

March 5, 2009

Mr. James L. DeHart  
Attorney Discipline Office  
4 Chenell Drive, Suite 102  
Concord, New Hampshire 03301

Dear Sir:

I am writing to file a complaint against Attorney Keri J. Marshall.

Attorney Marshall represented my former wife, [REDACTED], Petitioner in a divorce matter in Portsmouth Family Court, case number 2005-M-[REDACTED].

At the outset of this divorce, my former wife claimed that she wanted "a quick divorce; a friendly divorce." Attorney Marshall's involvement in this matter has caused such acrimony, that I doubt that my former wife and I will ever again experience other than more of the same. This acrimony came about in part as a result of Attorney Marshall's excessively aggressive and improper prosecution of the divorce.

1. Attorney Marshall, on multiple occasions, exacerbated the animosity of the divorcing parties by bringing and pressing motions<sup>1,7,12</sup> on frivolous, trivial or unsupported issues. Even when my response<sup>2,10,13</sup> to her motion verifiably showed that a contempt motion was unfounded, Attorney Marshall nonetheless proceeded with the motion rather than withdraw it [REDACTED]

[REDACTED]

The issues in these Motions for Contempt were known to and verifiable by Attorney Marshall and yet she is all too willing to bring such motions and continue with them<sup>5</sup> without checking her facts.

2. Attorney Marshall twice alluded to a matter (the income of my new wife) that is neither relevant nor supported by admissible evidence because any consideration is prohibited by law. On July 14, 2008, Attorney Keri Marshall filed a motion<sup>12</sup> requesting a modification of the final decree in which the very first paragraph, in a clear violation of law, stated: "The Respondent has recently remarried. Upon information and belief their combined income now exceeds \$200,000 per year." In spite of my citing the RSA's in my response to her motion which make clear that the court **shall not consider** my spouse's income, Attorney Marshall nonetheless again alluded to this matter in a Proposed Order<sup>14</sup> she submitted to the court, which stated: "The Respondent has recently remarried. Upon information and belief his combined household income now exceeds \$200,000 per year." (Note, the Respondent was and always had been current on his support obligations, continued to hold the same employment he had been in since September 2001, and Attorney Marshall was not making any claim that the Respondent had resigned from or refused any employment or was voluntarily unemployed or underemployed.)

Specifically, the law states that when determining the amount and sources of income:

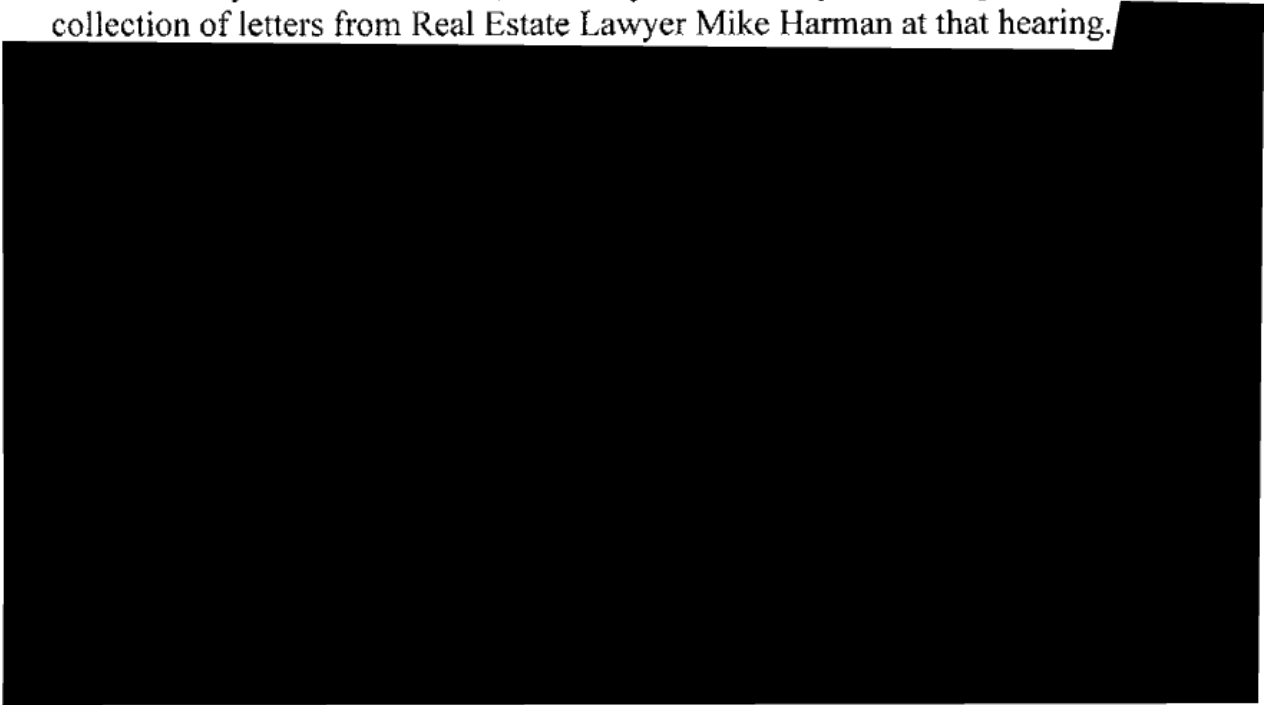
- (a) alimony "... the court **shall not consider** ... a second or subsequent spouse's income..." [RSA 458:19(IV)(c)];
- (b) modification of alimony "...the earned or unearned income ... of a spouse of the obligor party **shall not be considered** a source of income to that obligor party for the purpose of modification, unless the obligor party resigns from or refuses employment or is voluntarily unemployed or underemployed..."[RSA 458:19(IV)(e)]; and
- (c) child support "The income of either parent's current spouse **shall not be considered** as gross income to the parent unless the parent resigns from or refuses employment or is voluntarily unemployed or underemployed, in which case the income of the spouse shall be imputed to the parent to the extent that the parent had earned income in his or her usual employment." [RSA 458-C:2(IV)(b) - Child Support Guidelines].


