

STATE OF MINNESOTA
COUNTY OF WINONA

DISTRICT COURT
THIRD JUDICIAL DISTRICT
FAMILY COURT DIVISION

Court File No.: _____

Assigned to: _____

In Re The Marriage Of: _____

Khaled Mohammed Aljohar,

Petitioner,

and

Hanadi Dawood Almaslam,

Respondent.

ORDER

This matter is before the Court on Petitioner’s request for an order authorizing service of the *Summons* and *Petition for Dissolution with Verification* (and future pleadings for such time as Respondent’s address remains unknown) by alternate means, specifically publication pursuant to Minn. Stat. § 518.11(c), Rule 302.01(a)(3)-(4) of the Minnesota General Rules of Practice, and Minnesota Rule of Civil Procedure 4.04(c), with publication to be accomplished using the online legal notice website Global Legal Notices®.

Based upon Petitioner’s Affidavit, Petitioner’s Memorandum of Law, and all the files and records herein, the Court issues the following:

ORDER

1. Service of the *Summons* and *Petition for Dissolution with Verification*, as well as future pleadings for such time as Respondent’s address remains unknown, shall be made by publication. For purposes of service by publication, Global Legal Notices® shall be deemed an acceptable method which might reasonably succeed in notifying the Respondent of the proceeding, as required by Minnesota statute. Service shall be deemed complete 21 days after court-ordered publication.

IT IS SO ORDERED.

BY THE COURT:

Dated: _____
02/19/2019 03:48:16 PM



Judge of District Court

STATE OF MINNESOTA
COUNTY OF WINONA

DISTRICT COURT
THIRD JUDICIAL DISTRICT
FAMILY COURT DIVISION

In Re the Marriage of:

File No. *unassigned*

Khaled Mohammed Aljohar,

Petitioner,

and

SUMMONS

Hanadi Dawood Almaslam,

Respondent.

THE STATE OF MINNESOTA TO HANADI DAWOOD ALMASLAM THE ABOVE-NAMED RESPONDENT.

YOU ARE HEREBY SUMMONED and required to serve upon Petitioner’s attorney within thirty (30) days after service of this Summons upon you, exclusive of the day of service, an Answer to the Petition for Dissolution of Marriage which is herewith served upon you. If you fail to do so, Judgment by Default will be taken against you for the relief prayed for in the Petition for Dissolution of Marriage.

NOTICE OF TEMPORARY RESTRAINING PROVISIONS

UNDER MINNESOTA LAW, SERVICE OF THIS SUMMONS MAKES THE FOLLOWING REQUIREMENTS APPLY TO BOTH PARTIES TO THIS ACTION, UNLESS THEY ARE MODIFIED BY THE COURT OR THE PROCEEDING IS DISMISSED:

(1) NEITHER PARTY MAY DISPOSE OF ANY ASSETS EXCEPT (i) FOR THE NECESSITIES OF LIFE OR FOR THE NECESSARY GENERATION OF INCOME OR PRESERVATION OF ASSETS, (ii) BY AN AGREEMENT IN WRITING, OR (iii) FOR RETAINING COUNSEL TO CARRY ON OR TO CONTEST THIS PROCEEDING;

(2) NEITHER PARTY MAY HARASS THE OTHER PARTY; AND

(3) ALL CURRENTLY AVAILABLE INSURANCE COVERAGE MUST BE MAINTAINED AND CONTINUED WITHOUT CHANGE IN COVERAGE OR BENEFICIARY DESIGNATION.

IF YOU VIOLATE ANY OF THESE PROVISIONS, YOU WILL BE SUBJECT TO SANCTIONS BY THE COURT.

(4) PARTIES ARE ENCOURAGED TO ATTEMPT ALTERNATIVE DISPUTE RESOLUTION PURSUANT TO MINNESOTA LAW. ALTERNATIVE DISPUTE RESOLUTION INCLUDES MEDIATION, ARBITRATION, AND OTHER PROCESSES AS SET FORTH IN THE DISTRICT COURT RULES. YOU MAY CONTACT THE COURT ADMINISTRATOR ABOUT RESOURCES IN YOUR AREA. IF YOU CANNOT PAY FOR MEDIATION OR ALTERNATIVE DISPUTE RESOLUTION, IN SOME COUNTIES, ASSISTANCE MAY BE AVAILABLE TO YOU THROUGH A NONPROFIT PROVIDER OR A COURT PROGRAM. IF YOU ARE A VICTIM OF DOMESTIC ABUSE OR THREATS OF ABUSE AS DEFINED IN MINNESOTA STATUTES, CHAPTER 518B, YOU ARE NOT REQUIRED TO TRY MEDIATION AND YOU WILL NOT BE PENALIZED BY THE COURT IN LATER PROCEEDINGS.

(5) NOTICE OF PARENT EDUCATION REQUIREMENTS UNDER MINNESOTA STATUTES, SECTION § 518.157, IN A CONTESTED PROCEEDING INVOLVING CUSTODY OR PARENTING TIME OF A MINOR CHILD, THE PARTIES MUST BEGIN PARTICIPATION IN A PARENT EDUCATION PROGRAM THAT MEETS THE MINIMUM STANDARDS PROMULGATED BY THE MINNESOTA SUPREME COURT WITHIN 30 DAYS AFTER THE FIRST FILING WITH THE COURT. IN SOME DISTRICTS, PARENTING EDUCATION MAY BE REQUIRED IN ALL CUSTODY OR PARENTING PROCEEDINGS. YOU MAY CONTACT THE DISTRICT COURT ADMINISTRATOR FOR ADDITIONAL INFORMATION REGARDING THIS REQUIREMENT AND THE AVAILABILITY OF PARENT EDUCATION PROGRAMS.

Dated: 2-6-19

BAKER VICCHIOLLO LAW, LLC
Attorneys for Petitioner

By: 

Jolene D. Baker Vicchiollo, No. 291687
Heather A. Chakirov, No. 392126
3300 Edinborough Way
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Edina, MN 55435
(952) 405-2050
jolene@mnlaw.us
heather@mnlaw.us

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF WINONA

THIRD JUDICIAL DISTRICT
FAMILY COURT DIVISION

In Re the Marriage of:

Court File No. *unassigned*

Khaled Mohammed Aljohar,

Petitioner,

and

PETITION FOR DISSOLUTION

Hanadi Dawood Almaslam,

Respondent.

Petitioner in this proceeding states and alleges:

I.

The true and correct names and addresses of the parties are as follows:

Petitioner: Khaled Mohammed Aljohar
38 Hillsdale Court
Winona, Minnesota 55987

Petitioner was formerly known by no other names.
SSN: See Confidential Information Form.

Respondent: Hanadi Dawood Almaslam
Unknown

It is unknown to Petitioner if Respondent was formerly known by
any other names.
SSN: See Confidential Information Form

II.

Petitioner is being represented in these proceedings by Heather A. Chakirov, Baker Vicchiollo
Law LLC, 3300 Edinborough Way, Suite 550, Edina, MN 55435.

III.

Petitioner and Respondent are both persons who have attained the age of majority. Petitioner is thirty-six (36) years of age, with a birthdate of May 10, 1982. Respondent's birthdate is unknown to Petitioner.

IV.

Petitioner and Respondent considered themselves to be married. Petitioner identified himself as married and provided a joint residential address for Petitioner and Respondent on his non-immigrant visa application dated February 20, 2010. Pursuant to the U.S. Citizenship and Immigration Services, "in Saudi Arabia, the Islamic legal code forbids unmarried couples who are not blood related from cohabitating." As such, the U.S. Citizenship and Immigration Services concluded that both Petitioner and Respondent were holding themselves to be a legally married couple.

V.

For more than 180 days immediately preceding the commencement of this proceeding, Petitioner has been and now is a resident of the State of Minnesota.

VI.

Neither party was at the time of the service of the summons and petition, nor is now, in the military service of the United States and neither is entitled to relief under Service Members' Civil Relief Act of 2003, as amended.

VII.

There are no minor or dependent children of said marriage.

VIII.

Upon information and belief, Respondent is not pregnant.

IX.

No separate proceedings for dissolution, or legal separation are pending in a Court in this state or elsewhere.

X.

There has been an irretrievable breakdown of the marriage relationship of the parties hereto pursuant to Minnesota Statutes, § 518.06, as amended.

XI.

This Petition has been filed in good faith and for the purposes set forth herein.

XII.

Petitioner currently does not receive any income nor is he employed at this time.

XIII.

Each party has been supporting himself or herself since they separated. Neither party is in need of financial assistance from the other. Each party is capable of self-support.

XIV.

Petitioner does not own or have any interest in any real estate located in the State of Minnesota or elsewhere.

XV.

Petitioner leases a 2017 Dodge Challenger automobile but has no ownership in said automobile.

XVI.

Petitioner is the owner of personal property, household goods and furnishings located in and about his homestead.

XVII.

Petitioner is the owner of cash, savings, and checking accounts.

XVIII.

Petitioner does not have an interest in any retirement, pension and profit-sharing plans.

XIX.

Petitioner has incurred various debts and obligations.

XX.

Petitioner may have an interest in non-marital property.

XXI.

Petitioner is presently carrying health and medical insurance for the benefit of himself.

XXII.

An order for protection under chapter 518B or a similar law of another state that governs the parties is not in effect.

WHEREFORE, Petitioner prays for the Judgment and Decree of this Court granting the following relief:

1. **Dissolution**. Dissolving the bonds of matrimony existing between the parties.
2. **Spousal Maintenance**. Awarding neither party spousal maintenance.
3. **Insurance**. Ordering that each party shall be responsible for his or her own health and medical insurance and unreimbursed health costs.
4. **Personal Property**. Awarding Petitioner his respective personal property, household goods, and furnishings, and awarding Respondent her respective personal property, household goods, and furnishings.
5. **Financial Account Assets**. Awarding Petitioner his cash, savings, and checking accounts, and awarding Respondent any cash, savings, and checking accounts she may have.
6. **Debts**. Ordering that Petitioner be responsible for his outstanding debts and obligations and that Respondent be responsible for her outstanding debts and obligations she may have.

7. **Retirement.** Awarding Respondent her retirement, pension, and profit-sharing plans that she may have.

8. **Non-Marital Property.** Awarding Petitioner his non-marital property, if any.

9. **Motor Vehicles.** Awarding Petitioner sole use and possession of the leased 2017 Dodge Challenger GT automobile, free and clear of any claim from Respondent.

Awarding Respondent sole interest, equity, possession of any automobile she may have an interest in, free and clear of any claim or interest in Petitioner, subject to any encumbrances, if any.

10. **Attorneys' Fees.** Ordering that each party be responsible for payment of their respective attorneys' fees and suit costs incurred incident to this proceeding.

11. **Such Other.** For such other and further relief as the Court may deem just, fair and equitable.

Dated: 2-6-19

BAKER VICCHIOLLO LAW, LLC
Attorneys for Petitioner

By: 

Jolene D. Baker Vicchiollo, No. 291687

✓ Heather A. Chakirov, No. 392126

3300 Edinborough Way, Suite 550

Edina, MN 55435


(952) 405-2050

jolene@mnlaw.us

heather@mnlaw.us

ACKNOWLEDGEMENT

The undersigned hereby acknowledges that sanctions may be imposed under Minn. Stat. §549.211.


Jolene D. Baker Vicchiollo, No. 291687
✓ Heather A. Chakirov, No. 392126

STATE OF MINNESOTA
COUNTY OF WINONA

DISTRICT COURT
THIRD JUDICIAL DISTRICT
FAMILY COURT DIVISION

In Re the Marriage of:

Court File No. *unassigned*

Khaled Mohammed Aljohar,
Petitioner,

and

VERIFICATION

Hanadi Dawood Almaslam,
Respondent.

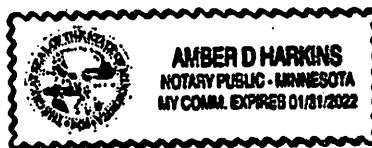
STATE OF MINNESOTA)
) ss.
COUNTY OF Winona)

Khaled Mohammed Aljohar, being first duly sworn, upon oath deposes and says: That I am the Petitioner in the above-captioned proceeding for dissolution of marriage; that I have read the hereto attached Petition and the same is true and correct of my own knowledge, except as to matters therein stated on information and belief and as to such, I believe it to be true.


Khaled Mohammed Aljohar, Petitioner

Subscribed and sworn to before me
this 28 day of January, 2019.


Notary Public



STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF WINONA

THIRD JUDICIAL DISTRICT
FAMILY COURT DIVISION

CERTIFICATE OF REPRESENTATION AND PARTIES

(ONLY THE INITIAL FILING ATTORNEY/PARTY NEEDS TO COMPLETE THIS FORM.)

Date Case Filed:

File Number: *unassigned*

Khaled Mohammed Aljohar

and

Hanadi Dawood Almaslam

Pursuant to Rule 104 of the General Rules of Practice for District Courts, this form must be completed and filed with the Court Administrator's Office at the time the case is filed. The court administrator shall, upon receipt of the completed certificate, notify all parties or their lawyers of the date of filing the action and the file number assigned.

LIST ALL ATTORNEYS/PRO SE PARTIES INVOLVED IN THIS CASE.

ATTORNEY FOR PETITIONER

ATTORNEY FOR RESPONDENT

Dated:

2-6-19

BAKER VICCHIOLLO LAW, LLC

PRO SE



By: Jolene D. Baker Vicchiollo, No. 291687

Hanadi Dawood Almaslam

✓ Heather A. Chakirov, No. 392126

3300 Edinborough Way

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Edina, MN 55435

(952) 405-2050

jolene@mnlaw.us

heather@mnlaw.us

STATE OF MINNESOTA
COUNTY OF WINONA

DISTRICT COURT
THIRD JUDICIAL DISTRICT
FAMILY COURT DIVISION

Case type: Dissolution without minor child

In Re the Marriage of:

Court File No.: _____

Khaled Mohammed Aljohar,

Petitioner,

EX PARTE
NOTICE OF MOTION AND MOTION

and

Hanadi Dawood Almaslam,

Respondent.

TO: HANADI DAWOOD ALMASLAM, UNKNOWN ADDRESS

PLEASE TAKE NOTICE that on a date and time to be determined, before a Judge of the above-named Court, at the Winona County Courthouse, 171 West Third Street, Winona, Minnesota 55987, Petitioner herein, by and through counsel, will move the Court for an Order:

1. Allowing the issue of service of the Summons, Petition for Dissolution of Marriage and Verification by alternative means be heard on an *Ex Parte* basis.
2. Authorizing service of the Summons, Petition for Dissolution of Marriage, and Verification upon Respondent by alternative means, specifically publication pursuant to Minn. Stat. §518.11(c) and Rule 302.01(a) (3)-(4) of the Minnesota General Rules of Practice, with publication to be accomplished using the online legal notice website Global Legal Notices®.

3. Authorizing service of pleadings in this matter to be served by publication pursuant to Minnesota Rule of Civil Procedure 4.04(c), with publication to be accomplished using the online legal notice website Global Legal Notices® for such time as Respondent's address remains unknown.

4. For such other and further relief as the Court may deem just, fair and equitable.

Said motion is based upon the Affidavit of Khaled Mohammed Aljohar, Memorandum of Law, arguments of counsel and upon all the files and records herein.

Dated: 2-6-19

Baker Vicchiollo Law LLC
Attorney for Petitioner

By:


Heather Chakirov, No. 392126
3300 Edinborough Way Suite 550
Edina, MN 55435
(952) 405-2050

Acknowledgement

The attorney for Petitioner in the above-captioned matter, hereby acknowledges that pursuant to Minnesota Statutes Section 549.221, costs, disbursements, witness fees and reasonable attorneys' fees may be awarded to Respondent in the event Petitioner is found to be acting in bad faith and/or asserting a frivolous claim.


