

On to our next destination....



Brubaker v. Strum (2023) 87 Cal.App.5th 497

- “There’s a wage assignment in place...leave me alone!”



Brubaker v. Strum

- Brings into focus F.C. 5241 & actions allowed if a valid IWO is in place.
- Betsy Brubaker (Mom) and Andy Strum (Dad) subject to court order for child support. Dad is obligor.
- Dad pays base plus Smith Ostler component.



Brubaker v. Strum

- Dad goes through a few employers in a short time. Latest one starts IWO deductions 4/24/21.
- 6/10/21: Mom's RFO – "To set child support arrears, including Smith-Ostler payments." Alleges \$7,000 in arrears for April & May 2021.
- Dad's counsel sends letter & files responsive pleading.



Brubaker v. Strum

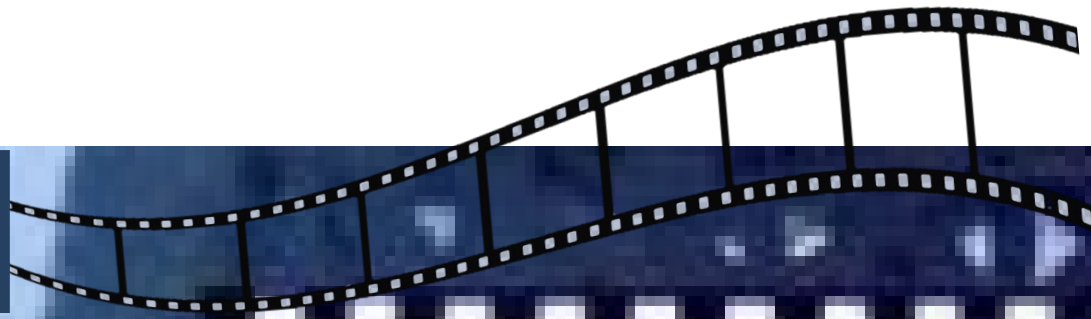
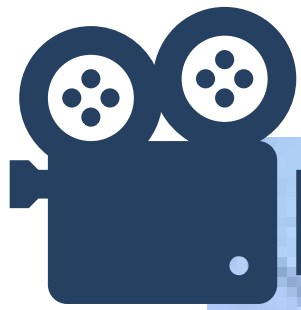
- Trial court
 - Mom claims gaps between Dad's start date and first IWO payment.
 - Dad's attorney: Once IWO was in place, your remedy is with POE or LCSA, not my client.



Brubaker v. Strum

- Nothing in case about the POE's responsiveness, but some are certainly better than others.....





Brubaker v. Strum

- Trial court rulings:
 - Cites F.C. 5241if arrears exist & IWO in place, remedy is with POE.
 - Denies Mom's RFO. IWOs in place before 3/30/21 and after 5/1/21. Levy covered 4/2021.
 - No ruling on if POEs satisfied their obligations.
 - Sanctions issued against Mom's attorney.



Brubaker v. Strum

- Appellate Court – de novo review
- Examines rationale behind F.C. 5241. It does NOT address RFOs for arrears. Does address POE's liability for failing to comply with an IWO.
- What is Mom trying to do? And does that conflict with the statute?



Brubaker v. Strum

- “Determine arrears” not “enforce arrears.”
- Court cites County of Shasta v. Smith (1995) 38 Cal. App. 4th 329.
- Legislative history of 5241 shows legislature was aware of Shasta holding.



Brubaker v. Strum

- Ultimately, trial court erred by misinterpreting 5241.
- Sanctions, as a result, not appropriate since RFO filed by Mom had merit.