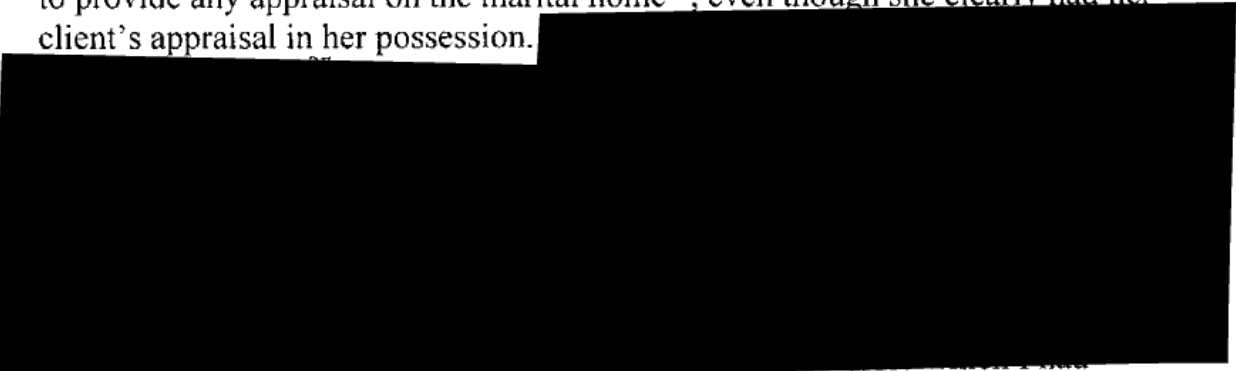
The Respondent's wife's income clearly, by law, shall not be considered, and that income is, therefore, neither relevant nor admissible evidence. Attorney Marshall tried on two separate occasions to influence the court by raising a matter that clearly, by law, **shall not be considered**. It is my firm belief that Attorney Marshall did this believing that a Pro-se opponent likely would not know the

language in RSA 458 in order to object. By twice raising the issue, the court would at the very least have to be conscious of not considering that issue, which is defacto consideration forced upon the court by Attorney Marshall.