Heather A. Chakirov, No. 392126

STATE OF MINNESOTA
COUNTY OF WINONA

DISTRICT COURT
THIRD JUDICIAL DISTRICT
FAMILY COURT DIVISION

Case type: Dissolution without minor child

In Re the Marriage of:

Court File No.: 85-FA-19-270

Khaled Mohammed Aljohar,

Petitioner,

**AMENDED *EX PARTE*
NOTICE OF MOTION AND MOTION**

and

Hanadi Dawood Almaslam,

Respondent.

TO: HANADI DAWOOD ALMASLAM, UNKNOWN ADDRESS

PLEASE TAKE NOTICE that on April 4, 2019 at 1:30 p.m., before a Judge of the above-named Court, at the Winona County Courthouse, 171 West Third Street, Winona, Minnesota 55987, Petitioner herein, by and through counsel, will move the Court for an Order:

1. Allowing the issue of service of the Summons, Petition for Dissolution of Marriage and Verification by alternative means be heard on an *Ex Parte* basis.
2. Authorizing service of the Summons, Petition for Dissolution of Marriage, and Verification upon Respondent by alternative means, specifically publication pursuant to Minn. Stat. §518.11(c) and Rule 302.01(a) (3)-(4) of the Minnesota General Rules of Practice, with publication to be accomplished using the online legal notice website Global Legal Notices®.

3. Authorizing service of pleadings in this matter to be served by publication pursuant to Minnesota Rule of Civil Procedure 4.04(c), with publication to be accomplished using the online legal notice website Global Legal Notices® for such time as Respondent's address remains unknown.

4. For such other and further relief as the Court may deem just, fair and equitable.

Said motion is based upon the Affidavit of Khaled Mohammed Aljohar, Memorandum of Law, arguments of counsel and upon all the files and records herein.

Dated: 3-11-19

Baker Vicchiollo Law LLC
Attorney for Petitioner

By: 
Heather Chakirov, No. 392126
3300 Edinborough Way Suite 550
Edina, MN 55435
(952) 405-2050

Acknowledgement

The attorney for Petitioner in the above-captioned matter, hereby acknowledges that pursuant to Minnesota Statutes Section 549.221, costs, disbursements, witness fees and reasonable attorneys' fees may be awarded to Respondent in the event Petitioner is found to be acting in bad faith and/or asserting a frivolous claim.


Heather A. Chakirov, No. 392126

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF WINONA

THIRD JUDICIAL DISTRICT
FAMILY COURT DIVISION

Case Type: Dissolution without minor child

In Re the Marriage of:

Court File No.: _____

Khaled Mohammed Aljohar,

Petitioner,

and

**AFFIDAVIT OF
KHALED MOHAMMED ALJOHAR**

Hanadi Dawood Almaslam,

Respondent.

STATE OF MINNESOTA)

) ss.

COUNTY OF WINONA)

Khaled Mohammed Aljohar, being first duly sworn upon oath, deposes and states as follows:

1. I am the Petitioner in this dissolution action and I am submitting this Affidavit in support of my request that the Court authorize service on Hanadi Dawood Almaslam (hereinafter Hanadi) by alternative means, specifically by publication.

2. Hanadi's current address is unknown to me, but her last-known location was Jeddah, Saudi Arabia. To my knowledge, the last-known address which Hanadi utilized was the joint address indicated on her Form DS-160 submitted to U.S. Department of State officials, at 9 Al Qashashiyah, Al Faisaliyyah, Jeddah, Saudi Arabia 23442. My relative owns the building associated with said address, and I am aware that Hanadi does not reside at said address.

3. My last contact with Hanadi was in April of 2010, just prior to when I immigrated to the United States and Hanadi opted to remain in Saudi Arabia. I am not aware of any employment for Hanadi.

4. As for the names and locations of relatives of Hanadi, efforts were made by my brother, namely Abdullah Aljohar, to locate Hanadi. These efforts included looking for Hanadi's brother, Saud, at the office of his last-known employer in Jeddah, Saudi Arabia. However, Hanadi's brother was no longer employed with said office of employment. I am not aware of the location of any other person who is likely to know the whereabouts of Hanadi Dawood Almaslam.

5. I have been unable to locate Hanadi Dawood Almaslam's current location. I have attempted to find her by having a search performed by Process Service Network, LLC. I have included a *Declaration of Due Diligence Search* with this submission by the CEO of said company, namely Nelson Tucker, which confirms the extensive efforts that were made to locate Hanadi, but without success. **EXHIBIT 1.** Mr. Tucker recommended that we proceed with service by publication through Global Legal Notices®, which I am requesting that the Court permit for service of process in this matter.

6. For all of these reasons, I am asking that the court grant my request to serve the divorce papers on Hanadi Dawood Almaslam by the alternative means of publication, consistent with the recommendations of Mr. Tucker.

FURTHER AFFIANT SAITH NOT.

State of Minnesota
County of Winona

I DECLARE UNDER PENALTY OF PERJURY THAT EVERYTHING I HAVE STATED IN
THIS DOCUMENT IS TRUE AND CORRECT.



Khaled Mohammed Aljohar, Petitioner

DECLARATION OF DUE DILIGENCE SEARCH

I declare, under penalty of perjury of the laws of the State of Minnesota, that the following is true and correct to the best of my knowledge and that I could competently testify, if called, to the following:

1. I am the CEO of Process Service Network, LLC, a process server and investigator with extensive experience in international service of process, am over the age of 18 years, and not a party to the within-named action. I have been a Registered Process Server and owner of Process Service Network, LLC since 1978. I have authored four (4) books on service of process, international investigations and court filing procedures and have conducted training seminars for the past 34 years. I regularly serve, or cause to be served, legal documents domestically and worldwide and supervise all international service and investigation assignments for clients who make assignments to us in Saudi Arabia. I regularly conduct MCLE courses on international service of process for major law firms and state Bar Associations. I am an Associate Member of the American Bar Association (ABA), Member of the Section on International Law and Section on International Trade. I am also a member of the Los Angeles County Bar Association, Member of the International Law Committee and Family Law Committee. I am a Life Member of the National

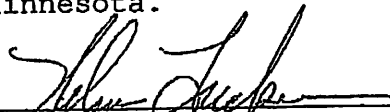
Association of Investigative Specialists and the *International Process Servers Association*. I am qualified as an expert in my field and can competently testify to the facts stated and declared within.

2. On January 14, 2019, I received an assignment from the law firm, Baker Vicchiollo Law, along with written instructions to locate, **Hanadi Dawood Almaslam** ("Almaslam"), in Saudi Arabia.
3. Beginning on January 14, 2019, I conducted a search to locate the whereabouts of Almaslam. The following is a result of that search:
4. Search using social media resources, including Facebook, Twitter, Instagram, MySpace, YouTube, Google+, WhatsApp, WeChat, Line and Foursquare. Result: Several similar names were located but none were a match to Almaslam.
5. All online telephone directories for the region of Jeddah, Saudi Arabia. Result: no listings were found.
6. National database search. Result: No matching names.
7. Criminal index for Jeddah, Saudi Arabia. Result: Nothing found.
8. Search of business licenses for Jeddah, Saudi Arabia. Result: No records are currently available.
9. Search of public medical facilities and hospitals in Jeddah, Saudi Arabia. Result: Nothing found.
10. Additional database searches revealed 2 possible matches. Each available data was investigated and

determined to be invalid. The data checked was similar names.

11. Other steps were taken by our agent in Jeddah, Saudi Arabia to locate Almaslam. Result: All were unsuccessful.
12. The geographical locations searched were provided from the following sources: Petitioner, and obtained in course of our investigation.
13. SUMMARY: Based upon all available information, I am unable to locate Almaslam.
14. RECOMMENDATION: Service by Publication. However, print newspapers in Saudi Arabia will not accept requests for service by publication. The only known alternative is publication in Global Legal Notices LLC which provides numerous advantages over traditional print newspapers in providing actual notice to a party.

Executed on this 21st day of January, 2019, at Chatsworth, CA, attesting the foregoing to be true and correct, under penalty of perjury of the laws of the State of Minnesota.



Nelson Tucker

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF WINONA

THIRD JUDICIAL DISTRICT

FAMILY COURT DIVISION

Case Type: Dissolution without minor child

In Re the Marriage of:

Court File No.: Court File No.: _____

Khaled Mohammed Alojhar,

Petitioner,

and

Hanadi Dawood Almaslam,

Respondent.

**PETITIONER'S
MEMORANDUM OF LAW**

This Memorandum of Law is submitted by Petitioner in support of his Motion for an order authorizing service of the summons and petition for dissolution of marriage by alternative means, and specifically, by publication.

Minn. Stat. §518.11(c) provides as follows:

If personal service cannot be made, the court may order service of the summons by alternate means. The application for alternate service must include the last known location of the respondent; the petitioner's most recent contacts with the respondent; the last known location of the respondent's employment; the names and locations of the respondent's parents, siblings, children, and other close relatives; the names and locations of other persons who are likely to know the respondent's whereabouts; and a description of efforts to locate those persons.

The court shall consider the length of time the respondent's location has been unknown, the likelihood that the respondent's location will become known, the nature of the relief sought, and the nature of efforts made to locate the respondent. The court shall order service by first class mail, forwarding address requested, to any addresses where there is a reasonable possibility that mail or information will be forwarded or communicated to the respondent or, if no address so qualifies, then to the respondent's last known address.

If the petitioner seeks disposition of real estate located within the state of Minnesota, the

court shall order that the summons, which shall contain the legal description of the real estate, be published in the county where the real estate is located. The court may also order publication, within or without the state, but only if it might reasonably succeed in notifying the respondent of the proceeding. Also, the court may require the petitioner to make efforts to locate the respondent by telephone calls to appropriate persons. Service shall be deemed complete 21 days after mailing or 21 days after court-ordered publication.

Minn. Stat. §518.11(c) (2018).

Rule 302.01(a)(3) of the Minnesota General Rules of Practice provides that service of the summons and petition may be accomplished by alternate means as authorized by statute, and Rule 302.01(a)(4) of the Minnesota General Rules of Practice states that “Service of the summons and petition may be made by publication only upon an order of the court. If the respondent subsequently is located and has not been served personally or by alternate means, personal service shall be made before the final hearing.” Minn. Gen. R. Prac. 302.01(a)(4). Minnesota Rule of Civil Procedure 4.04(c) further provides that, with regard to service outside of the United States, “Unless otherwise provided by law, service upon an individual, other than an infant or an incompetent person, may be effected in a place not within The state...(3) by other means not prohibited by international agreement as may be directed by the court.” Minn. R. Civ. P. 4.04(c)(3).

As set forth in Petitioner’s Affidavit, Respondent’s current address is unknown to Petitioner and his last contact with her was in April of 2010. Petitioner has been unable to locate Respondent through relatives of the Petitioner. Petitioner has also conducted a search utilizing the services of a professional process service company, which company was unable to locate Respondent despite an extensive search of sources in Respondent’s last-known location, including social media, online, national database, criminal index, business license search, public medical facilities and hospitals, and other databases. **EXHIBIT 1.**

It is important to Petitioner that he be able to initiate the dissolution proceeding and he is unable to do so without an order for service by alternative means. The parties were culturally married in Saudi Arabia. The parties considered themselves to be married, identified themselves as married in their non-immigrant Visa application paperwork, and United States Citizenship and Immigration Services (USCIS) concluded that the parties were holding themselves to be a legally married couple. **EXHIBIT 2.** According to Minnesota case law, “The validity of a marriage normally is determined by the law of the place where the marriage is contracted. If valid by that law the marriage is valid everywhere unless it violates a strong public policy of the domicile of the parties.” *In re Kinkead’s Estate*, 57 N.W.2d 628, 631 (1953).

Saudi Arabia incorporates the Islamic law of *Shari’a* law into its legal system. As such, to be deemed religiously married as husband and wife under Islamic law, there need only be offer and acceptance between the parties in the presence of witnesses, along with dowry. **EXHIBIT 3.** In other words, the process that in the United States might be deemed to be in the nature of an engagement, is understood to be considered the commencement of the contract of marriage in Saudi Arabia. Upon such offer and acceptance, the couple are then considered “*halal*” such that they are permitted to spend time together alone, travel together, utilize a joint address, be seen in public together, and so on (which would otherwise be illegal for a man and woman to do in the absence of such cultural marriage).

Proof of Petitioner’s existing marriage to Respondent includes the fact that he was denied an immigration benefit on the grounds of the marriage, as is reflected in the attached USCIS Decision. “When evidence of a marriage is shown, a strong presumption of its legality arises.” *Ma v. Ma*, 483 N.W.2d 732, 735 (Minn. App. 1992) (citing *In re Lando’s Estate*, 112 Minn. 257, 266, 127 N.W. 1125, 1128 (1910)). Petitioner has been officially found by the federal

government to be married to Respondent, but has not seen or communicated with her since their separation in 2010. Moreover, Petitioner wishes to legally marry the mother of his non-joint daughter, and continue residing at their home in Winona, Minnesota. Such only renders it all-the-more imperative that Petitioner be permitted to serve by publication to move forward in dissolving the marriage with Respondent.


Petitioner requests that the Court order that service be made by publication using the online legal notice website Global Legal Notices®, consistent with the recommendations of the international process service company utilized in conducting the search for Respondent.

EXHIBIT 4.

Dated: 2-6-19

Respectfully submitted,

Baker Vicchiollo Law LLC
Attorney for Petitioner

By: 
Heather A. Chakirov, No. 392126
3300 Edinborough Way Suite 550
Edina, MN 55435
(952) 405-2050

DECLARATION OF DUE DILIGENCE SEARCH

I declare, under penalty of perjury of the laws of the State of Minnesota, that the following is true and correct to the best of my knowledge and that I could competently testify, if called, to the following:

1. I am the CEO of Process Service Network, LLC, a process server and investigator with extensive experience in international service of process, am over the age of 18 years, and not a party to the within-named action. I have been a Registered Process Server and owner of Process Service Network, LLC since 1978. I have authored four (4) books on service of process, international investigations and court filing procedures and have conducted training seminars for the past 34 years. I regularly serve, or cause to be served, legal documents domestically and worldwide and supervise all international service and investigation assignments for clients who make assignments to us in Saudi Arabia. I regularly conduct MCLE courses on international service of process for major law firms and state Bar Associations. I am an Associate Member of the American Bar Association (ABA), Member of the Section on International Law and Section on International Trade. I am also a member of the Los Angeles County Bar Association, Member of the International Law Committee and Family Law Committee. I am a Life Member of the National

Association of Investigative Specialists and the *International Process Servers Association*. I am qualified as an expert in my field and can competently testify to the facts stated and declared within.

2. On January 14, 2019, I received an assignment from the law firm, Baker Vicchiollo Law, along with written instructions to locate, **Hanadi Dawood Almaslam** ("Almaslam"), in Saudi Arabia.
3. Beginning on January 14, 2019, I conducted a search to locate the whereabouts of Almaslam. The following is a result of that search:
4. Search using social media resources, including Facebook, Twitter, Instagram, MySpace, YouTube, Google+, WhatsApp, WeChat, Line and Foursquare. Result: Several similar names were located but none were a match to Almaslam.
5. All online telephone directories for the region of Jeddah, Saudi Arabia. Result: no listings were found.
6. National database search. Result: No matching names.
7. Criminal index for Jeddah, Saudi Arabia. Result: Nothing found.
8. Search of business licenses for Jeddah, Saudi Arabia. Result: No records are currently available.
9. Search of public medical facilities and hospitals in Jeddah, Saudi Arabia. Result: Nothing found.
10. Additional database searches revealed 2 possible matches. Each available data was investigated and

determined to be invalid. The data checked was similar names.

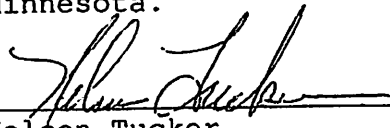
11. Other steps were taken by our agent in Jeddah, Saudi Arabia to locate Almaslam. Result: All were unsuccessful.

12. The geographical locations searched were provided from the following sources: Petitioner, and obtained in course of our investigation.

