

## ABSTRACT

Lailiyatul Azizah, 10210105, 2014. **The Consideration Fundamental of Judge of Islamic Court of Malang in Granting Reconvension Lawsuit on Community Property and *Hadhanah***. Thesis, Al-Ahwal Al-Syakhsiyyah Department, Faculty of Sharia, Maulana Malik Ibrahim State Islamic University, Malang. Advisor: Dr. Hj. Tutik Hamidah, M.Ag.

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Allah and people hates divorce, but it is allowed only in a certain condition. Therefore, a divorce is *makruh* according to Islamic law. When a husband files a divorce case in court, a wife may demand a distribution of community property and support for their children. Since community property is from the work of spouses after they married, then the interesting case is the lawsuit reconvention conducted by the wife to her husband on its distribution.

The research problems of the study are: a) What is the judge's perspective on the evidentiary process of divorce suit along with community property and *hadhanah*? b) What is the judge's perspective on the legal fundamental used by panel of judges to grant community property reconvention with unilateral statement? The objective of the study is to find out the judge's perspective and the legal fundamental on the evidentiary process of divorce case along with community property and *hadhanah*.

It is an empirical research by using a qualitative approach. To get a complete data, researcher employs interview and documentation method. The researcher uses a descriptive analysis method to analyze the data.

The results of this study shows that evidentiary process of divorce suit along with reconvention of community property and *hadhanah* employs an independent evidentiary process. Even though in the practice of divorce, the distribution of community property and *hadhanah* process can be solved in one case, each of the case must use independent evidentiary process. The panel of judges uses the Law No. 14 of 1970 Article 5 Paragraph 2 concerning a simple, fast, and low cost judicature. While, the case of community property refers to Law No. of 1974 Article 35 and 36.