

U.S. SC 25-7180  
CA SC S292065

**In The  
Supreme Court of the United States**

---

---

Edward L Clark Jr.  
*Petitioner, Respondent*

v.

Deborah L Clark  
*Respondent, Petitioner*

---

On Petition for a Writ of Certiorari From The  
Court of Appeals of California  
Fourth Appellate District

---

**APPENDICES**  
**BOOK 1**

---

Edward L. Clark Jr.  
5582 McFadden Ave.  
Huntington Beach, Ca 92649  
(714) 448-7145  
[ed@theelectricalexpert.com](mailto:ed@theelectricalexpert.com)

Date: April 8, 2026

Self Represented

App. "1"

**Case No.**

**G064157**

**IN THE COURT OF APPEAL OF THE  
STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT  
DIV-3**

---

**EDWARD L. CLARK, Jr.,**  
**Appellant and lower court Respondent,**

**v.**

**DEBORAH L. CLARK,**  
**Respondent and RESPONDENT.**

---

**APPELLANT'S OPENING BRIEF  
APPEAL #1 and Appeal #2 COMBINED**

---

**Appeal From an Order of the Superior Court of Orange County  
Judge: Yolanda V. Torres: Dept. L-62  
(Superior Ct. No. 05D000275)**

---

**EDWARD L. CLARK, Jr.**  
**5582 McFadden Ave.**  
**Huntington Beach CA 92649**  
**(714) 448-7145]**  
**ed@theelectricalexpert.com**

**Appellant, In pro per**

I. CERTIFICATE AS TO ALL PARTIES, II. RULINGS, AND  
III. RELATED CASES

**Appellate and Lower Court Respondent**

Edward L. Clark Jr.  
17061 Bolero Lane  
Huntington Beach, Ca 92649  
(714) 448-7145  
[ed@theelectricalexpert.com](mailto:ed@theelectricalexpert.com)

**Respondent and lower Court Petitioner**

Deborah L. Clark  
1990 Bahama Ave  
Lake Havasu City Az 86403  
(714) 448-7146  
[Hbblonde911@yahoo.com](mailto:Hbblonde911@yahoo.com)

The Hon Judge Yolanda Tores  
Superior Court of Orange County  
Lamoreaux Justice Center  
341 City Dr South Dept L67

Office of the Attorney General  
(Overview Party)  
300 S. Spring Street  
Los Angeles, Ca 90013

## TABLE OF CONTENTS

	Certificate as to Parties, Rulings, and Cases.....	2
	Table of Contents.....	3
I.	Rulings Under Review.....	4
II.	Related Cases.....	7
III.	Jurisdictional Statement.....	7
IV.	Authenticity of Exhibits.....	8
V.	Table of Authorities.....	9
VI.	Statutes & Rules.....	10
VII.	Statement of Appealability.....	10
VIII.	Appealability of Order.....	13
IX.	Issues on Appeal.....	14
X.	Statement of Case.....	16
XI.	Statement of Facts.....	21
XII.	Overview.....	28
XIII.	Argument.....	38
XIV.	Points and Authorities.....	44
	A. Standard For Review.....	46
	B. Standard For Dismissal.....	47
	C. No Remaining Issues.....	48
	D. Rule 3.1385(b).....	48
	E. CCP §1876 PAROL EVIDENCE.....	49
	F. CCP §577 ONE JUDGMENT RULE.....	49
	G. CCP §452, JUDICIAL NOTICE.....	50
	H. Rule 8.116 CITATION OF UN-PUBLISHED OPINIONS.....	50
	I. ESTABLISHED PRECEDENT FOR VOID ORDERS.....	51
	1. Summons Must Be Served.....	51
	2. Stipulation to Preside as Judge.....	51
	3. Subject Matter Jurisdiction.....	52
	J. U.S. Constitution amend IX.....	53
	K. Obligation to Follow the Rules.....	55
	L. Motive – Conflict of Interest.....	55
	M. Request to Publish Opinion.....	56
	N. Request For Oral Argument.....	57
X.	CONCLUSION.....	57
XI.	Word Count Certification.....	58.

