



Welcome to the 28th Annual
AB 1058 Child Support Training
Conference

Demystifying Contempt: A Step-by-Step Guide from Arraignment to Sentencing

PRESENTERS

COMMISSIONER
ANGELA VILLEGAS

&

JUDGE MICHAEL R. POWELL



QUESTIONS?

How many judicial officers here have conducted a contempt trial from arraignment to sentencing?

How many of you feel confident that you know how to conduct a contempt trial?

JUDICIAL OFFICERS DUTY

Ryan v. Commission (1988) 45 Cal.3d 533
Judicial officers have a legal obligation to know how contempt proceedings are conducted.

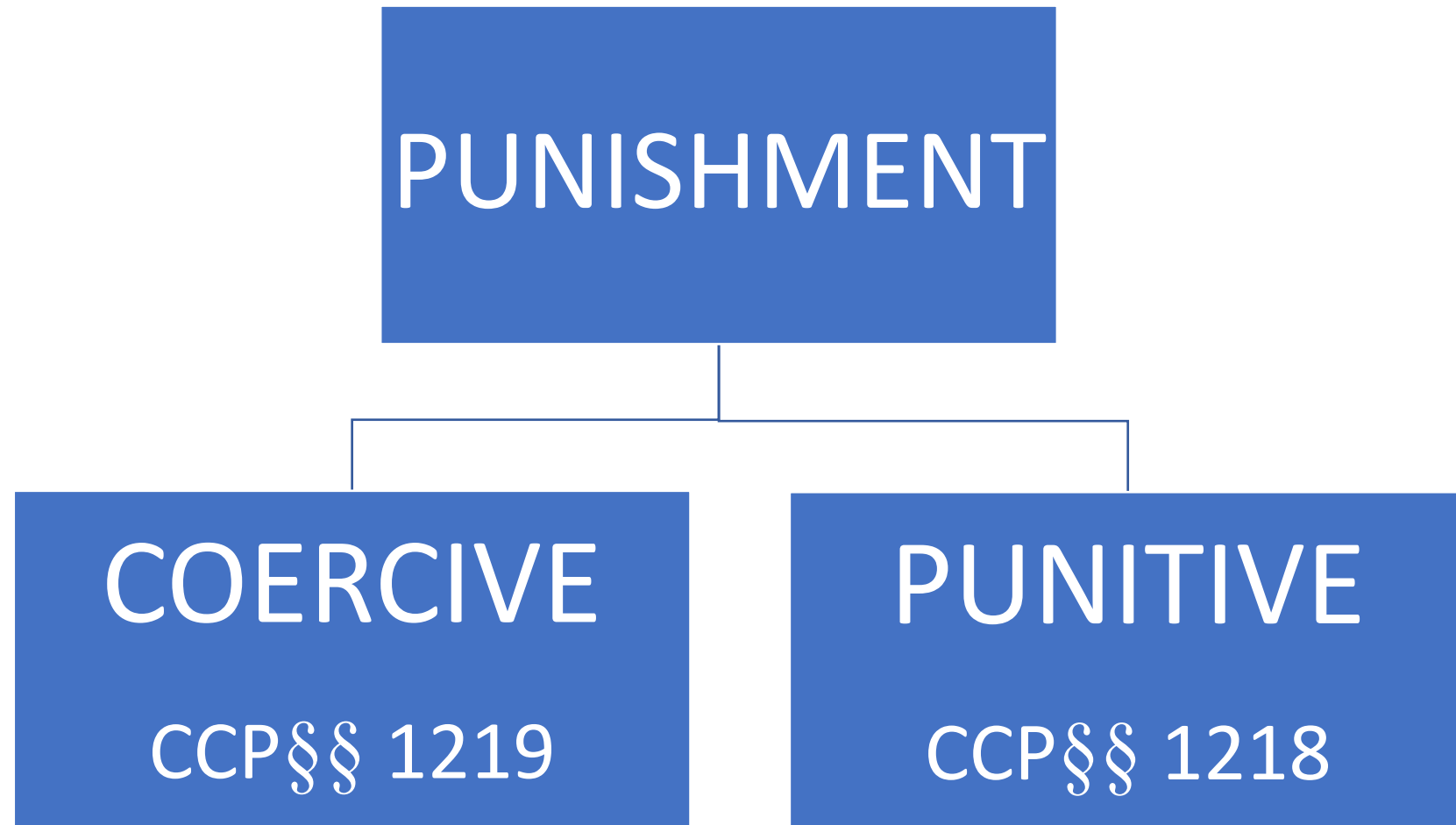
WHAT IS CONTEMPT?

CODE OF CIVIL PROCEDURE TITLE 5
§§1209-1222

CODE OF CIVIL PROCEDURE
§1209(a)(1) describes acts or omissions
constituting contempt.

CODE OF CIVIL PROCEDURE §1209.5
noncompliance with orders for care or
support of a child.

TYPES OF CONTEMPT



AB1058 Courts

Contempt Authority

Family Code §§ 150, 17400, and *Monterey County v. Banuelos* 82 Cal.App.4th 1299 authorize obligations for the reimbursement of public assistance paid for the benefit of a parent's children provide the authority to punish under Code of Civil Procedure §1209.

Litigants who have obtained authorization to enforce an order pursuant to Family Code § 17404(f)(2) are also authorized to pursue actions under Code of Civil Procedure §1209.

CONTEMPT
PROCEEDINGS ARE
CONSIDERED “QUASI”
CRIMINAL ACTIONS

NOTICE!

A contempt proceeding is criminal in nature. If the court finds you in contempt, the possible penalties include jail sentence, community service, and fine.

You are entitled to the services of an attorney, who should be consulted promptly in order to assist you. If you cannot afford an attorney, the court may appoint an attorney to represent you.



THERE IS NO QUASI JAIL!