13. SUMMARY: Based upon all available information, I am unable to locate Almaslam.

14. RECOMMENDATION: Service by Publication. However, print newspapers in Saudi Arabia will not accept requests for service by publication. The only known alternative is publication in Global Legal Notices, LLC which provides numerous advantages over traditional print newspapers in providing actual notice to a party.

Executed on this 21st day of January, 2019, at Chatsworth, CA, attesting the foregoing to be true and correct, under penalty of perjury of the laws of the State of Minnesota.



Nelson Tucker

COPY

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Minneapolis-St. Paul Field Office
250 Marquette Ave, Suite 710
Minneapolis, MN 55401



U.S. Citizenship
and Immigration
Services

Date: **MAY 03 2018**

Cassandra Aljohar
38 Hillsdale Court
Winona, MN 55987

A207816613
MSC1690004099

DECISION

Dear Ms. Aljohar:

On September 28, 2015, you filed a Form I-130, Petition for Alien Relative, on behalf of your spouse, Khalid Aljohar (the beneficiary). You sought to classify the beneficiary as the spouse of a U.S. citizen under section 201(b) of the Immigration and Nationality Act (INA). USCIS approved your Form I-130 on March 10, 2016.

However, on February 2, 2017, USCIS sent you a Notice of Intent to Revoke advising you that we intended to revoke approval of your petition because USCIS had encountered information indicating that the beneficiary was not free to marry. On March 1, 2017, you responded to that notice. As explained below, USCIS is revoking approval of your Form I-130.

Generally, to demonstrate that an individual is eligible for approval as the beneficiary of a petition filed under INA 201(b), a petitioner must:

- Establish a bona fide relationship to certain alien relatives who wish to immigrate to the United States;
- Establish the appropriate legal status (i.e., U.S. citizenship or lawful permanent residence) to submit a petition on the beneficiary's behalf.

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the requested immigration benefit sought under the INA. See *Matter of Brantigan*, 11 I&N Dec. 493, 495 (BIA 1966); Title 8, Code of Federal Regulations (8 CFR), section 103.2(b). You must demonstrate that the beneficiary can be classified as your spouse. See 8 CFR 204.2(a).

USCIS may, at any time, for good and sufficient cause, revoke the approval of any petition under section 204 of the INA. See INA 205. USCIS may revoke the approval of a petition upon notice to the petitioner on any ground other than those specified in 8 CFR 205.1 when the necessity for the revocation comes to USCIS's attention. See 8 CFR 205.2.

EXHIBIT 2

Statement of Facts and Analysis, Including Grounds for Revocation

Following the approval of Form I-130 on March 10, 2016, USCIS encountered new information which constituted grounds for revocation. The information shows that the beneficiary was not legally free to marry you on the date of your marriage on March 7, 2015.

On March 10, 2016, you and the beneficiary appeared for an interview in connection with Form I-130 and Form, I-485, Application to Register Permanent Residence or Adjust Status. Both you and the beneficiary were interviewed separately under oath. Both of you testified neither you nor the beneficiary had ever been previously married. The submitted documentation, including Form I-130 and Form G-325A, Biographic Information, was consistent with this testimony. On March 10, 2016, the petition was approved.

Following approval of your Form I-130 USCIS encountered U.S. Department of State (DOS) records indicating that the beneficiary had previously been married. Specifically on February 20, 2010, the beneficiary submitted Form DS-160, Online Nonimmigrant Visa, to the DOS. On the Form DS-160, the beneficiary indicated he was married to Hanadi Dawood Almaslam (Ms. Dawood Almaslam). He also indicated he lived at the same address as Ms. Dawood Almaslam in Jeddah, Saudi Arabia and she would be his travel companion to the United States. Also on March 12, 2010, Ms. Dawood Almaslam submitted her own Form DS-160. Her application mirrored the beneficiary's in all material respects. She indicated she was married and her spouse was Khaled Aljohar, born on May 10, 1982. She also indicated she lived at the same address as her spouse, and he would be her travel companion to the United States.

On February 2, 2017, USCIS sent you a Notice of Intent to Revoke (NOIR) your Form I-130 detailing the evidence above. On March 1, 2017 you responded to the NOIR, you submitted:

- A copy the NOIR dated February 2, 2017.
- A written statement signed by you.
- A Civil Status System Citizen's Data from the Ministry of Interior Civil Affairs in the Kingdom of Saudi Arabia (with English translation).
- A copy of the "Driving License" for Khaled Mohammed S Aljohar, issued by the Kingdom of Saudi Arabia Ministry of Interior (with English translation).
- A photograph of you and the beneficiary with your daughter.

In your written statement, you explained during your engagement, you and the beneficiary had discussed the fact he was engaged before coming to study in the United States. You indicated he had explained to you he and his then-fiancé interviewed for a visa "as if they were going to be married by the time they were supposed to travel." You also explained, "Due to his lack of understanding of the English language, at that time, perhaps he made the mistake of saying they were married instead of saying there were to be married...The engagement was broken off before he came to America. She did not travel with him...He has visited Saudi Arabia multiple times since then and he has always traveled as a single person."

The record does not support your claim that the beneficiary did not understand English as the reasoning why he claimed to be married instead of engaged. The Form DS-160 applications submitted by Ms. Dawood Almaslam and the beneficiary were mutually corroborative regarding marital status and shared residence. It is further noted they attended a "family appointment" for their interview, meaning they had one interview together as a married couple. The officer's memo from the appointment is as follows: "Husband and wife to study for her bachelors in journalism and his masters. He'll be applying for scholarship from the States. She studied English before..."

In Saudi Arabia, the Islamic legal code forbids unmarried couples who are not blood related from cohabitating. In light of this prohibition, USCIS concludes that both the beneficiary and Ms. Dawood Almaslam were holding themselves to be legally married couple who was living together.

The citizen data report you submitted also does not overcome the finding that the beneficiary was not free to marry you. The report was issued by the Saudi Arabian Ministry of Interior on January 31, 2016. Though the report indicates the beneficiary's marital status is "single," the information contained in the report comes from an archive dated March 27, 1998. The beneficiary was fourteen years old at this time. The beneficiary was almost twenty-eight years old when he claimed to be married to Ms. Dawood Almaslam. He was almost thirty-three when he married you. Consequently, a declaration of his single status when he was age fourteen does not reliably establish his marital status during the relevant timeframes.

Based on a review of the record, USCIS finds you have not met your burden of proof in demonstrating the beneficiary's eligibility by a preponderance of the evidence. As the beneficiary was not legally free to marry you, your marriage is invalid and your petition cannot be approved. *Matter of Nwangwu*, 16 I&N Dec. 61 (BIA 1976) (any pre-existing valid marriage is a bar to recognition of the marriage on which the visa petition is based). Therefore, USCIS revokes approval of your Form I-130.

This decision will become final unless an appeal is filed using Form EOIR-29, Notice of Appeal to the Board of Immigration Appeals from a Decision of a USCIS Officer. Although the appeal will be decided by the Board of Immigration Appeals (BIA), the Form EOIR-29 and all required documents, including the appropriate filing fee, must be mailed to the USCIS Minneapolis-Saint Paul Field Office at the following address: 250 Marquette Avenue, Suite 710, Minneapolis, MN 55401.

The Form EOIR-29 must be received within 30 days from the date of this decision notice (33 days if mailed). The decision is final if your appeal is not received within the time allowed.

If you, the petitioner, intend to be represented in your appeal, your attorney or accredited representative must submit Form EOIR-27 with Form EOIR-29.

If you or your attorney wishes to file a brief in support of your appeal, the brief must be received by the USCIS office where you file your appeal either with your appeal or no later than 30 days from the date of filing your appeal. Your appeal will be sent for further processing 30 days after the date USCIS receives it; after that time, no brief regarding your appeal can be accepted by the USCIS office.

For more information about filing requirements for appeals to the BIA, please see 8 CFR 1003.3 and the Board of Immigration Appeals Practice Manual available at www.usdoj.gov/eoir.

If you need additional information, please visit the USCIS Web site at www.uscis.gov or call our National Customer Service Center toll free at 1-800-375-5283.

Sincerely,



32

Leslie D. Tritten
Field Office Director

Attachment
(Applicable Law/Regulations)

INA 205. Revocation of Approval of Petitions.

The Secretary of Homeland Security may, at any time, for what he deems to be good and sufficient cause, revoke the approval of any petition approved by him under section 204. Such revocation shall be effective as of the date of approval of any such petition.

8 CFR 103.2

(b) Evidence and processing. (1) Demonstrating eligibility. An applicant or petitioner must establish that he or she is eligible for the requested benefit at the time of filing the benefit request and must continue to be eligible through adjudication. Each benefit request must be properly completed and filed with all initial evidence required by applicable regulations and other USCIS instructions. Any evidence submitted in connection with a benefit request is incorporated into and considered part of the request.

8 CFR 103.8

(b) Effect of service by mail. Whenever a person has the right or is required to do some act within a prescribed period after the service of a notice upon him and the notice is served by mail, 3 days shall be added to the prescribed period. Service by mail is complete upon mailing.

8 CFR 204.2

(d) Petition for a child or son or daughter —

(1) Eligibility. A United States citizen may file a petition on behalf of an unmarried child under twenty-one years of age for immediate relative classification under section 201(b) of the Act. A United States citizen may file a petition on behalf of an unmarried son or daughter over twenty-one years of age under section 203(a)(1) or for a married son or daughter for preference classification under section 203(a)(3) of the Act. An alien lawfully admitted for permanent residence may file a petition on behalf of a child or an unmarried son or daughter for preference classification under section 203(a)(2) of the Act.

(2) Evidence to support petition for child or son or daughter. In addition to evidence of United States citizenship or lawful permanent resident, the petitioner must also provide evidence of the claimed relationship.

(i) Primary evidence for a legitimate child or son or daughter. If a petition is submitted by the mother, the birth certificate of the child showing the mother's name must accompany the petition. If the mother's name on the birth certificate is different from her name on the petition, evidence of the name change must also be submitted. If a petition is submitted by the father, the birth certificate of the child, a marriage certificate of the parents, and proof of legal termination of the parents' prior marriages, if any, issued by civil authorities must accompany the petition. If the father's name has been legally changed, evidence of the name change must also accompany the petition.

(ii) Primary evidence for a legitimated child or son or daughter. A child can be legitimated through the marriage of his or her natural parents, by the laws of the country or state of the child's residence or domicile, or by the laws of the country or state of the father's residence or domicile. If the legitimation is based on the natural parents' marriage, such marriage must have taken place while the child was under the age of eighteen. If the legitimation is based on the laws of the country or state of the child's residence or domicile, the law must have taken effect before the child's eighteenth birthday. If the legitimation is based on the laws of the country or state of the father's residence or domicile, the father must have resided—while the child was under eighteen years of age—in the country or state under whose laws the child has been

legitimated. Primary evidence of the relationship should consist of the beneficiary's birth certificate and the parents' marriage certificate or other evidence of legitimation issued by civil authorities.

(iii) Primary evidence for an illegitimate child or son or daughter. If a petition is submitted by the mother, the child's birth certificate, issued by civil authorities and showing the mother's name, must accompany the petition. If the mother's name on the birth certificate is different from her name as reflected in the petition, evidence of the name change must also be submitted. If the petition is submitted by the purported father of a child or son or daughter born out of wedlock, the father must show that he is the natural father and that a bona fide parent-child relationship was established when the child or son or daughter was unmarried and under twenty-one years of age. Such a relationship will be deemed to exist or to have existed where the father demonstrates or has demonstrated an active concern for the child's support, instruction, and general welfare. Primary evidence to establish that the petitioner is the child's natural father is the beneficiary's birth certificate, issued by civil authorities and showing the father's name. If the father's name has been legally changed, evidence of the name change must accompany the petition. Evidence of a parent/child relationship should establish more than merely a biological relationship. Emotional and/or financial ties or a genuine concern and interest by the father for the child's support, instruction, and general welfare must be shown. There should be evidence that the father and child actually lived together or that the father held the child out as being his own, that he provided for some or all of the child's needs, or that in general the father's behavior evidenced a genuine concern for the child. The most persuasive evidence for establishing a bona fide parent/child relationship and financial responsibility by the father is documentary evidence which was contemporaneous with the events in question. Such evidence may include, but is not limited to: money order receipts or cancelled checks showing the father's financial support of the beneficiary; the father's income tax returns; the father's medical or insurance records which include the beneficiary as a dependent; school records for the beneficiary; correspondence between the parties; or notarized affidavits of friends, neighbors, school officials, or other associates knowledgeable about the relationship.

(iv) Primary evidence for a stepchild. If a petition is submitted by a stepparent on behalf of a stepchild or stepson or stepdaughter, the petition must be supported by the stepchild's or stepson's or stepdaughter's birth certificate, issued by civil authorities and showing the name of the beneficiary's parent to whom the petitioner is married, a marriage certificate issued by civil authorities which shows that the petitioner and the child's natural parent were married before the stepchild or stepson or stepdaughter reached the age of eighteen; and evidence of the termination of any prior marriages of the petitioner and the natural parent of the stepchild or stepson or stepdaughter.

(v) Secondary evidence. When it is established that primary evidence is not available, secondary evidence may be accepted. To determine the availability of primary documents, the Service will refer to the Department of State's Foreign Affairs Manual (FAM). When the FAM shows that primary documents are generally available in the country at issue but the petitioner claims that his or her document is unavailable, a letter from the appropriate registrar stating that the document is not available will be required before the Service will accept secondary evidence. Secondary evidence will be evaluated for its authenticity and credibility. Secondary evidence may take the form of historical evidence; such evidence must have been issued contemporaneously with the event which it documents any may include, but is not limited to, medical records, school records, and religious documents. Affidavits may also be accepted. When affidavits are submitted, they must be sworn to by persons who were born at the time of and who have personal knowledge of the event to which they attest. Any affidavit must contain the affiant's full name and address, date and place of birth, relationship to the party, if any, and complete details concerning how the affiant acquired knowledge of the event.

(vi) Blood tests. The director may require that a specific Blood Group Antigen Test be conducted of the beneficiary and the beneficiary's father and mother. In general, blood tests will be required only after other forms of evidence have proven inconclusive. If the specific Blood Group Antigen Test is also found not to be conclusive and the director determines that additional evidence is needed, a Human Leucocyte Antigen (HLA) test may be requested. Tests will be conducted, at the expense of the petitioner or beneficiary, by the United States Public Health Service physician who is authorized overseas or by a qualified medical specialist designated by the district director. The results of the test should be reported on Form G-620. Refusal to submit to a Specific Blood Group Antigen or HLA test when requested may constitute a basis for denial of the petition, unless a legitimate religious objection has been established. When a legitimate religious objection is established, alternate forms of evidence may be considered based upon documentation already submitted.

(vii) Primary evidence for an adopted child or son or daughter. A petition may be submitted on behalf of an adopted child or son or daughter by a United States citizen or lawful permanent resident if the adoption took place before the beneficiary's sixteenth birthday, and if the child has been in the legal custody of the adopting parent or parents and has resided with the adopting parent or parents for at least two years. A copy of the adoption decree, issued by the civil authorities, must accompany the petition.

(A) Legal custody means the assumption of responsibility for a minor by an adult under the laws of the state and under the order or approval of a court of law or other appropriate government entity. This provision requires that a legal process involving the courts or other recognized government entity take place. If the adopting parent was granted legal custody by the court or recognized governmental entity prior to the adoption, that period may be counted toward fulfillment of the two-year legal custody requirement. However, if custody was not granted prior to the adoption, the adoption decree shall be deemed to mark the commencement of legal custody. An informal custodial or guardianship document, such as a sworn affidavit signed before a notary public, is insufficient for this purpose.

