

Case Law Update March 2026

Cases from the last 12 months applicable to Family Law Practitioners

The following includes summaries from the opinions of the appellate court. The take-aways and notes are comments from Judge Johnson

K.T. v. E.S., (2025) 109 Cal. App. 5th 1114 DVRO with kids

The trial court granted a request for a domestic violence restraining order (DVRO) without including the parties' minor children as other protected people.

The Court of Appeal affirmed in part, reversed in part, and remanded with directions to modify the DVRO to include the children. The court noted that the trial court was factually mistaken in believing the request did not list the children, who had not been included in an initial order but were specified in the current request as protected parties, thereby meeting the notice and hearing requirement (Fam. Code, § 6340, subd. (a)(1)). The trial court abused its discretion by using an incorrect legal standard because it improperly limited its inquiry regarding the children to whether they had been physically or sexually abused, although the undisputed evidence showed the children repeatedly witnessed physical abuse of a parent, which disturbed their peace (Fam. Code, § 6320, subd. (c)) and satisfied the good cause standard based on the totality of circumstances (Fam. Code, §§ 6320, subd. (a), 6301, subd. (d)). (Opinion by Stratton, P. J., with Grimes and Viramontes, JJ., concurring.)

Take-away: Need to show good cause to add kids or other family members to the TRO/DVRO. State how the children have been affected by the DV with some specificity rather than just “He is abusive to me in front to the children”. **Good cause** is relative and depends on all the circumstances.

R.R. v. C.R. (2026) 117 Cal. App. 5th 1262 Abuse under the DVPA does not require intent.

The trial court denied an ex-husband's request for entry of a domestic violence restraining order (DVRO) against his ex-wife.

The Court of Appeal reversed and remanded, holding the trial court failed to apply the proper legal standard for abuse and therefore abused its discretion. The trial court's findings that the husband had established the wife's obsessive behavior and stalking, which significantly affected the husband and the parties' child and were sufficiently alarming to require professional monitoring for her visitation, were contrary to its finding that there was insufficient evidence of abuse under the Domestic Violence Prevention Act (DVPA) (Fam. Code, § 6200 et seq.). The trial court erroneously relied on its finding that the wife did not have a malicious intent and ignored the substantial evidence of her conduct that qualified as abuse under the DVPA. Notably, the husband presented evidence of the wife's abusive conduct for the six months prior to the DVRO hearing, including less than a month before the hearing. Moreover, the trial court failed to properly consider the totality of circumstances. Apart from its consideration of the wife's mental state, the trial court did not identify any countervailing evidence that would weigh against the DVRO. As such, based on largely uncontradicted evidence of past abuse, which the trial court found to be alarming, the evidence presented at the hearing permitted only one reasonable

conclusion—the husband met his burden of proof for entry of the DVRO. (Opinion by Collins, J., with Zukin, P. J., and Tamzarian, J., concurring.

***Hart v. Hart* (2025) 115 Cal. App. 5th 571** DVRO Renewal

REMINDER: DVROs can be renewed for a minimum of five years. Court has no discretion to make it less. [FC86345]

“The legal standard for renewal of a DVRO is whether the protected party entertains a reasonable apprehension of future abuse. [Citation.] ‘[T]his does not mean the court must find it is more likely than not that abuse will occur if the protective order is not renewed. It only means the evidence demonstrates it is more probable than not there is a sufficient risk of future abuse to find the protected party’s apprehension genuine and reasonable.’ [Citation.] An imminent and present danger of abuse is not required; there must only be a reasonable apprehension that ‘abuse will occur at some time in the future if the protective order is allowed to expire.’ [Citation.]” (*Michael M. v. Robin J.* (2023) 92 [**23 Cal.App.5th 170, 179 [309 Cal.Rptr.3d 13].) It is “unnecessary for the protected party to introduce or the court to consider actual acts of abuse the restrained party committed after the original order went into effect.” (*Ritchie v. Konrad* (2004) 115 Cal.App.4th 1275, 1284 [10 Cal.Rptr.3d 387].)”