3a. Attorney Marshall filed an Objection<sup>17</sup> to a Motion<sup>16</sup> on February 8, 2008 in which she referenced correspondences of my former wife's Real Estate Lawyer, Mike Harman. This Objection cited a May 18, 2007 letter<sup>19</sup> as well as referenced additional information that, it turned out, was not contained in that May 18<sup>th</sup> letter. The May 18<sup>th</sup> letter was not attached to the motion so I requested that letter and the others suggested by her motion with a correspondence to Attorney Marshall on March 10, 2008<sup>18</sup>. Attorney Marshall ultimately provided me with the May 18<sup>th</sup> letter in a correspondence dated March 21, 2008<sup>19</sup>. When I received that correspondence, I realized that Attorney Marshall's motion did indeed reference things that clearly were not covered by the May 18<sup>th</sup> letter and I again made my request for the missing documents in a correspondence dated March 27, 2008<sup>20</sup>. Attorney Marshall refused to provide any additional letters in advance of trial by first ignoring my requests for any additional letters and ultimately by claiming attorney-client privilege (for all but the May 18<sup>th</sup> letter) in a letter<sup>21</sup> dated as of the Friday before a hearing scheduled for the following Monday morning. The attorney-client privilege of Lawyer Mike Harman was breached once Attorney Marshall filed her objection to a motion<sup>17</sup> citing the May 18, 2007 letter and referencing information contained in letters other than the May 18, 2007 letter. Furthermore, **Attorney Marshall has yet to provide me with a photocopy of the withheld, April 18, 2007 letter**, even though in court on May 5, 2008 she let me read that letter and said I could have a copy.