## **I. RULING(S) UNDER REVIEW**

The rulings under review are not post judgment orders or a result of a judgment in family court jurisdiction. The 8/31/2006 "FINAL" judgment. [Augmented Record hereinafter "AR"AR-1 P5-16] case 05D000275 disposed of all issues in Family Court pursuant to Code of Civil Procedure §904.1(a)(1), and including barring subject matter jurisdiction in the Family Law Division of Superior Court [AR-1 P14 #13]. The 8/31/2006 Final Judgment was executed and entered by a Family Law Division Superior Court Judge the Hon Michael J. Naughton on Aug. 25, 2006 [AR-1 P16] barring Subject matter jurisdiction. [AR-1 P14 #13] and entered into the record Aug 31, 2006. [AR-1 P5].

The rulings under review are a result of an order to appear in Family court issued 4/17/2018 without a summons, that did not have subject matter jurisdiction over a 2017 phone call complaining about a Debt Settlement Agreement entered 3/21/2016, 10-years after Final judgment was entered 8/31/2006..

The orders herein are in direct conflict with the Final judgement terms entered 8/31/2006 requiring any changes to the judgment be agreed upon by the parties in writing. [AR-1, P11 (B) Integration prg 2] and not venued in Family court because Equalization payments of assets over time is not Alimony. Alimony was specifically barred and agreed to by both parties. [AR-1, P10 Support (A) Spousal Support]. Also the orders CANNOT be considered executory to a Final judgment entered 8/31/2006 that disposed of all allegations pursuant to Code of Civil Procedure §904.1(a)(1).and barred subject matter jurisdiction. The 8/31/2006 judgment does not make provisions for equalization payments of assets to be executory, as if it was Alimony, for the purpose of maintaining jurisdiction as the court specifically barred Alimony payments [AR-1 P10 II(A) Alimony] .and Child Support [AR-1 P 10 II (B)]

The April 17,2018 orders to appear in "FAMILY COURT" [AR-2 P18-58] were issued without legal authority, without jurisdiction and not in response to a summons/complaint served upon Respondent. The orders at issue can only be referred to as VOID orders under the law as they were issued without subject matter jurisdiction.

See Zaal Aresh vs Monica Marin-Morales .G060579. G060827: citin<sup>g</sup> in its opinion People vs America Contractors Indemnity Co. (2002) 33 Cal 4<sup>th</sup> 653, 660  
*Found a judgment is void, as opposed to merely avoidable when the court lacks fundamental jurisdiction over the subject matter or the parties. Stated "When a court lacks jurisdiction in a fundamental sense, an ensuing judgment is void, and thus vulnerable to direct or collateral attack at any time" The request to certify and publish opinion was granted May 16, 2023 by the Fourth Circuit Div III.*

*When the Court has no jurisdiction of the cause, there the whole proceeding is before a person who is not a judge, and actions will lie against them without any regard of the precept or process..."*

The Rulings under review arise out of the lower family court errors in law, attempting to open and relitigate a final dissolution judgment entered Aug. 31, 2006 on case 05D000275 no longer at issue in Family court now for 12-years, that barred subject matter jurisdiction in Family court. [AR-1 P14 #13]

If this court finds the lower family court had subject matter jurisdiction, despite being specifically barred in 8/31/2006 judgment, it must then determine if the orders are VOID based on undisputed material Facts a commissioner presided over a case relying on two stipulations as his sole authority to be a judge [ Clerk transcript hereinafter "CT" CT P37 7/31/2019 minutes] , that he failed to have either parties litigant sign. see [ Ar-3 P60-61] and [Ar-4 P63-64] rendering his orders VOID because they were not issued by a judge.

*The power of a court commissioner to act as a temporary judge emanates solely from stipulation by the parties to the proceeding. (Cal. Const., art. VI, § 21; Rooney v. Vermont Investment Corp., 10 Cal. 3d 351, 360 [110 Cal. Rptr. 353, 515 P.2d 297]; People v. Tijerina, 1 Cal. 3d 41, 48-49 [81 Cal. Rptr. 264, 459 P.2d 680].) Section 21, article VI provides: "On stipulation of the parties litigant the court may order a cause to be tried by a temporary judge who is a member of the State Bar, sworn and empowered to act until final determination of the cause." Section 259a, subdivision 4, Code of Civil Procedure*

If this court finds the orders are VOID, for lack of subject matter jurisdiction, or because a judge did not preside, then this court also loses jurisdiction to offer opinions on the merits of VOID orders. This court must order the lower court appropriately and dismiss action.

