

ATTORNEY OR PARTY WITHOUT ATTORNEY (name, State Bar number, and address): Philip Zullo PO Box 3077 Canyon Country, Ca 91386 TELEPHONE NO: 661-755-7244 FAX NO. (optional): 661-299-1151 E-MAIL ADDRESS (optional): philipzullo@gmail.com ATTORNEY FOR (name): PHILIP ZULLO (PRO PER)	FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California County of Orange Lamoreaux Justice Center 9/13/2022 12:45 PM David H. Yamasaki, Clerk of the Court By: J. Duong, Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: 341 The City Dr S MAILING ADDRESS: 341 The City Dr S CITY AND ZIP CODE: Orange 92868 BRANCH NAME: Lamoreaux Justice Center	
PETITIONER/PLAINTIFF: Marcia Yvonne Robertson RESPONDENT/DEFENDANT: Philip Zullo OTHER PARTY/PARENT: Fred/Teresa Zullo (ONLY INVOLVED ALIVE GRANP)	
ORDER TO SHOW CAUSE AND AFFIDAVIT FOR CONTEMPT	CASE NUMBER: 17FL000138

<p style="text-align: center;">NOTICE!</p> <p>A contempt proceeding is criminal in nature. If the court finds you in contempt, the possible penalties include jail sentence, community service, and fine.</p> <p>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.</p>	<p style="text-align: center;">¡AVISO!</p> <p>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.</p> <p>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.</p>
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1. TO CITEE (name of person you allege has violated the orders): Marcia Yvonne Robertson
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: 11/4/2022	Time: 8:45 AM	Dept. L63	Rm.:
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b. Address of court: same as noted above other (specify):

Date: 9/13/2022 12:45 PM


JUDGE JULIE A. PALAFOX
 JUDICIAL OFFICER

AFFIDAVIT SUPPORTING ORDER TO SHOW CAUSE FOR CONTEMPT

3. 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) citee was present in court at the time the order was made.
 - (2) citee was served with a copy of the order.
 - (3) citee signed a stipulation upon which the order was based.
 - (4) other (specify): On FEB 18, 2021 Judge John Flynn III wrote the orders Marcia Acknowledge the Judge and on following court date PLEASE SEE attachment 5a(4)

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. I have not previously filed a request with the court that the citee be held in contempt.
 - b. I have previously filed a request with the court that the citee be held in contempt (specify date filed and results):

Continued on Attachment 6b.

PETITIONER/PLAINTIFF: Marcia Yvonne Robertson RESPONDENT/DEFENDANT: Philip Zullo OTHER PARTY/PARENT: Fred/Teresa Zullo (ONLY INVOLVED ALIVE GRANP)	CASE NUMBER: 17FL000138
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7. Citee has previously been found in contempt of a court order (specify case, court, date):

Continued on Attachment 7.

8. Each order disobeyed and each instance of disobedience is described as follows:

a. 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. Domestic violence restraining orders and child custody and visitation orders (see attached *Affidavit of Facts Constituting Contempt* (form FL-412))

c. Injunctive or other order (specify which order was violated, how the order was violated, and when the order was violated):

2-18-2021 Judge John Flynn ordered the respondent to remove Sex Offender Gregory Nigel Robertson, from the home of my minor son. The respondent was confronted by me in court i have licensed private eye surveillance footage of the respondents contempt of court. On 3-02-21 Judge Flynn was made aware of the respondents refusal to obey and he re-questioned her. She was made aware again and violated it again next day. On 04-07-21 Judge Scott B. Cooper was made aware that the respondent was consistently violating the protective orders of Judge Flynn's. He re-instated the orders and re-verified 2X in court the judge asked "Do you understand Mrs. Robertson?" , respondent replied "yes your honor" the judge replied "he is old enough to move out" to this day it is ongoing !

Continued on Attachment 8c.

d. Other material facts, including facts indicating that the violation of the orders was without justification or excuse (specify):

attached is multiple surveillance footage and reports taken over the court of the last 575 days.

Continued on Attachment 8d.

e. 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: September 7, 2022

PHILIP ZULLO

(TYPE OR PRINT NAME)


(SIGNATURE)

PLAINTIFF/PETITIONER: Marcia Yvonne Robertson DEFENDANT/RESPONDENT: PHILIP ZULLO	CASE NUMBER: 17FL000138
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DECLARATION

(This form must be attached to another form or court paper before it can be filed in court.)

attachment 5a(4) FL-410 CONTEMPT

attached is the FEB 18, 2021 orders directly made after i was forced to give my son back to the home of this respondent that has not only raised this sex offender but has harbored this sex offender against the clear and precise orders of Judge John Fylnn III in this order in the first paragraph it is clear Judge John FLYnn III was trying to NOT sever all relations with son and respecting somewhat FAMILY CODE 3020 by ordering the petitioner, Marcia Robertson to allow me monitored phone calls.

Everyday via text i aksed her to obey the court order and let me have my monitored calls with my son.

Each subsequent court date when I addressed her contempt nothing was done.

California Penal Code 278.5 PC makes it a crime maliciously to deprive another adult of his/her lawful right to custody of, or visitation with, a child. Deprivation of custody is sometimes referred to as "child detention."

278.5. (a) Every person who takes, entices away, keeps, withholds, or conceals a child and maliciously deprives a lawful custodian of a right to custody, or a person of a right to visitation, shall be punished by imprisonment in a county jail not exceeding one year, a fine not exceeding one thousand dollars (\$1,000), or both that fine and imprisonment, or by imprisonment pursuant to subdivision (h) of Section 1170 for 16 months, or two or three years, a fine not exceeding ten thousand dollars (\$10,000), or both that fine and imprisonment.

(b) Nothing contained in this section limits the court's contempt power.

(c) A custody order obtained after the taking, enticing away, keeping, withholding, or concealing of a child does not constitute a defense to a crime charged under this section.

Penal Code 273a(b) addresses less serious situations where a person either endangers the safety of a child or inflicts, causes, or permits unjustifiable pain or mental suffering to a child (depriving a child of his loving father's relationship to go from daily chats and always together to nothing at all thanks to the courts embarrassing overreach and allowance of the petitioner, Marcia Robertson's repeated abuse of the court system and repeated different tyoes of contempt of the court all geared at danger towards the child.

b) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health may be endangered, is guilty of a misdemeanor.

i finally lost my temper compleetely with the incompetence and one side unfair justice so I cursed Judge Scoot B Cooper out for this and the sex offender still breaking the court order... after I told him how i felt the little tiny Scott B Cooper strippecd me of my last remaining communication in DIRECT VIOLATION OF FAMILY CODE 3020. The judge showed me how he can abuse powers and everyone in that courtroom was quite ok with that

shame on all that particiapated!