CONTEMPT IS, IN ESSENCE, A CRIMINAL ACTION

- County of Santa Clara v. Superior Court 2 Cal.App. 4th 1686 (**Appointment of counsel** under PC§987.2.)
- Application of Liu 273 Cal.App.2d 135 (Accused entitled to **procedural safeguards** available to a person accused of a criminal charge.)
- Petition of Mancini 215 Cal.App.2d 57 (Contempt proceedings must be conducted in **strict compliance with statutory procedure.**)

Punishment for Contempt

CCP §1218(c)(1)(A-D)

- 1st conviction of Contempt
 - \$1000.00 fine or up to 5 days of jail/community service.
- 2nd Contempt
 - \$1000.00 fine for each count and up to 5 days of jail and up to 5 days of community service.
- 3rd Contempt
 - \$1000.00 fine for each count, up to 10 days of jail and up to 10 days of community service plus any administrative fees.

FOR EACH COUNT OF CONTEMPT

FORMS

FL-410

(mandatory)

FL-410	
ATTORNEY OR PARTY WITHOUT ATTORNEY (name, State Bar number, and address): NED NASHELL 454 MAIN STREET NEVERLAND CA 00000 TELEPHONE NO.: 123-456-7890 FAX NO. (optional): E-MAIL ADDRESS (optional): NNASHELL@AOL.COM ATTORNEY FOR (name):	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: 100 MAIN STREET MAILING ADDRESS: 100 MAIN STREET CITY AND ZIP CODE: NEVERLAND 00000 BRANCH NAME: CENTRAL	
PETITIONER/PLAINTIFF: COUNTY OF NEVERLAND RESPONDENT/DEFENDANT: LES KEPLY OTHER PARTY/PARENT: NED NASHELL	
ORDER TO SHOW CAUSE AND AFFIDAVIT FOR CONTEMPT	CASE NUMBER: 24NVRL000000
NOTICE! A contempt proceeding is criminal in nature. If the court finds you in contempt, the possible penalties include jail sentence, community service, and fine. You are entitled to the services of an attorney, who should be consulted promptly in order to assist you. If you cannot afford an attorney, the court may appoint an attorney to represent you.	[AVIS!] Un proceso judicial por desacato es de índole criminal. Si la corte le declara a usted en desacato, las sanciones posibles incluyen penas de prisión y de servicio a la comunidad, y multas. Usted tiene derecho a los servicios de un abogado, a quien debe consultar sin demora para obtener ayuda. Si no puede pagar a un abogado, la corte podrá nombrar a un abogado para que le represente.
1. TO CITEE (name of person you allege has violated the orders): 2. YOU ARE ORDERED TO APPEAR IN THIS COURT AS FOLLOWS, TO GIVE ANY LEGAL REASON WHY THIS COURT SHOULD NOT FIND YOU GUILTY OF CONTEMPT, PUNISH YOU FOR WILLFULLY DISOBEYING ITS ORDERS AS SET FORTH IN THE AFFIDAVIT BELOW AND ANY ATTACHED AFFIDAVIT OF FACTS CONSTITUTING CONTEMPT; AND REQUIRE YOU TO PAY, FOR THE BENEFIT OF THE MOVING PARTY, THE ATTORNEY FEES AND COSTS OF THIS PROCEEDING.	
a. Date: AUGUST 29, 2024 Time: 8:30 Dept.: L Rm.: 222	
b. Address of court: <input checked="" type="checkbox"/> same as noted above <input type="checkbox"/> other (specify):	
Date: JULY 1, 2024	JUDICIAL OFFICER
AFFIDAVIT SUPPORTING ORDER TO SHOW CAUSE FOR CONTEMPT	
3. <input type="checkbox"/> An Affidavit of Facts Constituting Contempt (form FL-411 or FL-412) is attached.	
4. Citee has willfully disobeyed certain orders of this court as set forth in this affidavit and any attached affidavits.	
5. a. Citee had knowledge of the order in that (1) <input type="checkbox"/> citee was present in court at the time the order was made. (2) <input checked="" type="checkbox"/> citee was served with a copy of the order. (3) <input type="checkbox"/> citee signed a stipulation upon which the order was based. (4) <input type="checkbox"/> other (specify):	
<input type="checkbox"/> Continued on Attachment 5a(4).	
b. Citee was able to comply with each order when it was disobeyed.	
6. Based on the instances of disobedience described in this affidavit a. <input checked="" type="checkbox"/> I have not previously filed a request with the court that the citee be held in contempt. b. <input type="checkbox"/> I have previously filed a request with the court that the citee be held in contempt (specify date filed and results):	
<input type="checkbox"/> Continued on Attachment 6b.	
Form Adopted for Mandatory Use Judicial Council of California FL-410 (Rev. January 1, 2015)	
ORDER TO SHOW CAUSE AND AFFIDAVIT FOR CONTEMPT	
Family Code, § 292, Code of Civil Procedure, §§ 1211.5, 2015.5 www.courts.ca.gov	