(B) Evidence must also be submitted to show that the beneficiary resided with the petitioner for at least two years. Generally, such documentation must establish that the petitioner and the beneficiary resided together in a familial relationship. Evidence of parental control may include, but is not limited to, evidence that the adoptive parent owns or maintains the property where the child resides and provides financial support and day-to-day supervision. The evidence must clearly indicate the physical living arrangements of the adopted child, the adoptive parent(s), and the natural parent(s) for the period of time during which the adoptive parent claims to have met the residence requirement. When the adopted child continued to reside in the same household as a natural parent(s) during the period in which the adoptive parent petitioner seeks to establish his or her compliance with this requirement, the petitioner has the burden of establishing that he or she exercised primary parental control during that period of residence.

(C) Legal custody and residence occurring prior to or after the adoption will satisfy both requirements. Legal custody, like residence, is accounted for in the aggregate. Therefore, a break in legal custody or residence will not affect the time already fulfilled. To meet the definition of child contained in sections 101(b)(1)(E) and 101(b)(2) of the Act, the child must have been under 16 years of age when the adoption is finalized.

(D) On or after the Convention effective date, as defined in 8 CFR part 204.301, a United States citizen who is habitually resident in the United States, as determined under 8 CFR 204.303, may not file a Form I-130 under this section on behalf of child who was habitually resident in a Convention country, as determined under 8 CFR 204.303, unless the adoption was completed before the Convention effective date. In the case of any adoption occurring on or after the Convention effective date, a Form I-130 may be filed and approved only if the United States citizen petitioner was not habitually resident in the United States at the time of the adoption.

(E) For purposes of paragraph (d)(2)(vii)(D) of this section, USCIS will deem a United States citizen, 8 CFR 204.303 notwithstanding, to have been habitually resident outside the United States, if the citizen satisfies the 2-year joint residence and custody requirements by residing with the child outside the United States.

(F) For purposes of paragraph (d)(2)(vii)(D) of this section, USCIS will not approve a Form I-130 under section 101(b)(1)(E) of the Act on behalf of an alien child who is present in the United States based on an adoption that is entered on or after the Convention effective date, but whose habitual residence immediately before the child's arrival in the United States was in a Convention country. However, the U.S. citizen seeking the child's adoption may file a Form I-800A and Form I-800 under 8 CFR part 204, subpart C.

(3) Decision on and disposition of petition. The approved petition will be forwarded to the Department of State's Processing Center. If the beneficiary is in the United States and is eligible for adjustment of status under section 245 of the Act, the approved petition will be retained by the Service. If the petition is denied, the petitioner will be notified of the reasons for the denial and of the right to appeal in accordance with the provisions of 8 CFR 3.3.

(4) Derivative beneficiaries. A spouse or child accompanying or following to join a principal alien as used in this section may be accorded the same preference and priority date as the principal alien without the necessity of a separate petition. However, a child of an alien who is approved for classification as an immediate relative is not eligible for derivative classification and must have a separate petition approved on his or her behalf.

(5) Name change. When the petitioner's name does not appear on the child's birth certificate, evidence of the name change (such as the petitioner's marriage certificate, legal document showing name change, or

other similar evidence) must accompany the petition. If the beneficiary's name has been legally changed, evidence of the name change must also accompany the petition.

8 CFR 205.2. Revocation on Notice.

- (a) General. Any Service officer authorized to approve a petition under section 204 of the Act may revoke the approval of that petition upon notice to the petitioner on any ground other than those specified in § 205.1 when the necessity for the revocation comes to the attention of this Service.
- (b) Notice of intent. Revocation of the approval of a petition of self-petitioner under paragraph (a) of this section will be made only on notice to the petitioner or self-petitioner. The petitioner or self-petitioner must be given the opportunity to offer evidence in support of the petition or self-petition and in opposition to the grounds alleged for revocation of the approval.
- (c) Notification of revocation. If, upon reconsideration, the approval previously granted is revoked, the director shall provide the petitioner or the self-petitioner with a written notification of the decision that explains the specific reasons for the revocation. The director shall notify the consular officer having jurisdiction over the visa application, if applicable, of the revocation of an approval.
- (d) Appeals. The petitioner or self-petitioner may appeal the decision to revoke the approval within 15 days after the service of notice of the revocation. The appeal must be filed as provided in part 3 of this chapter, unless the Associate Commissioner for Examinations exercises appellate jurisdiction over the revocation under part 103 of this chapter. Appeals filed with the Associate Commissioner for Examinations must meet the requirements of part 103 of this chapter.

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Comparative Analysis of Marriage under Islamic Law between Saudi Arabia and Egypt

Thesis · May 2014

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EXHIBIT 3

Comparative Analysis for Marriage Law under Islamic Law between Saudi Arabia and Egypt

It is well-known that around the world, legal systems differ entirely from one country to another based upon differences in culture and society. For instance, it has been stated that nations that follow civil law formulate theoretical and practical differences in public law and private law quite unlike those countries following common law. ¹ Legal systems can be differentiated on number of criteria resulting from the differences in the system, one of which is legal marriage practices. Therefore, the law of marriage can be different from one country to another because of unique variations in culture including religion, tradition, and overall mental attitude of a particular community or in a broader case country. Additionally, just as the culture of a society shape the laws, the laws of a society can shape the culture; thus marriage laws have a profound impact on culture and is considerably important for a society.

Moreover, in many countries, there is a debate over what can be defined as a familial unit and what legal actions can be taken to tie one to another in familial bonds. In the Islamic world marriage law represents one of many elements that shape family law because family is considered to be the most basic or fundamental unit of any Muslim countries, therefore the significance of this law is stronger than other countries. The importance of studying the marriage law under the legal systems of different countries has been increased due to the development of a globalized world society. Today, people interact more frequently with others from societies outside their own, providing more of an opportunity to form marital relationships between differing cultures. In such circumstances it is quite important for them to be aware of different legal systems, enforced or present in different parts of the world particularly as it relates to marriage.

In addition, Islamic law is the most widely used law founded in religion in the world. Islam is a religion that consists of a set of traditions, behaviors, beliefs, and social doctrines that affect each part of the life of a Muslim.² In general, the law of Islam has been derived from the main religious texts of the religion, but also draws upon a strong influence of cultural and traditional norms. Thus, Islamic texts and traditional culture play an active role on marriage law under the legal system. Also, Islam with regard to marriage law based upon religion can be modified and adapted to meet the needs of its followers depending upon their unique geographic location and therefore it leads Muslims in the west to have a different understanding of marriage law than Muslims in the Persian Gulf or Africa. This means that all Muslim countries have adopted and

¹ JOHN HENRY MERRYMAN, THE CIVIL LAW TRADITION: AN INTRODUCTION TO THE LEGAL SYSTEM OF WESTERN EUROPE AND LATIN AMERICA 2 (1985).

² LEATER R. KURTZ, GODS IN THE GLOBAL VILLAGE: THE WORLD'S RELIGION IN SOCIOLOGICAL PERSPECTIVE 106 (1995).

enforced marriage law, but their laws generally with some differences from one country to the next. The two Islamic countries that are probably the most important Saudi Arabia and Egypt will be discussed in this paper. The laws of these two countries are focused on the premise of traditional "sharia law" based, to some degree, upon the foundations of the Islamic religion.³ However, despite drawing their laws from the same sources, there remain several key differences in the way they interpret and enforce such laws, as will be discussed in this paper.

There are some reasons that make this topic is important, one being the depth of influence and importance that this law has upon such a wide range of people. One can also gain insight on the marriage laws from learning about two important countries of the Islamic world Saudi Arabia and Egypt.⁴ The marriage laws or the system of laws followed by the two countries are quite interesting and also have many little-known aspects. Additionally, even though Saudi Arabia and Egypt have unique or unusual issues such as child marriage or forced marriage found in other parts of world, these issues have more of an international focus in the social media than in any other part of the world. Hence, these issues have to be studied and understood in detail in response to increased sensitivity and scrutiny. There are two primary reasons that I have chosen this topic: marriage law is a part of women's rights which is my area of interest within the study of law, and the issues of marriage law in the Muslim countries are receiving international attention that demands an accurate depiction of the system in which they are founded. Saudi Arabia and Egypt will be compared with one another to elucidate the subject or the purpose of Islamic law in detail. This paper will tend to address two points: first, some major misunderstandings about marriage law under the law of Islam, especially with reference to the currently implemented laws in Saudi Arabia and Egypt. Second, a resolution of major differences and similarities between the marriage laws of two countries will be discussed. Even though Saudi Arabia and Egypt share Islamic heritage and both apply *Shari'a* to marriage law, the differences in the marriage formulation, specifically the frequency of child marriage, outweigh the similarities.

In this paper, I will support my thesis through a bifurcation of the topic into three distinct discussions. In Part I, I will analyze the marriage law according to Islam, which will cover every aspect of the general laws regarding marriage in Islam that are supposed to be followed by all Muslims. Parts A and B will provide the general overview for the legal system of Islamic law and the overview of family law respectively. Part C will briefly discuss marriage law in Islam and Part D will examine the schools of

³Stephanie Ott, *Human rights campaigners welcome Saudi Arabia's law on domestic violence*, CNN (Sept. 2, 2013, 12:38 PM), <http://www.cnn.com/2013/09/02/world/meast/saudi-arabia-domestic-violence/index.html>.

⁴Philippe Fargues, "Women in Arab Countries: Challenging the Patriarchal System?," REPRODUCTIVE HEALTH MATTER, 2 (2003), [http://www.rhm-elsevier.com/article/S0968-8080\(05\)25161-3/abstract](http://www.rhm-elsevier.com/article/S0968-8080(05)25161-3/abstract) (last visited Mar. 13, 2014).

interpretation of Islamic legal system. Moreover, Part II will thoroughly discuss the family law and the overall legal system including the marriage law of both Egypt and Saudi Arabia separately. General overview for the marriage law in the legal system of Saudi Arabia will be discussed in the beginning of Part A and Egypt will be discussed in Part B. Then, with Part III comes most significant part of the paper, which will include a comparative analysis between the marriage laws of Saudi Arabia and Egypt as well as the benefits and the drawbacks of these laws. The two sub-topics covered by this important section are the contract of marriage and age of marriage. The contract of marriage will be discussed in the beginning of Part A and the age of marriage will be discussed in Part B. Under the contract of marriage will focus on four sub-topics which are the offer and acceptance, witnesses of the contract, the amount of dowry, and the male guardian. At the end, part IV will include detailed conclusion of the overall analysis and suggestions or recommendations for solutions to the problems that arise from marriage law in the mentioned countries.

The purpose of this paper is to examine the current status and to identify the differences and similarities of marriage law in Saudi Arabia and Egypt under Islamic law. In addition, the goals of this paper include; provision of a clear image of the general Islamic law regarding the aspect of marriage, a detailed study of the marriage law implemented and followed by two Islamic countries which are Saudi Arabia and Egypt, and a deep and detailed comparative analysis of them. Another goal of this paper is to present a deep study on the most sensitive issues related to the marriage laws in these countries. This research will become helpful for the reader in understanding the marriage laws of two countries and also in resolving a general misunderstanding about marriage law under the Islamic system.

Part I: Marriage Law under the Islamic Law:

A- Overview of the Legal System of Islamic Law:

Without being familiar with the legal system of Islamic law, it is impossible to have a conversation about the marriage laws of Saudi Arabia and Egypt. The Islamic legal system is known as *Shari'a* law, which has a long history with its origins, formed over fourteen hundred years ago.⁵ The legal system of Islamic law is comprised of primary as well as secondary sources.⁶ The main sources are the holy book (*the Quran*) and the words and the actions of the Prophet Mohammed (PBUH) (*the Sunnah*).⁷ Islamic law has explained and interpreted the moral rules and behaviors with the help of two sources from which the law has been derived. The foundations of the Islamic world's life are based on fundamentalism, conservatism, and a traditional belief structure.

In addition, the four secondary sources of the legal system of Islamic law which means the sources that explain the language of the context of the *Quran* and *Sunnah* and may create binding law, have significant effects the Islamic law system.⁸ The secondary sources under Islamic law are *Ijma*, which shows consensus between jurists, *Qiyas* which

⁵ *Shari'a* is an Arabic word meaning "path" or "way." Today the term is used most commonly to mean "Islamic law," the detailed system of religious law developed by Muslim scholars in the first three centuries of Islam and still in force among fundamentalists today. *Shari'a* tries to describe in detail all possible human acts, dividing them into permitted (*halal*) and prohibited (*haram*)." *What Is Shari'a, the Barnabas Fund*, (January- February. 2007) (Last seen Feb. 20, 2014, 5:34PM), <http://www.discoverthenetworks.org/viewSubCategory.asp?id=774>

⁶ John Hursh, *Advance women's rights through Islamic Law : The Example of Morocco* , 252 (2012), <https://www.google.com/#q=Advance+women+%E2%80%99s+rights+through+Islamic+Law+%3A+The+Example+of+Morocco+by+John+Hursh%2C+Page+252+> (last visited Feb. 20, 2014)

⁷ Majid Aldraehim, Sylvia L. Edwards, Jason Watson & Taizan Chan, *Effects of Saudi Culture on E-Services*, *IJI*. V. 5, Iss. 3/4, 656 (September/December 2012).

⁸ Javaid Rehman & Aibek Ahmedov, *Sources of Islamic Law*, The Higher Education UK Center For Academy Legal Education, 36 (2011), <http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&ved=0CCkQFjAA&url=http%3A%2F%2Fwww.ukcle.ac.uk%2Ffiles%2Fdownloads%2F913%2F797.6c9011e8.SourcesofIslamicLaw.pdf&ei=IUNDU4fUDuWi2gWbqIGwBQ&usq=AFOjCNFb2uBO6d6HgEmSBmuwdJmm28i05w&sig2=4SDGxGv41hpwYWeUQEpJ2Q>

is “the science of analogical reasons, and *Urf* which is “the local customs of an area.”⁹ Similarly, *ijtihad* is the fourth secondary source, which means personal thought or opinion of the scholar of religion about resolving issues.¹⁰ As a result, the point of views of Muslim people differs from one country to another because of the effects of the secondary sources. In a nutshell, the most essential characteristics of Islamic legal system are the values of Islam which have become a way of life for the followers of this law beyond simply religion, permeating into every aspect of the follower's life and culture to a point that it is often impossible to see where one ends and the other begins.

Furthermore, the legal system of Islamic has a long and intriguing history. The Islamic law system has a rather strange yet interesting beginning and it came out of the Arabian Peninsula in Makkah in the seventh century C.E.¹¹ Islam was originally introduced by the messenger of God, Prophet Mohammed (PBUH), to the people who lived in the Arabian Peninsula in their respective tribes and cities. There was constant competition amongst one another for food and women.¹² The Prophet Mohammed (PBUH) originally lived in Makkah and after 23 years he moved to Al-Madina, and began teaching his companions who called him the Islam *Alsahab*.¹³ His teachings were believed to be from God through his messenger, Gabriel.¹⁴ In Al-Medina, the Prophet Mohammed (PBUH) provided Islamic way of life to the people in attempting to fulfil the purpose of Islam: creating a just and peaceful world in which to live.¹⁵ Mohammed (PBUH) has explained the words of God and provided guidance about the way of life

9 Ali Ahmari- Moghaddam, *Towards International Islamic Human rights: A comparative study of Islamic law, Shari'ah, with universal human rights as defined in the International Bill of Rights*, 29, (2012), <https://www.google.com/#q=Towards+International+Islamic+Human+rights+%3A+A+comparative+study+of+Islamic+law%2C+Shari%E2%80%99ah+%2C+with+universal+human+rights+as+defined+in+the+International+Bill+of+Rights>

In Islamic Law, *Ijma* is scholarly consensus or agreement of the Muslim community/scholars on a religious issue. Similarly, *Qiyas* taking an established ruling from Islamic Law and applying it to a new case, in virtue of the fact that the new case shares the same essential reason for which the original ruling was applied.

10 Hursh, *Supra* note 6.

11 John Voll, *Encyclopedia of Politics and Religion*, ed. Robert Wuthnow, WASHINGTON, D.C.: CONGRESSIONAL QUARTERLY, INC. 383-393 (1998).