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

Date: 8/17/22

PHILIP ZULLO (TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

Respondent Other (Specify):

PLAINTIFF/PETITIONER: Marcia Yvonne Robertson	CASE NUMBER:
DEFENDANT/RESPONDENT: PHILIP ZULLO	17FL000138

DECLARATION

(This form must be attached to another form or court paper before it can be filed in court.)

attachment 8(c) FL-410 CONTEMPT #2

regarding the court ordered monitored phone calls they were a court order by Judge John Flynn on 2-18-2021 and the orders were good and valid until Judge Scott B. Cooper failed to comprehend so I called him names and he completely banished my from my phone calls that i never was able to get due to the respondent Marcia Robertson failing to allow me the court ordered phone calls which is contempt, this behavior caused emotional stress causing the outburst towards the incompetent Judge Scott B. Cooper, since the order was issued until the incompetent Judge Scott B. Cooper messed it all up for his erroneous false interpretation of a previous judge 01-07-21. She was confronted by my attorney on 3-02-21 and on 01-07-21 Judge Scott B. Cooper was a new judge and couldn't read law so i insulted his lack of intelligence and knowledge of the law (their was a previous superior court judges orders that should have been adhered to instead he punished me more and removed those calls after i cursed at him on 4-07-22 That was a total of 48 days of direct violation of my court ordered monitored phone calls depriving me of the loving relationship that is protected by law FAMILY CODE 3020. The respondent testified in court she doesn't have time!

i have cited supreme court rulings proving he is an idiot and should be dis-barred and removed from the bench

The power of one judge of the superior court is equal to and coordinate with another. *Michigan Nat'l Bank v. Hanner*, 268 N.C. 668, 670, 151 S.E.2d 579, 580 (1960). Accordingly, it is well established in our jurisprudence 'that no appeal lies from one Superior Court judge to another; that one Superior Court judge may not correct another's errors of law; and that ordinarily one judge may not modify, overrule, or change the judgment of another Superior Court judge previously made in the same action.' *Calloway v. Ford Motor Co.*, 281 N.C. 496, 501, 189 S.E.2d 484, 488 (1972)." *State v. Woodridge*, 357 N.C. 544, 549 (2003).

"One superior court judge may only modify, overrule or change the order of another superior court judge where the original order was (1) interlocutory, (2) discretionary, and (3) there has been a substantial change of circumstances since the entry of the prior order. *Stone v. Martin*, 69 N.C. App. 650, 652, 318 S.E.2d 108, 110 (1984). A substantial change in circumstances exists if since the entry of the prior order, there has been an 'intervention of new facts which bear upon the propriety' of the previous order. See *Calloway v. Motor Co.*, 281 N.C. 496, 505, 189 S.E.2d 484, 490 (1972)." *First Fin. Ins. Co. v. Commercial Coverage Inc.*, 154 N.C. App. 504, 507 (2002).

Generally, appeal is the means to correct or overrule a final order, and once a final order is appealed the trial court loses jurisdiction to act further in the case. *Bowen v. Hodge Motor Co.*, 292 N.C. 633 (1977).

d. If an interlocutory order affects a substantial right, it may be appealed immediately. *G.S. 1-277, 7A-27(d)*; *Lovelace v. City of Shelby*, 133 N.C. App. 408 (1999), rev'd on other grounds, 351 N.C. 458 (2000). Upon appeal, the trial court loses jurisdiction to act further, just as with a final order.

A district court judge may not overrule another district judge. *In re Royster*, 361 N.C. 560, 563 (2007); *Town of Sylva v. Gibson*, 51 N.C. App. 545 (1981). Nor may a district court judge modify an order of the Court of Appeals. *Ross v. Ross (now Osborne)*, 194 N.C. App. 365, 369 (2008).

If the legal issue is the same, it does not matter that the motion heard by the second judge is different than the one decided by the first judge.

a. The second judge's decision on summary judgment was void because it was based on the same legal issue as the first judge's decision denying a motion to dismiss. *Adkins v. Stanly County Board of Education*, 203 N.C. App. 642, 647-48 (2010). Although the two motions differed, the linchpin legal issue for each was whether the dismissed public employee had been

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

Date: 8/17/22

PHILIP ZULLO

(TYPE OR PRINT NAME)


SIGNATURE OF DECLARANT

- Attorney for Plaintiff Petitioner Defendant
 Respondent Other (Specify):

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: H. Raja S. Gill Myle Nguyen FIRM NAME: Gill Law Group, PC STREET ADDRESS: 2301 Dupont Drive, Suite 525 CITY: Irvine TELEPHONE NO.: 949-333-0891 E-MAIL ADDRESS: myle@gigmailbox.com ATTORNEY FOR (name): Philip Zullo</p>	<p>STATE BAR NUMBER: 282481 279621</p> <p>STATE: CA ZIP CODE: 92612 FAX NO.: 949-861-9733</p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 341 The City Drive South MAILING ADDRESS: CITY AND ZIP CODE: Orange 92868-3205 BRANCH NAME: Lamoreaux Justice Center</p>	<p style="text-align: center;">FILED FOR COURTS ONLY SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE LAMOREAUX JUSTICE CENTER</p> <p style="text-align: center; font-size: 1.2em;">FEB 18 2021</p> <p>DAVID H. YAMASAKI, Clerk of the Court</p> <p>BY: <u> L. WUNSCH </u> DEPUTY</p>
<p>PETITIONER: Philip Zullo RESPONDENT: Marcia Robertson OTHER PARENT/PARTY:</p>	<p>CASE NUMBER: 17FL000138</p>
<p style="text-align: center;">TEMPORARY EMERGENCY (EX PARTE) ORDERS</p> <p><input checked="" type="checkbox"/> Child Custody <input checked="" type="checkbox"/> Visitation (Parenting Time) <input type="checkbox"/> Property Control <input type="checkbox"/> Other (specify):</p>	

1. TO (name(s)): **Marcia Robertson**

Petitioner Respondent Other Parent/Party Other (specify):

A court hearing will be held on the Request for Order (form FL-300) served with this order, as follows:

a. Date: 3-02-21	Time: 3:40 PM	<input checked="" type="checkbox"/> Dept.: L-74	<input type="checkbox"/> Room:
b. Address of court <input type="checkbox"/> same as noted above <input checked="" type="checkbox"/> other (specify): Remote			

2. Findings: Temporary emergency (ex parte) orders are needed to: (a) help prevent an immediate loss or irreparable harm to a party or to children in the case, (b) help prevent immediate loss or damage to property subject to disposition in the case, or (c) set or change procedures for a hearing or trial.

COURT ORDERS: The following temporary emergency orders expire on the date and time of the hearing scheduled in (1), unless extended by court order:

3. **CHILD CUSTODY**

a. Child's name	Date of Birth	Temporary physical custody, care, and control to:		
		Petitioner	Respondent	Other Party/Parent
Michael Fredrickson Lombardi	12/19/11	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Continued on Attachment 3(a)

b. **Visitation (Parenting Time)** The temporary orders for physical custody, care, and control of the minor children in (3) are subject to the other party's or parties' rights of visitation (parenting time) as follows (specify):

The minor child may have reasonable visitation with Mother. Gregory Nigel Robertson shall not be permitted to have any contact with the minor child.

DENIED PENDING HEARING

See Attachment 3(b)

THIS IS A COURT ORDER.

PETITIONER: Philip Zullo RESPONDENT: Marcla Robertson OTHER PARENT/PARTY:	CASE NUMBER: 17FL000138
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3. CHILD CUSTODY (continued)

c. Travel restrictions

(1) The party or parties with temporary physical custody, care, and control of minor children must not remove the minor children from the state of California unless the court allows it after a noticed hearing.

(2) Petitioner Respondent Other Parent/Party must not remove their minor children (specify):

- (a) from the state of California.
- (b) from the following counties (specify):
- (c) other (specify):

d. Child abduction prevention orders are attached (see form FL-341(B)).

e. (1) **Jurisdiction:** This court has jurisdiction to make child custody orders in this case under the Uniform Child Custody Jurisdiction and Enforcement Act (part 3 of the California Family Code, commencing with section 3400).

(2) **Notice and opportunity to be heard:** The responding party was given notice and an opportunity to be heard as provided by the laws of the State of California.

(3) **Country of habitual residence:** The country of habitual residence of the child or children is (specify):

The United States of America Other (specify):

(4) If you violate this order, you may be subject to civil or criminal penalties, or both.