FL-410	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARTY/PARENT:	CASE NUMBER:
7. <input type="checkbox"/> Citee has previously been found in contempt of a court order (specify case, court, date):	
<input type="checkbox"/> Continued on Attachment 7.	
8. <input checked="" type="checkbox"/> Each order disobeyed and each instance of disobedience is described as follows: a. <input checked="" type="checkbox"/> Orders for child support, spousal support, family support, attorney fees, and court or other litigation costs (see attached Affidavit of Facts Constituting Contempt (form FL-411)). b. <input type="checkbox"/> Domestic violence restraining orders and child custody and visitation orders (see attached Affidavit of Facts Constituting Contempt (form FL-412)). c. <input type="checkbox"/> Injunctive or other order (specify which order was violated, how the order was violated, and when the order was violated):	
<input type="checkbox"/> Continued on Attachment 8c.	
d. <input checked="" type="checkbox"/> Other material facts, including facts indicating that the violation of the orders was without justification or excuse (specify): I SAW HIM DRIVING AN EXPENSIVE BMW	
<input type="checkbox"/> Continued on Attachment 8d.	
e. <input type="checkbox"/> I am requesting that attorney fees and costs be awarded to me for the costs of pursuing this contempt action. (A copy of my Income and Expense Declaration (form FL-150) is attached.)	
WARNING: IF YOU PURSUE THIS CONTEMPT ACTION, IT MAY AFFECT THE ABILITY OF THE DISTRICT ATTORNEY TO PROSECUTE THE CITEE CRIMINALLY FOR THE SAME VIOLATIONS.	
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.	
Date: JULY 1, 2024	
NED NASHELL (TYPE OR PRINT NAME)	(SIGNATURE)
FL-410 (Rev. January 1, 2015) ORDER TO SHOW CAUSE AND AFFIDAVIT FOR CONTEMPT Page 2 of 4	

FL-411

Affidavit Of Facts Constituting Contempt (mandatory)

To keep other people from seeing what you entered on your form, please press the Clear This Form button at the end of the form when finished.

FL-411

PETITIONER/PLAINTIFF: COUNTY OF NEVERLAND	CASE NUMBER:
RESPONDENT/DEFENDANT: LES KEPPLY	24NVRL00000
OTHER PARENT: NED NASHELL	

AFFIDAVIT OF FACTS CONSTITUTING CONTEMPT Financial and Injunctive Orders

Attachment to Order to Show Cause and Affidavit for Contempt (form FL-410)

1. a. Orders for child support, spousal support, family support, attorney fees, and court and litigation costs (separately itemize each default on installment payments):

DATE DUE	TYPE OF ORDER AND DATE FILED	PAYABLE TO	AMOUNT ORDERED	AMOUNT PAID	AMOUNT DUE
6/1/21	SUPPORT	CNTY OF NEVERLAND	500.00	0	500.00
6/6/21	SUPPORT	CNTY OF NEVERLAND	500.00	0	500.00
7/5/22	SUPPORT	CNTY OF NEVERLAND	600.00	0	600.00
7/15/22	SUPPORT	CNTY OF NEVERLAND	600.00	0	600.00
<input type="checkbox"/> Continued on Attachment 1a.			TOTAL AMOUNT ORDERED	TOTAL AMOUNT PAID	TOTAL AMOUNT DUE
Summary of contempt counts alleged (including all attachments):					
Child support:					
Spousal support:					
Family support:					
Attorney fees:					
Court and other costs:					
Total			\$	\$0	\$1200.00

- b. Other orders (specify which order was violated, how the order was violated, and when the violation occurred):

Continued on Attachment 1b.

- c. Other material facts (specify):

Continued on Attachment 1c.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

NED NASHELL

(TYPE OR PRINT NAME)

(SIGNATURE)

Page 1 of 1

FL-330

Proof of Service by Personal Service

FL-330

ATTORNEY OR PARTY WITHOUT ATTORNEY OR GOVERNMENTAL AGENCY (under Family Code, §§ 17400,17406 (Name, State Bar number, and address):		FOR COURT USE ONLY	
TELEPHONE NO.: _____ FAX NO.: _____			
ATTORNEY FOR (Name): _____			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF			
STREET ADDRESS: _____			
MAILING ADDRESS: _____			
CITY AND ZIP CODE: _____			
BRANCH NAME: _____			
PETITIONER/PLAINTIFF: _____		CASE NUMBER: _____	
RESPONDENT/DEFENDANT: _____		(If applicable, provide)	
OTHER PARENT/PARTY: _____		HEARING DATE: _____	
PROOF OF PERSONAL SERVICE		HEARING TIME: _____	
		DEPT.: _____	

1. I am at least 18 years old, not a party to this action, and not a protected person listed in any of the orders.

2. Person served (*name*): _____

3. I served copies of the following documents (*specify*):

4. By personally delivering copies to the person served, as follows:

a. Date: _____

b. Time: _____

c. Address: _____

5. I am

a. not a registered California process server.

d. exempt from registration under Business & Profession
Code section 22350(b).

b. a registered California process server.

c. an employee or independent contractor of a
registered California process server.

e. a California sheriff or marshal.

6. My name, address, and telephone number, and, if applicable, county of registration and number (*specify*):

7. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

8. I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: _____

(TYPE OR PRINT NAME OF PERSON WHO SERVED THE PAPERS)

(SIGNATURE OF PERSON WHO SERVED THE PAPERS)

Page 1 of 1

Form Approved for Optional Use
Judicial Council of California
FL-330 (Rev. January 1, 2012)

PROOF OF PERSONAL SERVICE

Code of Civil Procedure, § 1011
www.courts.ca.gov

For your protection and privacy, please press the Clear
This Form button after you have printed the form.

Print this form

Save this form

Clear this form

FL-415

Findings & Order re: Contempt

FL-415

ATTORNEY OR PARTY WITHOUT ATTORNEY (name, state bar number, and address) or GOVERNMENTAL AGENCY (pursuant to Family Code, §§ 17400, 17404):

TELEPHONE NO. (Optional): () - () FAX NO. (Optional): () - ()
E-MAIL ADDRESS (Optional):
ATTORNEY FOR (Name):

SUPERIOR COURT OF CALIFORNIA, COUNTY OF
STREET ADDRESS:
MAILING ADDRESS:
CITY AND ZIP CODE:
BRANCH NAME:

PETITIONER/PLAINTIFF:
RESPONDENT/DEFENDANT:
OTHER PARENT:

FINDINGS AND ORDER REGARDING CONTEMPT
(Family Law)

CASE NUMBER:

To keep other people from seeing what you entered on your form, please press the Clear This Form button at the end of the form when finished.