12*Id.*

13 *Alsahab* is the Arabic word that is called for the first generation of Prophet Mohammed's follower. There is a deep debate between jurists of Islamic law regarding whether the act of *Alsahab* is considered a source of law or not.

14Voll, *Supra* note 11.

15Voll, *Supra* note 11.

people or a society should follow. He also emphasized the relationship between a political society and the individuals within.¹⁶

Prophet Muhammad (PBHU) amassed a large group of followers who did not remain united after his death by dividing into two well-known groups, *Shia* and *Sunni*.¹⁷ Despite this division, Islam continued to flourish as a religion and in the last a few years the Islamic religion began to expand around the world becoming an extremely prominent influence with “over 1.6 billion or about 23.4% of the world population” being Muslim.¹⁸ Today, Islam is one of the elements that has very significant influence in many parts of the world including in Asia, America, Europe, and Africa because it is appreciated for the detailed information and guidance in all aspects of life.¹⁹ To understand the subject of women’s rights in Saudi Arabia, one must start with an overview for women’s rights under Islamic law. In the recent years, numerous of human rights scholars have dealt with this topic of women’s human rights based on Islamic law, the subject of women’s rights in Islam has often been included personal opinions, misunderstanding, and misinformation that are often created the ambiguity around the subject. Consequently, the need to discuss more aspects of the issue is necessary to make a clear picture for any reader.

B- Background of Family Law under Islamic Law:

Family law is considered to be one of the most significant areas under any legal system including Islamic law. One can prove this statement by knowing the history of different legal systems. *Quran* and *Sunnah* are the fundamental sources of Islamic family law. There are many verses in Holy book “*Quran*” which explain the issue of family law in general and specific terms.²⁰ For instance, the *Quran* described the nature of man and woman and their relationship between them in the following verses:

According to Ali Ahmari, *Shia* is a group of people who believes the Prophet Mohammed’s cousin who is the “rightful successor” to Prophet Mohammed, and they also rejected the legality of the three first *Caliphs*. The majority of Shia in the Islamic world lives in Iran, Iraq, Syria, Yemen, and Bahrain. However, *Sunnah* who believes there is no successor for Prophet Mohammed. Moghaddam, *Supra* note 9.

16*Id.*

17 HAKEEM, FARRUKH B., HAPERFELD, M.R. & VERMA, ARVIND, POLICING MUSLIM COMMUNITIES 8 (2012).

18 Pew Research Center, *The Future of Global Muslims Population Projection for 2010-2030*, THE PEW FOURM ON RELIGION & PUBLIC LIFE, FORUM ON RELIGION & PUBLIC LIFE, 13, (2011), http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&ved=0CCkOFjAA&url=http%3A%2F%2Ffeatures.pewforum.org%2FFutureGlobalMuslimPopulationWebPDF.pdf&ei=_mBZU4HpMaKi8OGrk4CACg&usg=AFQjCNGXKdhw_v5leQNMH72He0bpKj7TAA&sig2=mHy41s1IBWOULYZMTV2ABw

19*Id.*

[M]en are the protectors and maintainers of women, because Allah has given the one more (strength) than the other, and because they support them from their means. Therefore the righteous women are devoutly obedient, and guard in (the husband's) absence what Allah would have them guard. As to those women on whose part fear disloyalty and ill-conduct, admonish them (first), (Next), refuse to share their beds, (And last) beat them (lightly); but if they return to obedience, seek not against them means (of annoyance): For Allah is Most High, great (above you all).²¹

This passage is the main inspiration for the heated debate between the jurists of four jurisprudences under the legal system of Islamic law.²² The scholars of religion have different point of views on the interpretation of this statement.²³ On one hand, some religious scholars see this sentence as clear evidence for men to have more power than women because women need someone to protect them. On the other hand, there are some jurists think that it means that if women can protect themselves they do not need to be controlled by a male guardian. The Islamic legal system is like other legal systems of world in which family is considered as the most important unit of society. According to most interpretations of Islam, women are expected to maintain the role traditionally identified in a 'patriarchal family' or obedience to the male figure in the family.

Moreover, family law under Islamic law can be defined as consisting of the right of women as wife, sister, daughter, and mother.²⁴ It also describes women's relationship with her family, husband, father, mother and the whole of Muslim society.²⁵ Thus, the Islamic family law regards a comprehensive family system based on the context of the resources of Islamic law. However, the western scholar has challenged the family law and its regulations since the adoption of the Islamic law as a source of family law in Islamic world. In my opinion, the conflict between the scholars and lawyers of western and eastern culture concerning Islamic family law not only covers laws/rights but also refers to the limitations of these rights or laws. It should be noting that although religion plays a key role in defining the legal regime and framework for family law and public

20 The Sharia, *Islamic Family Laws and international Human Rights: Examination the Theory and Practice of Polygamy and Talaq*, IN INTERNATIONAL JOURANL OF LAW, policy and the Family, Advance Access Publication (Mar. 6, 2007) at 110.

21 Al-Nisa, 4: 34

22 JOHAN L. ESPOSITO WITH NATANA J. DELONG. BAS, WOMEN IN MUSLIM FAMILY, 133 (2001).

23 *Id*

24 ABDUL- RAHMAN AL- SHEHA, WOMEN IN ISLAM AND REFUTATION OF SOME COMMON MISCONCEPTION 24 (2012).

25 *Id*, at 109.

rights in the Muslims regions, Islamic family law has emerged as a topic of debatable concern when it is compared with the international human rights law.

C- Overview of Marriage Law under Islamic Law:

Under the legal system of Islamic law, marriage law represents one of the essential aspects of family law which is often referred to as "*Nikah*".²⁶ It is important to note the huge discussions between Muslim jurists on the details of marriage law particularly the contract and types of marriage. This discussion reveals differences between either the four schools of thought or *Sunni* and *Shia* regarding the legal age of marriage and the types of marriage.²⁷ Marriage law is also discussed and focused on in many verses of The *Quran* which state that "And among His Signs is this, that He created for you mates from among yourselves, that ye may dwell in tranquility with them, and He has put love and mercy between your (hearts): verily in that are Signs for those who reflect."²⁸ As a result, under the legal system of Islamic law, some jurists have defined marriage as a compassionate and peaceful relationship, which is based on love.²⁹ Ultimately, the marriage law is the legal and social bond or contract established between the man and his wife.

In general, marriage law is one of the elements that reveals the morality of Islamic law as a legal system and religion and therefore marriage's classifications under Islamic law are different than other forms of marriage that result from other religions because marriage law under this legal system typically has more conditions. According to Islamic law, there are two kinds of marriage, one is permanent marriage and other is fixed-time marriage "*Mut'ah*". All Muslims around the world believe the legality of permanent marriage, but only *Shia* acknowledge the legality of fixed time marriages that terminate after short period of time like an hour or day with only the conditions of a dowry and witnesses.³⁰ The law surrounding typical marriages has many more complex characteristics like the condition of the contract, and the dower. Hence, the topic of marriage law has many related topics that require more in-depth study to understand, such as the contract of the marriage and the minimum legal age of marriage.

²⁶Sachiko Murtata, *Muta', Temporary Marriage in Islamic Law*, Asariyan Publications- Qum.), <http://www.al-islam.org/muta-temporary-marriage-in-islamic-law-sachiko-murata/permanent-marriage> (last visited Feb. 23, 2014).

²⁷ *Id*

²⁸ The Romans, 30:21

²⁹Maha AlKhatieb, *Islamic Marriage Contracts A Resource Guide For Legal Professional, ADVOCATE, IMAM & COMMUNITIES*, 6, (2012), <http://www.apiidv.org/files/Islamic.Marriage.Contracts.Resource.Guide-APIIDV-2012.pdf>

³⁰ Murtata, *Supra* note 26.

The contract of marriage has some conditions like the formation, the persons, guardianship (*wilaya*), and dower, which means, "symbol of financial independence".³¹ According to Holy book, women must be "obedient" to their husband as stated in the last section of the verse 4:34.³² Many people take a conservative meaning from the word "obedient" and relate this obedience defined by Quran to women only by seeing as a mother taking care of their children or a maid working as householder or otherwise obeying any order given by their husband.³³ However, the correct meaning is that even though women are required to be obedient her guardian, they ought to have power on their own if they have strength. It does not mean women should remain in the home or always take care of children; this idea came from culture because Islam does not restrict the ability of women to obtain their rights. Moreover, there are three ways for a marriage to be terminated under Islamic law including: *Talaq* (Repudiation) by the husband who has the right of divorce, *Khula*³⁴ by woman, and *Faskh* (Judicial Termination) by the court.³⁵ The law of marriage plays a significant role in affecting the rights of Muslim women. Like any other aspects of marriage, there are some differences between the four schools of thought about some issues under this, and all aspects Islamic marriage law. Hence, it is crucial and necessary to discuss the four schools of thoughts and its interpretations in next part.

D- Overview of the Schools of Thought Under the Legal System of Islamic Law:

It is very important to provide an overview of the four schools of thought and their unique features to provide insight into the way they have so heavily affected the marriage law of Islam. The legal system of Islamic law includes four schools of thought. In the beginning, Islamic world divided into two branches, which are *Sunni* and *Shia* as we mentioned before. *Sunni* is the largest branch in Islamic world.³⁶ The schools of thought within Sunni position also known as "*jurisprudences*", are traced back to four famous jurists in powerful positions within the Islamic world who largely improved comprehension of the context and content of the main sources of Islamic law after the death of the religious scholars in the first century of Islam.³⁷ These schools of thought

31 Moghaddam, *Supra* note 9 at 74.

32 AlKhateeb, *Supra* note 29.

33 AlKhateeb, *Supra* note 29.

34 Moghaddam, *Supra* note 9 at 77, 78.

35 *Khula* under Islamic law simply means the divorce of wife request and upon payment through what wife and husband agreed. The circumstances of *Khula* is not a lot. *Faskh* simply means the court will terminate the marriage and that it happens rarely as an example when the husband changes from Islam to another religion like Christin.

36 Moghaddam, *Supra* note 9 at 29.

simply interpreted and cleared up the language of the *Qu'ran Sunnah* in words that are more easily understood.

The four schools of interpretations in Islamic law within *Sunni* branch are *Hanafi* School, *Shafi* School, *Maliki* School, and *Hanbali* School.³⁸ Each one of four schools has own characteristics and religious scholars. On closer examination for the four school of thoughts, one should be in mind that all schools are in agreement about the general rules, but the more specific interpretations are where the schools part ways. In addition, all four schools of thought are still considered to be followers of Islam, so the differences are not large enough to make the schools a different religion, yet are large enough to have dramatic differences in the way they impact the lives of the people. To sum up, the differences between the schools stemmed from different interpretations of the secondary sources used to mediate the message of the original sources.³⁹ To begin with, *Hanafi* School is “eldest legal thought in Islam.”⁴⁰ One of the most essential characteristics of *Hanafi* School is that it depends on *Ijma*, which is scholarly consensus or agreement of the Muslims community/scholars on a religious issue.⁴¹ In addition, they tend to employ the use of *Qiyas*, which is the taking of an established ruling from Islamic law, and applying it to a new case, in virtue of the fact that new case shares the same essential reason for which the original ruling was applied.⁴² Therefore, the *Hanafi* School includes many personal thinking of jurists, which are called *ra'y*.⁴³

In contrast, the second largest branch of *Sunni* Islam is *Maliki* School.⁴⁴ The *Maliki* School uses the *Quran*, *Sunnah*, and “the legal ruling of the four rightly guided Caliphs” as a primary sources because the *Maliki* School began in Al Medina where the Islam first began to spread across the world.⁴⁵ Therefore, the thought of *Maliki* School has been

37 Bernard Weiss, *The Madhhan in Islamic Legal Theory*, In the *Islamic School of Law*, Evolution, Devolution, and Progress, page 2, Islamic Legal Studies Program, (Harvard University Press, Cambridge, Massachusetts, 2005)
http://www.academia.edu/2310961/The_background_and_formation_of_the_Four_Schools_of_Islamic_Law (last visited Mar. 24, 2014).

38Moghaddam, *Supra* note 9 at 29.

39 Moghaddam, *Supra* note 9.

40 Wakas Mir, *The Schools of Thought in Sunni Islam*, THE ISLAMIC RADIO, 1
http://www.theislamicradio.com/wpcontent/uploads/downloads/2010/09/Schools_of_thought_in_Sunni_Islam_Wakas_Mir.pdf

41 Moghaddam, *Supra* note 9.

42 Kakoulidou, *Supra* note 37 at 6.

43 Kakoulidou, *Supra* note 37 at 6.

44 Mir, *Supra* note 41 at 2.

45 Mir, *Supra* note 41 at 2.

affected by the first generation of Islam. In addition the third school is *Shafi* School that combines the legal doctrines of *Maliki* and *Hanafi* Schools because the central locality of this school was in Iraq, later moving to Egypt and which led it to significant change in the thought of *Shafi*.⁴⁶ Thus, the sources of jurisprudence are *Al Quran*, *Sunnah*, *Ijma*, and *Giyas*.⁴⁷ Lastly, the fourth school of thought is *Hanbili* School of thought, which contrasts sharply with the other three schools of thought.⁴⁸ *Hanbili* School has a restricted interpretation for the text of the *Quran* and *Sunnah* making *Hanbili* the “the most conservative legal school among the four schools of thought”.⁴⁹ Being the most extreme in severity, the *Hanbili* School is the smallest school and is followed by only 5% of Sunni Muslims in the world.⁵⁰

Furthermore, there are many rules and regulations outlined by each school with regard to marriage law that can reveal different opinions of the four schools of thought, such as the age of marriage, the requirements for divorce, and the requirement of witnesses in the marriage to be male. For instance, one of the examples that had caused intense debate among the four School of thoughts is that the conditions of witnesses in the contract of marriage.⁵¹ The four Schools of thought have different views in this subject. On one hand, the view of *Hanbili* and *Shafi* schools in this issue is that the wording of contract should be male so woman cannot be a one of the two witnesses of the contract.⁵² On the other hand, the approach of *Hanafi* and *Maliki* in this issue is that the witnesses can be anyone either man or woman and the rational reason behind that is the purpose of two witnesses to make the contract public and it will happen if witness is man or woman.⁵³

46 Kakoulidou, *Supra* note 37 at 10.

47 Mir, *Supra* note 41 at 2

48 Kakoulidou, *Supra* note 37 at 11.

49Moghaddam, *Supra* note 9.

50 Mir, *Supra* note 41 at 4.

51 *The Marriage Contract*, ISLAM’S WOMEN JEWELS OF ISLAM,
http://www.islamswomen.com/marriage/figh_of_marriage_2.php (last visited Apr. 8, 2014).

52 *Id.*

53 *Id.*

Part II: Overview of Marriage Law under the Legal System of Saudi Arabia and Egypt.

A- Overview for Marriage Law under the Legal System of Saudi Arabia:

The legal system of Saudi Arabia is entirely based on *Shari'a* law. According to Article 23 of the Basic Law of Governance of Saudi Arabia, "The state protects Islam; implements its *Shari'a* orders people to do right and shun evil; fulfills the duty regarding God's call."⁵⁴ Consequently, family law and more specifically marriage law of Saudi Arabia is derived wholly from *Al-Quran* and *Sunnah*. In general, the family law of Saudi Arabia can be defined as "an examination of the contract of marriage, guardianship and

⁵⁴ The Basic Law of Governance adopted by Royal decree of King Fahad, March 1, 1992, art 23.