4. PROPERTY CONTROL

a. Petitioner Respondent Other Parent/Party is given exclusive temporary use, possession, and control of the following property that the parties own or are buying lease or rent

b. Petitioner Respondent Other Parent/Party is ordered to make the following payments on the liens and encumbrances coming due while the order is in effect:

Pay to:	For:	Amount: \$	Due date:
Pay to:	For:	Amount: \$	Due date:
Pay to:	For:	Amount: \$	Due date:
Pay to:	For:	Amount: \$	Due date:

5. All other existing orders, not in conflict with these temporary emergency orders, remain in full force and effect.

6. OTHER ORDERS (specify): Additional orders are listed in Attachment 6.
Father shall be granted primary physical custody of the minor child.

In the alternative, the minor child shall be placed into the custody of paternal grandparents, Fred Zullo and Teresa Zullo.

NOTED PENDING HEARING

SEE ATTACHED COURT ORDERS.

Date:

FEB 18 2021



JUDGE OF THE SUPERIOR COURT
JOHN L. FLYNN III

THIS IS A COURT ORDER.

TEMPORARY EX PARTE ORDERS:

Minor is to have no contact with Gregory Nigel Robertson "Nigel" nor be in his presence alone or with others pending further court order.

Minor is not to be allowed to have any contact or interaction with ANY computer, I-Phone or smart phone, I-Pad or tablet or any other computer device or computer music playing device at any time or location. The only exception to this is access to a computer for virtual schooling experience in which case the minor must be monitored by an adult at all times he is on such computer device for virtual school purposes or homework. The minor may not have access to any phone or computer devices except for purposes of monitored telephone calls with Father.

The minor may watch smart or any other television or streaming device only when accompanied by an adult supervisor. In no event is minor to have access to any adult content. Movies are restricted to "G". No video or computer games are allowed to be participated in or consumed by minor pending further order of the court.

Father is ordered to immediately turn over to Minor's Counsel Mr. Dragna all copies of inappropriate material referenced in Father's RFO within 24 hours by hard paper copy and supporting electronic computer flash drive.

Father is not to file any further Temporary Emergency Orders regarding minor without first consulting and advising Minor's Counsel Mr. Dragna.

All other non-conflicting current orders to remain in full force and effect.

It is so ordered,

A handwritten signature in black ink, appearing to read "John L. Flynn III", written over a horizontal line.

Judge John L. Flynn III.

ONE TRIAL JUDGE OVERRULING ANOTHER

Michael Crowell
UNC School of Government
April 2014

1. General rule

The general rule is that one trial judge may not modify or overrule an order entered by another trial judge on a matter of law. If the order is about a matter of discretion rather than a matter of law, the second judge may modify it, but only if there has been a substantial change in circumstances.

There are exceptions to the general rule. In a few circumstances a statute or rule specifically authorizes modification of an earlier order. Also, some matters of trial procedure are left to the discretion of the trial judge regardless of any earlier rulings by other judges. Those exceptions are discussed below.

2. Typical statements of the rule:

“The power of one judge of the superior court is equal to and coordinate with another.’ *Michigan Nat’l Bank v. Hanner*, 268 N.C. 668, 670, 151 S.E.2d 579, 580 (1960). Accordingly, it is well established in our jurisprudence ‘that no appeal lies from one Superior Court judge to another; that one Superior Court judge may not correct another’s errors of law; and that ordinarily one judge may not modify, overrule, or change the judgment of another Superior Court judge previously made in the same action.’ *Calloway v. Ford Motor Co.*, 281 N.C. 496, 501, 189 S.E.2d 484, 488 (1972).” *State v. Woodridge*, 357 N.C. 544, 549 (2003).

“One superior court judge may only modify, overrule or change the order of another superior court judge where the original order was (1) interlocutory, (2) discretionary, and (3) there has been a substantial change of circumstances since the entry of the prior order. *Stone v. Martin*, 69 N.C. App. 650, 652, 318 S.E.2d 108, 110 (1984). A substantial change in circumstances exists if since the entry of the prior order, there has been an ‘intervention of new facts which bear upon the propriety’ of the previous order. See *Calloway v. Motor Co.*, 281 N.C. 496, 505, 189 S.E.2d 484, 490 (1972).” *First Fin. Ins. Co. v. Commercial Coverage Inc.*, 154 N.C. App. 504, 507 (2002).

3. The rule is relevant only to interlocutory orders

- a. Because final orders are subject to appeal and the trial judge loses jurisdiction once the matter is appealed, the rule about one trial judge overruling another generally is relevant only when the order is interlocutory and still subject to trial court jurisdiction.
- b. An interlocutory order is an order that does not finally resolve all issues in controversy. There are still matters to be decided by the trial court.

- c. Generally, appeal is the means to correct or overrule a final order, and once a final order is appealed the trial court loses jurisdiction to act further in the case. *Bowen v. Hodge Motor Co.*, 292 N.C. 633 (1977).
 - d. If an interlocutory order affects a substantial right, it may be appealed immediately. G.S. 1-277, 7A-27(d); *Lovelace v. City of Shelby*, 133 N.C. App. 408 (1999), *rev'd on other grounds*, 351 N.C. 458 (2000). Upon appeal, the trial court loses jurisdiction to act further, just as with a final order.
 - e. There are instances in which a trial court may modify a final order.
 - i. In a civil case, the court may relieve a party from a final judgment or order for the reasons stated in Rule 60(b) of the Rules of Civil Procedure. The motion under Rule 60(b) may be heard by a different judge than the one who entered the judgment or order. *Duplin County DSS ex rel. Pulley v. Frazier*, ___ N.C. App. ___, 751 S.E.2d 621, 623 (2013).
 - ii. In a civil case tried without a jury a judgment may be later modified by the trial court through a motion under Rule 59(a) of the Rules of Civil Procedure for a new trial. However, motion under Rule 59 must be heard by the same judge who entered the original judgment. *Sisk v. Sisk*, ___ N.C. App. ___, 729 S.E.2d 68, 70 (2012); *Gemini Drilling & Found., LLC v. Nat'l Fire Ins. Co.*, 192 N.C. App. 376 (2008).
 - iii. In a criminal case, G.S. 15A-1420 provides for a motion for appropriate relief.
4. The rule is applicable to district court and the Court of Appeals as well as superior court.
- a. A district court judge may not overrule another district judge. *In re Royster*, 361 N.C. 560, 563 (2007); *Town of Sylva v. Gibson*, 51 N.C. App. 545 (1981). Nor may a district court judge modify an order of the Court of Appeals. *Ross v. Ross* (now *Osborne*), 194 N.C. App. 365, 369 (2008).
 - b. One panel of the Court of Appeals may not overrule another panel. *North Carolina Nat'l Bank v. Virginia Carolina Builders*, 307 N.C. 563 (1983).
5. If the legal issue is the same, it does not matter that the motion heard by the second judge is different than the one decided by the first judge.
- a. The second judge's decision on summary judgment was void because it was based on the same legal issue as the first judge's decision denying a motion to dismiss. *Adkins v. Stanly County Board of Education*, 203 N.C. App. 642, 647-48 (2010). Although the two motions differed, the linchpin legal issue for each was whether the dismissed public employee had been speaking on a matter of public concern so as to raise First Amendment protections.
 - b. A second judge's order of summary judgment in a medical malpractice case was void because, even though the judge said he was not overruling the first judge, the legal issue being determined — whether negligence might be established by *res ipsa loquitur* and thus avoid the need to have the pleadings reviewed by an expert — was

the same as decided by the first judge in denying a motion to dismiss. *Robinson v. Duke University Health Systems, Inc.*, ___ N.C. App. ___, 747 S.E.2d 321, 327-28 (2013).

