

DECLARATION OF CAMILLE GRAMMER

I, CAMILLE GRAMMER, declare as follows:

1. I am the Petitioner in the within action. I offer my Declaration pursuant to Sections 2009 and 2015.5 of the California *Code of Civil Procedure*, Rule 5.118 of the California *Rules of Court*, *Reifler v. Superior Court* (1974) 39 Cal.App.3d 479, and *Marriage of Stevenot* (1984) 154 Cal.App.3d 1051. The facts herein stated are within my personal knowledge, and I affirmatively state that, if sworn as a witness, I could and would competently testify thereto.

2. I make and submit this Declaration in support on my ex parte application that the Respondent's children from a prior marriage, including, without limitation Respondent's daughter, Spencer and Spencer's husband (who I do not know) be enjoined and restrained from using any of our real properties, including our property in Hawaii.

3. Respondent and I were married on August 2, 1997. The Petition for Dissolution of Marriage was filed on July 1, 2010. We have two minor children from this marriage: Mason Olivia, daughter, born October 24, 2011; and Jude Gordon, son, born August 28, 2004.

4. Since our separation, I have had the exclusive use and possession of our Hawaii property located on the big Island of Hawaii. Since our separation, and until the residence was recently sold, Respondent had the exclusive, use and possession of our home in Bridgehampton, New York and our then New York apartment (he has since moved out). There were several occasions when I requested that I be allowed to use our Bridgehampton residence. This included my request to use the house last summer in August 2010, I asked to use the house so that I could go with the children. I also asked to use the house in October and November of 2010. However, I was advised by Respondent and his counsel that I would not be allowed to use the Bridgehampton residence because Respondent and/his girlfriend (now wife) Kate were using the residence and that they did not feel comfortable that I would be using the house

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1 with Respondent's and Kate's personal belongings in the house. Although the
2 residence is owned one-half by me, I agreed not to use the Bridgehampton residence
3 and acceded to Respondent's demands that he have exclusive use of the Bridgehampton
4 house. A true and correct copy of the email from Respondent's attorney dated
5 August 11, 2010 confirming that Respondent will be using the Bridgehampton
6 house and that I am not to be in the house is attached hereto as Exhibit "1" and
7 is incorporated herein by this reference.

8 5. Further, when the Bridgehampton residence was put up for sale this year,
9 I was not allowed to go the house to inspect the furniture and furnishings to determine
10 what furniture and furnishings would be returned to me. Even when I requested that
11 my father go to the house in my place to inspect the furniture and furnishings,
12 my father was not allowed to do so. Respondent did not trust my father or I to
13 go into the house. My father also asked that he be allowed to go to the house
14 to pick up my BMW automobile; however, he would not allow my father to do this.
15 This car was a gift to me from the Respondent. Instead, Respondent unilaterally decided
16 to pack up my belongings and have them sent to me. To this date, I have not received
17 received the BMW.

18 6. For the past year, while Respondent had exclusive use and
19 possession of the Bridgehampton residence, and with Respondent's consent and
20 permission, I have had the exclusive use and possession of our home on the big island
21 of Hawaii. In fact, when Respondent went to Hawaii in July of 2010 while I was
22 in Hawaii, Respondent rented another house. Respondent also went to Hawaii
23 in September of October of 2010 when I was not in Hawaii and rented another house.
24 Respondent has never requested that he be able to use the Hawaii residence.

25 7. The children and I have used our Hawaii home ongoingly since
26 our separation. The children and I normally spend three to four months a year at the
27 Hawaii house. In the house now, I presently have many documents, pleadings,
28 correspondence and other papers pertaining to this divorce action. Some of these

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1 documents pertain to confidential communications with my attorneys. I also have all of
2 my personal belongings. I do not want anyone else to have access to my personal
3 papers and personal belongings.

4 8. On June 7, 2011 I received a call from Anne Rediske, who is the property
5 manager of the Hawaii residence. Anne told me that Respondent's 27 year old
6 daughter, Spencer and her husband would be using our residence in Hawaii and were
7 arriving to use the house from June 10th through June 15th. I have not spent
8 any time with Spencer since Respondent and I separated. I have never met her
9 husband. I believe that she was married sometime early this year.

10 9. I am very concerned that Spencer will have access to my personal
11 documents and papers and that these will get read by Spencer and/or turned over
12 to Respondent and his attorneys. I have not inventoried the documents and do not
13 have copies of these documents. If the documents are removed, I would not be able
14 to know what was taken. The Respondent and I are going through a custody
15 evaluation and have significant issues regarding custody. In light of the current
16 litigation, I do not want Respondent or any of his agents, like his daughter, have
17 access to my personal papers or belongings. I also have never met Spencer's
18 husband and do not want a total stranger in my house with the ability to go through
19 my personal papers and belongings.