1. This matter proceeded as follows: Uncontested By stipulation Contested

a. Date: Dept.: Judicial officer:

b. Petitioner/Plaintiff present Attorney present (name):
c. Respondent/Defendant present Attorney present (name):
d. Other parent present Attorney present (name):
e. Governmental agency by (name):
f. Other appearances (specify):
g. On the Order to Show Cause and Affidavit for Contempt (form FL-410)
Filed by on (date):

2. The "Citee" for purposes of this order is Petitioner/Plaintiff Respondent/Defendant
 Other (specify):

3. a. Citee has been advised of rights to:

(1) <input type="checkbox"/> counsel	<input type="checkbox"/> requested	<input type="checkbox"/> waived right
(2) <input type="checkbox"/> appointed counsel	<input type="checkbox"/> requested	<input type="checkbox"/> waived right
(3) <input type="checkbox"/> continuance to obtain counsel	<input type="checkbox"/> requested	<input type="checkbox"/> waived right
(4) <input type="checkbox"/> a hearing/trial (to cross-examine, call, and compel the attendance of witnesses)	<input type="checkbox"/> requested	<input type="checkbox"/> waived right
(5) <input type="checkbox"/> privilege against self-incrimination	<input type="checkbox"/> requested	<input type="checkbox"/> waived right
(6) <input type="checkbox"/> other (specify):	<input type="checkbox"/> requested	<input type="checkbox"/> waived right

b. Written advisement and waiver of rights attached.

THE COURT FINDS:

4. Citee knowingly, intelligently and voluntarily waived rights as set forth in item 3.

5. a. There are valid orders of the court.
b. Citee had knowledge of the orders.
c. Citee violated the orders by (specify):

d. Citee has freely and voluntarily admitted to the defaults/violations specified in item 6.
e. There is a factual basis for the plea entered.
f. Other (specify):

6. Citee is guilty of contempt of court for the following counts (defaults/violations) alleged in the Order to Show Cause and Affidavit for Contempt (form FL-410) (specify):

Page 1 of 2

Form Approved for Optional Use
Judicial Council of California
FL-415 (Rev. July 1, 2003)

FINDINGS AND ORDER REGARDING CONTEMPT
(Family Law—Domestic Violence Prevention—
Uniform Parentage—Governmental)

Family Code, §§ 17400, 17402, 17404
CCP, §§ 1009, 1218
www.courtinfo.ca.gov

FL-415

Findings & Order re: Contempt

PETITIONER/PLAINTIFF:	CASE NUMBER:
RESPONDENT/DEFENDANT:	
OTHER PARENT:	

7. a. Citee is not guilty of contempt of court for the following counts (defaults/violations) alleged in the *Order to Show Cause and Affidavit for Contempt* (form FL-410) (specify):
b. Citee has a previous finding of contempt (specify):

8. Citee waived time for sentencing.
9. Citee waived time for trial.
10. Citee failed to appear as ordered.
11. Other (specify):

THE COURT ORDERS

12. a. That the following counts alleged in the *Order to Show Cause and Affidavit for Contempt* (form FL-410) (specify):
are dismissed with prejudice without prejudice.
b. That the request to dismiss the following counts alleged in the *Order to Show Cause and Affidavit for Contempt* (form FL-410) (specify): is denied.

13. Citee must perform _____ hours of community service for counts (specify):
a. To commence on (date): _____ to be completed by (date): _____
Citee must report to (specify): _____
on (date): _____ at (time): _____
b. Citee must pay an administrative fee of \$ _____
 as determined by the community service agency

14. Citee must serve _____ hours in the county jail for counts (specify):
 To commence on (date): _____ to be completed by (date): _____
Citee must report to (specify): _____
on (date): _____ at (time): _____

15. Citee must pay:
a. attorney fees in the total amount of \$ _____ payable to (specify name): _____
b. fines in the total amount of \$ _____

16. a. The contempt proceedings are suspended on condition that citee comply with all terms and conditions of this order.
b. Imposition of sentence is suspended on condition that citee comply with all terms and conditions of this order.

17. Execution of sentence for _____ hours of community service _____ hours in county jail will be suspended for a period of _____ and citee is placed on court probation on condition that citee comply with all terms and conditions of this order, and
a. Comply with current support order.
b. Pay at least \$ _____ per month on current support order, payable to (specify name): _____ commencing (date): _____
c. Pay at least \$ _____ per month on arrears commencing (date): _____
d. Serve any remaining hours not suspended as specified in items 13 and 14.

18. Citee must seek and maintain employment and must keep written records, copies of which must be forwarded by the 5th day of each month as follows to the Local Child Support Agency court
 other (specify): _____
a. Records of efforts to gain employment must include the name, address, and telephone numbers of individuals and firms contacted regarding employment, the dates of such contact and the anticipated results.
b. Records of all actual employment must include the name of the employer, dates, and hours worked and the gross and net amounts of income from each employer.

FL-415

Findings & Order re: Contempt

PETITIONER/PLAINTIFF:	CASE NUMBER:
RESPONDENT/DEFENDANT:	
OTHER PARENT:	

19. Orders for payments required to be made as conditions of probation or suspension of sentence in this order do not modify a court ordered support obligation.

20. Citee must provide written notification to the superior court clerk of any change in residence and to the local child support agency the other party of any change of residence, income, or employment within 10 days of the change.

21. A wage and earnings assignment will issue.

22. This matter is continued to (date): _____ at (specify time): _____ in court department (specify): _____ room (specify): _____ of this court for further hearing compliance review. Citee is ordered to personally appear in court on that date and time.

WARNING: Failure to appear may result in issuance of a bench warrant for citee's arrest.