6. Examples of matters of law on which a second trial judge could not overrule or modify an order of a previous judge:
 - a. Motion to suppress evidence (although the prosecutor presented a different legal theory for admission of the evidence in the second hearing the legal issue was the same). *State v. Woolridge*, 357 N.C. 544 (2003).
 - b. Decision on whether a statute authorizes an award of attorney's fees. *Able Outdoor Inc. v. Harrelson*, 341 N.C. 167 (1995).
 - c. Exclusion of time from calculation for Speedy Trial Act. *State v. Sams*, 317 N.C. 230 (1986).
 - d. Dismissal of case for failure to complete service. *Bumgardner v. Bumgardner*, 113 N.C. App. 314 (1994).
7. Examples of matters of law in which the legal issue presented to the second judge was different than the issue decided by the first judge, and thus the second judge was free to act:
 - a. A motion for permissive intervention was proper following the first judge's decision to dismiss the parties from the lawsuit for lack of standing. *Bruggeman v. Meditrust Co., LLC*, 165 N.C. App. 790 (2004).
 - b. A motion for summary judgment on the issue of punitive damages in a medical malpractice case was proper following the first judge's denial of summary judgment on negligence, because the damages issues had not been presented in the first motion. *Fox v. Green*, 161 N.C. App. 460 (2003).
8. Examples of matters of discretion for which a second trial judge could overrule or modify the order of a previous judge upon a showing of a substantial change in circumstances:
 - a. Motion for special jury venire. *State v. Duvall*, 304 N.C. 557 (1981) (but the prosecutor failed to show a substantial change in circumstances from the time of the earlier ruling).
 - b. Motion to amend answer. *Madry v. Madry*, 106 N.C. App. 34 (1992) (summary judgment should not have been allowed when the motion was based on the same facts as the previously denied motion to amend and there was no change in circumstances shown).
 - c. Class certification. *Dublin v. UCR, Inc.*, 115 N.C. App. 209 (1994).
 - d. Sealing of documents in a domestic case. *France v. France*, ___ N.C. App. ___, 738 S.E.2d 180, 186 (2012) (change in circumstance justifying second judge's unsealing of documents was appellate ruling that courtroom had to be opened for proceedings in case).

9. Second motions for summary judgment

- a. A decision on summary judgment is a decision on a matter of law and may not be overruled by a second trial judge on the same legal issue. *Taylorsville Fed. Sav. & Loan Ass'n v. Keen*, 110 N.C. App. 784 (1993).
 - i. A second motion for summary judgment on punitive damages could not be considered because the same legal issue was presented in the first motion. *Carr v. Great Lakes Carbon Corp.*, 49 N.C. App. 631 (1980).
 - ii. A motion for summary judgment under G.S. 99B-3, the statute exempting manufacturers from liability when the product was improperly modified or used, could not be considered by a second judge after the first judge had denied the manufacturer' summary judgment based on contributory negligence. The manufacturer had asserted that the child victim was contributorily negligent for engaging in "horseplay" in use of the gate and fence. The contributory negligence legal argument thus was essentially the same as the legal argument in the second motion. *Hastings ex rel. Pratt v. Seegars Fence Co.*, 128 N.C. App. 166 (1997).
- b. An additional forecast of evidence does not entitle a party to a second motion for summary judgment. *Metts v. Piver*, 102 N.C. App. 98 (1991). The presentation of additional affidavits and depositions transcripts does not allow consideration of a second motion for summary judgment on the same legal issue. *Great Lakes Carbon Corp.*, 49 N.C. App. 631 (1980).
- c. The rule is the same even if the second motion for summary judgment is made by a different party. If the legal issue in the second motion for summary judgment is essentially the same as in the first motion, the second judge may not consider the motion, regardless of who made each motion. *Cail v. Cerwin*, 185 N.C. App. 176 (2007).
- d. A second motion for summary judgment, however, may involve a different legal issue and if it does, it may be considered by a second judge.
 - i. Denial of summary judgment on the issue of absence of negligence in a medical malpractice case could not be reconsidered in a second motion for summary judgment, but the issue of punitive damages could be considered because it was not presented in the first motion. *Fox v. Green*, 161 N.C. App. 460 (2003).

10. Examples of statutes and rules authorizing a second judge to modify a previous order or action

- a. Rule 55(d) of the Rules of Civil Procedure specifically authorizes the setting aside of an entry of default "for good cause shown." See *Stone v. Martin*, 69 N.C. App. 650, 653 (1984).
- b. As mentioned above, Rule 60(b) of the Rules of Civil Procedure authorizes a grant of relief from a judgment for the reasons stated in the rule.

- c. G.S. 84-4.2 authorizes the summary revocation of a *pro hac vice* admission of an out-of-state lawyer on the court's own motion and in its discretion. Thus a second judge could revoke an admission allowed by an earlier judge. *Smith v. Beaufort County Hosp. Ass'n, Inc.*, 141 N.C. App. 203 (2000).
 - d. As mentioned above, G.S. 15A-1420 provides for motions for appropriate relief in criminal cases.
11. Some procedural decisions are within the discretion of the trial judge regardless of previous orders by another judge
- a. The judge presiding at trial could decide to deny individual voir dire of prospective jurors in a capital case even though another judge had earlier stated in a pretrial order that individual voir dire would be allowed. The rule of one judge overruling another does not apply to interlocutory orders which affect the procedure and conduct of trial; those remain subject to the discretion of the trial judge. *State v. Stokes*, 308 N.C. 634 (1983).
 - b. It is within the discretion of the judge presiding at trial whether to consolidate for trial actions that involve common questions of law and fact. *Oxendine v. Catawba County Dep't of Soc. Servs.*, 303 N.C. 699 (1981).
12. A second judge is not bound by an earlier judge's order that is void
- a. If the first judge's order is void ab initio because the first judge did not have jurisdiction to enter the order, then the order is a nullity and may be ignored by a second judge. *State v. Sams*, 317 N.C. 230 (1986).
 - b. If the first judge had jurisdiction to enter an order, even though it is incorrect as a matter of law, the order is merely voidable and remains in effect and must be honored by the second judge until voided by direct challenge to its validity. *Able Outdoor Inc. v. Harrelson*, 341 N.C. 167 (1995); *State v. Sams*, 317 N.C. 230 (1986).

PLAINTIFF/PETITIONER: Marcia Yvonne Robertson DEFENDANT/RESPONDENT: PHILIP ZULLO	CASE NUMBER: 17FL000138
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DECLARATION

(This form must be attached to another form or court paper before it can be filed in court.)

attachment 8(d) FL-410 CONTEMPT #2

attached is the text messages

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

Date: 8/17/22

PHILIP ZULLO
(TYPE OR PRINT NAME)


SIGNATURE OF DECLARANT

- Attorney for
- Plaintiff
- Petitioner
- Defendant
- Respondent
- Other (Specify):

That's why I'll always keep Robertson

The shoes Michael's wearing both pairs that he has are paid for by me

I don't care. I'm tired

When he was over my house for days and five days out of seven where was your support I never felt the dollar from you you never bought one pair of clothes for him and gave them to me to put on his back

The state can have him

Yet I've given him quite a few clothes that he has at your house



Text Message

Send

4:12



Marcia >

According to the court order on February 18 you are supposed to give me daily monitored phone calls

Your son is not allowed anywhere near his little brother nor is he allowed in the house

The problem I'm having is that you are not allowing me to get my daily monitored phone calls which is super simple you see this phone number I'm texting you and you simply call me back with Michael on the phone on speaker therefore you can hear the conversation and I can still speak with my son per the court order



Text Message



4:12



Marcia >

I don't care about any excuses you have other than let me speak with my son and quit alienating me from the son I helped create