***In re Marriage of J.G. & K.G.* (2025) 110 Cal. App. 5th 1214** Custody and 3044 presumption.

Following a bench trial in a dissolution of marriage proceeding, the trial court found the father had perpetrated domestic violence against the mother but awarded joint legal custody. Another judge denied the mother's request to modify the order, finding the presumption against awarding custody to a parent who has perpetrated domestic violence (Fam. Code, § 3044) had been rebutted.

The Court of Appeal reversed and remanded, holding the findings required for rebuttal of the presumption against awarding custody to a perpetrator of domestic violence, which were mandatory (Fam. Code, § 3044, subd. (f)(2)), had not been made in either the original custody proceeding or the modification proceeding. The failure to make findings was error and was alone sufficient to warrant reversal. To the extent the trial court relied on the parties' agreement to jointly share custody to overcome the presumption, that was also error because the trial court failed to consider the child's best interest and because the preference for frequent and continuing contact with both parents (Fam. Code, § 3020, subd. (b)) cannot be used to rebut the presumption (Fam. Code, § 3044, subd. (b)(1)). (Opinion by Earl, P. J., with Duarte and Boulware Eurie, JJ., concurring.)

Take-away: The court cannot rely on the parties’ stipulation for joint custody to overcome 3044. If parties want to do so, some explanation as to why it is in child’s best interest despite 3044 must be provided.

***In re A.M.* (2025) 114 Cal. App. 5th 627** Dependency case with application to Family Law

The juvenile court issued a dispositional order removing a child from an incarcerated parent (Welf. & Inst. Code, § 361, subd. (d)). The parent had arranged for a relative to care for the child. The social services department placed the child with the relative.

The Court of Appeal reversed in part and remanded, holding the evidence was insufficient to support the juvenile court's finding that there was serious danger to the child's physical or emotional well-being because the parent had made suitable arrangements for the child's care during incarceration and no evidence showed the relative's care and environment posed any hazard to the child. The parent's history of criminal activity while having sole physical custody of the child did not support court involvement because the child was not shown to have been present during such activity or affected by it. Because the parent's care plan at the time of the hearing was the same as that of the social services department, adopted by the juvenile court, the plan was appropriate. (Opinion by Wiley, J., with Stratton, P. J., and Viramontes, J., concurring.)

Take – away: Although this is a dependency case and the W & I code applies, a similar situation could arise in an FL case if the sole custodial parent is temporarily absent. This does not mean other parent gets child if proper arrangements have been made for care of the child.

***C.T. v. Superior Court* (2025) 109 Cal. App. 5th 1075** UCCJEA case. NOT a move-away.

A parent filed an original request under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) (Fam. Code, § 3400 et seq.) seeking a child custody and visitation determination (Fam. Code, §§ 3421, subd. (a)(1), 3422). After issuing temporary orders giving the requesting parent sole legal and physical custody of the child, the trial court granted the requesting parent's request to relocate outside California with the child while the original proceeding remained pending. After finding that neither the child, nor the parents, nor anyone acting as a parent presently resided in California (Fam. Code, § 3422, subd. (a)(2)), the trial court concluded that it retained continuing jurisdiction to make custody and visitation orders.

The Court of Appeal denied writ relief, holding that neither the relocation nor the finding of nonresidence (Fam. Code, § 3422, subd. (a)(2)) divested the trial court of jurisdiction to make a final custody and visitation determination. Considering out-of-state authorities in construing the UCCJEA to promote uniformity of the law among the enacting states (Fam. Code, § 3461), the court held that when jurisdiction in a custody and visitation proceeding has attached properly under the UCCJEA at the commencement of the proceeding, such jurisdiction cannot be defeated by the parties' relocation out of state while the proceeding is pending and prior to the court's final order resolving the original custody dispute. Because the proceeding had yet to be fully adjudicated through to a final custody and

visitation determination, the trial court had not lost its exclusive, continuing jurisdiction. (Opinion by Brown, P. J., with Streeter and Goldman, JJ., concurring.)

