

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
FLAGLER COUNTY FLORIDA

CASE NUMBER: 2017 DR 000354
DIVISION:

IN RE: THE MARRIAGE OF:

DAVID S. O'BRIEN,
Petitioner/Husband,

and

MILISSA M. HOLLAND,
Respondent/Wife.

HUSBAND'S MOTION TO STRIKE

COMES NOW the undersigned attorney on behalf of the Petitioner/Husband, **DAVID S. O'BRIEN**, and moves to strike paragraphs #6, #7 and #10 of the Wife's Counter-Petition and alleges:

1. As to paragraph #6 and #7, the Wife alleges she was raped by the Husband in 2013 and that the alleged rape was now over four (4) years ago and outside of the Statute of Limitations as a civil action.
2. Since allegation of a rape is highly prejudicial and the Wife and her attorney concedes in paragraph #7 the allegation is outside the Statute of Limitations, the allegations as alleged in paragraphs #6 and #7 of the Counter-Petition should be stricken by the Court.
3. The Husband was never arrested or charged by Information nor convicted of any crime concerning the Wife's alleged rape.
4. The Husband moves to strike the rape allegation in paragraph #9 of the Counter-Petition and asks the Court to strike the paragraph in its entirety.
5. As to paragraph #10 of the Counter-Petition, the Wife requests alimony in the form of Permanent Alimony or Durational Alimony. This is a short-term marriage where the parties were married just under five (5) years when the Petition for Dissolution of Marriage was filed. Pursuant to F.S. 61.08, neither Permanent Alimony (for a marriage

of 17 years or more) nor Durational Alimony (for a marriage of 7 years or more) would apply. Further, the Wife realleges in the rape allegation in paragraph #10 should also be stricken.

6. The Husband is moving to strike paragraphs #6 and #7 of the Counter-Petition in their entirety.
7. The Husband is moving to partially strike paragraph #10 as to the Wife's request for Permanent or Durational Alimony.
8. The Husband is moves to strike any reference to the alleged rape allegation in paragraphs #9 and #10 of the Counter-Petition.

CERTIFICATE OF SERVICE

23rd I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished on this day of May 2017, by Electronic Mail to Douglas Kneller, Counsel for Respondent/Wife at dkneller@daytonadivorce.com and eservice@daytonadivorce.com.



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