20 10. Respondent never made any request of me to use the Hawaii
21 residence or to have his daughter do so. Respondent's attorney never made this
22 request. Despite the fact that I have had exclusive use of the Hawaii residence,
23 Respondent did not make this request of me directly or through my attorneys.
24 Respondent's conduct was inappropriate and wrong. Had I not received a call
25 from the property manager, I never would have known that Spencer was going to my
26 property.

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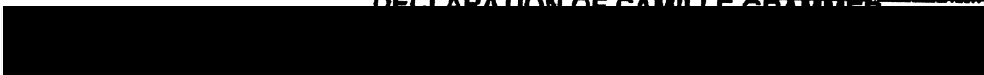
1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct.

3 Executed this 8th day of June 2011 at Beverly Hills, California.

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6 CAMILLE GRAMMER

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DECLARATION OF JUDY BOGEN

I, JUDY BOGEN, hereby declare and state as follows:

1. I am an attorney at law, duly licensed to practice before all Courts of the State of California. I am a partner in the law firm of Hersh, Mannis & Bogen, L.L.P., attorneys of record for Petitioner, CAMILLE GRAMMAR (hereinafter referred to as "Petitioner").

2. I make and submit this Declaration in support of Petitioner's ex parte application seeking the following orders:

A. That the Respondent's Order to Show Cause re Custody, etc. presently set for hearing on June 27, 2011 not be allowed to go forward and/or that it be continued to a mutually agreeable date after:

(1) Respondent provides to Petitioner an Order to Show Cause which contains a declaration of the Respondent on all of the issues raised in his OSC so that the Petitioner is provided with all of the information and facts which support the Respondent's request;

(2) Respondent completes his deposition; and

(3) Respondent produces the three witnesses he has listed on his request for oral testimony for their depositions and provides the witness' declarations in support of his request.

3. That the Court issue a restraining order prohibiting Respondent's children from a prior marriage from using any of the parties' community property, including, without limitation, the Hawaii property without Petitioner's consent and permission.

4. On June 8, 2011, at 9:07 a.m., I sent an e-mail to Respondent's counsel providing Respondent with ex parte notice that on Thursday, June 9, 2011 at 8:30 a.m., an attorney from my office would be appearing in Department 60 of the Los Angeles Superior Court located at 111 North Hill Street, Los Angeles, California 90012, to request the relief set forth hereinabove. A true and correct copy of my e-

1 mail providing ex parte notice is attached hereto as Exhibit "1" and is incorporated
2 herein by this reference.

3 **BASIS FOR REQUEST TO STRIKE RESPONDENT'S OSC AND/OR**
4 **FOR CONTINUANCE OF OSC**

5 5. As indicated in the attached Memorandum of Points and Authorities
6 Petitioner is requesting that Respondent's OSC be stricken and not set for hearing
7 on June 27th or any other date in light of the fact that the Respondent has failed
8 to file any supporting declaration in support of his OSC. In the alternative,
9 Petitioner is requesting a continuance of Respondent's OSC until such time
10 as the Respondent has provided a supporting declaration and that discovery
11 has been completed in this matter, including Respondent's deposition and the
12 depositions of Respondent's three witnesses.

13 6. On May 11, 2011 our office sent a letter to Respondent's counsel
14 setting forth Petitioner's concerns regarding summer 2011 and responding to
15 Respondent's summer proposal which did not meet those concerns. Instead
16 of responding to our letter, however, on May 13, 2011, Respondent filed a shell Order
17 to Show Cause which seeking primary custody of both children and that each party
18 have one month during the summer of 2011. There were no facts or supporting
19 declaration to Respondent's OSC and he intentionally filed this declaration without
20 same. Thereafter, on May 17, 2011 our office received Respondent's witness list for
21 an evidentiary hearing for June 27, 2011, the date of the hearing on Respondent's
22 OSC. Respondent also did not file any witness declarations; Respondent simply
23 assumed that the witnesses would be called to testify without allowing Petitioner
24 anytime to ascertain what the witnesses would testify to. Further, Respondent
25 failed to set forth "what" the witnesses would testify to other than the blanket
26 statement that they would be testifying to issues pertaining to custody. This statement
27 did not provide sufficient notice for us to understand what the witnesses would testify
28 to at any evidentiary hearing. Based upon the foregoing, our office felt sandbagged

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1 by the Respondent.