Take – away: The issuing state retains continuing exclusive jurisdiction (CEJ) during the pendency of a proceeding even if everyone has left the issuing state.

NOTE: The issue of a temporary move-away, which cannot be granted per *Andrew V. v Superior Court*, was apparently not included in the appeal.

In re Marriage of R.K. & G.K. (2025) 113 Cal. App. 5th 14: Intra-state change of custody resulting in move to different county.

A mother filed a request for an order changing child custody and visitation. At the time, the father had sole physical custody of the parties' child. In a tentative decision, the trial court granted the mother sole physical custody of the child. The ruling was reduced to a judgment two months later.

The Court of Appeal affirmed. Although the father contended he was denied due process because he was not given advance notice of the proposed change in custody and because the trial court ordered a de facto move-away of the child from his home without conducting an evidentiary hearing on that issue, he did not raise either contention in the trial court and had provided the court with a skeletal, inadequate record. The father had thus forfeited the due process issue. The issue also failed on the merits. The trial court made the custody change after a three-day, unreported evidentiary hearing. It then made detailed factual findings painting a very bleak picture of the father's attitude and behavior toward both the mother, the trial court, and orderly court procedures and rulings. The father's uncooperative and disrespectful conduct explained and justified the custody order. Based on his conduct, a reasonable trier of fact could find that a significant change of circumstances indicated that it would be in the child's best interest for the mother to have sole physical custody of her. Moreover, the father was provided with sufficient notice of a potential change in the child's residence to satisfy due process. It was the father who had unilaterally relocated with the child to another county, and he should have known that if the mother was granted sole physical custody, the child would be moved to the mother's home in the county where the parties originally resided before the dissolution of the marriage. (Opinion by Yegan, J., with Gilbert, P. J., and Baltodano, J., concurring.)

Take-away: Notice of a request for change of custody to parent who lives in another county is sufficient to give notice that the child's residence would be changed to a different county. OK to grant parent more than what asked for.

Balandran v Balandran (2025) 113 Cal.App 5th 858 Grandparent visitation

The trial court granted a petition for visitation with minor children, filed by the children's paternal grandparents after the father's death (Fam. Code, § 3102).

The Court of Appeal reversed and remanded, holding the mother's preferences regarding visits with the grandparents were presumably in the best interests of the children because the mother was a fit parent who afforded the grandparents meaningful or reasonable visitation. The grandparents did not meet their burden to show by clear and convincing evidence that the visitation allowed by the mother was detrimental to the children because there was no evidence from which the trial court could infer that the children had suffered detriment by being cared for and comforted by people other than the grandparents, nor was there any basis for its speculation that the mother would deny all visitation absent a court order; moreover, the trial court failed to give the mother's preferences special weight as required by United States Supreme Court precedent. (Opinion by Gaab, J.,* with Edmon, P. J., and Egerton, J., concurring.)

Take-away: Nothing new – just most recent case on GP visits. Read if you have a GP case.

In re Marriage of Alan Freeman (2025) 110 Cal. App. 5th 406 Moore/Marsden and Spousal Support.

After a marital dissolution trial, the family court ordered permanent spousal support and divided the parties' property. The family court determined the community's percentage interest in separate real property, made a credibility determination as to expert testimony regarding the property's value, and relied on the opinion it found more persuasive to determine the real property's value.

The Court of Appeal affirmed, holding the family court properly exercised its discretion in calculating the amount of spousal support because it based the award on reasonable considerations that included the supported party's age and job prospects after a period of unemployment for which the paying party was responsible in part. The record made clear that the family court did not improperly rely on a computer program to calculate spousal support because the statement of decision clearly indicated the award was based on the statutory factors (Fam. Code, § 4320), which it discussed in detail. After determining the community's percentage interest in separate real property, the family court did not err by valuing the property closer to the trial date instead of the separation date because the valuation date for community assets and liabilities should be as near as practicable to the time of trial (Fam. Code, § 2552, subd. (a)) and the family court's calculation of the community's interest in the property, which stopped accruing after separation pursuant to the *Moore/Marsden* rule, was undisputed. (Opinion by Moore, Acting P. J., with Delaney and Scott, JJ., concurring.)