*A Party Affected by VOID Judicial Action Need Not APPEAL. State ex rel. Latty, 907 S.W.2d at 486. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." Ex parte Spaulding, 687 S.W.2d at 745 (Teague, J., concurring). If an appeal is taken, however, the appellate court may declare void any orders the trial court signed after it lost plenary power over the case, because a void judgment is a nullity from the beginning and is attended by none of the consequences of a valid judgment.*

In the event, this court is able to legitimize orders of the lower family court, then the Rulings under review are as follows:

1. Ruling Order of Hon. Yolanda Tores Dept. L67. 3/14/2024 minute order [Clerk Transcript hereinafter "CT" CT P118-119]. denying both Petitioner RFO ["CT" 10/27/2023 P 71-85] supported by Joint Request to Take Judicial Notice [CT 10/27/2023 P 60-70] to enter settlement documents into the record as evidence the case is over. And

2. Also denying Respondent identical Request to enter settlement documents into the record. [CT – 2/1/2024 P 91-101] Appellate appeals rulings issued 3/14/2024 minute order [CT P118-119]

3. Whereas in addition to Respondent filing identical motion as Petitioner thereby, both making the same request to the court, Respondent also "submitted" to Petitioner request, agreeing with her motion. [CT 12/5/2023 P86-87] to insure there could be no possible confusion with the court, that both parties are seeking settlement in the record.

The court denied both parties joint request from identical motions filed to enter settlement documents, and denied to take judicial notice of Joint Request of Documents submitted by both parties. Please take notice, the documents requested were already in the record, judicially noticed by the court. [ attached hereto as Ex P 1-2], with judicial notice confirmed [attached hereto as Ex P3-5]

4. Appellate appeals rulings issued 5/3/2024 minute order [CT 203-204] where

the court denied a motion filed [3/25/2024 CT P137-149] to reconsider and set aside ruling it entered 3/17/2024 order denying both parties request to enter settlement documents into the record.

5. Appellate also appeals the courts order 5/3/2024 [CT P 203-204] denying Appellate motion to vacate VOID RFO to appear [augmented Record "AR" -2 P18-58] filed April 17, 2018] and resulting Findings and Order issued 2/26/2019 [AR-6 P73-82] issued without subject matter jurisdiction, without authority to be a judge and without first serving a summons when it issued an RFO to appear in Family court issued 4/17/2018 [see augmented record hereinafter "AR" AR-2 P18-58]

*Please take judicial notice Family Court Superior Court Judge Michael J. Haughton [AR-1 P16] executed on 8/26/2006 and filed in the court record final judgment dated August 31, 2006 barring subject matter jurisdiction in family court [AR-1 P14 #13].*

*Please take Judicial Notice The RFO issued 4/17/2018 is 2 years and a month after fully executed Debt Settlement Agreement 3/21/2016 [AR- 2, P46-48] that also bars subject matter jurisdiction in Family Court. [AR-2 P48 prg 4"] that states "Each party further agrees, that this agreement constitutes a bar to any such future claim".*

## II. RELATED CASES:

1. *Clark v. Clark*: Case No. 30-2019-01087758 Sup. Ct. Orange County;
2. *Clark v. Clark*: G061697 CA 4th District Court of Appeal Div. 3;
3. *Clark v. Sup. Ct.*: G058030 CA 4th Dist. Court of Appeal Div. 3;
4. *Clark v. Clark* S282641 Supreme Court Of California
5. *Clark vs Clark* 23-1304 U.S. Supreme Court, Writ of Certiorari
6. *Clark vs State of Calif.*...District Court Case 8:21-cv-01565-MWF-JPR
7. *Clark vs State of Calif.* Ninth Circuit Case # 23-55715

## III. JURISDICTIONAL STATEMENT

A question of jurisdiction arises based on whether or not this court can validate VOID orders issued in the lower Family court. If this court finds the orders issued in the

lower court are VOID as a matter of law, then this court loses jurisdiction to offer any opinions on the merits of VOID orders.