3b. The parties were in court on April 7, 2008 to address, among other things, Attorney Marshall's "Objection to Motion" dated February 8, 2008<sup>17</sup>. At that hearing, I called [REDACTED] as a witness and he testified<sup>22</sup> that Real Estate Lawyer Mike Harman had told him in a telephone call that he could speak directly with Attorney Marshall's client, [REDACTED]. Attorney Marshall provided a collection of letters from Real Estate Lawyer Mike Harman at that hearing.



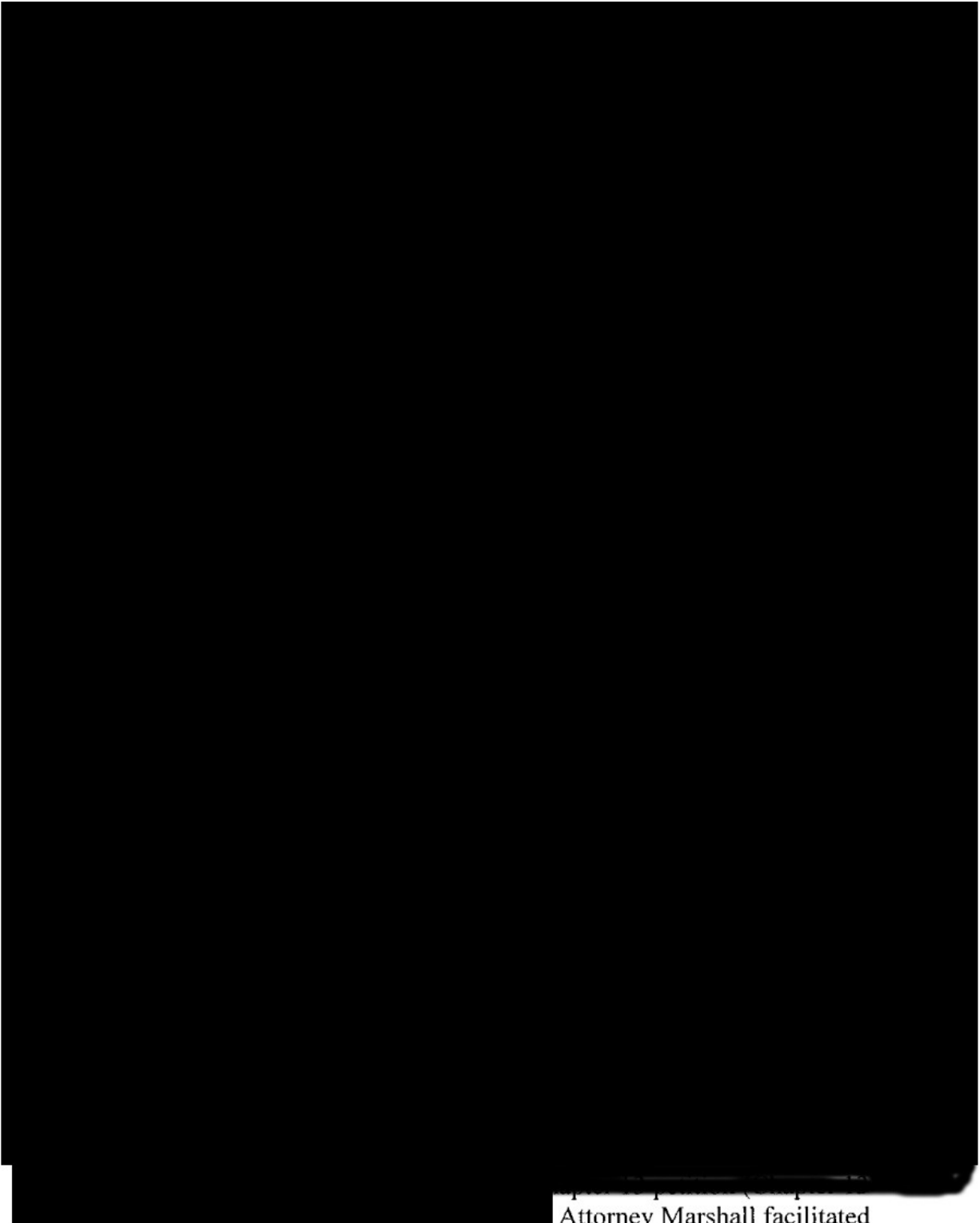
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4. On July 22, 2008 the court notified the parties of a hearing scheduled for August 20, 2008. On July 24, 2008, Attorney Marshall filed an "Assented to Motion to Continue"<sup>24</sup> but, her motion *was not assented to*. Attorney Marshall subsequently claimed that the assent was secured by Kathy Parlatore of her office<sup>26</sup> but this did not occur either; I was not contacted by Kathy Parlatore and no assent was secured. Attorney Marshall submitted her Motion to Continue as an Assented to Motion to be sure it would be granted.
  5. Attorney Marshall attempts to manipulate the discovery process and then exploits the rules of Professional Conduct to cover for her behavior. Over the course of the year leading to trial, requests were made to Attorney Marshall for a copy of her client's appraisal on the marital home, but Attorney Marshall did everything she could to avoid providing her client's appraisal in advance of trial. In her answers to Interrogatories<sup>29</sup>, dated January 18, 2007, she ignored the request in question 9 to provide any appraisal on the marital home<sup>28</sup>, even though she clearly had her client's appraisal in her possession.
- 