(The Basic Law of Governance sometimes called The Constitution of Saudi Arabia).

the rights of spouses along with the issue of the dissolution of marriage and its effects.”⁵⁵ However, there are some western scholars who do not view Saudi Arabia as having special family law because the family law in the country is to protect the family.⁵⁶ Therefore, we can say that marriage law is the most unique or significant law under family law of Saudi Arabia. The government of Saudi Arabia follows the jurisprudence *Hanbili* (the most conservative) school of thought that led Saudi Arabia to have different thoughts about marriage law in comparison Egypt.⁵⁷

In Saudi Arabia, marriage law is very different than other Middle Eastern nations because of the characteristic power of “body of Senior *Ulema's*” in any issue related to family law or any type of law.⁵⁸ Marriage law includes many kinds of law under the legal system of Saudi Arabia such as male guardianship law, divorce law, custody law, and the conditions of marriage law. “To protect and promote family unite” is the main goal of these laws in the country.⁵⁹ However, while the laws surrounding marriage law in Saudi Arabia are designed around both male and female genders, the law surely has a steeper bias against women in the country. For instance, there is no protection for young girls in the law. It is not atypical for a Saudi girl to get engaged married between 14 to 18 years old because no minimum age is stated within the law. In general, the average age of first marriage for women is 21 but men are 23. However, the age of marriage for both men and women is rising recently.⁶⁰

55 Abdul-Wahab Alkhadari, *Family Law in Saudi Arabia*, University of Birmingham, 3, (2009), <http://faculty.ksu.edu.sa/26447/Research/Family%20law%20in%20Saudi%20Arabia.pdf>

56 Jeremy Morley, *No Family Law in Saudi Arabia*, The Law Office of Jeremy D. Morley International Family Law, http://www.internationaldivorce.com/saudi_child_abduction.htm (last visited Mar. 1, 2014).

57 Moghaddam, *Supra* note 9.

58 *Will Changes in Saudi Arabia Increase Women's Rights*, PBS NEWSHOUR, (Nov. 1, 2011) http://www.pbs.org/newshour/extra/features/world/july-dec11/saudi2_11-01.html (last visited Feb. 28, 2014)

Article 45 of the Basic Law of Governance of Saudi Arabia stated clearly “The sources of the deliverance of fatwa in the Kingdom of Saudi Arabia are God's Book and the *Sunnah* of His Messenger. The law will define the composition of the senior *ulema* body, the administration of scientific research, deliverance of fatwa and it's (the body of senior *ulema's*) functions. The body of Senior *Ulema* it's a committee consists of eight members of religious scholars. They usually make a decision for the new issues that facing the nation of the country. They have more power than *Shura* Council in the country. The majority of the King's decision is depending to this committee. Hence, the government has given the power to make a decision to a council of top religious leaders. The religious leaders called in Saudi Arabia the *ulema*, and the function of religious leaders is to recommend rules based on what they understood of *Shari'a* law.

59 Alkhadari, *Supra* note 56, at 7.

While examining the marriage law in the Kingdom, it is apparent that the expectations for marriage are tribally based.⁶¹ Many of the Islamic rules with regard to marriage are very general so that the tribal custom can influence those laws through loopholes and technicalities. For instance, although there is no specific verse in *Quran* or *Sunnah* stating the amount of dowry to bride, the amount of dowry in Saudi Arabia is very high because each tribe sees their females as precious like gold. As each tribe wants to consider their women to be more valuable than the women from other tribes, they continually place a higher price on new brides. Many families encourage their females to marry with cousins in order to strengthen the unity of the tribe.⁶² The tribes in Saudi Arabia are generally more conservative and cherish more traditional values aligned with *Sharia* Law.⁶³ Moreover, it is also evident that marriage law of the Kingdom includes many strong regulations. For example, Muslim Saudi women are not permitted to marry non-Muslim men in the country of Saudi Arabia.⁶⁴ Additionally, it is essential to understand that there are some characteristics concerning marriage law that make marriage in Saudi Arabia unique from marriage in other countries.⁶⁵ In the first place, legal marriage can only take place between men and women; so gay marriage and homosexuality are illegal in the country. Also, unmarried men and women cannot stay or travel together to prevent any possibility resulting in premarital pregnancy, which is prohibited.

Furthermore, male guardianship law is one of the most effective laws in the law of marriage of Saudi Arabia because the permission or presence of male guardian is required in some situations before a marriage can take place. In the kingdom of Saudi Arabia, there are three categories of guardianship law, which are “guardianship for the purpose of marriage, guardianship of person or minor for custody, and guardianship of property.”⁶⁶ “Male guardian” is one of the marriage conditions under the legal system of Islamic law. In Saudi Arabia, “male guardian” in marriage is known as “*wilayat al-*

60 HADA RASHED, MAGUED OSMEN & FRAZANEH ROUDI-FAHIMI, *Marriage in the Arab World*, Population Reference Bureau, 1 (2009), http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=7&ved=0CFMQFjAG&url=http%3A%2F%2Fwww.prb.org%2Fpdf05%2Fmarriageinarabworld_eng.pdf&ei=p_xCU-KWHZPg2wW73YGYBO&usg=AFOjCNEP8rZHqTZVG52W-iFzBTrFb0DRNA

61 Alkhadari, *Supra* note 56, at 6.

62 *Living and Working in Gulf States & Saudi Arabia*, JUST LANDED , 2009, <http://www.justlanded.com/english/Saudi-Arabia/Saudi-Arabia-Guide/Legal-System/Marriage-Divorce> (last visited March. 3, 2014).

63 Alkhadari, *Supra* note 52, at 6.

64, JUST Landed, *Supra* note 60.

65 ANGLONFO, THE GLOBAL EXPAT NETWORK SAUDI ARABIA, <HTTP://SAUDIARABIA.ANGLOINFO.COM/FAMILY/MARRIAGE-PARTNERSHIPS/> (last visited Apr. 7,2014)

nikah", and it can be described as "the authority of the father or nearest male relative over minor".⁶⁷ However, there are some exceptions to this law but only in special cases. These unique laws are part of the system which is wholly different than that of Egypt particularly in the enforcement of marriage laws. In the next part we will examine the marriage law under the legal system of Egypt and some characteristics of marriage law specific to this country. The examination will be presented to give a framework for the legal system of marriage law in Saudi Arabia and Egypt.

B- Overview for marriage Law under the Legal system of Egypt:

To begin with, the legal system of Egypt had a long and great history throughout the last century, through British invasion, and up to the present.⁶⁸ Also, Egypt represents one of the most important countries in the Middle East politically, culturally, and economically because Egypt had a deeply rooted, highly advanced civilization before Islam began, continuing until long after appearance of Islam.⁶⁹ As per Article 2 of the constitution of Arab Republic Egypt, "Islam is the religion of the State and Arabic is its official language. Islamic law (*Sharia*) is the principal source of legislation."⁷⁰ In the same way, Saudi Arabia has different factors that influence the enforcement of *Sharia*, but the law in Egypt is highly influenced by the French code.⁷¹ As a result, there are several key differences that point to the French code as being influential in a different way than the tribes are for Saudi Arabia. One of the peculiarities of this system is that it adds on to the Islamic law with several relevant legislations plus Islamic law for family law such as det.⁷² However, the provisions of both legal systems of Egypt and Saudi Arabia are the same even though Egypt's legal system is mixture of Islamic and civil law, because the primary source is identical specifically in the area of marriage law.⁷³

66 Ayan Roy, *A Study of Guardianship of Person and Property under the Muslims Law*, SSRN, 2010, 1-2, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1621599 (last visited March. 13, 2014).

67 Hammudah Abd al- Ati, *The Family Structure In Islam*, ISLAM WEB WEBSITE, 70 (2010), http://www.islamhouse.com/311436/en/en/books/The_Family_Structure_in_Islam

68 For more details about the historical background of the legal system of Egypt, you can find it in *The Rule of Law in Egypt Prospects and Challenges*, Hiil Rule of Law quick scan Series, April 2012.

69 Mohamed S. E Abdel Wahab, *Overview of the Egyptian Legal System and Legal Research*, GLOBALEX, Oct 2012, <http://www.nyulawglobal.org/globalex/egypt1.htm> (last visited Mar. 2, 2014)

70 The Constitution of the Arab Republic of Egypt, 1971 as Amended up to 2007), art. 2.

71 EMORY UNIVERSITY, ARAB REPUBLIC OF EGYPT, <http://www.law.emory.edu/ifl/legal/egypt.htm> (last visited Mar. 8, 2014).

72 *Id.*

In general, the rules and regulations of family law of the Egyptian legal system are derived from the sources of Islam. The legal system of Egypt has many rules concerning the importance of women in the country as we can see under Article 11 of the Egyptian constitution, which stated "The State shall guarantee the proper coordination between the duties of woman towards the family and her in the society, considering her of equal status as man in political, social, cultural and economic areas of life without violation of the rules of Islam."⁷⁴ I believe that the rational reason behind creating equality in the public sphere, but not the private sphere is that because a lot of violation for motherhood and childhood come from the public sphere. Also, the government of Egypt may see that if the government create more equality for women in public aspect, it will lead the private aspect to have more equality.

Hanifia Jurisprudence school of thought is what the Egyptian government and Muslims people generally follow. It is considered to be a liberal school of thought amongst the Muslims jurists because of liberal ideas concerning its interpretation for the sources of Islamic law.⁷⁵ Moreover, there are many Christians in Egypt who have their own rules, so the Islamic law not applies in the issues between two parties who come from different religious backgrounds.⁷⁶ For instance, if an Egyptian Muslim wants to get married from a Christian woman, the Islamic law and the other law will both apply because, according, to Article 12 of the Civil Code of The Arab Republic of Egypt, "The fundamental conditions relating to the validity of marriage are governed by the (national) law of each of the two spouses."⁷⁷ The marriage law has considered as "a contract concluded by mutually consenting parties of marriageable age" in Egypt,⁷⁸ In reviewing the regulations of marriage law of Egypt, one can see the three most important areas related to the marriage law which are the contract of marriage, the age of marriage, and divorce.⁷⁹ It is important to note that there are two kinds of marriage in Egypt, which are *Urfi* marriage, and official marriage as we will discuss later in this paper, and *Urfi* is one of the characteristics that you cannot find it in Saudi Arabia.⁸⁰

73 Orzala Ashraf Nemat, *Comparative Analysis of Family Law in the Context of Islam*, AIHRC, August , 15-17, 13, (2006), http://www.af.boell.org/downloads/english_family_law.pdf

74 The Constitution of the Arab Republic of Egypt, 1971 as Amended up to 2007), art. 11.

75 Emory University, *Supra* note 72.

76 Nemat, *Supra* note 74.

77 The Civil Code, The Arab Republic Of Egypt, In Case Of Any Discrepancy, The Arabic Version Of This Law Shall Prevail, art12.

78 Human rights Watch, *Divorced from Justice: Women's Unequal Access to Divorce in Egypt*, December 2004, Vol. 16, No. 8(E), at 17, <http://www.hrw.org/reports/2004/egypt1204/index.htm>

79 Nemat, *Supra* note 74.

On the stage of examination, one can observe that the rules and regulations of marriage law under the legal system of Egypt have many features similar to marriage law of Saudi Arabia. These are more general features that do not vary much amongst any Islamic nation. For instance, the minimum age of marriage is younger for females than males; for males in the country it is 18 but for females, it is 16.⁸¹ Like Saudi Arabia; the women or their guardians have the ability to set some preconditions in the contract of marriage in Egypt.⁸² On the other hand, one of the most essential concepts that set apart the legal system of Saudi Arabia and Egypt under the marriage law is the marriage guardianship. In Saudi Arabia, Islamic law governs the marriage guardianship as we mentioned before, but Civil Code governs marriage guardianship in Egypt.⁸³ That means the male guardian cannot refuse his daughter or sister the right to get married because the amount of dower as it happens in the kingdom of Saudi Arabia.⁸⁴ Through reviewing the cases that appear in the social media, it is apparent that the male guardian in Saudi Arabia has more power over women than in Egypt. Consequently, the amount of dowry for bride in Saudi Arabia can often lead families to pressure their daughter into marriage if they do not have much money themselves because the price is a significant amount of money for many families.

80 SHARM EL-SHEIKH EGYPT LEGAL SERVICE, LEGALIZATION OF MARRIAGE IN EGYPT, <http://egyptlegalservices.com/marriage>, (last visited April. 7, 2014).

81 Emory University, *Supra* note 72.

82 Human Rights Watch, *Supra* note 79 at 18.

83 Emory University, *Supra* note 72.

84 Emory University, *Supra* note 72.

Part III: Comparative Analysis of Marriage Law (The Contract of Marriage and the Age of Marriage) under Islamic Law between Saudi Arabia and Egypt:

There are many subjects related to the topic of marriage law in Saudi Arabia and Egypt. However, before we start the comparative analysis of marriage law, we have to understand what exactly the subject of marriage law encompasses; the Islamic marriage contract (*Nikahname*), divorce (*Talaq*), temporary marriage (*Khula*) witnesses of the marriage (*Nikah*), bride price (*mahr*), polygamy, *Nikah misyar*, interfaith marriage, permissible age for marriage, Arranged and forced marriage, *walima* (dinner of marriage), same sex marriage, and oral *Nikah*. Thus, marriage law affects every aspect of marriage, from which one can legally marry, to how much a bride-price is, to whether or not someone can arrange a marriage for you. However, we will focus only on the contract of marriage and the age of marriage to regard the differences and similarities concerning marriage law between the Kingdom of Saudi Arabia and Egypt.

A- The Contract of Marriage:

In the Arab culture, specifically in Saudi Arabia and Egypt, marriage “is a well-defined turning point that bestows prestige, recognition, and societal approval on both partners, particularly the bride.”⁸⁵ Thus, the stipulations which set the terms of a marriage, as well as legal marriage age, are deeply affected by the way society views marriage as it affects the partners in both countries. Also, both Saudi Arabia and Egypt apply *Shari'a* law to marriage law because it is the national religion and law for both countries as mentioned in the first article of Basic Law of Governance of Saudi Arabia, and the second article of the Egyptian constitution^{86 87} However, Egypt differs from Saudi Arabia in that *Sharia* does not apply in every situation, such as if one of the partners is Christian. Moreover, one of the biggest similarities that can be seen through focusing on marriage law in both countries is that neither stipulates specific regulations for determining the elements that comprise the marriage contract. On the other hand, in Egypt, one sees there are a few limited regulations or articles under the Civil Code of Egypt stating some issues of marriage such as what kind of law applies in the contract of marriage if the spouses have different religions.

85 Hada Rashad ET Al., *Supra* note 61.

86 The Basic Law of Governance of Saudi Arabia, adopted by Royal decree of King Fahad, March, 1, 1992, art 1.

87 The Constitution of the Arab Republic of Egypt, 1971 as Amended up to 2007), art. 2.

Marriage is a contract, which cannot be filled without the woman's consent according to the Islamic law, and therefore spouses have the right to negotiate conditions to the marriage. For instance, the right, which is recognized in the laws of different Muslims countries like Saudi Arabia and Egypt, is that the spouses will live separately of the spouses' families. A wide range of marriage conditions including the levels of maintenance, residence place, options of employment, educational options, freedom to visit relatives, living standards, divorce access, division of household responsibilities can be negotiated between the couples in Muslim communities. Both spouses have a right to add other conditions in the contract of marriage.⁸⁸

In addition, in both countries, couples can remain certain that they will live separately from the husband's family, particularly often in Saudi Arabia. For instance, spouses will negotiate the terms of both being able to study, which leads to the involvement of more conditions regarding the accommodation of time and resources of their studies (Egypt). Negotiations typically occur amongst the men but the mothers and brides can intervene and are given a significant amount of influence in the country Saudi Arabia. Whereas in Egypt, brides act as a party to whole negotiations and so can give input or participate in the process more assertively.⁸⁹ In examination the laws surrounding the contract of marriage, one can see that both Saudi Arabia and Egypt provide some types of contract based upon Islamic law and altered slightly as a result of cultural or financial influence. Thus, even Saudi Arabia and Egypt apply elements of *Shari'a* law to marriage; the two countries differ on what kinds of contracts apply in each country regardless of official marriage. In Egypt, *Urfi* marriage, which is adopted by "Muslims Cleric with two witnesses only, but it is not financially binding on the men" represents one of popular kinds of marriage between young people in Egypt.⁹⁰ Even though the concept of *Urfi* marriage based on the foundations of *Hanifia* School of thought, it is still not legally recognized in the country of Egypt because it is not officially registered.⁹¹ In contrast with Egypt, Saudi Arabia does not recognize even today *Urfi* marriage, but at the same time Saudi Arabia applies *Misyar* marriage which means that "official relationship between a man and a woman who do not live together, and where the husband is not financially responsible for his wife."⁹² Indeed, these can be considered as different types of marriage even though they have different names. The

88 Alkhadari, *Supra* note 56, at 3.

89 MAHA A,Z, YAMANI, POLYGAMY AND LAW IN CONTEMPORARY SAUDI ARABIA 97 (2008).

90 *Urfi Marriage in Egypt: The Issue*, ISLAM AWARENESS, <http://www.islamawareness.net/Marriage/Urfi/urfi3.html> (last visited Apr. 8, 2014).

