

In the Supreme Court of the State of California

SARAA DORIS LEE,
Plaintiff and Respondent,

2d Civil No. B320206
(Super. Ct. No. D401660)
(Ventura County)

v.

TROY PASULKA,
Defendant and Appellant.

Second Appellate District, Case No. B320206
(Judges Hernaldo J. Baltodano, Tari L. Cody & Kenneth R. Yegan)

Ventura County Superior Court Case. No. D401660
(Commissioners William R. Redmond & R. Paul Kawai)

Petition for Review

Troy Pasulka, Appellant

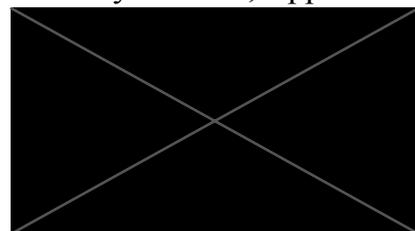


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Petition for Review

Because California's Court of Appeal has issued an opinion that flagrantly disregards California law — and even the rule of law (p. 27) — Troy Pasulka hereby petitions California's Supreme Court for review.

Issues Presented

1. When the *largely-undisputed* criminal battery of one parent by another has been filmed, may California courts entirely disregard the procedural requirements governing domestic violence custody orders?

2. When adjudicating the merits of an appeal whose central, *undisputed* argument is that a trial court entirely disregarded Cal. Fam. Code § 3044, may an appellate court — in a hidden, self-depublished opinion — vaguely declare that the “the law” was followed, while refusing to acknowledge the existence of § 3044 (the relevant law)?

3. When a trial court cannot even bring itself to deny the obvious fraudulence of a DVRO request, may it nonetheless deny the sanction and fee requests of a party who prevails over that abusive litigation?

4. May an appellate court deny a request that it consider additional evidence (pursuant to Cal. Code Civ. Proc. § 909) merely because the obvious and *undisputed* implications of that evidence conflict with the litigative outcome apparently desired by that court?

5. In other words, may California's family/appellate courts deny African-American men due process and equal protection under the law?

Statement of Facts

I. Condensed Timeline

In April 2018, Saraa Lee removed her and Troy's one-year-old daughter from Chicago to Los Angeles. (Aug. 193-200; Att. A.) She then left a public apology posted on Facebook, explaining that her behaviors — which included regularly causing unnecessary relationship conflict — were products of her childhood trauma. (Att. A; III CT 729-32.)

Saraa returned their daughter to Chicago, and began attending Adult Children of Addicts meetings (Aug. 29; I CT 50) — then roped police into a July 2019 child abduction. (Pp. 7-8.)¹ She again took their daughter to L.A., where she again reunited with Troy. (P. 8.)

On December 1, 2019, after she was filmed attacking Troy, she *again* abducted their daughter — but, fearing disclosure of the film, quickly returned her. (Pp. 9-10, Aug 76.) In early-2020, Saraa began treatment for borderline personality disorder/complex trauma. (Att. B.)

In mid-2020, Troy left Saraa and moved to Chicago. (P. 13.) By September 2020, Saraa agreed to begin persecutory delusion therapy. (Att. B; P. 13.) Months later, having been continually denied out-of-state visitation, Troy returned to their California residence. (P. 13.)

After Troy refused Saraa’s December 2020 and April 2021 requests to re-impregnate her, she abducted their daughter a final time, on May 2, 2021; Troy moved out-of-state. (I CT 25.) On June 2, 2021, days after Troy rejected her request that he move near her, or at least allow her to visit him, Saraa filed a DVRO. (P. 16.) Ever since, Ventura County courts have helped Saraa abuse Troy, and their daughter, by stripping Troy of custody and denying his fee and sanction requests.

II. Saraa’s Disproven Allegations & Criminal Perjury

In denying Troy’s sanctions and attorney fee requests, Ventura County courts have overlooked the mountain of perjury and false allegations on which Saraa based her thrice-defeated DVRO requests.

For example, it was claimed that Troy, “*over a consistent period of time since about 2018 ... intimidat[ed] [and] impersonat[ed] [Saraa] on Facebook ... making posts that [were] supposedly ... hers.*” (Aug. 17, emphasis added.) This turned out to be false: Saraa testified that Troy only made one post: her April 2018 apology. (*Id.* at. 27; I CT 155.)

¹ Saraa’s abuse will soon be detailed in court. (*E.g.*, JA, pp. 96-106.)

It was later falsely alleged that Troy made this post by “hacking [Saraa’s] Facebook account.” (Aug. 112.) But Saraa testified that she gave Troy her password, along with “blanket approval” to post “whatever” he wanted about their relationship. (Aug. 30, 109.)

In an attempt to salvage the only abuse allegation she made from the years 2016, 2017, or 2018, Saraa then contradicted herself, testifying that she not given Troy permission to post something “damaging,” and that the post had been “very damaging” and “totally unexpected.” (Aug. 125, 17; Att. A.)² However, Troy revealed Saraa’s April 2018 messages, stating she was “willing to hurt [her]self” via the post. (Att. A.) Saraa has never denied that these messages clearly establish that she perjured herself. (Reply, pp. 2-3; OJA, pp. 1-5.)

When denying her DVRO requests, Redmond did not even bother addressing Saraa’s thoroughly-refuted April 2018 allegations, which she later abandoned. (IV RT 299-316; V RT 369-374; II CT 265-280; Att. C)

Saraa further perjured herself regarding July 2019. By doing so, she hoped to make it appear that she feared Troy — in a manner that might justify the filmed violence she committed in December 2019.³

² A readable version of the (entirely non-abusive) April 2018 post has been attached. (Att. A.) (Saraa regularly produced unreadable versions of exhibits about whose contents she intended to perjure herself. [*e.g.*, Aug. 26-7, 48, 52; IV CT 829; III CT 729-32; I CT 34-6.]

³ In July 2019, Chicago police tackled and arrested Troy when he refused to participate in Saraa’s late-night child abduction. (I CT 84.) Based on a falsified police report, Troy was charged with child endangerment. (*Id.*) Though Saraa told prosecutors she would testify on Troy’s behalf, they proceeded with their case — until they viewed the body cam footage revealing the criminal fraud of the police, at which point they dismissed the case. (Aug. 34, 226, 233.) Moments before denying Saraa’s new trial/reconsideration motion, Commissioner Redmond stated that he could not fathom how Troy’s July 2019 actions could possibly have qualified as child endangerment. (V RT 370.)

In pre-hearing filings, Saraa repeatedly claimed to have produced an exhibit supposedly containing an emergency protection order, which she claimed she was issued by Chicago police in July 2019. (I CT 22, 155.) Unwilling to repeat this lie in-person, she testified “I’m not sure exactly what [my exhibit] is.” (Aug. 30.)⁴ Later, she admitted that she never even requested an EPO, and that she did not remember receiving any such document. (*Id.* at 144-5.)

Saraa also perjured herself by claiming that Illinois DCFS had never threatened her to obtain her participation in their automatically-triggered investigation. (Aug. 110.) But Troy produced their August 2019 voicemail threatening to remove their daughter if Saraa did not stop ignoring their calls. (Aug. 111; I CT 192.) Moments later, Redmond cautioned Saraa against perjury, as she attempted to backtrack from her admission that she knew that the child endangerment charge brought against Troy had been dropped. (Aug. 114-5.)⁵

Saraa further perjured herself — again attempting to justify her December 2019 filmed violence — by claiming that she reunited with Troy “just a couple of weeks” prior to her filmed attack. (Aug. 71.) Meanwhile, her private messages prove it was couple of *months* prior. (Reply, p. 3; JA, pp. 48-50; Aug. 231.) Saraa has never denied that these messages conclusively establish her perjury. (Reply, p. 3; OJA, pp. 1-5.)

⁴ As Saraa’s attorney tried to prevent her admission that the exhibit had been titled an “emergency protection order,” Redmond noticed — at a glance — that it was no such thing. (*Id.* at 143-4.) (Bizarrely, he then assented to her attorney’s absurd claim that *repeated* misidentifications of this “information sheet” had resulted from “a typo.” [Aug. 144.]) Long before this, Saraa replied, “I think it might be. I’m sorry. I’m not clear on all these things,” to her own attorney’s question, “Is this ... a Criminal Protective Order?” (Aug. 30.) (He did not alert the court about his false identification of the document until forced to do so (*See* J2, pp. 11-28 [detailing Saraa’s trial lawyer’s numerous ethics violations.]

Redmond found that Saraa further perjured herself by testifying that she was playing with Troy — not choking him — at the beginning of the film documenting her December 1, 2019, criminal battery.⁶

⁶ Redmond stated, “[H]er arm [is] around [Troy’s] neck. She’s not looking ... [like] they were playing ... He wants to leave ... She prevents him ... Later ... when she is blocking the door ... that [may] fall within [California Penal Code] § 236, the blocking of someone’s liberty ... false imprisonment[.]” (V RT 371.)

Redmond’s reference to Saraa’s filmed, post-choking criminality highlights the absurdity of her claim she was only playing with Troy at the beginning of the film. Indeed, that she was choking him is corroborated by her subsequent, *undisputed* violence: she threw Troy to the floor, punched and kicked him, and attempted to crush his testicles in her first — all while Troy held their two-year-old daughter (Att. D.)