On May 24, 2007, Attorney Marshall provided updated requests for document production<sup>31</sup>. In that package of information the INDEX OF DOCUMENTS lists "4. Appraisal – 21 pages" but again she would not provide her own client's appraisal, but yet another copy of the appraisal I had done. And yet, only at trial did Attorney Marshall finally provide her client's appraisal<sup>27</sup>. Given the letters I sent to Attorney Marshall specifically pointed out that the copy of the appraisal she was sending me were my own appraisal and not the one done for her client, I do not believe that this was an instance of her clerical incompetence but rather an instance of Attorney Marshall using her clerical incompetence in other matters as a shield to hide behind so she would not have to provide critical information on one of the few marital assets involved in the divorce. Such tactical withholding of documents is facilitated by Attorney Marshall's abuse of the rules of conduct that enable her simply to claim later that it was a clerical error if caught.

6. On several occasions, Attorney Marshall claimed to have not received items mailed to her. This is another example of Attorney Marshall's tactical manipulation of actions and discovery. Included among the items Keri Marshall claimed to have not received was the QDRO that I prepared pursuant to an order of the court<sup>33</sup>; this document was sent<sup>34</sup> to Keri Marshall within the timeframe

dictated by the court (on May 22, 2008). On June 3<sup>rd</sup>, Attorney Marshall sent me a response<sup>35</sup> and I incorporated her suggested change and immediately sent her back a revised copy<sup>36</sup> (mailed on June 5, 2008 on which date the underlying 401K had a value of [REDACTED]). In defiance of the court's order that directed me to prepare the QDRO, and in spite of recommending that I prepare the QDRO in the Proposed Final Decree<sup>32</sup> that Attorney Marshall submitted to the court at trial, Attorney Marshall also wrote in her June 5<sup>th</sup> letter, "I do not recommend [REDACTED] sign a QDRO that you have drafted."<sup>36</sup> From this point on, I feel that Attorney Marshall only wanted to drag her feet on this issue. On July 25<sup>th</sup>, she wrote me a letter<sup>37</sup> indicating the QDRO was mentioned in a court document dated July 18, 2008<sup>13</sup> and she resent her prior suggested change along with another copy of her June 3<sup>rd</sup> letter attached. So untrustworthy is Attorney Marshall, that on July 26<sup>th</sup>, immediately upon receiving her June 25<sup>th</sup> letter, I felt compelled to hand deliver a duplicate copy of the June 5<sup>th</sup> QDRO to her office in East Kingston and insert that copy between the double doors to her office (which was closed) and sent her an e-mail<sup>38</sup> the next day informing her of this. On August 7<sup>th</sup> – two months after I sent her the June 5<sup>th</sup> letter and QDRO document and almost two weeks after I hand delivered a duplicate copy – she wrote, "Please know that I only recently received that correspondence."<sup>39</sup> (This is a disingenuous because Attorney Marshall would have been in receipt of my response to her June 3<sup>rd</sup> letter on June 6<sup>th</sup>.) As if to imply a suddenly new-found sense of urgency (and possibly to cover for her delay), Attorney Marshall followed this letter with another letter<sup>40</sup> the next day asking, in part, for me to respond to the letter of the prior day. From this point, Attorney Marshall began requesting unnecessary documentation and modifications (considering that the court's order was for a simple 50-50 division of a 401K between the parties). However, regardless of the nature of Attorney Marshall's requests, had she promptly dealt with the QDRO in early June, the division of the 401K account would have been effected as much as two months sooner. In court on September 8, 2008, Attorney Marshall attempted to further hold up the QDRO by insisting the document be modified even though a representative of the 401K Company stated the document was acceptable in its then current form and her client had already signed it. On October 15, 2008, as the 401K account was about to be divided in half, it's value had declined to [REDACTED] to the detriment of both parties. Once divided, I quickly moved my entire portion into short term bonds to protect the principal. Had Attorney Marshall not delayed for just over two months, the loss would have been almost entirely avoided [REDACTED]

7.



Attorney Marshall facilitated this  by allowing her client to submit untruthful information to the opposing party and to the court on Interrogatory answers, financial affidavits and in testimony.

Attorney Marshall attempts to tactically manipulate discovery and the legal process by cooperating as little as possible, but not so little that she cannot later point to some activity in order to deflect complaints such as this one. By claiming to have not received things that were sent to her, by providing things that clearly are not the items requested in lieu of the ones that were, by refusing to cooperate when cooperation is

clearly warranted, and by pressing actions even after such actions are clearly no longer justified, Attorney Marshall works to manipulate outcomes and sidestep justice. Attorney Keri Marshall is a trained legal professional, she holds a J.D. degree from the Franklin Pierce Law Center, and she is a member of both the New Hampshire and Maine bars. There have simply been too many significant "mistakes" made by Attorney Marshall to just write them all off to clerical mismanagement; if the actions by Attorney Marshall were all unintentional, one must consider the matter to be gross professional incompetence. Attorney Marshall specializes in family law and divorce, a specialization that can be traumatic not only to the two parties divorcing, but to the lives of all involved, especially the children of the parties. If this is the best Attorney Marshall can do, then one must question whether she should be allowed to continue operations at all. These actions by Attorney Marshall are particularly egregious considering that she was attempting to take advantage of an opposing party who was so financially impaired that he had been forced to represent himself pro-se.

Yours Truly,

A handwritten signature in black ink that reads "Daniel R. Shepard". The signature is written in a cursive style with a large, sweeping initial "D" and a long, horizontal flourish extending to the right.

Daniel R. Shepard

Your grievance must be signed under oath.

I hereby swear or affirm under the pains and penalties of perjury that the information contained in this grievance is true to the best of my knowledge.

5 March 2009  
Date

David R. Shepard  
Signature

State of New Hampshire  
County of Merrimack

On this 5<sup>th</sup> day of March 2009 personally appeared the above named David R. Shepard known to me (or satisfactorily proven) to be the person whose name is above subscribed and swore or affirmed that the facts above are true to the best of his / her knowledge.

[Signature]  
Justice of the Peace/ Notary Public



CERTIFICATION OF COPIES

Keri Marshall  
Name/s of Attorney/s (Respondent/s)

advs.