2 7. On May 17, 2011 our office served Respondent's counsel with a
3 Notice of Deposition and request for production of documents. On May 19, 2011,
4 our office prepared three subpoenas for the witnesses listed on Respondent's
5 witness list. However, our office could only serve one of the witnesses, Dalia Leon,
6 because she was the only witness in California.

7 8. On May 23, 2011, we received a letter from Respondent's counsel
8 indicating that counsel was not available on June 6 or 7 for the Respondent's
9 deposition. A true and correct copy of counsel's letter is attached hereto as
10 Exhibit "2" and is incorporated herein by this reference.

11 9. Based on counsel's letter, on May 23, 2011 I sent a responsive
12 letter. I confirmed to Respondent's counsel that in light of the depositions
13 not going forward of Respondent and the unavailability of potential witnesses who had
14 not provided any declarations, that Petitioner would have to proceed with an
15 ex parte application to continue the June 27th hearing date. A true and correct
16 copy of my May 23rd letter is attached hereto as Exhibit "3" and is incorporated
17 herein by this reference.

18 10. On May 25, 2011 our office received a letter from Respondent's
19 counsel in response. A true and correct copy of this letter is attached hereto as
20 Exhibit "4" and is incorporated herein by this reference. Although Respondent's
21 counsel stated that the witnesses would be made available for a deposition,
22 we have received no confirmation of same nor any dates. Further, the letter
23 states that our office would be receiving "supplemental papers, with statutory
24 notice with the requested summer schedule." However, on June 2, 2011,
25 our office received only another empty shell supplemental request by Respondent
26 without any facts or supporting declaration nor any other witness declarations. Since
27 these supplemental papers contained nothing, these papers cannot be responded to
28 by Petitioner. Again, the Respondent believes that he can simply walk into Court on

1 June 27th without having submitted to his deposition and without having provided any
2 facts upon which this Court can base any decision. Respondent simply wants to
3 sandbag the Petitioner so that she cannot be prepared for the June 27th hearing.

4 11. On June 1, 2011 our office sent another letter regarding the
5 issues pertaining to Respondent's Order to Show Cause and advising Respondent's
6 counsel that we would have to proceed with an ex parte application. A true and
7 correct copy of my letter dated June 1, 2011 is attached hereto as Exhibit "5"
8 and is incorporated herein by this reference.

9 12. With regard to the summer schedule, our office has been working
10 with Respondent's counsel on the summer schedule. We believe that we have
11 a resolution of the time up to August 5th and there only exists a dispute
12 regarding the time between August 5th and August 19th. However, the agreement
13 for June and July 2011 has not been confirmed in any agreement signed by the
14 parties. Petitioner's position regarding the time in August has been made clear to the
15 Respondent and his counsel. Jude will still be in his summer school program on those
16 dates and cannot go on vacation. Petitioner is anticipating that with the completion of
17 Jude's school program that Jude will begin first grade in September. Respondent
18 disagrees with the educational plan in place for Jude.

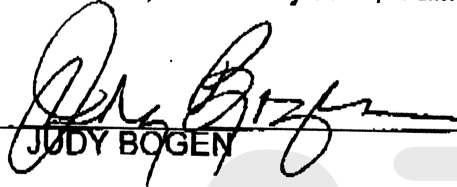
19 13. Based upon the foregoing and the attached Memorandum of
20 Points and Authorities, it is unfair and prejudicial to the Petitioner and her counsel
21 for the Respondent's OSC to go forward on June 27th. Based upon Respondent's
22 failure to provide a complete declaration set forth the supporting fact and
23 circumstances to support his Order to Show Cause, Petitioner requests that the
24 Court not allow the Respondent's OSC to go forward at all; in the alternative,
25 Petitioner is requesting that the OSC be continued to a date which is conditioned
26 upon and relates to (1) the serving of a declaration by Respondent; and (2)
27 the completion of Respondent's deposition and the deposition of his three witnesses,
28 who also did not provide any declarations.

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1 14. I offer my declaration in lieu of personal testimony pursuant to Section
2 2009 and 2015.5 of the California Code of Civil Procedure, Rule 5.118 of the
3 California Rules of Court; *Reifler v. Superior Court* (1974) 39 Cal.App.3d 479 and
4 *Marriage of Stevenot* (1984) 154 Cal.App.3d 1051. The facts herein stated are within
5 my own personal knowledge, and I further affirmatively state that, if sworn as a
6 witness, I could and would testify consistently with the facts stated.

7 I declare under penalty of perjury under the laws of the State of California that
8 foregoing is true and correct.

9 Executed this 8th day of June 2011, at Beverly Hills, California.

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12 JUDY BOGEN
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