Other evidence establishing Saraa’s choking included (1) Troy’s impaired speech/breathing as he stated, “She’s grabbing my neck. I can’t get ... her off of me.” (*Id.*); (2) the fact that even this statement did not cause Saraa to remove herself; (3) their daughter’s crying, screaming, and positioning — all of which contradicted Saraa’s narrative, as Troy explained (in more never-disputed testimony) (III RT 180; II RT 79-80, 86); (4) Troy’s filmed statement and testimony that Saraa covered his mouth while choking him (in order to stop others in the home from hearing him telling her such things as “get off of me”), which Saraa never disputed, either on the film or in court (Att. D; II RT 87); (5) Saraa’s failure to explain how she admittedly knew that Troy did not want her on him, other than because she heard him telling her to remove herself; (II RT 80; Aug. 69); (6) Saraa’s admission that it would have been abnormal for her to engage in horseplay with Troy (Aug. 69.); (7) Troy’s filmed statement that Saraa told her to google “trauma response” just prior to her choking (which Saraa never disputed either on film or in her testimony, and which blatantly contradicts Saraa’s narrative) (IV RT 271; Att. D); and (8) the constantly-changing nature of Saraa’s justifications for being on Troy’s body: at first, she had no explanation (in the video, she first bizarrely states, “I’m just on your back,” with no further explanation); later in the video, she invents the lie that the two were “playing circus;” then, unwilling to stick to this lie during hearings, she testified that she was *not* “playing circus,” but instead that she was on his back trying to “invite” him to play with the circus *figurines* she had, moments earlier, been momentarily using with their daughter. (Aug. 68.)

Other false claims about this December 2019 incident disproven by film of the incident include (1) the claim that Saraa was “cowering in the corner” during the incident (III RT 230) (Saraa continually advanced on Troy and *refused* his request that she move to the corner opposing the one she backed him into; then, once Troy managed to escape their bedroom, Saraa followed him out of their home and down the block instead of calling the police — after having threatened to do so — leading Troy to remark, “What happened to calling the police? Oh, you don’t want to call the police because ... [now there is] evidence ... you’re the perpetrator ...” (IV CT 953; Att. D); (2) the claim that that Troy “blocked [Saraa’s] movements” by “put[ting] his *hands* around her throat” and pushing her “up against [a] *wall*,” all while Troy was supposedly free to “go wherever [he] wanted” (IV RT 280; Aug. 20, emphasis added) (Troy briefly raised *one* hand, to fend off Saraa — immediately after she ducked down and into him, in an undisputed attempt to crush his testicles in her fist — at which point Saraa backed *herself* into a *door*, the room’s only exit, through which she was *admittedly* preventing Troy from escaping [Att. D; Aug. 72]); and (3) the absurd claim that Troy momentarily raising his hand, *by itself*, would be sufficient to justify DVRO issuance, even if his hand did *not* touch Saraa, which it did not (IV RT 280) (an absurd claim that would be false, even if Troy *had* touched her [*see* p. 26].)⁷

⁷ Troy testified: “I slowly move my arm out ... I don’t move it out in one motion, because I’m trying [not] to touch her. ... I then move backwards slightly, because I didn’t expect to be able to make space [by going forward,] because I wasn’t going to touch her. But ... she started to move backwards. So ... [then] I start moving forward.” (II RT 91-2.)

Additional filmed details corroborating that Troy never touched Saraa include, for example, Saraa’s gently removing her hand from Troy’s arm after initially touching it (confirming that she never gripped his arm in an attempt to move it), and Saraa’s unaltered speech as Troy dropped his arm while she was speaking. (Att. D; Aug. 323.)

Saraa further perjured herself when Redmond asked, “[W]hy stay with [Troy] and enter this [March 2020] lease ... [with him]?” (Aug. 84.) Saraa replied, “I was a stay-at-home mom. I didn’t have a job.”(*Id.*) While the Saraa’s absurd duress narrative is addressed below (p. 21), it suffices, here, to note that Saraa later admitted to earning \$100,000 in 2020, that her online professional profile stated she had been employed for eight to ten years, that she was employed for at least a “couple of years” just prior to 2020, and that she earned thousands per month in late-2019. (Aug. 166-7, 189.)

Saraa sunk deeper into perjury as she attempted to minimize the significance of these admissions: she testified that she paid \$30,000 in business expenses in 2020, while her tax return showed only \$3,000 (Aug. 105; IV CT 441-2); she testified that she only saw “one or two clients ...*[per] week*” prior to signing the March 2020 lease, while her texts included, for example, her January 2020 requests that Troy watch their daughter for up to five hours *in a single day*, so that she could work. (JA, pp. 52-4; Aug. 189, 167, emphasis added).⁸

This pattern — perjury, followed by contradictory admissions, followed by additional perjury — soon repeated itself: Saraa testified that, even when busy with work, she *never* left their daughter alone with Troy; however, when Redmond’s immediate interruption indicated that he did not believe her, Saraa quickly stated, “Oh, wait. I’m sorry. I’m thinking now,” then admitted her testimony had been false, and that she left their daughter alone with Troy *every week*. (Aug. 188.) Then came the additional perjury: she testified that she only left Troy alone with their daughter for “an hour, maybe two max” per week — and only when Troy was “in the house” (as she worked from home) — and that she was able to do this because she hired a nanny when her work

⁸ Redmond prevented scrutiny of Saraa’s 2020 income lies. (Aug. 167.)

supposedly got busy in April 2020. (Aug. 189.) Saraa’s “two [hours] max” testimony, and of the idea that she only did a significant number of hours of work beginning in April 2020, have already been disproven. (P. 11.) Meanwhile, other of Saraa’s texts prove (1) that she began looking into hiring a nanny as early as *January* 2020 — right after Troy texted her that he might no longer be able to watch their daughter alone so much); and (2) that Saraa left their daughter alone with Troy *outside* of their home (for example, at the indoor playground Troy testified he often took their daughter to “all the time”). (Reply, pp. 4-5; *e.g.*, JA, pp. 238; III RT 163.) In fact, after Troy left California in mid-2020, Saraa suggested he return so that the two could begin “frequent” exchanges of their daughter between their separate, nearby residences. (Reply, p. 4; JA, p. 59, 278.) Saraa has never disputed that these messages clearly establish her perjury. (Reply, pp. 4-5; OJA, pp. 1-5.)

Saraa further perjured herself by claiming that Troy “tricked [her] into financially caring for him from January until May 2021,” while she “paid for ... food [and] ... electricity,” and while he “earned money ... he ... *kept only to himself*.” (JA, pp. 60, 237, emphasis added.) Meanwhile, Apple Pay records reveal that Troy continuously sent Saraa money during this period — and Saraa regularly sent texts thanking him for doing. (Att. E.) This all contradicted Saraa’s wild claim that Troy “never contributed money to [our daughter],” which was also contradicted by her financial dependence narrative (p. 11) and her mid-2019 Facebook post. (Aug. 56; I CT 117.)

Saraa further perjured herself when she claimed that Troy “financial abuse[d]” and “extort[ed]” her by “demanding” she pay him so he would attend therapy around September 2020. (Aug. 17, 59, 109.) She never explained how Troy, from half-way across the country (I CT 47), could have coerced her into making such payments; however, the

implication was that, unable to leave the relationship, she was compelled to do *something* to stop Troy’s relentless abuse; thus, when Troy supposedly “conditioned” his attendance of therapy sessions upon receiving such payments, she relented. (Aug. 59-60.) Of course, this implication depends on Saraa’s absurd duress narrative (p. 21), and is quite obviously refuted by the fact that she was already free from Troy’s “abuse,” since he left her months earlier. (JA, p. 100; I CT 47.) On top of all this, various of Saraa and Troy’s emails and texts conclusively establish that this therapy was aimed at addressing Saraa’s out-of-control behavior — not Troy’s “abuse.” (Att. B.)⁹ Then there was Saraa’s admission that, on September 15, 2021, she emailed Troy and the therapist **“I do not believe that [Troy is] abusive ... and I would not spend time trying to work on being with [him] ... if I thought [he was]”** (Aug. 154.) Finally, Troy proved that Saraa never paid him to attend therapy (JA, pp. 51-2, 230-5) — an allegation for which she never provided any supporting evidence. Redmond dismissed her allegation as frivolous: “[W]hat would be relevant about [someone saying], ‘Hey, if you want me to go talk to the therapist, you got to pay me [for] my time?’ I don’t see that [as] domestic violence[.]” (Aug. 59.)

Saraa further perjured herself by testifying that Troy, in emails she produced (IV CT 801-2), had attempted to justify the actions he took on April 6, 2021, by using a “cover story” that he had touched her in order to prevent her from irrationally and dangerously running out of their home with their daughter. (Aug. 45-6.) Sara knew these emails showed the opposite: Troy explicitly rejected any such justification before fully explaining his entirely non-abusive actions. (IV CT 801-2)

⁹ Redmond disallowed Troy from testifying about this therapy’s seemingly-positive outcome (which, along with Saraa’s visitation denials [III RT 162-3], caused Troy return to the relationship in November 2020.) (Aug. 257.)

When Redmond seemingly indicated that he believed Troy’s version of how this April 6, 2021, incident unfolded — and that he found unconvincing Saraa’s entirely-uncorroborated testimony about this incident, *and every other incident* — her attorney made a legal claim so absurd that Redmond rolled his eyes in response:

[Redmond:] [W]hen [parents are] having a conversation and one parent says, “I’m done with the conversation,” and the other parent takes him by the shoulders and says, “Wait, we need to talk more about this,” and then [he] pulls back and says, “Not now.” ... [I]f that’s all there was ... [in a years-long] relationship ... that one moment, from your perspective, [would that] be sufficient for a restraining order?