Your restraining order does not limit my phone calls or texting to you regarding my son it only limits me from harassing you at your bullshit work so please don't throw legal crap in my face I am more educated than you and I can read better my IQ is definitely at least 60 points higher than yours so please have my son call me today and obey the court order

I also told your delinquent degenerate attorney that



Text Message



4:12



Marcia >

I also told your delinquent degenerate attorney that lives in a substandard shit hole house that you are violating the court order as well he doesn't like being recorded but everything will be taken care of in the future don't worry he won't have his law degree much longer

Please have my son call me as soon as possible I have already contacted you this is the second time today I contacted you earlier but I thought maybe you would be asleep since you work at night but now you should be awake that way you can put Michael to bed for school so now you have at least an hour to an hour and a half to get back at



Text Message



6:05



Marcia >

therefore you can hear the conversation and I can still speak with my son per the court order

I don't care about any excuses you have other than let me speak with my son and quit alienating me from the son I helped create

8:06 PM

Your restraining order does not limit my phone calls or texting to you regarding my son it only limits me from harassing you at your bullshit work so please don't throw legal crap in my face I am more educated than you and I can read better my IQ is definitely at least 60 points higher than yours so please have my son call me today



Text Message



6:06



Marcia >

me so that I can speak with
my son

Today 6:06 PM

Marcia I will be text
messaging you every day
until you respond regarding
my son phone calls I am
court ordered allowed
these phone calls and you
have been on compliant
with the judges requests

I Philip Zulo masking to
speak to my son I have
never kept Michael from
speaking with you you
need to think more about
your message that you're
playing because this site
type of psychology and
games is really not good
for Michael

6:05 PM



Text Message



6:07

Search



(323) 373-5722

alienate me from my son and doesn't allow no communication whatsoever

You should clarify your behavior with your pathetic attorney who lives in a shit hole house it's smaller than my garage

Make sure Michael Zullo contacts his father quit violating the restraining order this is not going to go away Marcia wake up grow up and be a real mother

Quit trying to alienate me from my son when your house has produced nothing but poor performing sexually deviant human beings



Type a message



  **BUY 1 GET 1 FREE**
BOLT24 16.99x

FIND A STORE >
CIRCLE K



Remove Ads

6:07

Search



(323) 373-5722

Yesterday 7:27 PM

You are in direct violation of the court ordered issue February 18 were distinctly says Philip Zullo the father is allowed daily monitored phone calls

What you're doing is very different than me protecting my son from your sexual deviant household

I always made sure Michael called you no matter what and many times he would call you he would just leave you messages our phone record and video recordings of the phone procedures will prove that



Type a message



 **BOLT24 HAS 65% LESS SUGAR THAN BODYARMOR SUPERDRINK.** 

*BOLT24 has 9g sugar per 16.5oz bottle. BodyArmor Original has 28g sugar per 16oz bottle.

 Remove Ads

PETITIONER/PLAINTIFF: <i>Marcia Robertson</i>	CASE NUMBER:
RESPONDENT/DEFENDANT: <i>Philip Zullo</i>	17FL000138
OTHER PARENT: <i>Fred Zullo / Teresa Zullo only Grandparents</i>	

AFFIDAVIT OF FACTS CONSTITUTING CONTEMPT
Domestic Violence/Custody and Visitation
Attachment to Order to Show Cause and Affidavit for Contempt (form FL-410)

1. The Citee has violated the restraining order issued on (date): _____ by contacting, molesting, harassing, attacking, striking, threatening, sexually assaulting, battering, telephoning, sending any messages to, following, stalking, destroying the personal property of, disturbing the peace of, keeping under surveillance, or blocking movements in public places and thoroughfares of me or any other person protected by the restraining order. (Specify which order was violated, how the order was violated, and when the violation occurred): _____
 Continued on Attachment 1.
2. The Citee has violated the restraining order issued on (date): _____ by not moving from and staying away from the residence as ordered by the court. (Specify how the order was violated and when the violation occurred): _____
 Continued on Attachment 2.
3. The Citee has violated the restraining order issued on (date): _____ by not staying (specify): _____ yards away from me, the other protected persons, my residence, my place of work, the children's school or place of child care, my vehicle, or other (specify): _____ (Specify which order was violated, how the order was violated, and when the violation occurred): _____
 Continued on Attachment 3.
4. The Citee has violated the restraining order issued on (date): _____ by not relinquishing his or her firearm(s) as ordered by the court. (Specify which order was violated, how the order was violated, and when the violation occurred): _____
 Continued on Attachment 4.
5. The Citee has violated the restraining order issued on (date): _____ by failure to complete court-ordered batterer's treatment/anger management class (specify how the order was violated): _____
 Continued on Attachment 5.
6. The Citee has violated order issued on (date): _____ by violating the following custody or visitation order (specify which order was violated, how the order was violated, and when the violation occurred): they were a court order by Judge John Flynn on 2-18-2021 04-07-21. That was a total of 48 days of direct violation of my court ordered monitored phone calls depriving merelationship protected by FAMILY CODE 3020 Continued on Attachment 6.
7. The Citee has violated the order issued on (date): _____ by violating other orders (specify which order was violated and how the order was violated): they were a court order by Judge John Flynn on 2-18-2021 04-07-21. That was a total of 48 days of direct violation of my court ordered monitored phone calls depriving merelationship protected by FAMILY CODE 3020 Continued on Attachment 7.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
 Date: 8/12/22

PHILIP ZULLO
 (TYPE OR PRINT NAME)


 (SIGNATURE)

State of California CODE OF CIVIL PROCEDURE Section 1218

1218. (a) Upon the answer and evidence taken, the court or judge shall determine whether the person proceeded against is guilty of the contempt charged, and if it be adjudged that the person is guilty of the contempt, a fine may be imposed on the person not exceeding one thousand dollars (\$1,000), payable to the court, or the person may be imprisoned not exceeding five days, or both. In addition, a person who is subject to a court order as a party to the action, or any agent of this person, who is adjudged guilty of contempt for violating that court order may be ordered to pay to the party initiating the contempt proceeding the reasonable attorney's fees and costs incurred by this party in connection with the contempt proceeding.

(b) Any party, who is in contempt of a court order or judgment in a dissolution of marriage, dissolution of domestic partnership, or legal separation action, shall not be permitted to enforce such an order or judgment, by way of execution or otherwise, either in the same action or by way of a separate action, against the other party. This restriction shall not affect nor apply to the enforcement of child or spousal support orders.

(c) (1) In any court action in which a party is found in contempt of court for failure to comply with a court order pursuant to the Family Code, the court shall, subject to the sentencing option provided in paragraph (2), order the following:

(A) Upon a first finding of contempt, the court shall order the contemner to perform community service of up to 120 hours, or to be imprisoned up to 120 hours, for each count of contempt.

(B) Upon the second finding of contempt, the court shall order the contemner to perform community service of up to 120 hours, in addition to ordering imprisonment of the contemner up to 120 hours, for each count of contempt.

(C) Upon the third or any subsequent finding of contempt, the court shall order that the contemner serve a term of imprisonment of up to 240 hours and perform community service of up to 240 hours, for each count of contempt. The court shall also order the contemner to pay an administrative fee, not to exceed the actual cost of the contemner's administration and supervision, while assigned to a community service program pursuant to this paragraph.

(D) The court shall take parties' employment schedules into consideration when ordering either community service or imprisonment, or both.

(2) In lieu of an order of imprisonment, community service, or both, as set forth in paragraph (1), the court may grant probation or a conditional sentence for a period not to exceed one year upon a first finding of contempt, a period not to exceed two years upon a second finding of contempt, and a period not to exceed three years upon a third or any subsequent finding of contempt.

(3) For purposes of this subdivision, “probation” and “conditional sentence” shall have the meanings set forth in subdivision (a) of Section 1203 of the Penal Code.

