

CASE CAPTION HERE

AFFIDAVIT IN SUPPORT OF SANCTIONS PURSUANT TO MCR 2.114 AND MCR 2.625

Attorney XXX, being duly sworn states in support of the attached Statement of Fees and Costs associated with the above-captioned case as follows:

1. Commonly, the following factors, from Michigan's Model Rules of Professional Conduct are used as a guide to determine whether fees requested in a motion for sanctions are appropriate:

Rule 1.5 Fees.

(a) A lawyer shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee. A fee is clearly excessive when, after a review of the facts, a lawyer of ordinary prudence would be left with a definite and firm conviction that the fee is in excess of a reasonable fee. The factors to be considered in determining the reasonableness of a fee include the following:

(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;

(3) the fee customarily charged in the locality for similar legal services;

(4) the amount involved and the results obtained;

(5) the time limitations imposed by the client or by the circumstances;

(6) the nature and length of the professional relationship with the client;

(7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and

(8) whether the fee is fixed or contingent.

Taking the factors identified above into consideration, Defendant asks the Court to rely upon Attorney XXX's Affidavit below in support of the court-ordered sanctions resulting upon the recent dismissal in its entirety of this action.

**Affidavit of Attorney XXX
In Support Sanctions | Attorney Fees and Costs**

Attorney XXX restates the above factors from the Michigan Model Rules of Professional Conduct, together with the relevant facts stated below and respectfully requests this Court to consider these facts when evaluating the Plaintiff's request for sanctions in both her First and Second Motion for Sanctions:

The sanctions requested are the total fees and costs set forth in Attorney XXX's statement attached.

(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly:

With respect to this factor, the interaction between the Uniform Child Custody Jurisdiction and Enforcement Act, the "first-to-file" rule, the judicial doctrines of collateral estoppel and res judicata, and the research required with respect to the [foreign country's] Divorce and Custody process and laws presented complicated questions that required research specific to this case. Moreover, because of the way in which the case presented, an expensive deposition was required so that the Court would have before it the evidence as to the manner in which this Court was misled. The attached statement accurately states the number of hours required to perform the services that are described which were, in my opinion, required; it also accurately describes the costs incurred.

(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer:

Certainly, there's just one of me. Every hour that I spent on behalf of the Plaintiff was an

hour that I could not spend on behalf of my current clients who currently reside in various areas of Michigan and also in the foreign countries of ____, ____, ____, and in the states of ____, ____, ____, ____, ____, ____, ____, and ____. Additionally, I am of counsel on a case pending in ____.

(3) the fee customarily charged in the locality for similar legal services:

The hourly rate I charge clients is low, given the standard in this geographic area. I charge \$_____ per hour, which is the median rate charged by family lawyers in the locality where I practice who have the same (and often less) education and experience as do I [XX years]. See attached 2012 State Bar Of Michigan Economics Of Law Practice In Michigan Report (the most current).

(4) the amount involved and the results obtained;

The fees and costs billed to the Defendant are not unreasonable given the amount of work required and the results obtained.

(5) the time limitations imposed by the client or by the circumstances;

There were some time limitations, particularly because the ex parte order sought and obtained interfered with the minor children's established custodial environment and routine. Because the work was in addition to that on other pending cases with critical issues requiring attention this resulted in many lengthened days in my office, often in excess of twelve hours. I do not bill extra for services rendered during what would be "after-hours."

(6) the nature and length of the professional relationship with the client;

I have represented this client since ____ 20_____ when he arrived in Michigan with the minor children under the Custody Order issue by the court of competent jurisdiction in the country of _____ .

(7) the experience, reputation, and ability of the lawyer or lawyers performing the

services;

I have the following experience, reputation, and ability:

- a) I graduated at _____ School of Law [INCLUDE curriculum vitae or brief description of education, employment, past and present, honors in law school and honors, experience, after that.]
- b) I participated as a presenter at the following CLE functions [detail].
- c) I have written the following publications.

ETC.

(8) *whether the fee is fixed or contingent.*

My fees are fixed at \$_____ /hour. There are no "incentive bonuses."

I AFFIRM AND AVER THAT THE FOREGOING STATEMENTS ARE TRUE.

Date: _____

ATTORNEY XXX (P)

Sworn and affirmed before me on _____ by Attorney XXX, to me known on the date set forth above.

Date: _____

, Notary Public
County, Michigan
My Commission expires: _____

THEN ATTACH DETAILED (IN TERMS OF SERVICES) STATEMENT AND ALSO ATTACH THE MOST CURRENT STATE BAR OF MICHIGAN ECONOMICS OF LAW PRACTICE IN MICHIGAN REPORT. NOTE. AT THIS WRITING, THE 2010 REPORT IS THE MOST RECENT.