[Attorney:] Absolutely. ...

(IV RT 286, italics added.)¹⁰

Moments after this parody-esque reply, Saraa’s DVRO was denied.

Saraa further perjured herself about May 2, 2021. She alleged that Troy “push[ed] [their bathroom door] three or four times” before he “broke through” it (I CT 21); film shows Troy slowly opening the door in a completely normal manner (Att. G) — and Saraa admitted that she actually never heard or saw Troy open the door, indicating that her description had been nothing more than a complete fabrication. (Aug. 93.)

In another attempt to create a false impression of danger, Saraa claimed she “immediately dialed 911” upon Troy’s entry (I CT 21); film shows she did not even immediately hang up the call she was on, that she did not immediately dial 911 after hanging up that call, and that she

¹⁰ When Redmond rolled his eyes, Saraa’s attorney clarified that he meant the exact opposite of what he said, adding that the hypothetical incident described would be sufficient for DVRO issuance only in the context of “many” acts establishing “a pattern of coercive control [and] intimidation.” (IV RT 287.) It was very common for Saraa and her attorney to immediately contradict themselves when speaking/testifying. (e.g., p. 11; Aug. 70, 110.)

later called police as Troy calmly asked, “What are you calling the police for? You can [] just leave right now [to take the walk you just said you were going to take]; [and] I just told you I could pack” [Att. G.]

Redmond found false Saraa’s claim that Troy “constant[ly] harass[ed]” her while she spoke to 911, noting that Troy showed “restraint,” that he “explain[ed] to the operator [that] everything [wa]s fine,” that he never yelled or threatened Saraa, that he never obstructed her call, that the call was so uneventful the operator put it on hold, and that it “wasn't coming across as if [Saraa] was ... in fear.” (IV RT 303.) Film also disproved Saraa’s claim that “Troy kept trying to follow [her] while the police were there.” (I CT 21; Att. G.)

Saraa’s further perjured herself alleging abusive filming.¹¹

¹¹ For instance, Saraa claimed (1) that she never filmed Troy — which she then admitted was false (Aug. 159-163); (2) that Troy had abused her by filming on May 2, 2021 (I CT 20, Aug. 81) — after which she admitted that she, too, had been filming (Aug. 161-2) (though she refused to produce her film, though it supposedly captured never-seen moments of Troy’s abuse, because she had been filming Troy secretly, as Troy’s undisputed testimony established she had also done in April 2018 (Id. at 237-8)]; her email exposed as perjury her claim that she had asked his permission to film [JA, pp. 61-2]); (3) that Troy had an “obsession” and “fixat[ion]” with filming her, that she had asked him to stop “a million times,” and that he nonetheless filmed her “all of the time,” “keep[ing] her under surveillance” (I CT 20; III RT 230; Aug. 18, 48) — all of which she contradicted when, due to her admissions that she repeatedly filmed Troy, Redmond asked her whether the two “constantly film[ed]” each other, to which Saraa replied, “Absolutely not,” before adding that Troy filmed her only when she was “packing up” to leave the relationship, which she was supposedly too terrified to do (Aug. 172; *see also*, III RT 168-70); and (4) that Troy’s filming made her so “scared” and “intimidat[ed]” that she was unable to leave the relationship (Aug. 95, 84, 76) — which was contradicted not only by the fact that she repeatedly left the relationship (see pp. 5-6), but also by her email stating, “filming is *the* reason I left and ... did not return [on May 2, 2021]” (Aug. 189, emphasis added) (an email that seems to contradict her claim that she was physically and verbally abuse “throughout the relationship” [I CT 20].)

As her abusive filming allegations collapsed amidst her perjury and hypocrisy, Redmond tried to protect her from the fallout by gaslighting the courtroom with the bizarre declaration that Saraa had never made any such allegations. (Aug. 295.)¹²

After Saraa's May 2, 2021, actions caused Troy to permanently end the relationship, Saraa undermined her abuse and duress narratives by admitting that she wanted to reunite with Troy in mid-May. (Aug. 165.) Weeks later, she sent Troy the following texts:

"I would feel comfortable traveling to your location with [our daughter]; "My preference would be for [you] to remain local and to exchange [her] at short intervals"; "I would feel comfortable with ... [you having] overnight [visitation]."

(I CT 78, 100-1.)

Just before discovering that Saraa sent these texts on May 27, 2021 — only five days before filing her DVRO request — Redmond stated:

[Saraa] requested that the child be a protected party ... yet she's talking about [] out-of-state visitation ... the question is whether [she] sees the father as a threat ... If [she sent these texts] right before the restraining request ... it may go to [her] credibility ... [and] motivations.

(II RT 96.)

Saraa never addressed Redmond's comment or explained her texts. In fact, Saraa fraudulently excluded these texts from the exhibit she produced to support additional false extortion allegations.

¹² Redmond's gaslighting was contradicted by the numerous allegations detailed above (p. 15, footnote 11), and by Saraa's allegations that Troy "repeatedly made [her] say false thing film[ing] while he filmed [her] in exchange for [her] being able to hold and nurse [their daughter] (I CT 24) — which she entirely failed to elaborate upon, let alone corroborate, after Troy denied that this ever occurred. (I CT 79-81.)

In fact, even after Redmond's gaslighting, Saraa continued to allege abusive filming: "[K]eeping someone under surveillance ... [is] precluded by *Nadkarni*" (IV RT 290); "[on May 2, 2021, Troy kept Saraa] under surveillance ... [in a manner] specifically prohibited by the Domestic Violence Protection Act." (III RT 233-4.)

Saraa alleged that Troy supposedly threatened to expose her abuse “if she d[id] not give into his demands;” that is, his alleged “demands” that his own child — who has weeped as she begs Saraa to be allowed to visit him amidst the latest abduction — be allowed to visit him. (III RT 232-3.) By producing the genuine record of their May 27, 2021, conversation (*Id.* at 156-161), Troy established (1) that his “demands” for visitation came *after* Saraa’s *offers* of visitation (she even sent an out-of-state visitation schedule link) (*Id.* at 159-60, 163); (2) that Troy’s extortionary “threat” was simply to initiate litigation (whose public record he planned to discuss publicly) (Aug. 329; II RT 108); and (3) that this “threat” was linked not to Saraa’s giving him visitation, but to her obstructing their ability to discuss basic factual matters (III RT 160) (for example, after conditioning certain visitation on their daughter turning ten-years-old, Saraa refused to state the year this would occur; as if to emphasize the baseless absurdity of her litigation, Saraa testified that part of the abuse she “escap[ed]” were Troy’s yes/no questions, such as, “Do you agree that [our daughter] will turn ten in 2027?” [*Id.* 158-9; Aug. 62.])¹³

Such obstructionism was only the tip of the iceberg of Saraa’s post-separation harassment and provocation attempts, all of which failed to elicit even a single abusive act on Troy’s part. Of course, this did not stop Saraa from repeatedly perjuring herself while claiming otherwise. This perjury — which Redmond, the guardian ad litem he appointed, and Saraa’s attorney buttressed with their own lies — will be discussed in future briefing. Here, it suffices to note that Redmond found *none* of Troy’s post-separation actions abusive (*e.g.*, IV RT 303-4), and that he prevented Troy from fully addressing the topic (*e.g.*, J1, pp. 13-17.)

¹³ Redmond noted that Saraa’s sending of an out-of-state visitation link “play[ed] towards [her] credibility.” (III RT 164.)

After losing her DVRO litigation, Saraa’s false claims continued in her reconsideration/new trial motion and hearing. For example, she claimed it “[wa]s not [her] burden to show that [Troy’s] behavior was unreasonable” (I CT 275) — which she asserted in a memo mainly re-alleging that Troy had exerted “coercive control” over her, an allegation she noted required that she prove that Troy engaged in “a pattern of behavior that ... *unreasonably* interfere[d] with [her] free will” (*Id.* at 278-9, emphasis added.) In addition, the nonsensical memo basically alleged that, had Redmond not required her to prove Troy’s unreasonableness — that is, had he simply issued a DVRO against Troy based on Troy’s *reasonable* behavior — she could have carried her burden of merely showing that her peace had been disturbed (by Troy’s reasonable actions). (*E.g., Id.* at 274-5.) In addition to the seeming absurdity of asserting that DVROs can be issued against people who engage in purely reasonable behavior, Saraa’s argument faced three additional problems: (1) Redmond had already found that she had asserted that Troy engaged in behavior which *he never engaged in*, or which Saraa had certainly failed to prove that he engaged in (*e.g., p. 7; p. 7, footnote 3; p. 14; p. 16; V RT 370; IV RT 301*), (2) Redmond had already found that Saraa’s peace had not been disturbed one time during their entire relationship by behavior that Troy was found to actually have engaged in (*e.g., p. 15*), and (3) that *Saraa* was the only one who had clearly engaged in violent and criminal acts (*e.g., p. 9, footnote 6; see also, p. 26*). Thus, Redmond denied Saraa’s motion, as he was legally obligated to do — albeit while erroneously, and without explanation, declaring “There’s a basis for the motion ... [I merely] disagree[] with [Saraa’s] position on it.” (V RT 374.)

As if to emphasize the abusive manner in which she uses DVRO litigation, Saraa filed another fraudulent DVRO in early-2023 — again to obstruct Troy’s efforts to seek legal protection. (Att. C; p. 16-7.)