91 *Id.*

92 *Comparative Index to Islam: Misyar Marriage*, ANSEWERING – ISLAM.ORG, <http://answering-islam.org/Index/M/misyar.html> (last visited Apr. 9, 2014).

rationale behind these kinds of marriage is a result of economic reality.⁹³ The cost of official marriage is very high in the Middle East so that many people opt for these sorts of marriage because they are typically much less expensive.

Additionally, even though Saudi Arabia and Egypt follow different school of thought (jurisprudence) as we mentioned before, both Saudi Arabia and Egypt have the same conditions for the contract of marriage for the most part. Additionally, although *Hanifia* School requires only offer, acceptance, and witnesses as the elements for valid contract of marriage, both Saudi Arabia and Egypt required the same conditions for the contract of marriage which are offer and acceptance, dowry, witnesses, and the two parties (the prospective husband and the male guardian of woman).⁹⁴ However, the elements of contracts differ between Egypt and Saudi Arabia because Saudi's/ Egypt's cultures play a role in deciding and applying these conditions to marriage. Both Saudi Arabia and Egypt have unique cultures and customs in comparison with other Middle Eastern countries. These affect the law of both countries and their implementation concerning the contract of marriage. On the other hand, through skimming many cases, it seems that the effects of Saudi's culture on the contract of marriage stronger than Egypt's culture because Saudi Arabia has a strong "tribal system" facing *Shari'a* law within the country.

1- The Offer and Acceptance:

It is true that both Saudi Arabia and Egypt apply the element of offer and acceptance as one of the conditions for the contract of the marriage, but Saudi Arabia and Egypt differ in their methods of applying this element. The idea of commitment and acceptance in both two countries is one of essential parts in the marriage. Explanation of this idea under Islamic law, is that one party, normally the male guardian of the woman, proposes the offer by saying that he will marry his daughter or sister to the man for specific amount.⁹⁵ However, the offer and acceptance in Saudi Arabia has a specific form, which that is that the male guardian says, "I marry you" and the prospective husband says, "I accept."⁹⁶ In contrast, there are no specific words that required for the offer and acceptance and the rational reason behind that is that the majority of people and government of Egypt follow *Al-Azhar* institution which had adopted *Hanifi* School of thought that does not have many specific requirements regarding the contract of marriage.⁹⁷

⁹³ *Id.*

⁹⁴Huda, *The Islamic Marriage Contract Required Element For a legal Islamic Marriage*, ABOUT. COM ISLAM, <http://islam.about.com/od/marriage/a/contract.htm> (last visited Apr, 8, 2014).

⁹⁵ *Marriage in Islam*, ISLAM VOICE, (<http://www.islamicvoice.com/august.98/marriage.htm> (last visited Apr.10, 2014).

⁹⁶ Islam's Women Jewels of Islam, *Supra* note 52.

⁹⁷ Alkhatteb, *Supra* note 56.

2- Witnesses of the Contract:

Moreover, one of the big differences between Saudi Arabia and Egypt with regard to the contract of marriage is witness of the contract. Both Saudi Arabia and Egypt apply and agree with the idea that the each contract of marriage either official or unofficial (*Urfi* and *Misyar*) should have two adult witnesses. The countries differ on applying this principle to the contract of marriage based on the gender of witnesses. In Egypt, either male or female can testify the contract of marriage, but if a witness is female, two are required where only one man would be.⁹⁸ Hence, if two women and one man testify the marriage contract, the contract will be valid because the purpose of witnesses in the marriage contract is only to make the contract public.⁹⁹ However, Saudi Arabia requires witnesses to the contract of marriage to be male even though there is no specific verse in either primary or secondary sources of Islamic law requires witnesses to be male.¹⁰⁰ I personally believe that the rationale behind this requirement is that some Saudi citizens and the religious scholars view women as not trustworthy. In fact, cultural norms play a key role on requiring witnesses of marriage contract to be male because some people in the country maintain the belief that woman do not have the capacity to do anything if a spouse breaches any condition stated in the contract of marriage. Ultimately, the requirement of witnesses for marriage to be male affects the right of marriage for women in Saudi Arabia more than in Egypt.

3- The Amount of Dowry:

Additionally, the amount of the bride-price, is one of the subjects that distinguishes Saudi Arabia from Egypt concerning the contract of marriage. First of all, it is important to note that the main and the secondary sources of Islam do not determine any specific amount for the dowry, but Islam encourages all Muslims to ask for small amount of dowry.¹⁰¹ There is no minimum and maximum for dowry in both Saudi Arabia and Egypt.¹⁰² On the other hand, the amount of dowry in Saudi Arabia is higher than Egypt because

Al-Azhar institution is one of largest institution that has a lot of efforts for Islam through providing many research papers, and they have a lot of legal scholars who specialized in Islamic law. Today, *Al-Azhar* institution can be described "the religious committee and the highest Islamic institution in the Middle East.

⁹⁸ *Condition of Witnesses to The Marriage Contract*, ONISLAM, <http://www.onislam.net/english/ask-the-scholar/family/marriage/174350.html> (last visited Apr.10, 2014).

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ Islamic Voice, *Supra* note 96.

¹⁰² Imam Mushtaq Shaikh, *al- Sadaag/ al-Mahr; (Dowry)*, MATHABAH FOUNDATION, <http://mathabah.org/20130103794/articles/al-sadaaq-al-mahr-dowry.html> (last visited Apr. 10, 2014).

the cultural and customs play an active role in determining the amount of dowry. The reason stems not from the spirit of Islam but the fact that the majority of Saudi families believe that the amount of dowry reflects the position of family, bride, or tribe in the society so each family wants to ask for a high amount of dowry. That leads the minimum of dowry in Saudi Arabia to be approximately \$20,000, while in Egypt approximately \$3,000.¹⁰³ Consequently, one of the biggest problems that impede young people in Saudi Arabia from marrying is the high amount of dowry. This leads many young people in Egypt chose to get married through *Urfi* marriage, which does not require a high amount of dowry.

4- The Male Guardian:

According to the legal system of Islamic Law implemented in the Muslim countries like Saudi Arabia and Egypt “male guardian” is one of important conditions of marriage. A guardian condition can be defined as ‘the father’s authority or a male relative over the minor.’¹⁰⁴ However, it is different in this context from the laws of Egypt to Saudi Arabia regarding the requirement of male guardianship. Although both Saudi Arabia and Egypt apply the requirement of the permission or presence of a guardian in order to validate the contract of marriage, the effects of the male guarding on the marriage are more extensive in Saudi Arabia than in Egypt. The government of the country of Saudi Arabia follows the *Hanbili* school of thought who is known for their conservative thoughts and so this country has stricter views in comparison with Egypt.¹⁰⁵ Thus, the rule of male guardianship is very strong in Saudi Arabia so that the requirement of male guardian in the marriage law is more important than in Egypt. When we examine marriage laws in the country of Saudi Arabia, it is evident that the male guardianship law is generally one of the most influential laws on the rule of marriage because the permission or presence of male guardian is required in the contract of marriage. In the kingdom of Saudi Arabia, “Male guardian” is one of the marriage conditions based on speech of Prophet Mohammed when he said, “The marriage of a woman who marries without the consent of her guardians is void.”¹⁰⁶

Therefore, there are many unfortunate examples of the types of conditions that some women in Saudi Arabia deal with regarding marriage law as a result of the male guardianship law, which is protected by the Islamic law. For example, *Samia* (her name was held in secret so as to protect her identity) is a female citizen of Saudi Arabia and was an unlucky victim of the negative effect of the guardianship law on the women of

103 *Mahr - Marriage Dowry Explained- Egypt Forum*, EXPAT BLOG, <http://www.expat-blog.com/forum/viewtopic.php?id=229722> (last visited April. 11, 2014).

104 Ayan Roy, *Supra* note 67 at 1.

105 Moghaddam, *Supra* note 9 at 29.

106 Sunan of Abu-Dawood Hadith 2078 Narrated by Aisha, Ummul Mu'minin.

the country. ¹⁰⁷ *Samia's* life began under strict control from her father and after years of persuasive measures, met by the incentive of monetary gain, she had convinced her family to allow her to go to medical school to become a surgeon. ¹⁰⁸ The end goal that she had in mind was for her hard work to pay off through starting her own family and settling down with a man she loved. ¹⁰⁹ Throughout her years of study, her father continually denied suitor requests and instead decided to arrange a marriage with her cousin. ¹¹⁰ Upon this decision, *Samia* took her father to court, which ruled in favor of her father in accordance with Sharia Law. ¹¹¹ Based on *Sharia* Law, the Prophet Mohamed (blessings and peace be upon him) stated that "A woman previously-married has more entitlement to herself than her guardian, and the virgin should be asked for permission (concerning her marriage) Almam Muslim." ¹¹² After the hearing, *Samia* was taken home and was exposed to what could only be referred to as torture, while her father faced no repercussion whatsoever as he was the male. ¹¹³ After that, an anonymous human rights activist group that exists in secret in Saudi Arabia saved *Samia* by the National Family Safety Program and Human Rights Committee by providing for her a special apartment and job, and she is currently in hiding from her family. ¹¹⁴ Ultimately, laws surrounding marriage in Saudi Arabia are most definitely based around Sharia law. While the laws are designed to account for both male and female gender, the law of marriage surely has a steeper bias against women.

Additionally, the male guardian has strong influence in both Saudi Arabia and Egypt and the Islam gives women the right to write any possible condition to men in the contract of marriage such as the condition of being allowed to work or study to give woman a full chance to require anything before marriage. On one hand, the majority of male guardians in Egypt, following Islamic law, give their women the opportunity to make any following conditions in the contract and the male guardian cannot refuse his daughter to get married based upon the dowry amount. ¹¹⁵ On the other hand, some

¹⁰⁷ Dave Lee, *Saudi Arabian woman challenges male guardianship laws*, BBC World Service (June. 29, 2011) Retrieved (Mar. 23, 2014, 10:01 PM) <http://www.bbc.co.uk/news/world-middle-east-13932287>

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² Shaad Ahmed, *Hadths: The Marriage Process in Islam*, Qibla Retrieved (Feb. 24, 2014, 8:18 PM), http://spa.qibla.com/issue_view.asp?HD=12&ID=565&CATE=10

¹¹³ Lee, *supra* note 92.

¹¹⁴ Lee, *supra* note 92.

¹¹⁵ Emory University, *Supra* note 72.

women in Saudi Arabia especially in the south and north of the country do not have this chance that should be provided by Islam because their male guardians adopted the idea that he knows what is best for her future and she need not worry about adding any of her own conditions. Ultimately, the sensible reason behind the lack of strict requirements of a male guardian in Egypt is generally poverty but in Saudi Arabia the tribal system is often in opposition with other laws on the subject of guardianship. The tribal system has given rise to a strict family structure and it has impacted women's rights more than any other law in Saudi Arabia. For example, many families and tribes especially in the center and south of Saudi Arabia consider women getting married to foreign men as shameful. However, this kind of tribal system is not found in Egypt because the nation's mix of Muslims, Christian, and other types of people, who have peacefully coexisted for a long time without little discrimination despite recent changes in religious involvement with politics within the country. Consequently, there is sometimes no other option for the woman besides agreeing to an arranged marriage in which the groom will be her father's choice. One can also consider these marriages as forced marriages because very few people get the privilege of choosing their spouses according to the legal system of Saudi Arabia.

Moreover, Women's marital rights are not well protected as compared to men's. Woman benefits from the documentation of the marriage because it allows access to her inherent rights in the Muslim marriage. Any rights negotiated between the bride and groom will be written in the contract of marriage. Therefore, marriages have to be registered and written in most of the Muslim countries including Saudi Arabia and Egypt. If in the case of not registering, there are penalties like light prison sentences and fines in Saudi Arabia, but in Egypt the marriage without registration for the contract will be only *Urfi* marriage and will not be penalized.

B- The Age of Marriage:

Furthermore, early-aged marriages in both Saudi Arabia and Egypt are a major issue, which is seen as both a religious as well as secular debate. Although a decline is also seen in the rate of early marriages in the Arab world, the number of Arab teenagers who get married is still significant. Even though early marriage ultimately poses health risks to women as well as her children, many people in both two countries do not condone the idea of child marriage. The subject of child marriage is not only an issue of concern in Saudi Arabia and Egypt but also around the globe in other areas such as the eastern Asia province such as India and Pakistan.¹¹⁶ However, we will focus on the issue of child marriage in Saudi Arabia and Egypt because this topic has an international focus in the social media and this issue can be seen as a newly highlighted issue in the two

116 Pierre Tristam, *Child Marriage: Facts, Causes, and Consequences*, ABOUT.COM ABOUT.COM MIDDLE EAST ISSUES, <http://middleeast.about.com/od/humanrightsdemocracy/a/child-brides.htm> (last visited Apr. 4, 2014).

countries so that it needs more discussion to identify and correct the misconceptions about child marriage.

Today, even though neither Saudi Arabia nor Egypt make the list of top 20 countries with the highest rates of child marriages, the number of cases regarding child marriage is still significant in both Saudi Arabia and Egypt.¹¹⁷ Saudi Arabia and Egypt are one of those numerous countries which continue to ignore the serious crime of child marriages despite the fact that such marriages can lead to severely detrimental emotional, physical, sexual and intellectual implications for the child involved. Additionally, the most significant issue or the drawback of early marriage is the age gap between the younger bride and her husband, which results in difficulties for the younger bride in negotiating matters like her own health care needs with her husband. Thus, there are many unfortunate classic examples regarding child marriage in both countries. For instance, Fatima, who was married at the age of 12 years to a 50 year-old man with a wife and ten children in Saudi Arabia.¹¹⁸ Even though the father's family did not accept this kind of marriage, they cannot do anything because father is the only male guardian in this case.¹¹⁹ The father bought her with the sum of dowry which was approximately 10,665 \$ and a new car.¹²⁰ In addition, in Egypt "a poll in 2012 by the National Council for Women showed that on average 22% of underage girls are forced into early marriage."¹²¹

However, Saudi Arabia and Egypt are very different in their approach to reduce the influence of child marriage in the country and setting the age of marriage. As we know, the legal age of marriage for men and women in Muslims communities differs from one Islamic state to another. The Arab Republic of Egypt identified the minimum age of the marriage in the country as 16 for females, and 18 for males like many other countries in the world.¹²² In contrast with Egypt, there is no rule or regulation mentioned

¹¹⁷ International Center For Research on women (ICRW), *Child Marriage Around The World* 1 (2006), <http://www.icrw.org/files/images/Child-Marriage-Fact-Sheet-Around-the-World.pdf>

¹¹⁸ *Saudi Arabia: End Child Marriage And Male Guardianship Over Women*, ASSOCIATION FOR WOMEN'S RIGHTS IN DEVELOPMENT, , <http://www.awid.org/Get-Involved/Urgent-Actions3/Saudi-Arabia-End-Child-Marriages-and-Male-Guardianship-over-Women> (last visited Apr. 22, 2014).