If this court can validate orders issued in Family Court without subject matter jurisdiction pursuant to 8/31/2006 FINAL judgment [AR-1 P14 #13], by a person who is not a judge, who change the terms in the 2006 FINAL judgment (12-years later) to allow family court to circumvent civil court to get around expired statute of limitation, then this Court has jurisdiction under *California Code of Civil Procedure* §904.1(a)(3)-(13), as an order made appealable by the provisions of the applicable *Code*. Pursuant to CRC, Rule 8.104, Appellant timely filed the Notice of Appeal on May 13, 2024, following; 1.) The lower court's denial of both parties litigant request to enter settlement documents into the record for final resolution pursuant to CCP §664.6, CCP §877.6, and CRC Rule 3.1385(b), and, 2.) The subsequent lower Court's ruling of May 3, 2024, denying Appellant's Motion for Reconsideration pursuant to CCP §1008(a) and Motion to vacate pursuant to Rule §473 (d), §663(2), Rule §3.1602

#### IV. AUTHENTICITY OF EXHIBITS

The appellate has designated on 8/14/2024 & 8/29/2024 each of the reporters transcript of the proceedings held on October 6, 2023 and March 14, 2024 .designated Reporters transcript "RT" 40-pages Clerks Transcript "CT" 237 pages.

Appellate augmented the record 10/24/2024 volume 1 164 - pages

Additional exhibits accompanying this brief are true and correct copies of original documents on file in the court record or provided by certified court reporter. The Exhibits Page 1-15 are incorporated herein by reference as though they are fully set for the in opening brief

**V TABLE OF AUTHORITIES**

**Cases:**

*Alexander v. Fulton County*, 207 F.3d 1303, 1326 (11th Cir. 2000).....46

*Bontilao v. Superior Court (2019)* 37 Cal.App.5th 980, 987.....45

*Bradley v. Fisher*, 13 Wall. 335, 20 L.Ed. 646 (1872).....52

*El-Kareh v. Texas Alcoholic Beverage Comm'n*,  
874 S.W.2d 192,194 (Tex. App.—Houston [14th Dist.] 1994, no writ.....53

*Evans v. C. Woods, Inc.*, No. 12-99-00153-CV, 1999 WL 787399,  
at \*1 (Tex. App.—Tyler Aug. 30, 1999, no pet. h.).....53

*Ex parte Spaulding*, 687 S.W.2d at 745 (Teague, J., concurring).....6, 53, 54

*Ex parte Williams*, No. 73,845 (Tex.Crim.App. 04/11/2001).....54

*Hepner v. Libby, McNeill & Libby*, 114 Cal. App. 747, 754 [300 P. 830].....

*Horton v Reliance Standard Life Insurance, Co*  
141 F.3d 1038, 1040 (11th Cir. 1998).....46

*Hughes v. Hearst Publications, Inc.*, 79 Cal. App. 2d 703, 704 [180 P.2d 419].....

*Inwood Laboratories, Inc. v. Ives Laboratories, Inc.* 456 U.S. 844, 855 (1982).....46

*Klugh v. U.S.*, 620 F.Supp. 892 (D.S.C. 1985).....54

*Laboratories, Inc. v. Ives Laboratories, Inc.* 456 U.S. 844, 855 (1982).....46

*Latty*, 907 S.W.2d at 486.....