Hoping to trick a new court into DVRO issuance, Saraa filed in L.A. County (Att. C) — seemingly contradicting her 2022 arguments that she needed to keep her case in Ventura County, where no party lives; rather than in L.A. County, where she has lived since July 2021.¹⁴

In her 2023 DVRO, Saraa perjured herself by (1) combining her already-defeated 2019-2021 allegations into a single fantasy incident, during which she claimed Troy was arrested for choking her, etc.; (2) claiming that Troy illegally threatened and extorted her via text message on May 27, 2021 — despite Redmond already having found this false; and (3) claiming that Troy’s early-2023 Talking Parents messages constituted “violent outbursts ... escalating day-by-day,” “making it clear that he ... *will stop at nothing to kill [her]*” — in messages that the L.A. County court found to be not even abusive, let alone homicidal. (*Id.*) (The L.A. court — seemingly sniffing out her perjury — further found her conglomerate, fantasy incident claims were too uncorroborated to justify the issuance of even temporary orders.) Saraa failed to show up to her scheduled hearing — despite asserting in her filing, “I believe ... my life may be in danger and need court intervention.” (*Id.*)

As will be detailed in subsequent briefing, Saraa continued her perjury during 2022, 2023, and 2024 appellate filings.¹⁵

¹⁴ Saraa wishes to continue the obvious abuse and illegality Ventura County trial and appellate courts have repeatedly endorsed in this case.

¹⁵ This has already been detailed in, for example, Troy’s motions/memos requesting that Saraa and her attorney be sanctioned for filing her rule-violating Respondent’s Brief (whose statement of facts, for example, included *zero* citations to the record — but substantial perjury). (Strike; RB.) This sanction request was denied — in a one sentence footnote, absent explanation. (*Lee*, p. 1, footnote 1.)

III. Saraa's Implausible, Misdescribed, Self-Contradicted, & Entirely Uncorroborated Allegations

Saraa's serious perjury has been conclusively proven — with respect to her April 2018 allegations (pp. 6-7); her July 2019 allegations (pp. 7-8); her December 2019 allegations and violence (pp. 7-10); her 2019/2020 finances (duress narrative) (pp. 11-2); her actions concerning childcare and the “threat” Troy supposedly posed to their daughter (pp. 11-2); her late-2020 financial abuse/extortion allegations (pp. 12-3); her early-2021 financial abuse allegations (p. 12); her general denial of Troy's financial support (*Id.*); her April 2021 abuse allegations (p. 13-4); her May 2, 2021, abuse allegations (pp. 14-5); and her abusive filming allegations (p. 15, footnote 11).¹⁶ Saraa made very few other allegations — and those were all *highly* suspect. (*E.g.*, Aug. 156-8.)

In a completely unbiased and non-corrupt court system, there would be no need to elaborate further upon nearly-endless list of *other* fraudulent acts which have characterized Saraa's DVRO, custody, and child support allegation. Given word count limits, these additional acts of fraud cannot be fully described in this petition. Still, Saraa's fraudulent duress narrative deserves at least an abbreviated discussion.

¹⁶ In addition, it has been established that Saraa perjured herself in her 2023 DVRO filing (pp. 18-9); that she frivolously asserted that Troy abused her via factual yes/no questions (p. 17); that she frivolously (and falsely) alleged that she was financially abused when she paid for therapy sessions she attempted to mischaracterize to support this allegation and her general narratives of abuse and duress (pp. 12-3); that she fraudulently mischaracterized her main July 2019 exhibit (p. 8); and that her reconsideration/new trial motion was based on nonsensical and self-contradicted legal claims that could not have mattered to the outcome of her already-disproven and discredited DVRO even were they true; that *all* of her post-separation abuse allegations were found false (p. 17); and that her entire abuse narrative was found to be undermined by her May 27, 2021, text messages.

On April 27, 2021, Saraa offered Troy 50/50 custody. (JA, p 99.)

Redmond found Saraa’s duress narrative literally unbelievable (V RT 371; IV RT 303), as any rational trier-of-fact would. Above, Saraa’s repeated requests for more children, her denials of Troy’s abusiveness, and her repeatedly-acted upon desires to reunite with Troy have already been discussed. In addition, there was Saraa’s post-separation, May 4, 2021, text to Troy admitting that he never hit, pushed, or kicked her. (I CT 97.)¹⁷ In addition, the economic duress aspect of Saraa’s narrative (p. 11) was undermined by (1) her admission that the doors to her god parents’ multi-million dollar home were always open to her (Aug. 146, 194; III CT 625), (2) that she continued with the relationship well-past when she began making roughly ten-thousand dollars per month in early-2020 (p. 11), and (3) that she even wanted to reunite with Troy midway through 2021, another year in which earned roughly \$100,000 (III CT 507).¹⁸ Meanwhile, Saraa’s damsel-in-distress act — “I didn’t know ... my rights” (*e.g.*, Aug. 84) — was undermined by her admission that she was a licensed social worker specifically trained and knowledgeable about domestic violence police protocol (*Id.* at 120-1); not to mention by her repeated attempts to weaponize the legal system against Troy: by the time she supposedly “mustered the courage ... to ... seek ... protection” in July 2019 (I CT 155), she had already filed secret, aborted litigation against Troy in L.A. in April 2018, and engaged in failed attempts to rope St. Louis police into child abductions. (Aug. 41, 118; JA, p. 96-7.) Her theatrical flight to a domestic violence “shelter” on May 2, 2021, further undermined her claim that she was trapped (I CT 24) — as did her move back into her multi-million dollar home as soon as her free month of rent at the “shelter” was up.

¹⁷ Redmond found that Troy never acted violently. (IV RT 303.)

¹⁸ Saraa lived rent-free at her godparent’s home long before Troy met her, when Troy met her, in April 2018, in July through December 2019, and ever since July 2021. (*E.g.*, *see*, I CT 50; Aug. 194.)

Argument

I. Current Custody Orders Must Be Dissolved Given the Repeated, Undisputed Violations of § 3044

There are few facts to cite, and barely any legal arguments to make, to establish the trial court's repeated violation of § 3044, and that these violations require the reversal of its custody orders — notwithstanding that this petition primarily concerns the reversal of said orders. California's appellate courts have repeatedly held that Cal. Fam. Code § 3044's procedural requirements may not be disregarded; even seemingly trivial violations have been found impermissible and to require the reversal/dissolution of custody orders. (*Noble v. Superior Ct.* (2021) 71 Cal. App. 5th 567; *Jaime G. v. H.L.* (2018) 25 Cal. App. 5th 794; *Abdelqader v. Abraham* (2022) 76 Cal. App. 5th 186; *Christina L. v. Chauncey B.*, (2014) 229 Cal. App. 4th 731; *City & Cnty. of San Francisco v. H.H.* (2022, as modified Mar. 18, 2022) 76 Cal. App. 5th 531; *In re Marriage of Fajota* (2014) 230 Cal. App. 4th 1487; *Ellis v. Lyons*, (2016, as modified, Aug. 11, 2016) 2 Cal. App. 5th 404, 419-20. (Turner, P.J., concurring.); *Celia S. v. Hugo H.* (2016, as modified, Sept. 23, 2016) 3 Cal. App. 5th 655; *F.T. v. L.J.* (2011) 194 Cal. App. 4th 1; *Jason P. v. Danielle S.* (2017) 9 Cal. App. 5th 1000.)

Here, there are few facts to cite, since the trial court made not even the slightest effort to comply with § 3044. (*e.g.*, J1, pp. 4-5, 12-17.) This has never even been disputed by Saraa or any of her attorneys (*E.g.*, Strike) — notwithstanding their overwhelming penchant for lying (*see* pp. 5-21); nor was this disputed by the Court of Appeal. (*Lee.*)

The trial court made no effort to inform Troy of § 3044's existence, and *never* provided him a copy of the act (let alone prior to July 2021 custody mediation), thus violating § 3044(h). The trial court *never* made any determination regarding § 3044's applicability (let alone promptly), thus violating § 3044(g).

Given the filmed and largely-undisputed violence committed by Saraa — and its finding that she committed violence — § 3044 obligated the trial court to either grant Troy sole custody, or to address the factors listed in the § 3044 and explain how Saraa had overcome the presumption against awarding her custody. The trial court’s failure to take either of these actions violated some combination of §§ 3044(a-c, f), depending on how its acts are interpreted.¹⁹

The specific § 3044 violations committed in this case have been found to require custody order reversal.²⁰

¹⁹ Redmond’s choking finding (p. 10, footnote 6) triggered § 3044(a)’s presumption. (*See Los Angeles Cnty. Dep’t of Child. & Fam. Servs. v. Superior Ct.* (2013 as modified Dec. 30, 2013) 222 Cal. App. 4th 149, 159-60 [findings must be supported by inferences that are logical given the whole record.])

That Saraa failed to dispute her additional filmed violence, combined with Redmond’s suggestion of the criminality of such acts, also triggered §3044(a)’s presumption. (P. 10, footnote 6; *see also, Davis v. Judson* (1910) 159 Cal. 121, 113 [un-contradicted testimony should be accepted as proof], and §§ 6203(a), 6203(a)(4), 6320(a)-(c)(3); II RT 88.)

Alternatively, Redmond’s refusal to determine whether Saraa committed this and other crimes were impermissible abdications of his responsibility, under §3044, to make such determinations. (*See Fajota*, 230 Cal. App. 4th at 1499 [§ 3044 applies even where no restraining order has been issued.])