23. A Warrant of Attachment will issue for citee's arrest. Bail is set in the sum of: \$ _____
 Execution of the Warrant of Attachment is stayed until (date): _____ at (specify court name): _____

24. Other (specify): _____

25. Number of pages attached: _____

<input type="checkbox"/> Approved as conforming to court order and findings: Date: _____ _____ (SIGNATURE OF ATTORNEY FOR CITEE)
<input type="checkbox"/> The citee agrees to the above terms: Date: _____ _____ (SIGNATURE OF CITEE)

Date: _____

(JUDICIAL OFFICER OF THE SUPERIOR COURT)

Signature follows last attachment

OTHER FORMS

Findings & Order
re: Contempt

- FL-420/421 Declaration of payment history
- FL-615 Stipulated judgment re: parental obligations
- FL-620 Default Judgment
- FL-625 Stipulation and Order
- FL-645 Notice of to CSSD of independent action
- FL-646 CSSD response to FL-645
- FL-665 Findings & recommendation of Commissioners
- FL-686 Proof of service by mail
- FL-330 Proof of personal service

ELEMENTS OF CONTEMPT

1. A valid court order.
2. Knowledge of the court order.
3. Non-compliance with the order

Ability is not a required element in support cases but can be an affirmative defense.

WHAT IS A VALID ORDER?

- CCP §1003 Every direction of a court or Judge, made or entered in writing, and not included in a judgement, is denominated an order.
- This includes written “opinions” and unless required by statute, an order becomes legally effective at time it is signed and filed, regardless of whether it is entered in minutes by clerk. (see Maxwell v. Perkins 116 Cal.App.2d 752.)
- An order is ineffective and the violation of it cannot be made basis for contempt unless the order is either in writing filed with the clerk or entered into the minutes. Ketscher v. Superior Court of Freson County 9 Cal.App. 3d 601... **UNLESS**

CODE OF
CIVIL
PROCEDURE
§ 1209.5

ORDER FOR CARE OR SUPPORT OF A CHILD

... or proof that the parent was present in court at the time the order was pronounced and proof that the parent did not comply with the order is prima facie evidence of a contempt of court.

(See MARTIN V. SUPERIOR COURT 17 Cal.App.3d 412 holding constitutionality of this provision and shifting burden to Citee to prove inability to pay.)

Note: This prima facie presumption is a carve out for child support... not spousal support.

INVALID COURT ORDERS

Vague and ambiguous orders are not punishable by contempt but may remain valid orders if they are legal in all other respects.

Evidence

- The Citor has the burden of proof beyond a reasonable doubt.
- A Citee's Affirmative defenses must be proven by a preponderance of the evidence.
- All elements must be proven by a competent witness or admissible evidence.
- Contempt proceedings have statutory dates that must be followed. (Speedy trial rights)

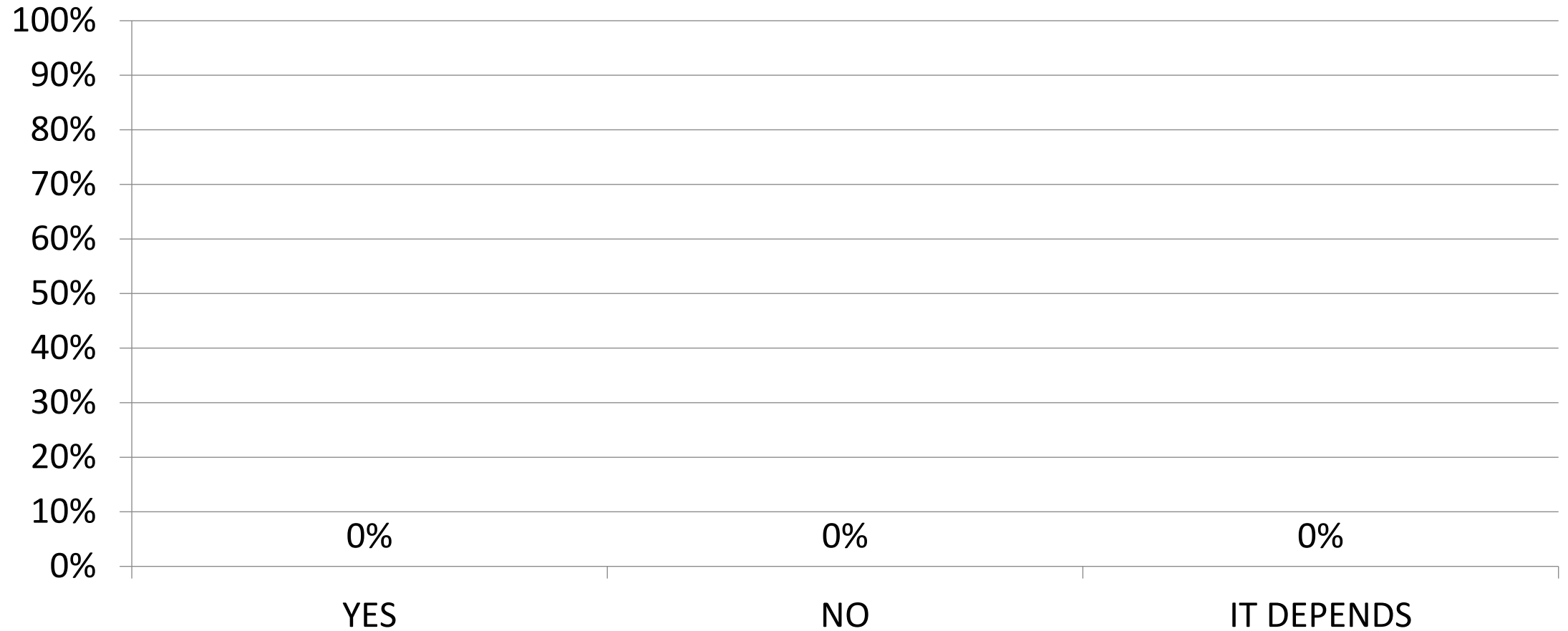
QUIZ

Both parties are in court. After receiving admissible evidence, the court makes a finding and orally orders that child support is to be paid in the amount of \$500.00 per month and orders that a finding and order after hearing be prepared. The first half of support is due on the first of the month and the second half on the fifteenth of the month. A Dissomaster/Guideline calculator is printed and provided to both parties.