(d) Pursuant to Section 1211 and this section, a district attorney or city attorney may initiate and pursue a court action for contempt against a party for failing to comply with a court order entered pursuant to the Domestic Violence Protection Act (Division 10 (commencing with Section 6200) of the Family Code). Any attorney’s fees and costs ordered by the court pursuant to subdivision (a) against a party who is adjudged guilty of contempt under this subdivision shall be paid to the Office of Emergency Services’ account established for the purpose of funding domestic violence shelter service providers pursuant to subdivision (f) of Section 13823.15 of the Penal Code.

(Amended by Stats. 2020, Ch. 283, Sec. 1. (AB 2338) Effective January 1, 2021.)

What Are the Penalties of Being Convicted of Contempt in California?

Violating a court order after a dissolution of marriage can come with significant consequences including civil contempt and criminal contempt consequences. Being convicted of contempt in California can come with a fine of up to \$1,000 and/or five days in prison for each act of contempt. It is also mandatory for a person convicted of contempt to perform up to 120 hours of community service or to be imprisoned for 120 hours for each count. If this a second contempt conviction, the punishments increase.

[Cancel](#)

CALIFORNIA COURTS

THE JUDICIAL BRANCH OF CALIFORNIA

Enforcing a Custody Order

When a judge makes an order about child custody and visitation, it becomes a court order and it has the force of law.

It is very important that you:

- Keep a copy of your current court order in a safe place. If there are other people involved in your visitation, like if you exchange the children at someone's house, that person should have a copy too.
- Have a court order that is clear about the details of your visitation order, including where your children will spend every holiday, birthdays, parents' birthdays, vacations, etc.
- Make sure you get a new court order if you and the other parent agree to make significant changes to your time-share or visitation order. Some of the changes that you should write into a new custody and visitation order are changes in: how much time your children will spend with each parent; where both parents will live; where your children will go to school, get medical care, or religious training; who will pick up and drop off the children at the time of the exchanges; or how you will make sure your children's other needs are met.

If one parent does not follow the custody and visitation court order

There are several options:

- Contact your local police department and ask them to enforce the order.
- Contact the district attorney in your county. Look for the Child Abduction and Recovery Unit.
- File an action for "contempt" with the court. In contempt actions, you ask the court to enforce the order and make a finding that the other parent willfully disobeyed the court order. This is very complicated and can have serious consequences. Talk to a lawyer to get help with it.


In case you have to go back to court, you should keep accurate records of all visitation violations. Keep a journal or mark up a calendar, with the dates and times that the other parent did not follow the order and did not show up, or showed up late, or created other problems.

Enforcing a court order can be very complicated. Talk to a lawyer to find out what is best in your case. Click for [help finding a lawyer](#).

If you are worried the other parent may kidnap your child

The U.S. Department of State has a list of precautions that any parent should take if they are worried about the possibility of child abduction. Here are some precautions from their list:

- Keep a list of the addresses and telephone numbers of the other parent's relatives, friends, and business associates both here and abroad;
- Keep a record of important information about the other parent, including: physical description; passport, social security, bank account, and driver's license numbers; and vehicle description and plate number;
- Keep a written description of your children, including hair and eye color, height, weight, fingerprints, and any special physical characteristics; and

 **Questions?**
Chat Now

- Take full-face color photographs or videos of your children every 6 months — a recent photo of the other parent may also be useful. If your children are abducted, this information could be vital in locating your them.

In addition, the [National Center for Missing and Exploited Children](#), at telephone number 1-800-843-5678, suggests that you teach your children to use the telephone, memorize your home phone number, and practice making collect calls, and that you instruct them to call home immediately if anything unusual happens. Discuss possible plans of action with your children in the case of abduction.

Most important, if you feel your children are vulnerable to abduction, talk to a lawyer for legal advice. Do not just tell a friend or relative about your fears.

If one of the parents kidnaps the children and leaves the country

When a child who is a U.S. citizen is kidnapped and taken to another country, the State Department's Office of Children's Issues works with U.S. embassies and consulates throughout the world to help the child and the parent looking for the child. But even when a child is taken across international borders, child custody disputes are private legal matters between the parents, and the State Department has little or no power.

If your child is at risk of being abducted by the other parent, it is very important that you have a clear custody order that specifies what the other parent can and cannot do in terms of traveling with your child. But even if you have a court order, U.S. laws and court orders are not usually recognized in foreign countries and therefore are not directly enforceable abroad.

Fortunately, the Hague Convention, which has been signed by many countries, is an international treaty that applies to child abductions. The countries that are parties to the convention have agreed that, with a few exceptions, a child who is a resident in 1 country that is a party to the convention and who is removed to another country that is also a party to the convention against a custody and visitation order must be promptly returned to the country of residence. See more information on [which countries have signed this agreement](#).

The Hague Convention and cases of international abduction are very complicated. There is information online to help you, but if you can, talk to a lawyer who has a lot of experience with international abduction cases. Your local District Attorney's Office may also have a Child Abduction and Recovery Unit that can help you or give you resources in your area.

Here are some websites with very helpful and complete information on child abduction:

- [The U.S. Department of State's Office of Children's Issues website](#) provides information about international abduction. This site provides information on how to look for a child abroad, how to use the criminal justice system, and how to invoke the Hague Convention by submitting abduction applications, as well as information about the law.
- [A Family Resource Guide on International Parental Kidnapping](#), from the Office of Juvenile Justice and Delinquency Prevention of the U.S. Department of Justice, provides detailed information on prevention and searching for your child, checklists for what to do in case of kidnapping, resources, and much more.

[Questions?](#)
[Chat Now](#)

<p><small>PARTY WITHOUT ATTORNEY OR ATTORNEY</small></p> <p>NAME: Philip Zullo</p> <p><small>FIRM NAME:</small></p> <p>STREET ADDRESS: PO BOX 3077</p> <p>CITY: Canyon Country STATE: CA ZIP CODE: 91386</p> <p>TELEPHONE NO: 661-755-7244 FAX NO: 661-299-1151</p> <p>E-MAIL ADDRESS: philipzullo@gmail.com</p> <p>ATTORNEY FOR (name): self</p>	<p><small>FOR COURT USE ONLY</small></p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange</p> <p>STREET ADDRESS: 341 The City Dr S, Orange, CA 92868</p> <p>MAILING ADDRESS: 341 The City Dr S, Orange, CA 92868</p> <p>CITY AND ZIP CODE: Orange, CA 92868</p> <p>BRANCH NAME: Lamoreaux Justice Center</p>	
<p>PETITIONER: Marcia Robertson</p> <p>RESPONDENT: Philip Zullo</p> <p>OTHER PARTY/PARENT/CLAIMANT:</p>	
<p>INCOME AND EXPENSE DECLARATION</p>	<p>CASE NUMBER 17FL000138</p>

1. Employment (Give information on your current job or, if you're unemployed, your most recent job.)

Attach copies of your pay stubs for last two months (black out Social Security numbers).

- a. Employer:
- b. Employer's address:
- c. Employer's phone number:
- d. Occupation:
- e. Date job started:
- f. If unemployed, date job ended: 4/20/20
- g. I work about 12 hours per week.
- h. I get paid \$1,236.25 gross (before taxes) per month per week per hour.

(If you have more than one job, attach an 8 1/2-by-11-inch sheet of paper and list the same information as above for your other jobs. Write "Question 1—Other Jobs" at the top.)