²⁰ “The family court clearly erred when it failed to comply with the [§ 3044(h)] notice requirements.” (*Noble*, 71 Cal. App. 5th at 579.) “[T]he court is required [...] [to] determine whether section 3044 applies before issuing a custody order. [...] Accordingly, we [...] vacate its interim custody orders. (§ 3044(g)).” (*Id.* at 571.) “The section 3044(a) presumption is mandatory [...]” (*Abdelqader*, 76 Cal. App. 5th at 196.)

II. The Denial of Troy’s Fee & Sanction Requests Must Be Reversed Given the Findings that Saraa’s DVRO Litigation was Fraudulent

Redmond knew how to find — albeit falsely and with no explanation — that Saraa’s motion for reconsideration/new trial was non-fraudulent. (P. 18.) This Redmond could not bring himself to do when denying Troy’s Cal. Fam. Code § 6344 prevailing party attorney fee request. The closest he could get was a sentence stating that Troy “contested” Saraa’s DVRO request, and that it took Troy several hearings to disprove and otherwise rebut her allegations (*Lee*, p. 5) — none of which seems to address whether her request, and the allegations upon which it was based, were fraudulent. Most charitably, Redmond’s comment might be interpreted as a finding that Saraa successfully managed not to disprove her own allegations *in her declaration*, wherein she managed to include phrases such as “consistent[] verbal[] abuse[]” (I CT 20), “I was scared” (I CT 21), and “threatened to smear my reputation” — a collection of allegations which, respectively, Saraa entirely failed to support (or even allege), that were found false based on video evidence, and were found false/legal based on a review of her and Troy’s text messages.

Of course, a reviewing court might simply choose to impart a comprehensive non-fraudulence finding to Redmond’s comment (despite it not containing one) based solely on Redmond’s fee denial — but this would be an affirmation based on circular reasoning from Redmond’s essentially conclusory finding, contradicted not only by Redmond’s numerous, unaddressed suggestions of Saraa’s fraudulence (pp. 7-9, 11. 13-17, 21), but also by the overwhelming evidence of criminal fraud. (*Compare, United States v. Gen. Motors Corp.* (1966) 384 U.S. 127, 142 [a reviewing court may disregard conclusory, clearly-erroneous findings irreconcilable with genuine findings of fact.])

III. The Denial of Troy's Fee & Sanction Requests Must Be Reversed Given Saraa's Criminal Perjury, Self-Contradictions & Filmed Violence

While Troy was not required to prove Saraa's fraud to obtain an attorney fee award when his fee award request was denied in March 2022, the Court of Appeal — with no explanation or justification — retroactively applied the since-updated version § 6344 to Troy's case, thus requiring him to prove Saraa's fraud to obtain a fee award. (*Lee*, p. 5.) Neither Saraa nor the Court of Appeal offered any justification for this completely unfair retroactive application of new law; moreover, the Court of Appeal, with less than no explanation, denied Troy's requests that it take notice of additional evidence of Saraa's fraudulence (*Id.* at 6; *see*, p. 26) — evidence that Troy was not previously obligated to produce to obtain an attorney fee award (especially since he had already proven Saraa's obvious fraud), and evidence which he would have been hard-pressed to produce, given the highly-unusual, overwhelming scope of Saraa's multiple years of fraudulent allegations, which were always uncorroborated, and always un-disprovable, except by extensive review of video and communication records, making her abusive litigation particularly harmful and costly to combat, including on appeal. (*See In re Ret. Cases. Eight Coordinated Cases*, (2003) 110 Cal. App. 4th 426, 442–43, internal quotations omitted [“Fairness and public policy may ... require ... exception [to the] retroactive application [of law where it] ... would unfairly undermine the reasonable reliance of parties on the previously existing state of the law ... [in] usual ... cases.”])

Of course, even if the above-mentioned burden is retroactively placed upon Troy, he has clearly proven Saraa's fraud.

IV. The Denial of Troy's Cal. Code Civ. Proc. § 909 Request Constitutes an Abuse of Discretion

The Court of Appeal denied Troy's § 909 request without acknowledgment/while only claiming that the evidence offered was irrelevant to its decision (in other words, that the obviously-relevant evidence offered contradicted that court's desired outcome). (*Lee*, p. 6)

It addressed none of Troy's argument in favor of accepting this evidence; for example:

The truth of statements contained in documents, and their proper interpretation, are subject to judicial notice where such matters are not reasonably disputable (*see Fremont Indem. Co. v. Fremont Gen. Corp.* (2007) 148 Cal. App. 4th 97, 113) ... Sec. 909 empowers this Court to to hear additional evidence/facts in the interests of justice where such facts would help establish the appropriateness of reversing orders of the lower court ... (*See Tupman v. Haberkern* (1929) 208 Cal. 256, 265, 269-70 ... [W]hen the interests of a party who cannot speak for themselves ... [are] at stake, relevant evidence should be considered on appeal, even if not considered by a trial court... (*Conservatorship of Hart* (1991) 228 Cal. App. 3d 1244, 1259-60) ... [I]n this case, "particularly compelling equities" and "a serious breakdown in the administration of justice" make the taking of additional evidence appropriate (*See Conservatorship* 228 Cal. App. 3d at 1256-7, 1259; *see also, Philippine Exp. & Foreign Loan Guarantee Corp. v. Chuidian* (1990, *reh'g denied and opinion modified* Apr. 13, 1990) 218 Cal. App. 3d 1058, 1090 [describing the importance of due process denials to new evidence consideration decisions]; *see also, In re Marriage of Rhoades* (1984) 157 Cal. App. 3d 169, 173...

(JA, p. 28-34.)

Saraa's filmed violence further suggests the propriety of considering the full evidence of her perjury. (*K.L. v. R.H.* (2021) 70 Cal. App. 5th 965, 982. [It is essential that courts rigorously evaluate evidence to ensure that the filing party has, in fact, been victimized, particularly when it is evident that that acts committed by that party are significantly more violent than acts allegedly committed by other party.]])

Necessity for Review

In a case such as this, the grounds and necessity for review are clear. First, the § 3044 decision creates a lack of uniformity in California law (and the Court of Appeal denied Troy's rehearing petition).

Second, the question of law could not be more important, as the the fundamental Constitutional rights of California parents and children are all implicated. (*See, e.g., Troxel v. Granville* (2000) 530 U.S. 57, 72.) California's legislature has repeatedly acted to prevent state courts from perpetrating/facilitating post-separation abuse. (*E.g., see* §§ 3044, 6344.)

Here, Troy has been left with no actual path to reunite with his daughter, after having already proven his non-abusiveness.²¹

Third, the rule of law itself is implicated, given that unambiguous, seemingly-settled law has been disregarded by the Court of Appeal. (*See Welch v. Texas Dep't of Highways & Pub. Transp.* (1987) 483 U.S. 468, 478; *Lockyer v. City & Cnty. of San Francisco* (2004) 33 Cal. 4th 1055, 1068.) That court's nefarious use of depublication to create law that only applies to arbitrarily targeted litigants should be curtailed before it, too, undermines the rule of law.

²¹ In short, Troy was ordered to attend reunification therapy — because he once used a swear word while witnessing his daughter weep as she begged to be allowed to see him, and because he walked away from Saraa moments after she finally stopping battering him as he held their then two-year-old daughter. However, the appointed therapist abandoned his appointment after realizing that he would either have to (1) engage in patently unnecessary therapy that was clearly being used to extort and abuse Troy and his daughter (a violation of the therapist's professional ethics that would immediately expose him to malpractice and/or negligence liability), or (2) inform the appointing trial court that its therapy and custody orders were patently illegal and abusive (which would likely end the therapist's ability to receive court appointments). Any subsequently-appointed therapist will face the same professional dilemma, which may partly explain why the appointed guardian ad litem has done *nothing* to facilitate the appointment of an alternative therapist. (*See, e.g.,* JA, pp. 40-1)

Fourth, the Constitution's due process and equal protection clauses are implicated by the illegal, anti-democratic, and likely-racist acts taken by the Court of Appeal.

Finally, given California and the nation's perhaps-justified expanding definitions of abuse, refusing to sanction obvious perpetrators of fraudulent litigation abuse — and rewarding them with illegal grants of custody — not only directly contributes to abuse, but is also likely to contribute to a backlash against the outlawing of genuinely abusive acts that have only been outlawed relatively recently. In this specific case, it a situation has been created where, for example, Saraa has, in her latest appellate filing, claimed that *she* is being persecuted — merely by Troy's attempts to seek justice, through appellate and trial courts, for her largely-undenied abuse. That a criminal like Saraa has been so emboldened is a sure sign of a deep pathology in Ventura County courts; such pathology should be addressed by this Court, so that the broader society does not mis-address these important matters.

—

The Second District's March 18, 2024, summary denial of Troy's rehearing petition caused him to become physically ill for several weeks.²² For Troy — a non-practicing attorney and full-time LSAT, law school, and bar exam tutor who helps usher prospective attorneys into the legal profession — watching *multiple* California judges and commissioners intentionally disregard state law has been literally sickening. His illness delayed this filing, which Troy asks this Court accept pursuant to Cal. R. Ct. 8.500(e)(2), 8.512(c)(1).

²² Regarding litigation abuse and the institutional betrayal experienced by victims of abusive family courts, see Lisa A. Tucker's 2021 article, *The (E)x Factor: Addressing Trauma from Post-Separation Domestic Violence As **Judicial Terrorism***. (99 Wash. U.L. Rev. 339, 367.)