IS THIS A VALID CHILD SUPPORT ORDER?

1. YES
2. NO
3. IT DEPENDS

IS THIS A VALID CHILD SUPPORT ORDER?



QUIZ

Both parties are in court. After receiving admissible evidence, the court makes a finding and orally orders that child support is to be paid in the amount of \$500.00 per month and orders that a finding and order after hearing be prepared. The first half of support is due on the first of the month and the second half on the fifteenth of the month. A Dissomaster/Guideline calculator is printed and provided to both parties.

IS THIS A VALID CHILD SUPPORT ORDER?

- 1. YES**
2. NO
3. IT DEPENDS

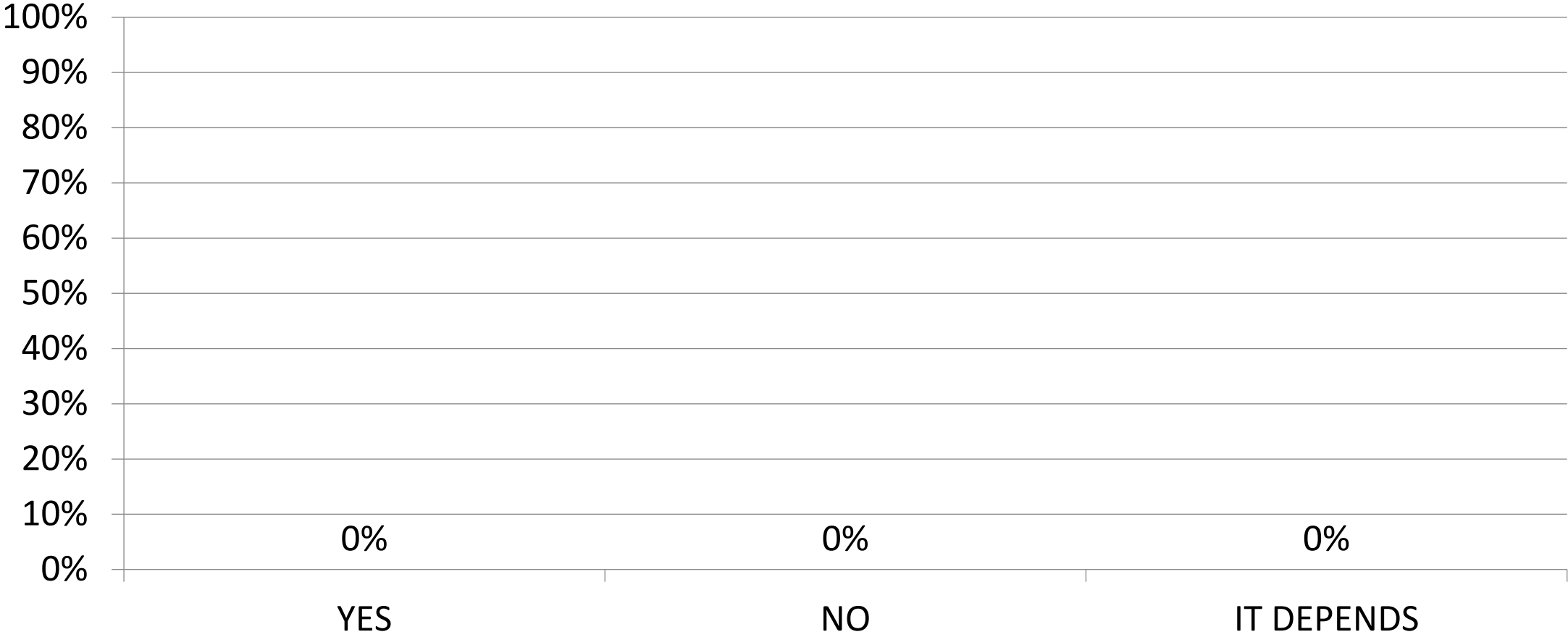
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IS THIS A VALID CHILD SUPPORT ORDER SUBJECT TO CONTEMPT?

1. YES
2. NO
3. IT DEPENDS

IS THIS A VALID CHILD SUPPORT ORDER SUBJECT TO CONTEMPT?



QUIZ

Both parties are in court. After receiving admissible evidence, the court makes a finding and orally orders that child support is to be paid in the amount of \$500.00 per month and orders that a finding and order after hearing be prepared. The first half of support is due on the first of the month and the second half on the fifteenth of the month. A Dissomaster/Guideline calculator is printed and provided to both parties.

IS THIS A VALID CHILD SUPPORT ORDER SUBJECT TO CONTEMPT?

1. YES
2. NO
- 3. IT DEPENDS**

IT DEPENDS

The Facts Will Dictate The Answer

- Void for vagueness doctrine?
 - When was the first payment due?
 - Statute of Limitation issues?
 - Retroactivity requested but unclear if granted?
- Was the order after hearing prepared? (see CCP§1211.5)
- Does an ordinary person understand what conduct is required or not permitted?
- Does contempt in this case encourage arbitrary or discriminatory enforcement? Bias?

KNOWLEDGE

(It Depends)

- Evidence can be direct or circumstantial
- Presence in court
- Proof of service
 - EC§ 647 may switch the burden of proof.

KNOWLEDGE

(It Depends)

- 1209.5
- Certified transcript of hearing ordering support.
- Judicial Notice of Proof of Personal Service of the order/judgment.
- Circumstantial Evidence
 - Payments/Consistent payments?
 - Oral acknowledgement/texts?
 - Previous attempts to modify?