**LEAH LORCK VS THE SUPERIOR COURT OF SAN DIEGO COUNTY**.....44

*Long v. Shorebank Development Corp.*, 182 F.3d 548 (C.A. 7 Ill. 1999).....54

*Maas v. Superior Court(2016)* 1 Cal.5th 962, 972–973 (Maas).....45

*Omer. V. Shalala*, 30 F.3d 1307 (Cob. 1994).....54

*People vs America Contractors Indemnity Co.* (2002) 33 Cal 4<sup>th</sup> 653, 660.....5, 52

*People v. Tijerina*, 1 Cal. 3d 41, 48-49 [81 Cal. Rptr. 264, 459 P.2d 680].....5, 51

*Piper v. Pearson*, 2 Gray 120.....52

*Retes, supra*, 122 Cal.App.3d at p.807.....45

*Richardson v. Peralis*, 402 U.S. 389, 401 (1971).....46

*Rooney v. Vermont Investment Corp.*,  
10 Cal. 3d 351 [110 Cal. Rptr. 353, 515 P.2d 297].....6, 51, 52

*State ex rel. Latty*, 907 S.W.2d at 486.....6, 53

**VALLEY v. NORTHERN FIRE & MARINE INS. CO.**,  
254 U.S. 348,41 S. Ct. 116 (1920).....54

*Vermont Investment Corp.*, 10 Cal. 3d 351, 360 [110 Cal. Rptr. 353, 515 P.2d 297];.....

*Whatley v. CAN Ins. Co.*, 189 F.3d 1310, 1313 (11th Cir 1999).....46

**WILLIAMSON v. BERRY**, 8 HOW. 945, 540 12 L. Ed. 1170, 1189 (1850).....54

*Zaal Aresh vs Monica Marin-Morales* G060579, G060827.....5, 52

**VI Statutes And Rules:**

CRC Rule 3.1385(b) .....8,11,29, 46, 47, 48, 55  
 CRC Rule 3.1602.....8  
 CRC Rule 8.104.....8  
 CRC Rule 8.116.....50  
 CRC Rule 8.204.....28  
 CCP §170.6.....13,14  
 CCP §259(a) subdivision 4.....5,52  
 CCP §452.....46, 49  
 CCP §473(d).....8  
 CCP §577.....49  
 CCP §583.21.....51  
 CCP §663 (2).....8  
 CCP§664.6.....8  
 CCP §877.6.....8  
 CCP §904.1.....4,8  
 CCP§1008(a).....8  
 CCP §1876.....49  
 U.S. Const amend. XIV.....53  
 Cal Const Section 21, article VI.....5, 51  
 28 U.S.C.A., U.S.C.A. Cōnst. Amend. 5.....54  
 Federal Rules Civ Procedure Rule.(60)(b)(4).....54

**VII STATEMENT OF APPEALABILITY**

An appeal is only appealable if a valid judgment is entered. Consequently, to determine if the lower court orders are even legitimate orders to appeal, we must first determine which judgment is applicable. The 8/31/2006 FINAL judgment bars jurisdiction in family court [AR-1 P14 #13]. No other judgment exist.

Consequently, if the orders issued by the lower court were issued without subject matter jurisdiction, and without a summons to open a new case, no judgment exist, the subsequent orders issued are simply VOID under the law.

**If this court is able to VALIDATE VOID ORDERS issued without subject matter jurisdiction then :**

**APPEAL #1:** The appeal was timely filed. The order denying both parties request to enter settlement documents into the record or dismiss Feb, 26, 2019 order in 45-days pursuant to Rule 3.1385 (b) after the court indicated it was properly noticed by both parties is appealable. The order is not understood to be preliminary. The identical motions each filed separately by Petitioner and Respondent each requesting the court to enter settlement documents into the record [CT P71-81][CT P91-101] supported by a joint request [CT-P83-85] to judicially notice documents already in evidence since July 22, 2022 when the court previously judicially noticed the same documents.in noticed motion to show cause [AR-10 P113-136]. Attached hereto as [Ex P 1:2] is RFJ filed 6/24/2022 and attached as Ex P3 is crt rpt transcripts July 22, 2022 ] confirming the court tok judicial notice.

[attached hereto as Ex p4 crt transcripts July 22, 2022 P5 4:12 ]

*The Court: I do see theres a request for judicial notice in support of respondent notice of motion and motion to amend orders entered 6/3/2022 pursuant to rule of court 3.1385 subsection B.*

*Respondent: The court did take judicial notice of that rule: is that correct  
The Court YES, Sir*

*Attached hereto as [Ex P1-2 ] request for judicial notice file d 6/24/2022 when the court judicially noticed receipt of settlement documents.*

The appeal denying motion for denying reconsideration was a valid motion based on the courts error of law.