Attachments

Att. A: Saraa's April 2018 Apology; Related Messages, Testimony



SD Lee

April 22 at 9:39am · 📍

Holy shit. I am fucking self-destructive.

First, here is what I told my partner I would post publicly on facebook last night:

--

Yesterday Tundra and I flew home to Los Angeles. I intended to remain there permanently, away from Tundra's father. I told her father that I would bring Tundra to see him before we left Chicago. I didn't do that.

This wasn't the first time I failed to follow through with commitments I made to my partner. Also, during our relationship, I lied to my partner, I failed to be transparent with him about my thoughts and worries, I jumped to unreasonably negative and unwarranted conclusions about his actions and motivations, and I emotionally withdrew from him based on trivial disagreements which were completely unrelated to our lives or our relationship. Every time I engaged in such self-defeating behaviors, I eroded the trust between us, and triggered emotionally damaging conflict.

The children of addicts community would probably say that my behaviors were manifestations of behavioral patterns I developed in response to the difficult circumstances I faced as a child living without fully available parents.

So that Tundra can have a two-parent home, and so that I do not let the relationship which I've always wanted slip through my fingers, I want to start being more honest and reliable. I do not want to let my sometimes difficult past dictate my future.

I am posting this so that I can start to rebuild trust between my partner and myself, so that I can perhaps receive help and support in my future efforts, and in the hope that sharing my story will do something to help others dealing with similar problems.

--

I committed to post the above message because my partner and I were discussing what I could do to restore his trust in me, and I suggested and offered that I write and post something like the above.

But guess what? Last night, I told him that I had posted it. And I had. But I also made it visible only to him. In other words, I turned an act which was supposed to restore his trust in me into another act of me lying to him.

This morning he caught in my lie. He always does. He texted me "Omg. You didn't post it publicly." I replied: "I don't post anything publicly." Which is true (basically). But it was a truth I used to deceive. I was trying to mask the real truth (that I had only made it visible to him), with the superficial truth that I don't technically post anything completely publicly (except a few pictures; I generally post things so that only all my friends can see them). I didn't want to address the real issue. I wanted to avoid it — without having to technically lie to do so. I continued texting him: "You mean [you want me to] make it global? Not just friends? Is that what you mean?"

He caught me in my lies about my lie.

I want to stop. I believe I do want to stop. He thinks that maybe I did not even want a trusting relationship (in other words, a functional, capable-of-existing relationship). He thinks that maybe I just wanted a child, and to live with my giving, generous (and unknowingly enabling) god-parents after getting my child. But I do want to stop.

(Readable copy of III CT 730-2)

[Excerpts of Troy/Saraa's April 2018 messages:]

[Troy:] Saraa leaves with Tundra as Troy asks that she stay ... Saraa then PROPOSED to publicly admit to lying and stuff by posting something on Facebook. Troy wasn't sure whether it was a good idea; but was open to seeing what Saraa would come up with, and then assessing [it] ... Saraa wrote a bunch of stuff. Troy rejected [it] ... At which point Saraa ... wrote a long list of actual lies and stuff ... Troy ... condensed it into a version that Saraa thought was gentle and sweet. ... Saraa then lied (chose to engage in manipulative efforts control Troy ...) saying she posted it; and she chose not to back down [from] the lie when she was confronted ... Saraa ... agreed to post something new, which she new was going to be somewhat harsher; she chose to let Troy post it, which she was going to suggest anyway. ... you had COMPLETE control over that posting. ... Then Saraa chose to keep it up, hour

[Continued on next page]

after hour. ... Then Saraa chose to take it down when she felt it had served its purpose (Troy had already advised this same course of action, but Saraa hadn't read those texts; this was another of her independent, completely voluntary decisions) ... I think it's self-evident that I didn't hurt you; that you chose to hurt yourself, and that you did it to benefit yourself. ...

[Saraa:] Yes I offered to redeem the relationship. ... I want[ed] that so much **I [was] willing to hurt myself ... So we are both implicated... because ... I was willing to do it.**

[Troy:] It convinced me that you were not lying about ... wanting to address your flaws

(JA. Pp. 120-131)

[Excerpts of Troy/Christine Sorgi's April 2018 messages — Chris is Saraa's godmother:]

[Troy:] Here are some questions whose answers [from Saraa] would best help you gain the information which is necessary to offer the best help [to Saraa]: 1. What information is available about children of addicts? 2. Have you noticed and changed other parts of your self that were unhelpful and developed in your state of childhood trauma? 3. Was every word of what you posted true? Did anyone force you to post it? Did anyone force you not to delete it? 4. What benefits and risks did you imagine possibly resulting from you sharing this publicly? ... 7. Why did you think Troy's summary of your writings was sweet, gentle, and thoughtful? Did you say the following, upon seeing his summary?: "This is actually very soft and kind." "It reflects its author" + "If this is a reflection of who you actually are I certainly have missed the forest for the trees...or the trees for the forest." 8. Why didn't you tell me about your issues before? Was it because you were scared that I wouldn't understand? Were you scared I'd reject you? Were you unaware of the role you were playing?...

Christine: I hope you will take this time to reflect on your own issues also.

[Troy:] [M]y mother was not a drug addict, and my father did not hate the color of my skin. ... [I]t's understandable that your first response is to point my finger away from Saraa ... and towards me. I just hope your second response is to get the information you need, from Saraa, to be able to best help her [a]nd Tundra ... because I love them both.

(JA. Pp. 120-131)

[Excerpts of Saraa's testimony re: April 2018:]

[Saraa:] Saying that I'm in the children of addicts community, that's not something I would post about. Self-defeating behaviors. I eroded the trust between us and triggered conflict. That's not my perception of what happened between us at that time. I mean, I would never write all of these things. ...

[Saraa's attorney]: My question was how did you find out the post and you said your godmother.
Saraa: Yes. ...

[Troy's attorney]: What did you agree to [include] in a public post?

[Saraa:] I don't recall every word, but it was something along the lines of "I'm growing as a person and my partner and I are working things out." ...

Commissioner Redmond: But you agreed... to make a public post knowing it was going to be about your relationship?

Saraa: Not in this way, no. I thought it would just be something -- something light about — just something self-reflective about wanting to grow as a person ...

(JA. Pp. 120-131)

Att. B: Messages/Testimony Re: Saraa's Therapy/Support Groups

[Troy to Saraa and therapist; September 2020:] You will not rewire your brain overnight. It will take many years of effort to [un]do [your] trauma (and the brainwashing which you've latched onto due to your ... trauma). In the meantime, it is *unacceptable* for you to continue taking actions based on your delusions. Your delusion-based actions are dangerous, disrespectful, and corrosive to our relationship. I will no longer tolerate them — at all. I will inform you that you are engaging in them and then, knowing that you are delusional, you will understand that you will have to stop doing what you're doing *despite* believing your actions are logical, rational, safe, justified, etc. Or [] we can just not interact and [not] have a relationship. **I will no longer tolerate your abuse.**

[Saraa to Troy and therapist; September 2020:] **I'm willing to accept that ... how I perceive your actions, is not accurate — delusions or strong misperceptions.** I am willing to commit to therapy that includes examining my perceptions and working on them. to

[Troy, to Saraa and therapist; October 2020:] After the last session, Saraa asked me something like: "So, do you feel like 'I told you so; like you've been telling me that I have delusions this whole time, like you already knew all this stuff?'" Essentially, she is/was beginning to see that about 98% of our problems originate with her delusions and whatnot. My thought in response was "duh/of course" — but, I mean, it was too obvious to even express; plus, I have no interest in gloating or "I told you so"...

[Troy, to Saraa and therapist; November 2020:] I mentioned last night that Saraa, for seemingly the first time in our relationship, is being consistently kind, non-delusional, etc. ...

[Saraa to Troy; November 2020:] I am committed to the process of ... changing ... myself to ... [en]sure ... better interactions and ... a different future.

[Troy, to Saraa and therapist, November 2021:] ... Saraa ... said that she is willing to acknowledge her disability, and is willing to commit to continually managing her disability by a multiple-times-per-day practice that she hopes to develop with your help, Dr. Morjal.

(JA, pp. 164-79; Aug. 155)

[Saraa to Troy, Jan 2020:] Milestone: I'm 7% into the dbt book! So far very useful." [...] [Saraa sends complex trauma article to Troy] "It is a condition. I'm focusing on my emotional health and keeping supports in place so that this isn't constantly the reality." [...]

[Saraa to Troy, Feb. 2020:] Man. I feel like life is so good. [...] Thank you so much for making this possible for me. [...] Thank you [...] letting me hav[e] an opportunity to develop some more of my own internal resources. I'm just really so happy and grateful. [...] Even with tons of money I couldn't have done this for myself. [...] So. Thank you."

(JA, pp. 153-4)

f. Give more details about how the person in (2) was abusive on this day. Details can include what was said, done, or sent to you (examples: text messages, emails, or pictures), how often something happened, etc.
 Respondent sent me several threatening messages saying that, "time's almost up." He said that consequences are coming, and he said, "this is your last warning." I am afraid for my life and my daughter's life as well. His anger is escalating and mentally abusive towards me. He is ramping up a violent tone and making it clear that he would harm us and will stop at nothing to kill me. He has said hurtful and hateful things that are frightening us to the point that I truly believe that he will carry out his threat saying, "times almost up and there will be consequences." I believe that my life may be in danger and need court intervention. The messages are violent outbursts that are escalating day-by-day with anger. I am afraid for my life.

