# Superior Court of Washington

**County of Snohomish**

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| **In re Marriage of:**  **JANE D. SMITH,**  **Petitioner,**  **and**  **JOHN D. SMITH,**  **Respondent.** | **No.** 55-5-55555-5  **JOHN SMITH’S REPLY DECLARATION IN SUPPORT OF MOTION FOR GAL AND OTHER RELIEF** |

I, John J. Smith (Respondent / Father / Husband), submit this reply declaration in support of my motion for a Guardian ad Litem and other relief.

**1. Jane Falsely Insinuates I am Lying About Being Unemployed**. I did not lie to the Court about not having a job in my November 1, 2014 declaration. I was hired after I wrote that declaration. The computer printout I filed under seal confirms my hire date was November 6, 2014—five days after I signed my November 1, 2014 declaration.

Opposing counsel and Jane are well aware that I was hired after I wrote my declaration, because my attorney wrote them an email about it. My attorney’s November 10, 2014 email to opposing counsel is attached as **Exhibit A** and reads in relevant part:

Afternoon [Opposing Counsel],

You had asked for a financial declaration and source documents—please see the attached. It took me longer than expected because John got a part-time job at the end of last week.

(emphasis added). Jane and her attorney are trying to make it seem like they caught me in a lie, but they’re intentionally misleading the Court in their attempt to do so.

**2. Jane Falsely Claims Her Attorney Did Not Receive the Partial Recording of the October 2, 2014 Hearing**. Opposing counsel received the recording of the October 2, 2014 hearing. She admitted this in a November 4, 2014 email. The November 4 email is attached as **Exhibit B** and reads in relevant part:

I did get your motion with the DVD, but that only has on it the partial court recording of the Oct 2 hearing.

**3. Request for Fees Already Denied—Jane Already Lost at Ex Parte Hearing**. In Jane’s responsive declaration, she asserts an improperly addressed cross motion for attorney fees relating to the previous ex parte continuance. She already requested fees on this basis at the November 7, 2014 continuance hearing. *Motion for Continuance at Court Docket #61*. Jane is violating Snohomish County local court rules by submitting the same fee request to a different commissioner on the same facts.

Moreover, her original basis for requesting fees was disingenuous. She requested and again requests fees on the alleged basis I took an inappropriate legal position at the November 7, 2014 continuance hearing. But we won on the issue in question on November 7. That is, my attorney proposed granting the continuance on the condition that Jane waive any prejudicial impact upon our motion for a GAL. *Declaration of Counsel in Response to Continuance Motion at Exhibit A; Court Docket #57*. Commissioner Smart explicitly adopted our proposal. As the November 7, 2014 continuance order reads:

The hearing . . . is hereby continued one week . . . , but petitioner’s request for a continuance may not be used in an argument to petitioner’s benefit. That is, the petitioner may not argue that there is insufficient time for appointment of a GAL due there now being less than three months between the hearing and trial.

(emphasis in original). We can’t be sanctioned for taking an inappropriate position if the Court already agreed our position was correct.

**4. Jane Incorrectly States I Should Be Imputed Fulltime Income**. My understanding is that I cannot work more than part-time, temporary jobs without losing my SSID.

**5. Jane Incorrectly Assumes My Expenses Are Less Than Hers**. Please consider:

* I have been paying my monthly attorney fees out of my own pocket; Jane’s mom is paying hers.
* I have our daughter during her waking hours, which is when most child rearing expenses arise. The largest expense for a toddler is probably food. I feed our daughter breakfast, lunch, and dinner on the days I have her, which means I’m spending more on food than Jane.
* Jane’s also getting food stamps; I am not.
* The second largest expense for a toddler is probably diapers. Jane rarely changes our daughter’s diaper, as I documented in my original declaration in support of this motion. As a result, I have had to change our daughter nearly every hour to calm her diaper rash. I’m spending far more on diapers than Jane.
* Contrary to Jane’s claim, I do not live for free at my parent’s house. They aren’t charging me rent, but I have to pay for the rest of my expenses.

**6. Jane Incorrectly States I Filed for SSID Around The Time of Separation as a Strategic Tactic for this Divorce**. I’ve been on SSID since 2013, well before our separation. Attached as **Exhibit C** is a printout confirming this.

**7. I Do Not Have Our Tax Returns**. I don’t have our tax returns; Jane does. She’s the one in the former family home/apartment.

**8. Videos Do Not Show What Jane Claims**. I obtained advance court permission to submit surveillance videos as evidence for the hearing, and I sincerely hope the Court reviews them. They don’t show what Jane claims. Rather, the videos clearly show Jane tapping her cell phone after each exchange. This isn’t debatable. Jane’s banking on the possibility the Court won’t actually look at the videos.

Please also consider:

* It does not make sense that Jane would need to look at her phone to see whether her mom called after each child exchange. She would have known that from the ringtone or vibration. Jane’s trying to come up with a plausible lie.
* I never claimed I’m scared of Jane hurting me (though I was scared when she threated me with a knife and tried to hit my soft spot on the back of my skull). I’m primarily concerned for our daughter’s safety and emotional development.
* In her September 23, 2014 declaration, Jane never averred I behaved inappropriately at the exchanges. *Updated Declaration of Petitioner at Court Docket #39.* Her September 23 declaration came after the exchanges in question, and the declaration was primarily about child exchange problems. If I had really been doing what she now claims, she would have raised it then.

**9. Jane Falsely Denies She Might Go to Jail for DV**. Jane wasn’t “defending herself” during the incident that led to her current DV prosecution. That is her version of what occurred, and even under her version the police considered her the aggressor. That is why the police arrested her.

And what actually occurred was much worse than what she admitted. She literally tried to kill me. As I explained in my July 2014 Declaration:

We were arguing in the downstairs bathroom, which is where we go when we want a private discussion. I got frustrated with the argument and started to walk out of the bathroom. Jane was furious about me leaving and she tried to hit me in the back of the head with the door. You have to understand, hitting me in the back of the head is akin to trying to kill me, given that a piece of the back of my skull is missing. She tries to hit me in the back of the head when she wants me dead. This time she swung the door hard and fast at the back of my head two or three times, but the door bounced off the back of my shoe. When I turned around, she started punching my face. Like with the door, she punched my face repeatedly. I restrained her right arm to keep her from attacking me any farther. She says I tried to break her arm. I obviously didn’t. I’m much stronger than her and I could have hurt her arm if I tried. She wasn’t injured in any respect. Our daughter was crying and calling for Daddy, so I picked her up and left. The police arrested Jane, and I’m providing a sealed summary of the arrest record.

*Declaration of Respondent at p. 2; Court Docket #17*.

Jane’s has since perjured herself in her attempt to avoid the legal repercussions of that incident. Attached as **Exhibit D** is a true and correct copy of her August 2014 Declaration in which lied about what occurred in an easily disprovable way. The lie was as follows:

I have not hit John in the head or made any attempt to kill him. In my statement to the police on 7/14/14 I stated I hit him in the chest to get away from John.

This contradicts her statement to the police, in which she admitted to hitting me in the face.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at [City & State] on [Date].

Signature:

JOHN J. SMITH