

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 09/05/23 TIME: 9:00 A.M. DEPT: K CASE NO: FL1800669

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER:

CLERK: JENN CHARIFA

PETITIONER: FIONA GILLAN

vs.

DEFENDANT: CHARLES WRIGHT

NATURE OF PROCEEDINGS: MOTION – ENFORCE JUDGMENT [PETR] FIONA GILLAN

RULING

Continued to November 28, 2023, at 9:00 am in Department K.

TEMPORARILY, under current orders, litigants who require the assistance of a Spanish language interpreter shall appear in person. Interpreter services via video technology are currently not available.

Any party contesting the ruling and requesting oral argument shall appear in person or remotely through Zoom either by video or telephone. Please follow the guidelines set forth on the court website at www.marin.courts.ca.gov

The Zoom appearance information is as follows:

September 2023 at 09:00 AM

Join Zoom Meeting

<https://www.zoomgov.com/j/1603866274?pwd=TG1WbGdobnlvRDVjYWRTGTF14TTAyZz09>

Meeting ID: 160 386 6274

Passcode: 268524

If you are only able to appear by phone you may dial the phone number below, follow the prompts and enter the meeting ID and passcode.

+1-669-254-5252 US (San Jose)

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 09/05/23 TIME: 9:00 A.M. DEPT: K CASE NO: FL1901256

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER:

CLERK: JENN CHARIFA

PETITIONER: MARCIA MCGOVERN

and

RESPONDENT: DAVID STOLLER

NATURE OF PROCEEDINGS: REQUEST FOR ORDER – OTHER: ENFORCEMENT OF JUDGMENT 5/23/23; SANCTIONS; SEE ATTACHMENT 10

RULING

Wife filed a Request for Order (“RFO”) for enforcement of prior orders and the judgment. She also requests sanctions pursuant to Family Code section 271. At issue is the transfer of an IRA account and two other brokerage accounts at Raymond James. Wife asserts that Husband has blocked or otherwise prevented her from receiving those accounts, and that he also improperly transferred or otherwise misinterpreted the order to provide her with \$150,000 instead of \$150,000 of shares in the IRA account.

Husband disputes Wife’s statements regarding the division of the accounts and argues that Wife can easily accomplish receipt of her assets by following the Raymond James’ instructions to open an account for the purpose of transferring the funds from the community account to Wife’s new account. He requests an order for enforcement of the judgment regarding Wife’s need to remove her name from the 32 Heron deed.

The parties’ judgment designates three Raymond James accounts which are subject to division. This includes the IRA account XXXXX1369.

On May 5, 2023, the parties entered into a stipulation and order regarding the division of the IRA account, which defined Raymond James & Associates as the Custodian of the account (“May 5 Order”). As part of the May 5 Order, Wife was awarded 50% of the account plus an additional \$150,000 “as of the Transfer Date” and the amount awarded was to be taken on a pro-rata basis from all holdings in Husband’s account. The May 5 Order also states that the parties are ordered to “prepare, execute or otherwise comply with all requests of Custodian which may be necessary to carry out the terms of this Order.” Paragraph 15 makes clear that the court retains jurisdiction to enforce and clarify its provisions and to amend the order for any purpose.

At issue is what requests have been made by the Custodian to carry out the terms of the Order, and whether the parties have complied with these requests. Other than Husband and Wife's conflicting statements, the court does not have information from the Custodian to determine whether to amend or clarify the May 5 Order. Is it true as Husband suggests, that Wife simply has to open a temporary Raymond James' account to effectuate the process and that this can be accomplished in one day? Or is Wife correct that she has been stymied from opening an account by Raymond James?

Additionally, the court does not have sufficient information from the Custodian as to whether there are issues with the division of the account to include \$150,000 as of the transfer date on a pro-rata basis, as Husband has suggested.

This matter is continued to September 26, 2023, for the parties to submit additional information, including sworn declarations or other evidence, from the Custodian (or others) attesting to the division of, and instructions provided for the division of the accounts, including the IRA account XXXXX1369. All additional requests, including Husband's request for enforcement of the judgment for Wife to sign the Heron deed, and Wife's sanctions shall also be continued to September 26, 2023. The parties are advised to immediately comply with the provisions of the judgment.

The court shall prepare the Findings and Order After Hearing.

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 09/05/23 TIME: 9:00 A.M. DEPT: K CASE NO: FL2301828

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER:

CLERK: JENN CHARIFA

PETITIONER: MARIA DOLORES
BERMUDEZ ZAVALA

and

RESPONDENT: MARCO ANTONIO
JIMENEZ MOYA

NATURE OF PROCEEDINGS: REQUEST FOR ORDER – CHILD
CUSTODY/VISITATION; PROPERTY CONTROL; OTHER: REBUT FAM. CODE 3044

RULING

Mother filed a Request for Order (“RFO”) for custody and visitation of Nicolas (DOB 10/10/08) and Angela (DOB 9/22/15). Mother asks for sole custody and a visitation schedule in which Father sees the children on Thursday, Friday, Saturday, and Sunday from 4 until 8 pm. The parties were referred to Family Court Services (“FCS”) following the issuance of a restraining order in which Mother is a protected party. Father was arrested on April 21, 2022, and a criminal protective order was issued.

Under Family Code Section 3044, there is a mandatory presumption that a victim of domestic violence shall have sole custody of the children. That presumption is rebuttable where the perpetrator of domestic violence can show that sole custody to the victim is not in the best interests of the children. Additionally, the perpetrator must prove other factors including whether the perpetrator has completed a batterer’s program or a parenting class or has successfully completed probation.

Father is on the verge of completing his batterer’s treatment program. He has made enormous strides in recognizing the harm he perpetrated. Mother continues to voice concerns about Father including how to coparent with him given the three-year restraining order. The court has considered the presumption as well as the best interests of the children including their age and need to spend time with Father.

In light of the above, the court considers that Father has overcome the presumption for legal custody, but that the children shall remain primarily with Mother. The court adopts the recommendations of Family Court Services (“FCS”) as modified, and set forth below:

1. The parties shall have joint legal custody of the children. Father must continue however, to abide by the criminal protective order, and he may only communicate with Mother for purposes of exchanging the children. All such contact must be peaceful and conform to the restrictions set forth in the criminal protective order.
2. Mother shall continue to have sole physical custody of both children.
3. Both children shall continue to live with Mother and shall be with Father every Thursday and Friday from after school until 8:00 p.m.
4. Any additional time for either child to be with Father, or any changes to the schedule, shall occur as agreed upon by the parents.
5. Father shall not consume **any** alcohol while the children are in his care, or 24 hours prior.
6. The children shall be exposed to peaceful contact only between the parents.
7. Neither parent shall make any disparaging comments about the other parent in the presence of the children or allow others to do so.
8. Neither parent shall discuss court issues or other adult matters in the presence of the children.
9. Mother shall get Nicolas into counseling, and both parents shall follow any recommendations made by the counselor.
10. Both parents shall have reasonable, unrestricted phone contact with both children.
11. Father may have a civil standby to retrieve his belongings.
12. All other orders not in conflict herein shall remain in effect.

The court shall prepare the Findings and Order After Hearing.

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