2. Age and education

- a. My age is (specify): 45
- b. I have completed high school or the equivalent: Yes No If no, highest grade completed (specify):
- c. Number of years of college completed (specify): 2 Degree(s) obtained (specify):
- d. Number of years of graduate school completed (specify): Degree(s) obtained (specify):
- e. I have: professional/occupational license(s) (specify):
 vocational training (specify):

3. Tax information

- a. I last filed taxes for tax year (specify year): 2020
- b. My tax filing status is single head of household married, filing separately
 married, filing jointly with (specify name):
- c. I file state tax returns in California other (specify state):
- d. I claim the following number of exemptions (including myself) on my taxes (specify): my sons fish tanks

4. Other party's income. I estimate the gross monthly income (before taxes) of the other party in this case at (specify): \$
This estimate is based on (explain):


(If you need more space to answer any questions on this form, attach an 8 1/2-by-11-inch sheet of paper and write the question number before your answer.) Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the information contained on all pages of this form and any attachments is true and correct.

Date: August 22, 2022

Philip Zullo

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)

PETITIONER: Marcia Robertson RESPONDENT: Philip Zullo OTHER PARTY/PARENT/CLAIMANT:	CASE NUMBER 17FL000138
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Attach copies of your pay stubs for the last two months and proof of any other income. Take a copy of your latest federal tax return to the court hearing. (Black out your Social Security number on the pay stub and tax return.)

5. **Income** (For average monthly, add up all the income you received in each category in the last 12 months and divide the total by 12.)

	Last month	Average monthly
a. Salary or wages (gross, before taxes).....	\$ 1,236.25	1,236.25
b. Overtime (gross, before taxes).....	\$ 0	0
c. Commissions or bonuses.....	\$ 0	0
d. Public assistance (for example: TANF, SSI, GA/GR) <input type="checkbox"/> currently receiving.....	\$ 0	0
e. Spousal support <input type="checkbox"/> from this marriage <input type="checkbox"/> from a different marriage <input type="checkbox"/> federally taxable*.....	\$ 0	0
f. Partner support <input type="checkbox"/> from this domestic partnership <input type="checkbox"/> from a different domestic partnership.....	\$ 0	0
g. Pension/retirement fund payments.....	\$ 0	0
h. Social Security retirement (not SSI).....	\$ 0	0
i. Disability: <input type="checkbox"/> Social Security (not SSI) <input type="checkbox"/> State disability (SDI) <input type="checkbox"/> Private insurance.....	\$ 0	0
j. Unemployment compensation.....	\$ 0	0
k. Workers' compensation.....	\$ 0	0
l. Other (military allowances, royalty payments) (specify):.....	\$ 0	0

6. **Investment income** (Attach a schedule showing gross receipts less cash expenses for each piece of property.)

a. Dividends/interest.....	\$ 0	0
b. Rental property income.....	\$ 0	0
c. Trust income.....	\$ 0	0
d. Other (specify):.....	\$ 0	0

7. **Income from self-employment, after business expenses for all businesses**..... \$ 0 0

I am the owner/sole proprietor business partner other (specify):

Number of years in this business (specify):

Name of business (specify):

Type of business (specify):

Attach a profit and loss statement for the last two years or a Schedule C from your last federal tax return. Black out your Social Security number. If you have more than one business, provide the information above for each of your businesses.

8. **Additional income.** I received one-time money (lottery winnings, inheritance, etc.) in the last 12 months (specify source and amount):

9. **Change in income.** My financial situation has changed significantly over the last 12 months because (specify):

10. **Deductions**

	Last month
a. Required union dues.....	\$ 0
b. Required retirement payments (not Social Security, FICA, 401(k), or IRA).....	\$ 0
c. Medical, hospital, dental, and other health insurance premiums (total monthly amount).....	\$ 1170
d. Child support that I pay for children from other relationships.....	\$ 0
e. Spousal support that I pay by court order from a different marriage <input type="checkbox"/> federally tax deductible*.....	\$ 0
f. Partner support that I pay by court order from a different domestic partnership.....	\$ 0
g. Necessary job-related expenses not reimbursed by my employer (attach explanation labeled "Question 10g").....	\$ 0

11. **Assets**

	Total
a. Cash and checking accounts, savings, credit union, money market, and other deposit accounts.....	\$ 0
b. Stocks, bonds, and other assets I could easily sell.....	\$ 0
c. All other property, <input type="checkbox"/> real and <input type="checkbox"/> personal (estimate fair market value minus the debts you owe).....	\$ 0

* Check the box if the spousal support order or judgment was executed by the parties and the court before January 1, 2019, or if a court-ordered change maintains the spousal support payments as taxable income to the recipient and tax deductible to the payor.

PETITIONER: Marcia Robertson RESPONDENT: Philip Zullo OTHER PARTY/PARENT/CLAIMANT:	CASE NUMBER: 17FL000138
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12. The following people live with me:

Name	Age	How the person is related to me (ex: son)	That person's gross monthly income	Pays some of the household expenses?	
a.				<input type="checkbox"/> Yes	<input type="checkbox"/> No
b.				<input type="checkbox"/> Yes	<input type="checkbox"/> No
c.				<input type="checkbox"/> Yes	<input type="checkbox"/> No
d.				<input type="checkbox"/> Yes	<input type="checkbox"/> No
e.				<input type="checkbox"/> Yes	<input type="checkbox"/> No

13. Average monthly expenses Estimated expenses Actual expenses Proposed needs

<p>a. Home:</p> <p>(1) <input type="checkbox"/> Rent or <input type="checkbox"/> mortgage..... \$ 1000</p> <p style="margin-left: 20px;">If mortgage:</p> <p style="margin-left: 40px;">(a) average principal: \$ _____</p> <p style="margin-left: 40px;">(b) average interest: \$ _____</p> <p>(2) Real property taxes..... \$ 0</p> <p>(3) Homeowner's or renter's insurance (if not included above)..... \$ 0</p> <p>(4) Maintenance and repair..... \$ 300</p> <p>b. Health-care costs not paid by insurance..... \$ 100</p> <p>c. Child care..... \$ 0</p> <p>d. Groceries and household supplies..... \$ 700</p> <p>e. Eating out..... \$ 200</p> <p>f. Utilities (gas, electric, water, trash)..... \$ 300</p> <p>g. Telephone, cell phone, and e-mail..... \$ 342</p>	<p>h. Laundry and cleaning..... \$ 100</p> <p>i. Clothes..... \$ 250</p> <p>j. Education..... \$ _____</p> <p>k. Entertainment, gifts, and vacation..... \$ 75</p> <p>l. Auto expenses and transportation (insurance, gas, repairs, bus, etc.)..... \$ 500</p> <p>m. Insurance (life, accident, etc.; do not include auto, home, or health insurance)..... \$ 1170</p> <p>n. Savings and investments..... \$ 0</p> <p>o. Charitable contributions..... \$ 25</p> <p>p. Monthly payments listed in item 14 (itemize below in 14 and insert total here)..... \$ _____</p> <p>q. Other (specify): attorney fees for this case \$ 60000</p> <table border="1" style="width:100%; border-collapse: collapse; margin-top: 5px;"> <tr> <td style="width:80%;">r. TOTAL EXPENSES (a-q) (do not add in the amounts in a(1)(a) and (b))</td> <td style="width:20%; text-align: right;">\$ 65062</td> </tr> </table> <p>s. Amount of expenses paid by others \$ _____</p>	r. TOTAL EXPENSES (a-q) (do not add in the amounts in a(1)(a) and (b))	\$ 65062
r. TOTAL EXPENSES (a-q) (do not add in the amounts in a(1)(a) and (b))	\$ 65062		

14. Installment payments and debts not listed above

Paid to	For	Amount	Balance	Date of last payment
		\$	\$	
		\$	\$	
		\$	\$	
		\$	\$	
		\$	\$	
		\$	\$	

15. Attorney fees (This information is required if either party is requesting attorney fees):

- a. To date, I have paid my attorney this amount for fees and costs (specify): \$ _____
- b. The source of this money was (specify): _____
- c. I still owe the following fees and costs to my attorney (specify total owed): \$ _____
- d. My attorney's hourly rate is (specify): _____

I confirm this fee arrangement.