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ Sarah Almasr, *Under- Reported And Underage: Early marriage in Egypt*, DAILY NEWS EGYPT, December 5, 2012, <http://www.dailynewsegypt.com/2012/12/05/under-reported-and-underage-early-marriage-in-egypt/> (last visited Apr. 10, 2014).

¹²² *Knowing Your Rights: Women, Family, Laws and Customs in the Muslims World*, Women Living Under Muslims Laws, 71 (2003), http://www.wluml.org/sites/wluml.org/files/import/english/pubs/pdf/knowning%20our%20rights/kor_2006_en.pdf

to define the minimum age of marriage in Saudi Arabia even though there are a number of studies and documentations detailing the risks of early pregnancy and child birth which results from early marriages in the country. This means that there is no legal protection for the child in the country of Saudi Arabia.

There are many reasons behind the idea of child marriage in Saudi Arabia like the high poverty rates, birth rates and death rates, lower levels of overall development, including schooling, employment, health care, and the belief of securing young girls' future and protecting them goes into rationalizing early marriages. However, there is a great debate concerning the topic of defining the minimum age of marriage in the social media between the religious scholars themselves. On one hand, some religious jurists argue that the benefits of defining the minimum age of marriage are a reduction of the high percentage of divorce in the country, elimination of health risks from child marriage, and to give children their rights to fully enjoy their childhood. On the other hand, the majority of religious scholars do not agree with the idea of stating the minimum age of marriage because the purpose of child marriage in the country is to control their daughters' sexuality or to use the financial or social advantages of the marriage like in previous cases.¹²³ It is true that I agree with the idea of limiting a daughter's sexuality, but very few women are truly married at an early age for this reason and most child marriage cases happen in order to get financial support for the woman's family.

Part IV: Conclusion

In general, both Saudi Arabia and Egypt are great nations within the Islamic world that both apply *Sharia* law to the majority of legal situations within their respective countries. In both countries it is not uncommon for other factors such as cultural traditions to play a role in filling in the gaps or transforming the ways in which the laws are implemented, particularly when it comes to marriage laws. In Egypt, the law is highly influenced by a civil law while in Saudi Arabia is law is more strongly influenced by tribal customs or traditional culture. As with the overall law, the laws for both countries are similar when it comes to general statements about marriage: both require proposal, consent, and witnesses.

However, when one more closely scrutinizes the laws, they see the ways in which the two differ. These differences generally stem from different interpretations of Islamic texts that are divided into the different Islamic schools or thought. The general idea behind the differences is that Saudi Arabia, which follows *Hanbali* school of thought,

123 *Id.*

offers a much stricter interpretation of the laws and consequently restricts women's rights more often despite lack of solid support from Islamic texts; while Egyptian interpretation is much more liberal and allows women more freedom than in Saudi Arabia. The main differences are the ways in which the two countries enforce the requirements of witnesses, the power of the male guardian, and the offer and acceptance. These differences have strong implications on the lives of women, and are often a direct result of cultural influence.

In addition, the legal age for children to be married is one of the differences between Saudi Arabia and Egypt. There can be different reasons behind the early marriages in Saudi Arabia and Egypt like cultural reasons and economic reasons which are two of the most important elements. The differences may seem small at a glance, but when investigated in depth, one can see the enormous way in which the differences vary in their effects on life for the people within each nation. In the end, both Saudi Arabia and Egypt apply the same law regarding marriage law, but indeed they differ in the way of applying this law. Thus, even though Saudi Arabia and Egypt share Islamic heritage and both apply *Shari'a* to marriage law, the differences in the marriage formulation, specifically the frequency of child marriage, outweigh the similarities.



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FAMILY COURT DIVISION

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Assigned to: _____

In Re The Marriage Of:

Khaled Mohammed Aljohar,

Petitioner,

and

Hanadi Dawood Almaslam,

Respondent.

ORDER

This matter is before the Court on Petitioner's request for an order authorizing service of the *Summons and Petition for Dissolution with Verification* (and future pleadings for such time as Respondent's address remains unknown) by alternate means, specifically publication pursuant to Minn. Stat. § 518.11(c), Rule 302.01(a)(3)-(4) of the Minnesota General Rules of Practice, and Minnesota Rule of Civil Procedure 4.04(c), with publication to be accomplished using the online legal notice website Global Legal Notices®.

Based upon Petitioner's Affidavit, Petitioner's Memorandum of Law, and all the files and records herein, the Court issues the following:

ORDER

1. Service of the *Summons and Petition for Dissolution with Verification*, as well as future pleadings for such time as Respondent's address remains unknown, shall be made by publication. For purposes of service by publication, Global Legal Notices® shall be deemed an acceptable method which might reasonably succeed in notifying the Respondent of the proceeding, as required by Minnesota statute. Service shall be deemed complete 21 days after court-ordered publication.

IT IS SO ORDERED.

BY THE COURT:

Dated: _____

Judge of District Court

Filed in District Court
State of Minnesota

2019.02.14

14:54:01 -06'00'

State of Minnesota
Winona County

District Court
Third District

Court File Number: 85-FA-19-270

Case Type: Dissolution without Child

Notice of Case Filing & Assignment

FILE COPY

In re the Marriage of KHALED S ALJOHAR and Hanadi Dawood Almaslam

Date Case Filed: 02/06/2019

Court file number **85-FA-19-270** has been assigned to this matter. All future correspondence must include this file number, the attorney identification number, and must otherwise conform to format requirements or they WILL BE RETURNED. Correspondence and communication on this matter should be directed to the following court address:

**Winona County Court Administration
171 West Third Street
Winona MN 55987**

Assigned to: **Judge Lisa R. Hayne**

If you have not filed your Certificate of Representation and Parties, please refer to General Practice Rule 104(a). Your Scheduling Statement is due within 60 days after the initial filing of the case.

If ADR applies, a list of neutrals is available at www.mncourts.gov (go to Alternative Dispute Resolution) or any court facility. Please direct all scheduling inquiries on this matter to Assignment at (507)457-6386.

Dated: February 14, 2019

Karrie Espinoza
Court Administrator
Winona County District Court

cc: Hanadi Dawood Almaslam – No Address
HEATHER ANN CHAKIROV

STATE OF MINNESOTA
COUNTY OF WINONA

DISTRICT COURT
THIRD JUDICIAL DISTRICT
FAMILY DIVISION

In Re the Marriage of:

Court File No. 85-FA-19-270

Khaled Mohammed Aljohar,

Petitioner,

and

Hanadi Dawood Almaslam,

Respondent.

**PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW,
ORDER FOR JUDGMENT AND
JUDGMENT AND DECREE**

THE ABOVE-ENTITLED PROCEEDING came on for administrative dissolution review before the undersigned Judge of the above-named Court.

The proceeding was initiated by the Petitioner for a decree of dissolution of marriage on the grounds of irretrievable breakdown of the marital relationship pursuant to Minnesota Statutes Section 518.06. Service of the Summons and Petition in this proceeding was duly served on the Respondent by publication via Global Legal Notices® as appears from the files and records herein.

After having considered the Summons and Petition and having been fully advised in the premises, and upon the complete files, records, and proceedings herein, the Court makes the following Findings of Fact, Conclusions of Law, and Order for Judgment.

FINDINGS OF FACT

I.

The true and correct names, addresses and dates of birth of the parties are as follows:

PETITIONER: Khaled Mohammed Aljohar
38 Hillsdale Court

Winona, Minnesota 55987
Date of Birth: May 10, 1982

RESPONDENT

Hanadi Dawood Almaslam
Unknown address
Date of Birth: Unknown

The social security numbers of the parties are listed on the Confidential Information Form filed herein.

II.

Petitioner is being represented in these proceedings by Heather A. Chakirov, Esq. of Baker Vicchiollo Law, LLC, 3300 Edinborough Way, Suite 550, Edina, Minnesota 55435.

III.

Petitioner and Respondent are both persons who have attained the age of majority. Petitioner is thirty-six (36) years of age, with a birthdate of May 10, 1982. Respondent's birthdate is unknown to Petitioner.

IV.

The parties were culturally married in Saudi Arabia. The parties considered themselves to be married, identified themselves as married in their non-immigrant Visa application paperwork, and United States Citizenship and Immigration Services (USCIS) concluded that the parties were holding themselves to be a legally married couple. According to Minnesota case law, "The validity of a marriage normally is determined by the law of the place where the marriage is contracted. If valid by that law the marriage is valid everywhere unless it violates a strong public policy of the domicile of the parties." *In re Kinkead's Estate*, 57 N.W.2d 628, 631 (1953). Saudi Arabia incorporates the Islamic law of *Shari'a* law into its legal system. As such, to be deemed religiously married as husband and wife under Islamic law, there need only be offer and acceptance between the parties in the presence of

witnesses, along with dowry. In other words, the process that in the United States might be deemed to be in the nature of an engagement, is understood to be considered the commencement of the contract of marriage in Saudi Arabia. Upon such offer and acceptance, the couple are then considered “*halal*” such that they are permitted to spend time together alone, travel together, utilize a joint address, be seen in public together, and so on (which would otherwise be illegal for a man and woman to do in the absence of such cultural marriage). Proof of Petitioner’s existing marriage to Respondent includes the fact that he was denied an immigration benefit on the grounds of the marriage, as is reflected in a USCIS Decision. “When evidence of a marriage is shown, a strong presumption of its legality arises.” *Ma v. Ma*, 483 N.W.2d 732, 735 (Minn. App. 1992) (citing *In re Lando's Estate*, 112 Minn. 257, 266, 127 N.W. 1125, 1128 (1910)). Petitioner has been officially found by the federal government to be married to Respondent. The parties have been separated since 2010.

V.

Petitioner was a resident of Winona County at the time of commencement of this proceeding and also a resident of the State of Minnesota for not less than 180 days immediately preceding the commencement of this proceeding.

VI.

Petitioner has not been in the military service of the United States or its allies within the past 90 days or at any time that is relevant to this proceeding and is not entitled to any rights or relief pursuant to the terms of the Servicemembers’ Civil Relief Act of 2003. Respondent has not been in the military service of the United States or its allies within the past 90 days or at any time that is relevant to this proceeding and is not entitled to any rights or relief pursuant to the terms of the Servicemembers’ Civil Relief Act of 2003.

VII.

There are no minor or dependent children of the parties’ marriage.

Petitioner has one (1) non-joint minor child.

Respondent is not pregnant.

VIII.

No separate proceedings for dissolution, legal separation or custody is pending in a Court in this state or elsewhere.

IX.

There has been an irretrievable breakdown of the marriage relationship of the parties hereto pursuant to Minnesota Statutes, § 518.06, as amended.

X.

Petitioner currently does not receive any income nor is he employed at this time.

XI.

Each party has been supporting himself or herself since they separated in 2010. Neither party is in need of financial assistance from the other. Each party is capable of self-support.

XII.

Petitioner does not own or have any interest in any real estate located in the State of Minnesota or elsewhere. It is unknown whether Respondent has an interest in real estate.

XIII.

Petitioner does not have an interest in any retirement, pension, profit-sharing plans or investment accounts. It is unknown whether Respondent has an interest in any retirement, pension, profit-sharing plans, investment accounts or other assets.

XIV.

Petitioner is the owner of the following cash, savings, and checking accounts:

- a. Wells Fargo account xxx9583 with a value of approximately \$9,000.00.

XV.

Petitioner leases a 2017 Dodge Challenger automobile but has no ownership in said automobile.

XVI.

Petitioner is the owner of personal property, household goods and furnishings located in and about his residence.

XVII.

Petitioner has incurred the following outstanding debts and obligations in his name:

- a. Capital One account xxx9277 with a balance of approximately \$8,231.00;
- b. Credit One account xxx8817 with no outstanding balance;
- c. Credit One account xxx1504 with a balance of approximately \$553.00;
- d. Walmart Credit account xxx6738 with a balance of approximately \$200.00;
- e. Altra Federal Credit Union account xxx0743 with a balance of approximately \$220.00; and
- f. Affinity Plus account xxx1421 with no outstanding balance.

It is unknown whether Respondent has incurred debts and obligations in her name.

XVIII.

Petitioner is presently carrying health and medical insurance for the benefit of himself.

XIX.

Petitioner has formerly been known by no other names. It is unknown whether Respondent has been known by any other name.

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An order for protection under chapter 518B or a similar law of another state that governs the parties is not in effect.

CONCLUSIONS OF LAW

1. **Dissolution of Marriage.** The bonds of matrimony heretofore existing between the parties are hereby dissolved.
2. **Spousal Maintenance.** Neither party is awarded any spousal maintenance from the other party.
3. **Health and Medical Insurance for the Parties.** Petitioner shall be responsible for his own medical insurance, and for his own medical, dental, mental health, vision and other such expenses not covered by insurance. Respondent shall be responsible for her own medical insurance, and for his own medical, dental, mental health, vision and other such expenses not covered by insurance.
4. **Bank Accounts and Cash.** Petitioner is hereby awarded all right, title, interest and equity, free and clear of any claim on the part of Respondent, in and to any cash and savings or checking accounts in Petitioner's name or under his control. Respondent is hereby awarded all right title interest and equity, free and clear of any claim on the part of Petitioner, in and to any cash and savings or checking accounts in Respondent's name or under her control.
5. **Vehicles.** Petitioner is awarded sole use and possession of the 2017 Dodge Challenger automobile that he leases, free and clear of any claim or interest in Respondent, subject to any encumbrances. Respondent is awarded sole interest, equity and possession of any automobile in Respondent's name or under her control, free and clear of any claim or interest in Petitioner, subject to any encumbrances.
6. **Personal Property and Household Goods and Furnishings.** Petitioner is awarded all right, title, interest and equity, free and clear of any and all claims on the part of Respondent in and to the household goods, furnishings, jewelry, and all other tangible personal property in his present possession. Respondent is awarded all right, title, interest and equity, free and clear of any and all claims on the part of the Petitioner, in and to the household goods, furnishings, jewelry, and all other tangible personal property in her present possession.
7. **Debts and Obligations.** Petitioner will assume and pay all debts and obligations which he has incurred, and he will indemnify and hold Respondent harmless from any obligation to make payment of the same. Respondent will assume and pay all debts and obligations which she has incurred, and she will indemnify and hold Petitioner harmless from any obligation to make payment of the same.
8. **Attorney's Fees and Costs.** Each party is solely responsible for his or her own attorney fees and costs incurred incident to this proceeding.
9. **Discharge of Attorney.** Sixty-one (61) days after entry of the Judgment and Decree, Heather A. Chakirov, Esq., shall no longer be the attorney of record for the Petitioner.
10. **Service of the Judgment and Decree.** Service of a copy of the final Judgment and

Decree herein may be made upon Petitioner's attorney, by electronic service, and the same shall be in lieu of personal service upon Petitioner. Service of a copy of the final Judgment and Decree herein may be made upon Respondent by publication via Global Legal Notices®, and the same shall be in lieu of personal service upon Respondent.

11. **Execution of Documents.** To implement the terms and provisions contained herein, each of the parties shall make, execute and deliver to the other party instruments of conveyance, assignment and other documents as may be required. In the event either party fails to do so, the Judgment and Decree shall operate as said conveyance.

12. **Retention of Jurisdiction.** In the event there are assets or income which have not been disclosed and/or divided herein, the court hereby retains jurisdiction over said income and/or assets for the purpose of making an equitable division thereof. The party failing to disclosure said income and/or assets shall pay the reasonable attorney fees and costs of the other party incurred in enforcing this provision.

13. **Enforceability.** The terms, conditions and provisions contained herein shall inure to the benefit of and be binding upon and enforceable against each of the parties hereto and their respective heirs, personal representatives and estates.

14. **Notices.** The attached Appendix is incorporated and made a part hereof.

ORDER FOR JUDGMENT

LET JUDGMENT BE ENTERED ACCORDINGLY FORTHWITH.

Dated this ____ day of _____, 2019.

BY THE COURT:

Judge of District Court

I hereby certify that the above conclusions of law constitute the judgment and decree of the court.

DISTRICT COURT ADMINISTRATOR:

By: _____
Deputy