Take-away: Basic case for understanding Moore/Marsden concept. Spousal support is not limited to half of the MSOL. OK to attach an Xspouse to show income not to calculate support.

***In re Marriage of Strong* (2026) 116 Cal. App. 5th 304** Assignment of copyright to receiver to satisfy SS arrears.

Appellant owned a copyright on certain of a deceased singer's works. Respondent, the estranged wife of appellant, requested that the trial court order appellant to assign the copyright to a receiver so it could be monetized. Respondent argued that appellant owed her \$2 million in unpaid spousal and child support, and that he had no other assets that could satisfy the debt. The trial court granted respondent's request and ordered appellant to assign the copyright to the receiver.

The Court of Appeal affirmed the order. The court concluded that appellant failed to establish the trial court erred in ordering the forced assignment of his copyright to the receiver. Code Civ. Proc., § 695.010, subd. (a), provides that, absent an exception, all property of the judgment debtor is subject to enforcement of a money judgment. Although no published California decision has yet held that a court may order the forced assignment of a copyright in particular, cases dating back to the 19th century uphold the forced assignment of other forms of a debtor's intellectual property to satisfy a creditor's judgment. The court declined respondent's request to order appellant to pay her attorney fees as a sanction for his pursuit of the appeal in the case. (Opinion by Rothschild, P. J., with Weingart and M. Kim, JJ., concurring.)

***In re Marriage of DeBenedetti & Ensberg* (2025) 110 Cal. App. 5th 1035** Party's SP interest in pension/retirement already divided is subject to attachment to satisfy judgment.

The trial court assigned four of a former husband's retirement accounts governed by the Employee Retirement Income Security Act of 1974 (ERISA) (29 U.S.C. § 1001 et seq.) to his former wife, issuing a separate qualified domestic relations order (QDRO) for each. The QDROs were to satisfy an award under Fam. Code, § 1101, subd. (g), made against the husband after a marital dissolution judgment included findings that he breached his fiduciary duty to the wife.

The Court of Appeal affirmed. The court held that a court order pursuant to Fam. Code, § 1101, subd. (g), provides a spouse with a legally enforceable claim compelling the other spouse to comply with the marital property fiduciary duty. The court therefore construes the § 1101, subd. (g) reimbursement as creating a marital property right. When the trial court issued the challenged orders allowing the wife to recover her § 1101, subd. (g), reimbursement against the husband's retirement accounts, those orders related to the provision of marital property rights and, therefore, qualified as QDROs (29 U.S.C. § 1056(d)(3)(B)(ii)(I)). Fam. Code, § 2610, conflicts with ERISA when the obligation under a QDRO exceeds the employee spouse's community property interest in the retirement plan. Under these circumstances, ERISA prevails under its preemption clause (29 U.S.C. § 1144(a)), and this result is no different when the QDRO is based on the provision of marital property rights, as here. (Opinion by Rubin, J., with Buchanan, Acting P. J., and Kelety, J., concurring.)

Take-away: Good case to have on hand for enforcement. BUT read facts / findings carefully. Collection of an order for breach of fiduciary duty, not support.

ARTIFICIAL INTELLIGENCE CASES: Read them, know them, sanctions and reporting to State Bar will occur.

***Noland v. Land of the Free, L.P.* (2025) 114 Cal. App. 5th 426 – Cited 67 times since issued on (9/12/25)**

***People v. Alvarez* (2025) 114 Cal. App. 5th 1115**

***Schlichter v. Kennedy* (2025) 116 Cal. App. 5th 24**

***Shayan v. Shakib* (2025) 116 Cal. App. 5th 619**

***In re Domestic Partnership of Torres Campos & Munoz*, 2026 Cal. App. LEXIS 130**

HONORABLE MENTION:

***Houser v. Superior Court* (2025) 116 Cal. App. 5th 1182** Contempt for violation of joint custody order requires willful violation.