NONCOMPLIANCE WITH THE COURT ORDER

Testimony that the full payment or partial payment were not received for each count satisfies this element.

Before Arraignment

- **FAMILY LAW CONTEMPTS MUST USE MANDATORY FORMS (FL-410, FL-411)**
- **MUST BE PERSONALLY SERVED!**
(CCP §1016; Cedars-Sinai Imaging Medical Group v. Superior Court 83 Cal.App.4th 1281)
- **EXCEPTIONS:** Service may be substituted (CCP415.50) if a party has taken steps reasonably calculated to apprise the contemner of the action. (See Albrecht v. Superior Court 132 Cal.App.3d 612.)
- **YOU MAY PROCEED WITH ARRAIGNMENT WITHOUT THE OTHER PARTY PRESENT IF POS!**



PROCEDURE

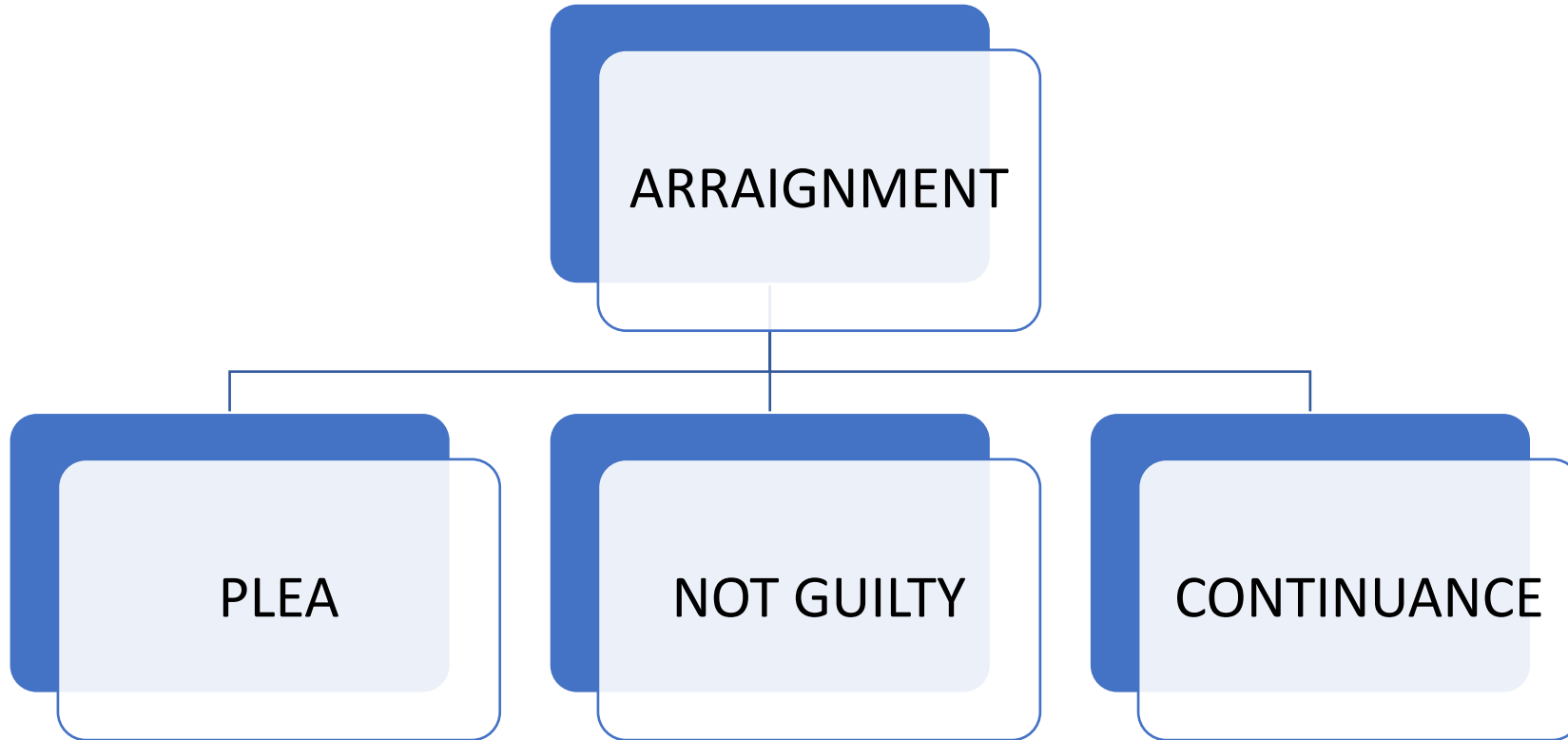
ARRAIGNMENT

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graph TD; A[ARRAIGNMENT] --> B[TRIAL]; B --> C[GUILTY/NOT GUILTY SENTENCING];
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TRIAL

GUILTY/NOT GUILTY
SENTENCING

ARRAIGNMENT



CCP§1211.5

Rules For
Construction,
Amendment And
Review Of The
Affidavit Or
Statement Of Facts.

An OSC re: Contempt may be amended during the hearing, if there are no objections as to sufficiency, unless a substantial right of the accused is impacted.

A reasonable postponement may be granted in the interest of justice.

MOTIONS BY CITEE

- Request that counts be dismissed for legal reasons:
 - Technical Deficiencies
 - Statute of Limitations
 - Due process (e.g. vague/ambiguous orders)
 - Due process (e.g. vague/ambiguous contempt citation)
 - Double Jeopardy
 - “Invitations” to dismiss in the interest of justice
Penal Code §1385
 - Motions at arraignment do not have to be in writing
 - See CCP§ 1005 (contempt proceedings not listed)
 - You can request written motions

ARRAIGNMENT

Number of contempt counts must be clear

Must advise the alleged contemnor of the consequences

Reading or waiver of the counts of contempt & entry of plea

Entitled to a jury trial if over 35 counts or more than 179 days of jail

5th Amendment applies

Trial to begin 45 days from date of arraignment unless waived

Time Waivers

- Time waivers:
 - General Time Waiver
 - The Court may extend the trial date over Citee's objection for good cause.
 - Specific Time Waiver
 - A date certain is set for trial and cannot exceed that time limitation.