"SEE ATTACHED EXHIBITS OF TEXT MESSAGE VIA TP FROM RESPONDENT."

g. How often has the person in (2) abused you like this?
 Just this once 2-5 times Weekly Other: _____

Give dates or estimates of when it happened, if known:
 1/24, 1/25 recenely prior to that is was in December 12/6, 12/25

No Yes (If yes, describe harm):
 He threatened to destroy me if I didn't give in to his demands. He made a fake website online and said he would ruin my life and career.

e. Did the police come? I don't know No Yes (If the police gave you a restraining order, list it in (4).)

f. Give more details about how the person in (2) was abusive on this day. Details can include what was said, done, or sent to you (examples: text messages, emails, or pictures), how often something happened, etc.
 Respondent sent me a message, and he said if I don't give in to his demands and turn over the child that he would stop at nothing to ruin my life. He said, "what you will experience will be nothing like anything you have ever experienced." He escalated his threat and made a fake website about me and posted it online and used my name to ruin my professional career. He then said, "allow our daughter to see me and everything will be fine for you." His psychotic behavior is scary. He told me, "your life is about to take a big turn for the worst." I believe that he will harm me and our daughter. He also said, "don't allow that and everything will go very, very, badley for you, I'm 100% done playing games with you." The Respondent has made his threats clear that he will act on them. I need protection from the court, my life is in danger.

No Yes (If yes, describe harm):
 RESPONDENT CAUSE PHYSICAL HARM, HE CHOKED ME AND HELD ME HOSTAGE. HE CAUSED INJURY TO FOOT AND BACK.

e. Did the police come? I don't know No Yes (If the police gave you a restraining order, list it in (4).)

f. Give more details about how the person in (2) was abusive on this day. Details can include what was said, done, or sent to you (examples: text messages, emails, or pictures), how often something happened, etc.
 RESOINDENT WAS ARRESTED AT THAT TIME. RESPONDENT CAUSE PHYSICAL HARM, HE CHOKED ME AND HELD ME HOSTAGE. HE CAUSED INJURY TO FOOT AND BACK.

FCS Mediation APPT: 2/10/23 @ 3:00 pm by videoconference
 (4) Temporary Restraining Orders (Any orders granted are attached on form DV-110.)

a. Temporary Restraining Orders (any order requested under Family Code section 6320):

(Check one):

- (1) All granted until the court hearing.
- (2) All denied until the court hearing. (Reasons for denial are given below in b.)
- (3) Partly granted and partly denied until the court hearing. (Reasons for denial are given below in b.)

b. Reasons for denial of some or all of the orders requested on form DV-100.

- (1) The facts given in the request (form DV-100) do not show reasonable proof of a past act or acts of abuse. (Family Code sections 6300, 6320, and 6320.5.) *in part*
- (2) The facts given in the request do not give enough detail about the most recent incidents of abuse, including what happened, the dates, who did what to whom, or any injuries or history of abuse. *in part*
- (3) Other reasons for denial:

NO TEMPORARY ORDERS ISSUED

Att. D: Saraa's Filmed December 2019 Attack

Trial Court Exhibit: "Respondent's Exhibit J (November 2019 Video)"

Att. E: Troys' 2021 Payments; Saraa's Related Messages & Perjury

Sat, Dec 26, 6:22 AM

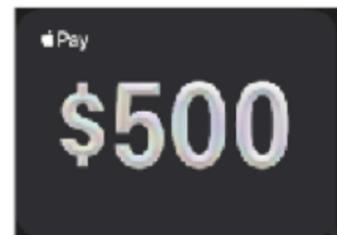
Thank you! I'm on a call until 9am then I'm free for the day.

Sat, Mar 20, 6:51 PM

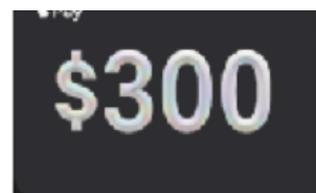


Thank you!!!

Thu, Apr 1, 5:38 AM

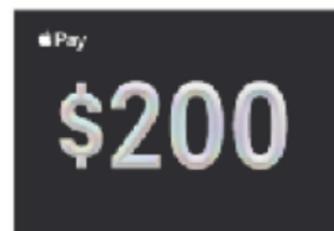


Thank you! I'll look at the question!



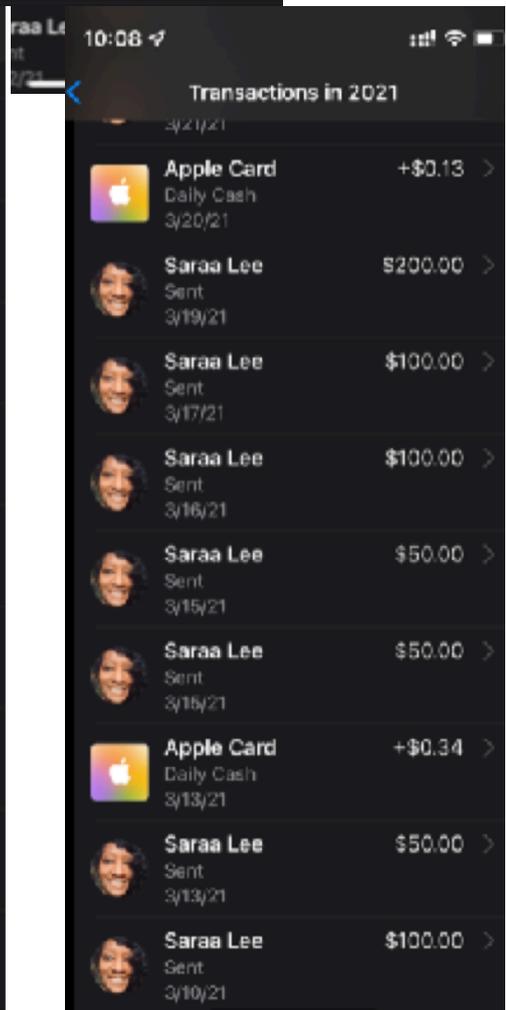
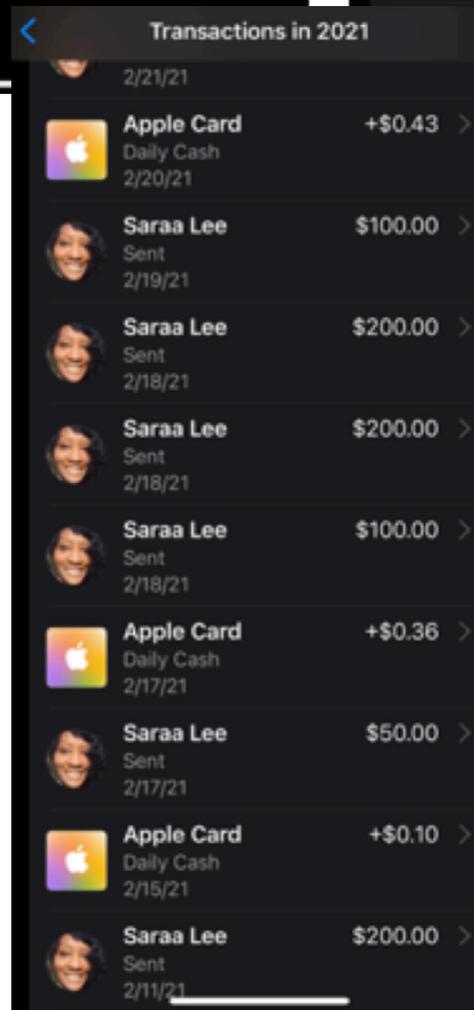
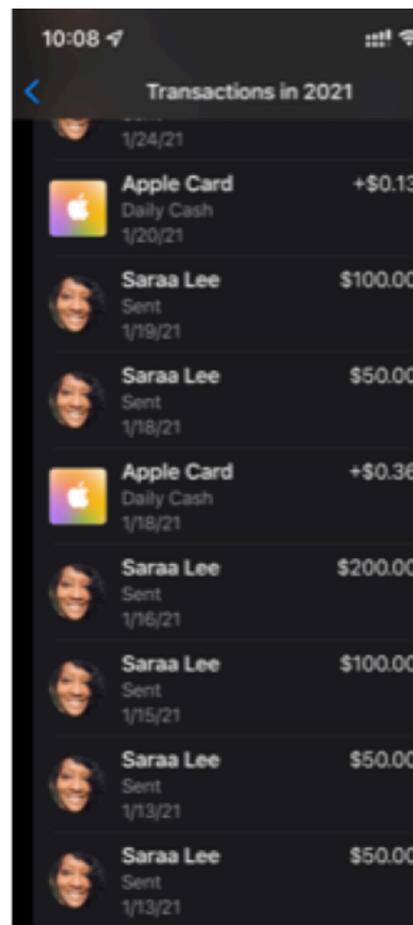
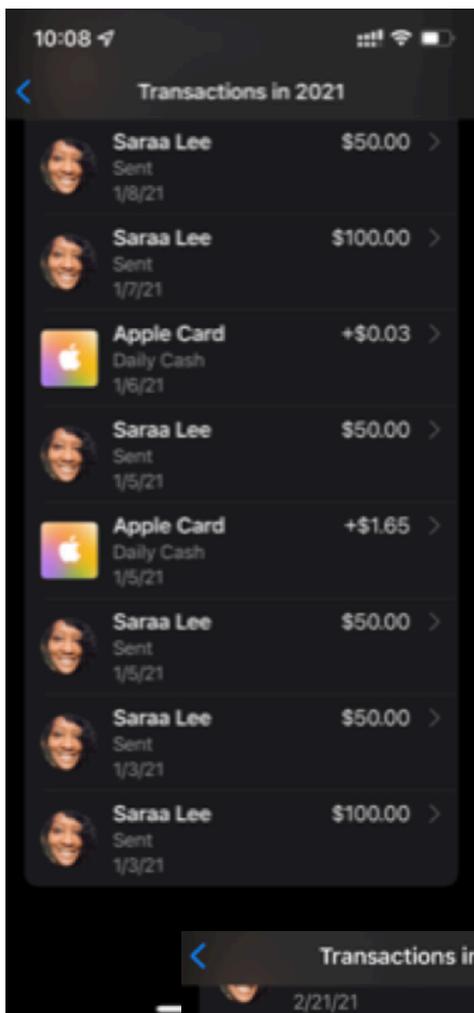
Thank you!