The trial court found a parent in contempt for unilaterally authorizing the parties' minor child to participate in school sports and for failing to consult with the other parent on a decision to get braces. The underlying orders awarded joint legal custody and required that neither parent schedule activities during the other's parenting time.

The Court of Appeal granted relief on a petition for writ of certiorari, holding there was no substantial evidence of a willful violation of an order because the underlying custody orders, strictly construed, did not prohibit the activities in dispute. Because the joint legal custody order did not require both parents' consent for any particular activities (Fam. Code, § 3083), unilaterally authorizing participation in sports and consenting to dental care did not violate the order. Although some sports activities were scheduled during the parenting time of the other parent, there was no violation of the requirement that neither parent schedule activities during the other's parenting time because the school and its coaches were responsible for the scheduling and, as to one event, withdrawing the child cured any potential violation. Counsel's verification of the writ petition was permissible (Code Civ. Proc., § 446, subd. (a)) because the facts were within counsel's knowledge and the record of documents filed and authenticated in the trial court. (Opinion by Sanchez, Acting P. J., with Gooding and Scott, JJ., concurring.)

***Pham v. Superior Court* (2025) 117 Cal. App. 5th 115** - Frozen Embryos Case of first impression

In a marital dissolution action, the trial court awarded two frozen embryos to the real party in interest, who wanted to use them to attempt to bear a child. The embryos were created under a written agreement with an in vitro fertilization (IVF) provider. The trial court concluded the IVF agreement was valid, clear, and unambiguous. On appeal, petitioner asserted he no longer wanted to father a child with the real party in interest, and he sought to have the embryos destroyed.

The Court of Appeal treated petitioner's appeal as a petition for writ of mandate and denied the petition. The court concluded that where, as here, the parties have entered into a valid contract specifying how frozen embryos created by IVF shall be treated in the event of divorce, the contract governs. The contractual approach minimizes misunderstandings and maximizes procreative liberty by reserving to the progenitors the authority to make what is in the first instance a quintessentially personal, private decision. The contractual approach is consistent with California's articulated public policy. The trial court correctly interpreted the IVF Agreement and properly awarded the embryos to the real party in interest. Petitioner acknowledged in writing that he freely consented to undergo an IVF procedure to attempt to obtain a pregnancy and agreed the resulting frozen embryos would be made available to the real party in interest if she wished, in the event of divorce or legal separation. Petitioner forfeited his argument the IVF agreement would violate his right not to procreate. Petitioner did not demonstrate where he raised this argument in the trial court, and based on the court's review of the record he provided on appeal, it found no indication he sufficiently raised the issue so as to require the court below to rule on it. (Opinion by Gooding, J., with Sanchez, Acting P. J., and Scott, J., concurring.)

***In re Marriage of Starr* (2026) 118 Cal. App. 5th 52** Date of separation in pleadings not a judicial admission.

In a marital dissolution proceeding, the trial court entered findings and an order determining the parties' date of separation in accordance with an amended petition, and it certified the issue for immediate appellate review.

The Court of Appeal reversed and remanded, holding the circumstances did not warrant treating the separation date alleged in the amended petition as a judicial admission in a pleading (Cal. Rules of Court, rule 5.74) because neither party conducted the litigation after the amendment as if there had been a meeting of the minds as to the date of separation. The parties' stipulation allowing amendment was not an agreement about the substance of the new alleged date of separation because a joint statement of contested issues for trial included the date of separation and the party who sought to rely on the amended separation date had maintained that the issue was contested throughout the proceedings. There was no basis to assign the case to a different trial judge on remand (Code Civ. Proc., § 170.1, subd. (c)) because mere judicial error is an insufficient ground for

disqualification, the trial court did not act as an advocate for a party by raising a concern sua sponte as to whether the allegation qualified as a judicial admission, and the record disclosed no reason to doubt the judge's impartiality. (Opinion by Goldman, J., with Brown, P. J., and Streeter, J., concurring.)

THANK YOU AND SEE YOU NEXT YEAR