Date: August 22, 2022

Philip Zullo
(TYPE OR PRINT NAME)


(SIGNATURE OF DECLARANT)

PETITIONER: Marcia Robertson RESPONDENT: Philip Zullo OTHER PARTY/PARENT/CLAIMANT:	CASE NUMBER: 17FL000138
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CHILD SUPPORT INFORMATION

(NOTE: Fill out this page only if your case involves child support.)

16. Number of children

- a. I have (specify number): 1 children under the age of 18 with the other parent in this case.
- b. The children spend n/a ATM percent of their time with me and n/a ATM percent of their time with the other parent.
 (If you're not sure about percentage or it has not been agreed on, please describe your parenting schedule here.)
 used to be 95% in my care then he turned 5 and we argued over (which home) for school she took me to court and the court at that time gave me 50% custody legally since then the court has fallen victim to the respondent, Marcia Robertson, and her attorney, Paul Toepel malicious use of the courts and blatant PERJURY and CONTEMPT on multiple occasions AND PC 273a(b) Child Endangerment by not allowing the court orders of my visitation along this journey

17. Children's health-care expenses

- a. I do I do not have health insurance available to me for the children through my job.
- b. Name of insurance company:
- c. Address of insurance company:
- d. The monthly cost for the children's health insurance is or would be (specify): \$
 (Do not include the amount your employer pays.)

18. Additional expense for the children in this case

- | | Amount per month |
|--|------------------|
| a. Childcare so I can work or get job training..... | \$ _____ |
| b. Children's health care not covered by insurance..... | \$ _____ |
| c. Travel expenses for visitation..... | \$ _____ |
| d. Children's educational or other special needs (specify below):..... | \$ _____ |

19. Special hardships. I ask the court to consider the following special financial circumstances
(attach documentation of any item listed here, including court orders):

- | | Amount per month | For how many months? |
|--|------------------|----------------------|
| a. Extraordinary health expenses not included in 18b..... | \$ 13000 | 1 for neck surgery |
| b. Major losses not covered by insurance (examples: fire, theft, other insured loss)..... | \$ _____ | _____ |
| c. (1) Expenses for my minor children who are from other relationships and are living with me..... | \$ 700 | _____ |
| (2) Names and ages of those children (specify): | | |
| (3) Child support I receive for those children..... | \$ _____ | |

The expenses listed in a, b, and c create an extreme financial hardship because (explain):

20. Other information I want the court to know concerning support in my case (specify):

California Penal Code 278.5 PC makes it a crime maliciously to **deprive another adult of his/her lawful right to custody** of, or visitation with, a child. **Deprivation of custody** is sometimes referred to as “**child detention.**”

The language of the statute reads as follows:

278.5. (a) Every person who takes, entices away, keeps, withholds, or conceals a child and maliciously deprives a lawful custodian of a right to custody, or a person of a right to visitation, shall be punished by imprisonment in a county jail not exceeding one year, a fine not exceeding one thousand dollars (\$1,000), or both that fine and imprisonment, or by imprisonment pursuant to subdivision (h) of Section 1170 for 16 months, or two or three years, a fine not exceeding ten thousand dollars (\$10,000), or both that fine and imprisonment.

(b) Nothing contained in this section limits the court's contempt power.

(c) A custody order obtained after the taking, enticing away, keeping, withholding, or concealing of a child does not constitute a defense to a crime charged under this section.

Unlike [the crime of “child abduction”](#) set forth in **Penal Code 278 PC**, deprivation of custody can be committed by someone who actually has a right to visitation with, or even custody of, the child. As a result, deprivation of custody is typically charged against a parent, grandparent, foster parent or someone else who at some point has had a custodial relationship with the child.

State of California PENAL CODE Section 273a

273a. (a) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or **inflicts thereon unjustifiable** physical pain **or mental suffering**, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or **willfully causes or permits that child to be placed in a situation** where his or her person or health is endangered, shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison for two, four, or six years.

(b) **Any person who, under circumstances or conditions** other than those likely to produce great bodily harm or death, **willfully causes or permits any child to suffer**, or **inflicts thereon unjustifiable** physical pain or **mental suffering**, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health may be endangered, is guilty of a misdemeanor.

(c) If a person is convicted of violating this section and probation is granted, the court shall require the following minimum conditions of probation:

(1) A mandatory minimum period of probation of 48 months.

(2) A criminal court protective order protecting the victim from further acts of violence or threats, and, if appropriate, residence exclusion or stay-away conditions.

(3) (A) Successful completion of no less than one year of a child abuser's treatment counseling program approved by the probation department. The defendant shall be ordered to begin participation in the program immediately upon the grant of probation. The counseling program shall meet the criteria specified in Section 273.1. The defendant shall produce documentation of program enrollment to the court within 30 days of enrollment, along with quarterly progress reports.

(B) The terms of probation for offenders shall not be lifted until all reasonable fees due to the counseling program have been paid in full, but in no case shall probation be extended beyond the term provided in subdivision (a) of Section 1203.1. If the court finds that the defendant does not have the ability to pay the fees based on the defendant's changed circumstances, the court may reduce or waive the fees.

(4) If the offense was committed while the defendant was under the influence of drugs or alcohol, the defendant shall abstain from the use of drugs or alcohol during the period of probation and shall be subject to random drug testing by his or her probation officer.

(5) The court may waive any of the above minimum conditions of probation upon finding that the condition would not be in the best interests of justice. The court shall state on the record its reasons for any waiver.

(Amended by Stats. 1997, Ch. 134, Sec. 1. Effective January 1, 1998.)

Child Endangerment PC 273a(b) (Penal Code § 273a(b))

Crime: Child Endangerment

Code Section: Penal Code 273a(b) (click here to view the statute)

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=273a.&lawCode=PEN

Related CALCRIM: 823

PC 273a(b) Brief Summary:

Penal Code 273a(b) addresses less serious situations where a person either endangers the safety of a child or inflicts, causes, or permits unjustifiable pain or mental suffering to a child. While not as serious as Penal Code 273a(a), this is still a serious charge with potentially serious consequences. This charge is filed whenever the safety or well-being of a child is endangered. When parents or guardians of a child are convicted of this crime, the potential consequences may be more serious in that a conviction could jeopardize their child custody rights.

PC 273a(b) Elements:

To prove someone guilty of this crime, the government must prove:

1. The defendant either inflicted, permitted, or placed a child in danger of unjustifiable physical pain or mental suffering;
2. When the defendant injured or endangered the child it was not a result of reasonable child discipline.

PC 273a(b) Punishment:

Penal Code 273a(b) is punishable only as a misdemeanor with up to a year in county jail. Probation can be granted for this offense if the

defendant is not sentenced to prison, but if probation is granted for this charge, probation must be for a minimum of four years, a protective order protecting the child must be issued, and the person convicted is required to take a year-long parenting course, absent a special finding by the judge. Other fines, fees, and possible probation terms could be applied.

PC 273a(b) Lesser Included Offenses:

A lesser included offense is one that contains all of the elements of the charged offense, but for which the consequences are less severe. Typically, a conviction for a lesser included offense only occurs when there is no conviction for the more serious offense. An attempt is often times a lesser included offense to a charged offense and occurs when the defendant intended and tried to commit the charged offense, but for whatever reason, was unable to finish committing that crime. In general, there are no other lesser included offenses for Penal Code 273a(b).