The evidence shows the intent of the parties to settle case and shows an "interlocutory decree" for case 05D000275 does not exist. There are no issues to be settled by the court. There is no further action needed by the court other than reverse its rulings upon being ordered by this court.

**APPEAL #2.:** The appeal was timely filed. The order is appealable. The order is not understood to be preliminary. The motion to Vacate Void Orders was a valid motion based on the lower courts error of law.

This court has not made any findings of facts regarding VOID orders. Confirming established precedent VOID orders need not appeal. Confirming no court has the authority to validate VOID orders. In two previous appeals, this court has not addressed the undisputed material facts in evidence a lower family *Superior Court Judge executed* and entered into the court record the August 31, 2006 judgment [AR- 1 P14, #13] barring family court jurisdiction thereon after. Nor does this court address the undisputed material fact, the fully executed, fully integrated 3/21/2016 contract "Debt Settlement Agreement [AR-2 P47, prg 4] also barres subject matter jurisdiction in Family Court.

Furthermore, lack of subject matter jurisdiction documented in two separate contracts, a final judgment entered 8/31/2006 and a Debt Settlement Agreement, is just one issue that demonstrates the Findings and Order issued by a commissioner is VOID on its face by law.. The undisputed material Fact two stipulations [AR- 3, P60:61] and [AR-4 P63:64] were specifically referenced and utilized by the commissioner by his own statements as his sole authority for permission to preside as a judge. The evidence shows neither stipulation was executed by either party. Upon questioning the Commissioner on his authority to preside, he states he states:

[CT- P36 minutes 12/10/2019] "*The court finds it has full jurisdiction to enforce the judgment in this matter*". Upon further inquiries Commissioner Michaelson makes judicial admission:

[see CT-P37 crt mints 6/10/2019],

*"This court continues to act as a temporary judge pursuant to stipulations filed -one filed 6/11/2018 [AR-3 P60-61]and one filed 8/22/2018 [AR-4 P63-64]"* .

Any other legal argument or excuse for authorization to preside as a judge contradicts facts in evidence documented by Commissioner Michaelson

The evidence shows voluminous error of law by the lower court proving Findings and Order issued by a Commissioner on February 26, 2019 is VOID under the law when:

1). at no time did the lower court have subject matter jurisdiction, 2). At no time did the Commissioner in the lower court have authority to preside as a judge, 3) and at no time did the lower court properly execute and serve a summons.

The evidence further shows Appellate properly served a motion for Judge Yolanda Torres to recuse herself under CCP 170 challenge based on a conflict of interest resulting from allegations of judicial misconduct in district court.

### VIII APPEALABILITY OF ORDER - PURSUANT TO CCP 904.1

In the event this court validates the VOID order to appear in court [AR-2 P18-58] , issued without subject matter jurisdiction, changing the terms contained in a final judgment [AR-1 P11 section B Integration] and [P14 #13] Barring subject matter jurisdiction], and validates a commissioner presiding without a signed stipulation, the evidence shows the case is well settled by the parties involved and have confirmed there are no issues to be determined by the court. hence no interlocutory issues to be determined.

- (a) An appeal, other than a limited civil case , may be taken from any of the following:
  - (1) From a judgment, except an interlocutory judgment (N/A), other than as provided in paragraphs (8), (9), and (11)
  - (2) From an order made after judgment made appealable by paragraph (1)

Is the Order to be understood to be Preliminary to a later Judgment?

Answer: No.

*NOTE: The question exist if the underlying orders are made appealable after judgment? What judgment? 8/31/2006 judgment bar jurisdiction in family court, and 3/21/2016 Debt Settlement Agreement {AR-2 Ex B P 47- prg 4}*

This court declined to way the evidence presented on 12 of 13 issues on

appeal in its opinion offered [AR-9 P 97-111 P99 Introduction]] G058284 citing opening brief procedural error were fatal preventing the courts review . Thus allowing a fresh look herein

The Orders at issue to appear in Family court without subject matter jurisdiction, changing the terms section of the final 8/31/2006 judgment [Ar-1 P14 #13] barring subject matter jurisdiction in Family court unless Respondent filed for bankruptcy.