Sun, Apr 25, 5:17 AM



Thu, Feb 11, 6:41 AM

Thank you, love.



Att. F: [Intentionally Left Blank]

Att. G: Film of May 2, 2021

Trial Court Exhibits: "Respondent's Exhibit M ('May 2, 1st video') & "Respondent's Exhibit B ('May 2nd police')

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

SARAA DORIS LEE,
Plaintiff and Respondent,

v.

TROY PASULKA,
Defendant and Appellant.

2d Civil No. B320206
(Super. Ct. No. D401660)
(Ventura County)

COURT OF APPEAL – SECOND DIST.

FILED

Feb 26, 2024

EVA McCLINTOCK, Clerk

Adriana Winters Deputy Clerk

Troy Pasulka appeals from a child custody order awarding Saraa Lee sole custody of their daughter and determining Pasulka’s visitation rights. Pasulka contends the trial court should have granted him sole custody, erred in denying him attorney’s fees, and erred in denying sanctions against Lee. We affirm.¹

¹ We deny Pasulka’s motion to strike the respondent’s brief and request for sanctions.

FACTS AND PROCEDURAL HISTORY

Pasulka and Lee were previously in a relationship and had one daughter, T.P., together. In June 2021, Lee requested a domestic violence restraining order (DVRO) protecting her and T.P. from Pasulka. Lee also indicated she wanted a child custody and visitation order.

At the DVRO hearing in November 2021, the parties presented evidence, including several videos and Pasulka's testimony. The trial court denied the DVRO, finding Lee did not meet her burden of proof to support a DVRO pursuant to Family Code² section 6320. However, the court temporarily granted sole legal and physical custody to Lee. As to Pasulka's visitation rights, the court ordered supervised visits up to three times per week, up to an hour per visit in person or on Zoom, a video conferencing platform. T.P. was four years old at the time.

The court explained that these visits would have to be supervised because Pasulka exhibited conduct over the course of the hearing that caused the court to be "concerned with the emotional well[-]being of [T.P.]." The court noted that one video reflected his "lack of emotional control and profanity in the presence of the child," and showed that he "neglect[ed] that crying, screaming child, and took no action to stabilize the child." The court further noted that Pasulka had said "harsh things" about Lee in the presence of T.P., which upset her greatly.

The court stated that the finality of the temporary custody and visitation orders would depend on a future review hearing regarding compliance with the orders. The court instructed Pasulka that if he wanted "to evolve from sole legal and

² Further unspecified statutory references are to the Family Code.

supervised visitation back to the joint custody scenario, [he has] to demonstrate trust” and “demonstrate that if the child is in [his] presence, that [he and Lee] can communicate and get along greatly.” The court further instructed Pasulka that by the next review hearing, he needed to obtain a letter showing he participated in counseling and demonstrate he could have positive interactions with T.P. during visits.

Lee moved to vacate the denial of her DVRO or, alternatively, secure a new trial or reconsideration of the denial of her DVRO. Pasulka moved for attorney’s fees and costs as the prevailing party in the DVRO proceedings. He also moved for sanctions, arguing that Lee’s motion for reconsideration was frivolous and in bad faith. The trial court denied all motions. The court described its decision regarding the DVRO as a “contested issue.” And while it acknowledged there was “a basis for the motion to reconsider,” the court ultimately disagreed with Lee’s position. It noted: “There were definitely facts alleged by each side that needed to be played out, litigated, determined, and that takes time.” The court also found that the parties were of “equal potential income scenarios” and ordered them to bear their own costs.

On March 14, 2022, the trial court held the review hearing regarding compliance with the temporary custody and visitation orders. The court found that Pasulka had not exercised any of his visitation rights since the November 2021 DVRO hearing. The court ordered Pasulka’s visitation with T.P. to be facilitated by a licensed therapist in a therapeutic setting. With those modifications, the court ordered that the custody and visitation orders from November 2021 remain in full force and effect.

DISCUSSION³

Custody and visitation order

Pasulka contends he should have been granted sole custody and that the trial court “disregarded” the law. We disagree.

We review the trial court’s custody determination for an abuse of discretion. (*Holsinger v. Holsinger* (1955) 44 Cal.2d 132, 135.) We will not disturb the ruling unless the court exercised its discretion in an arbitrary, whimsical, or capricious manner. (*In re Marriage of Battenburg* (1994) 28 Cal.App.4th 1338, 1343.)

Here, Pasulka does not demonstrate the trial court exercised its discretion in an arbitrary or capricious manner. Nor does he demonstrate that the court disregarded the law. In granting Lee sole custody, the court considered extensive evidence of the parties’ relationship, including videos and Pasulka’s testimony. At the conclusion of the DVRO hearing, the court explained it was awarding sole legal and physical custody to Lee. The court ordered supervised visitation based on Pasulka’s behavior exhibited throughout the proceedings and the videos. Furthermore, during the review period, Pasulka did not participate in supervised visits with T.P. or obtain a letter showing he participated in counseling as ordered by the court. There was no abuse of discretion in ordering sole custody to Lee.

³ Lee moved to dismiss the appeal on the grounds that the appeal was untimely and the disentitlement doctrine precluded the appeal. We deny these motions. We construe the notice of appeal as filed from the final custody and visitation order and review the appeal on the merits.

Attorney's fees

Pasulka also contends the trial court erred in denying him attorney's fees as the prevailing party in the DVRO proceedings. We again disagree.

Section 6344, subdivision (b) provides: "After notice and a hearing, the court, upon request, may issue an order for the payment of attorney's fees and costs for a prevailing respondent only if the respondent establishes by a preponderance of the evidence that the petition or request is frivolous or solely intended to abuse, intimidate, or cause unnecessary delay." We review the trial court's denial of attorney's fees for an abuse of discretion. (*Loeffler v. Medina* (2009) 174 Cal.App.4th 1495, 1509.)

The trial court did not abuse its discretion in denying Pasulka attorney's fees. As the prevailing respondent in the DVRO proceedings, Pasulka was required to show that the DVRO was "frivolous or solely intended to abuse, intimidate, or cause unnecessary delay." (§ 6344, subd. (b).) He did not carry his burden. As the trial court observed, the determination of whether there was sufficient evidence to sustain a DVRO was a "contested issue" that required the facts to be "played out, litigated, determined" in a multi-day court proceeding.

Sanctions

Pasulka argues the trial court erred in denying sanctions (§ 271) against Lee for her unsuccessful motion for reconsideration of the DVRO denial. We review the trial court's denial of monetary sanctions for an abuse of discretion. (*In re Marriage of Blake & Langer* (2022) 85 Cal.App.5th 300, 308.)

We conclude there was no abuse of discretion. In her motion for reconsideration, Lee argued the court's denial of her

DVRO was based, in part, on legal authority that was now depublished. A change in law is an appropriate basis for a motion for reconsideration. (See *State of California v. Superior Court (Flynn)* (2016) 4 Cal.App.5th 94, 100; Code Civ. Proc., § 1008, subd. (c).) As the trial court recognized, there was “a basis for the motion to reconsider.” Because he did not show the motion for reconsideration was frivolous, there was no abuse of discretion in denying Pasulka’s request for sanctions.⁴

DISPOSITION

The judgment is affirmed. Lee shall recover her costs on appeal.

NOT TO BE PUBLISHED.

BALTODANO, J.

We concur:

YEGAN, Acting P. J.

CODY, J.

⁴ We deny Lee’s request for judicial notice filed October 24, 2023, and Pasulka’s request for judicial notice filed December 11, 2023, because they are not relevant to our decision. (*Soukup v. Law Offices of Herbert Hafif* (2006) 39 Cal.4th 260, 295, fn. 21.) We also deny Pasulka’s requests for judicial notice received on February 5 and 13, 2024, and filed on Feb 13, 2024, because the documents were not considered by the trial court and are not relevant to our decision.

William R. Redmond and R. Paul Kawai, Commissioners

Superior Court County of Ventura

Troy Pasulka, in pro. per., for Defendant and Appellant.
Law Offices of J. Ellie Sweeny and J. Ellie Sweeney for
Plaintiff and Respondent.

Word Count Certification

Pursuant to rule 8.204(c) of the California Rules of Court, I hereby certify that this brief contains fewer than 8,400 words, including footnotes. In making this certification, I have relied on the word count of the Pages computer program used to prepare the brief.

Troy Pasulka

I declared everything above and below is true upon penalty of perjury.

Signed April 25, 2024, by Troy Pasulka