Daniel R. Shepard  
Name/s of Complainant/s

I/We hereby certify that a copy of the enclosed Complaint  
(Complaint, Response, etc.)  
*will be* ~~has been~~ forwarded to all of the following complainants, respondents, and counsel for complainants and respondents in the Attorney Discipline Office matter, pursuant to New Hampshire Supreme Court Rule 37A(VII), and that I/we have included a copy of all attachments or enclosures submitted with it:

Name

Address

Keri J. Marshall

47. Depot Road, East Kingston, NH 03827

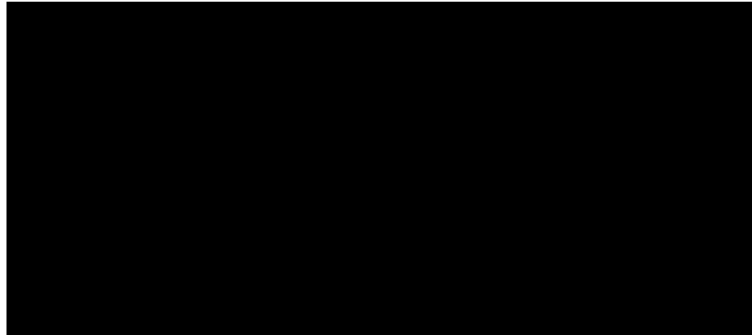
Date: 5 March 2009

Daniel R. Shepard  
Signature

Date: \_\_\_\_\_

Signature

Daniel R. Shepard  
Printed Name/s



**PARAGRAPH 1**

- 1  **Motion for Contempt 1/3/08**
- 2  Response to Motion for Contempt 1/11/08
- 3  E-mail to Attorney Marshall offering dates 1/18/08
- 4  Transcribed 1/30/08
- 5  Attorney Marshall proposed order 1/30/08
- 6  Court decision 1/31/08
- 7  **Motion for Contempt 3/7/07**
- 8  Court Decision 3/9/07
- 9  First Response to Motion for Contempt 3/12/08
- 10  Second Response to Motion for Contempt 3/15/08
- 11  Response to Court Decision 3/9/07

**PARAGRAPH 2**

- 12  **Motion for Contempt 7/14/08**
- 13  Response to Motion for Contempt 7/18/08
- 14  Marshall proposed order 9/8/08
- 15  Court decision 9/11/08

**PARAGRAPH 3a & 3b**

- 16  Motion to Amend and Motion to Reopen 1/28/08
- 17  Objection to Motion 2/8/08
- 18  Letter to Attorney Marshall 3/10/08
- 19  Attorney Marshall letter 3/21/08 w/ attached Attorney Harman letter 4/18/07
- 20  Letter to Attorney Marshall 3/27/08
- 21  Attorney Marshall letter 4/4/08
- 22  Transcribed [REDACTED] Testimony 4/7/08
- 23  Attorney Harman letter 2/21/07

**PARAGRAPH 4**

- 24  Assented to Motion to Continue 7/24/08 & court decision 8/5/08
- 25  Pro Se Motion to Continue 8/18/08 & Notice of Decision 9/3/08
- 26  Objection to Pro Se Motion to Continue 8/22/08

**PARAGRAPH 5**

- 27  House appraisal – [REDACTED] 12/1/06
- 28  Interrogatories Propounded by the Respondent 12/28/06
- 29  Petitioner's Answers to Interrogatories 1/18/07
- 30  Attorney Marshall letter 5/18/07
- 31  Petitioner's Updated Response to Interrogatories 5/24/07

**PARAGRAPH 6**

- 32  Attorney Marshall Proposed Final Decree 10/1/07
- 33  Final Decree (note paragraph 10) 10/10/07
- 34  Letter to Attorney Marshall 5/22/08
- 35  Attorney Marshall letter 6/3/08
- 36  Letter to Attorney Marshall 6/5/08
- [see 13]  Response to Motion for Contempt 7/18/08 (paragraphs 12-25)
- 37  Attorney Marshall letter 7/25/08
- 38  E-mail to Attorney Marshall 7/27/08
- 39  Attorney Marshall letter 8/7/08
- 40  Attorney Marshall letter 8/8/08

**PARAGRAPH 7**

- 41  [REDACTED] 10/01/07
- 42  Transcribed 5/05/08
- 43  Transcribed Attorney Harman testimony 4/07/08