

## ADDITIONAL CASES FOR THE UPDATE MARCH 2026

### ***In re Marriage of Allen* (2026) 118 Cal. App. 5th 476 Agreement to Waive CS arrears**

A father filed a request for order (RFO), requesting the trial court find a valid written accord and satisfaction as to a child support and family support arrearage that was enforceable. The trial court denied the father's RFO, finding the parties were unable to agree on the stipulation and there was no binding agreement to resolve the arrearage.

The Court of Appeal affirmed the judgment. Substantial evidence supported the trial court's finding that there was no accord and satisfaction because there was no "bona fide" dispute as to the overall arrearages. The mother was resolute in her assessment that the father's overall arrearages totaled approximately \$545,000. The mother based that figure on her discussions with Child Support Services and San Luis Obispo County Legal Aid. There was no evidence that the father owed a different amount or that the father suffered any harm by paying an amount that was "undisputably owed." (Opinion by Baltodano, J., with Yegan, Acting P. J., and Cody, J., concurring.)

**Cautionary Take-away:** The holding appears to prohibit parties agreeing to compromise CS arrears. If you have a case where an agreement to compromise CS arrears is discussed, read this case carefully.

### ***In re Marriage of Jenkins* (2026) 2026 Cal. App. LEXIS 168, \*1 Default judgment set aside for awarding relief outside of what prayed for in Petition.**

In a marital dissolution case, the family court set aside a default judgment against respondent former husband. The family court also denied appellant former wife's request for a statement of decision.

The Court of Appeal affirmed the family court's orders and remanded the cause for further proceedings. The court concluded the family court lacked fundamental jurisdiction to enter the default judgment on the terms appellant proposed. Because the default judgment purported to divide assets that had never been identified, it awarded relief exceeding the relief sought in the petition, justifying a set-aside order under Code Civ. Proc., § 580. The family court violated respondent's due process rights by proceeding with a prove-up hearing without notice. A clerical error in setting the original hearing date, together with the later ex parte correction of that date, plus appellant's reliance on mailed service to an incorrect address, deprived respondent of notice of the financial jeopardy he was in. The court further concluded appellant's request for a statement of decision was properly rejected because a ruling under § 580 presents a question of law. (Opinion by Streeter, J., with Brown, P. J., and Moorman, J.\*, concurring.)

**Take-away:** Don't file a Petition listing "TBD" or To Be Determined..." on the property section of the Petition. If your client has filed that way as pro per, and no response filed, amend the petition.