.00	519.00	20,952.77
Invoice	9/30/2011	5485	Robertson, Rebecca	Continue revi...	TAN	2.58333	300.00	775.00	21,727.77
Invoice	9/30/2011	5485	Robertson, Rebecca	Begin formal r...	TAN	0.55	300.00	165.00	21,892.77
Invoice	9/30/2011	FC 11...	Robertson, Rebecca	Finance Char...	Fin Chg	1	50.19	50.19	21,942.96
Invoice	10/7/2011	5492	Robertson, Rebecca	Review Respo...	TAN	4.83333	300.00	1,450.00	23,392.96
Invoice	10/7/2011	5492	Robertson, Rebecca	Begin drafting...	TAN	2.2	300.00	660.00	24,052.96
Invoice	10/7/2011	5492	Robertson, Rebecca	Continuing re...	TAN	1.88333	300.00	565.00	24,617.96
Invoice	10/7/2011	5492	Robertson, Rebecca	Continue draft...	TAN	6.63	300.00	1,989.00	26,606.96
Invoice	10/7/2011	5492	Robertson, Rebecca	Finalize first d...	TAN	2.43333	300.00	730.00	27,336.96

10/07/11

The Nicol Law Firm, PLLC
Sales by Customer Detail
All Transactions

Type	Date	Num	Name	Memo	Item	Qty	Sales Price	Amount	Balance
Invoice	10/7/2011	5492	Robertson, Rebecca	Fee for receivi...	Facsimile...	10	1.00	10.00	27,346.96
Invoice	10/7/2011	5492	Robertson, Rebecca	Review OP's ...	TAN	1.15	300.00	345.00	27,691.96
Total Robertson, Rebecca								27,691.96	27,691.96
TOTAL								27,691.96	27,691.96