VOID orders need not be appealed, they are simply VOID. It appears that this court on two previous opinions affirms subject matter jurisdiction, despite the 8/31/2006 judgment specifically barring jurisdiction in Family court. [AR-1 P14 #13] inadvertently legitimizing VOID orders. Appellate assumes that is an oversight from misunderstanding a poorly written opening argument caused the confusion.

#### IX ISSUES ON APPEAL

- a. Whether the lower family court has legal standing to assume subject matter jurisdiction in 2018 of a case subject matter jurisdiction was specifically barred executed and entered into evidence by a family law superior court judge August 31, 2006 [AR-1 P14, #13]?
- b. Whether any court has the authority to make changes to the terms of a final judgment entered and signed by a Superior Court a Judge without a writing agreed to by parties required by the contract, thus assuming jurisdiction 12-years later [Ar-1 P11 B. INTEGRATION prg 2]?
- c. Whether actions by a Commissioner who admits to his legal errors, in open court, then documents in court minutes his sole authority to preside over a case as a judge was based on two stipulations, that were never executed by either party.
- d. Whether the lower court has legal standing or authority to refuse both parties litigants Notice and Request to enter settlement documents into the record for proof of final dissolution between the parties? For there own self serving reasons?
- e. Whether the lower Court proceeded under a mistake of law in not granting Appellant's Motion for Reconsideration to set aside on 5/3/2024 pursuant to CCP §1008(a)? [CT P203:204 CRT MINUTES 5/3/2024]

- f. Whether the lower court has the authority to deny settlement, refusing to dismiss in 45 days pursuant to Rule 3.1385 (b) when the court makes judicial admission on the record it has been properly noticed by both parties litigants case 05D000275 has settled,

[RT 3/14/2024 crt rpttr tr p 13 L4:23] Judicial admission the court has been properly noticed of settlement.

*Respondent: "Is the court aware that the parties have tried to settle this case? Is the court aware that both parties are asking the court to enter debt settlement agreement into the record?"*

*The Court: "I'm aware of the request for relief that are sought and the RFO's that have been filed. YES, I'm aware of that."*

- g. Whether the lower court abused its discretion denying Respondent request to vacate VOID orders? [CT P137:149, CT 203:204]
- h. Whether the lower court abused its discretion modifying the terms contained in August 31, 2006 FINAL judgment without written consent from the parties [AR-1 P11(B) prg 2] that barred Subject Matter Jurisdiction in Family Court [AR-1 P8 #13]
- i. Whether this court could determine case 05D000275 was executory to the August 31, 2006 judgment when the judgment itself was final judgment barred subject matter jurisdiction [AR-1 P14 #13].
- j. Whether the lower court abused its discretion and power trying to treat equalization payments in Aug 31, 2006 FINAL judgment for distributing assets like it was spousal support for the purpose of fabricating a family law issue when the judgment specifically bars spousal support [AR-1 P10 II. SUPPORT (A) SPOUSAL SUPPORT ]
- k. Whether the lower Court proceeded under a mistake of law in not granting Respondent request to vacate February 26, 2019 VOID Findings and Order based on Lack of Subject Matter Jurisdiction?
- l. Whether the lower Court proceeded under a mistake of law in not granting Respondent request to vacate VOID Findings and Order based on failure to serve a summons?
- m. Whether the lower Court proceeded under a mistake of law in not granting

Respondent request to vacate VOID Findings and Order based on a *Commissioners error* relying on two stipulations as his sole authority to preside as judge; whereby the evidence shows neither stipulation relied upon were executed by either party.

- n. Whether the lower Court proceeded under a mistake of law when Judge Yolanda Tores failed to RECUSE HERSELF denying a CCP 170.6 challenge FOR HER CONFLICT OF INTEREST as a Defendant in district court for alleged judicial misconduct.?
- o. Whether the lower court abused its discretion attempting to cite two non-published appellate court opinions by this court on the merits of void orders as its only authority to deny motion to vacate
- p. Whether it is appropriate for the lower court to threaten to name respondent (a prose litigant) a vexatious litigant as a form of intimidation to prevent him from exercising his right to ask the court to reconsider its order denying request to vacate void orders. [CT 203 minutes 5/3/2024].
- q. Whether any court, under any circumstance can legitimize Void orders issued by a Commissioner who is not a judge, presides without authority to be a judge, without serving a summons and without subject matter jurisdiction?