Trial

- Contempt proceedings are trials and not evidentiary hearings (Family Code § 217 & CRC § 5.113 do not apply).
- EC Division 6 Chapter 5
 - Order (opening statements, direct, cross, re-direct, re-cross, closing arguments.)

Judicial Notice

CAUTION!!!!

Judicial Notice of orders pursuant to EC§§ 452- 453 should be requested by the Citor pursuant to CRC§§ 3.1113(l) & 3.1306(c).

These rules are MANDATORY!

Judicial Notice

Disbarred Pasadena attorney pleads guilty to forging judge's signature

By Paula Lehman-Ewing
Daily Journal Staff Writer

A disbarred Pasadena attorney pleaded guilty to defrauding clients by fabricating documents to convince them their cases had settled when they had not.

He forged the signature of a U.S. bankruptcy judge, according to a U.S. Department of Justice announcement Friday.

Defendant Shant Ohanian changed his original not guilty plea to guilty in an appearance last week before U.S. District Judge John A. Kronstadt. "Mr. Ohanian has admitted he broke the law by breaching his duty of trust with his clients," Ciaran McEvoy, public information officer for the Justice Department, wrote in an email Friday. "Attorneys who violate this trust

can expect serious consequences."

Ohanian was disbarred in 2017 after a State Bar investigation found he fabricated documents to convince clients their cases had settled when they had not. In one instance, he forged the signature of his client's employer's attorney.

The Justice Department investigation found Ohanian forged the signature of a U.S. bankruptcy judge, though the complaint does not indicate which judge. Accord-

and circumstances" at September sentencing hearing.

"Mr. Ohanian, a man with zero criminal history and a devoted father to his 3-year-old daughter is extremely remorseful for his crime," Demik wrote in an email Friday. "There is, of course, more to the case than the guilty plea negotiated with the government."

Ohanian's wife, Silva Sevlia Ohanian, was also charged with wire fraud and with aiding and

Professor uncovers nationwide scams involving fake court orders

By Ilan Isaacs
Associate Rulings Editor

UCLA School of Law professor Eugene Volokh recently uncovered a host of forged court orders and related scams aimed at getting webpages removed from search engines, or "de-indexed," without a legitimate court proceeding.

Volokh, a leading First Amendment scholar, found more than 200 court orders that were either outright forgeries or probably obtained through deceit, he said. These "orders" were sent to search engines, mostly Google, in an attempt to get them to remove websites from their search results.

Volokh found eight different types of de-indexing scams including: outright court forgeries; fake stipulated injunctions involving both fake defendants and fake notaries; default judg-

HYPOTHETICAL 1

You are calling matter number one on the Court's calendar case number 07NVRL00000 County of Neverland v. Les Kepply. The other parent, Ned Nashell, has filed an Order to Show Cause & Affidavit for Contempt. This is the fifth time this case has been before you. The matter is here for arraignment. The only documents you have are a filed FL-410 Affidavit of Contempt alleging non-payment of support orders, a FL-411, and Proof of Personal Service of the Citation. The Citor, Ned Nashell, is present and the Citee, Les Kepply, is not present. You recall Kepply has never complied with the court's support orders. Nashell and the other parent (OP) Kepply have one child, Rosa, date of birth 2/7/2002.

Please assume that the FL-410 has been signed and filed appropriately by the Citor.

PLEASE REVIEW THE FL-410 AND EACH TABLE WILL DISCUSS FOR 10 MINUTES ANY :

1. ISSUES YOU SEE AND
2. HOW YOU WILL PROCEED.

PLEASE SELECT ONE MEMBER FROM YOUR TABLE TO SPEAK!

HYPOTHETICAL 2

You are calling matter number two on the Court's calendar case number 20NVRL00001 County of Neverland v. Theona Schuler. CSSD, has filed an Order to Show Cause & Affidavit for Contempt. This is the first time this case has been before you. The matter is here for arraignment. The only documents you have are a filed FL-410 Affidavit of Contempt alleging non-payment of support orders, a FL-411, Proof of Personal Service of the Citation. All parties are present.

Please assume that the FL-410 has been signed and filed appropriately by the Citor.

PLEASE REVIEW THE FL-410 AND EACH TABLE WILL DISCUSS FOR 10 MINUTES ANY :

1. ISSUES YOU SEE AND
2. HOW YOU WILL PROCEED.

PLEASE SELECT ONE MEMBER FROM YOUR TABLE TO SPEAK!

Post Trial Sentencing

NOT GUILTY/GUILTY

\$1,000.00 FINE, 5-DAYS JAIL, OR BOTH, PER COUNT. (Family Law contempts - specific rules (see CCP§1218(b-d), CCP§1218.5 [re: priors and escalating penalties])

PAYMENT OF REASONABLE ATTORNEY FEES (BY EITHER PARTY)

Guilty or Not Guilty

In a case of *indirect* contempt, the court need not state evidentiary facts supporting an ultimate finding of willful violation of an order. Such a finding will be upheld in a case of indirect contempt if it is supported by substantial evidence. (See *In re Morelli* 11 Cal.App.3d 819, 851.)

Penal Code

§1385

A judge or magistrate may, either on motion of the court or upon the application of the prosecuting attorney, and in furtherance of justice, order an action to be dismissed.

QUESTIONS?

Any time you have questions you can contact us at:

Judge Michael R. Powell 213-633-5849 mpowell@lacourt.org
Commissioner Angela Villegas 213-351-7563 avillegas@lacourt.org