#### X. STATEMENT OF THE CASE

Two separate appeals, Appel #1 & #2 filed with two separate appellate fees, at the request of court clerk have been consolidated into one opening brief arise from an RFO served upon Respondent to appear in Family court without subject matter jurisdiction. Family court jurisdiction was barred by a Family Court Superior court judge who executed the final judgment barring subject matter jurisdiction and entered into the record 8/31/2006 [AR-1 P2-16] . The lower court proceeding with a commissioner, a person presiding who is not a judge, ultimately issuing VOID orders.

The instant appeals are a result of legal error by Judge Yolanda Tores, refusing to acknowledge the legal errors, acknowledge the fraud on the court by a subordinate judicial officer, a commissioner and opposing counsel, rather has embraced them, citing non-published disputed opinions of this court, and refused to allow two litigants to dissolve a dispute that arose from a VOID order issued without jurisdiction. Both parties

executed a joint stipulation to settle case [CT P180-182] both requesting the court to enter into the record as a last alternative to the courts refusal to vacate or dismiss pursuant to Rule 3.1385 (b).. The court denies all request. That brings us to the instant appeals.

A supervisory opinion exercising oversight over a lower court voluminous legal errors and prejudice governing all of its decision is necessary to determine if the lower court has abused its power and discretion and/or has any legal authority to refuse two parties request to settle all matters between them

A determination of corrective action is needed to prevent the lower court from straying so far from existing precedent regarding VOID orders to prevent a catastrophic change in our judicial process governing well established law.

A published opinion is necessary to establish new or confirm existing precedent whether or not commissioners/ judges can arbitrarily change/modify final judgments that bar subject matter jurisdiction in an effort to validate void orders issued by a commissioner without subject matter jurisdiction or authority to be a judge,.

A published opinion should establish new law or support existing precedent whether or not the code on judicial ethics for judicial officers, means anything in California, when judicial officers openly and freely use the office of Superior Court to commit fraud on the court, manipulate the court docket free from repercussions.

First; the evidence shows the lower family court changed/modified the terms in a Final judgment specifically barring subject matter jurisdiction [AR-1 P14, #13] over 12-years after entry of judgment, where the terms of the final judgment were drafted, executed and entered by a Family Law Division Superior Court Judge [AR-1 P16] barring subsequent jurisdiction in family court, when it issued an order to appear in family court to Appellate.

Second; the evidence will show, the court violated the one judgment rule under CCP 963 that prevents any subsequent judicial officer from changing the terms of a final judgment to obtain subsequent jurisdiction in family court in breach of terms that requires any changes to be in writing and agreed to by both parties.[AR-1 P35 IV(B) 2<sup>nd</sup> prg]

Third; the evidence will show a commissioner's judicial admission he proceeded as his sole reason to preside as a judge relying on and using two stipulations that he did not get signed by either of the parties litigants.

The evidence shows, a fraudulent stipulation was executed and entered into the record by a commissioner and opposing counsel attempting to represent the signature was that of appellate in an effort to fabricate subject matter jurisdiction. A meet and confer letter attached to 4/15/2019 order as Exhibit "B" [AR-8 P91-95] showing undisputable evidence both Commissioner Michaelson and opposing counsel knew stipulations had not been executed and proving the Feb. 26, 2019 Findings and order had not yet been signed.

A review of the fact, commissioner Michaelson omitted from the record Exhibit "A" in his 4/15/2019 findings and order [AR-8 P87-95] because Exhibit "A" attached hereto [EX P6] that shows opposing counsel's written request (see footer) to sign Feb. 26, 2019 order because it shows he committed fraud, cut and pasting his signature on the docket Feb. 26, 2019. [AR-6 P74]

More damaging to the credibility to orange county superior court, family law division, Exhibit "B" meet and confer letter [AR-8 P91-95] clearly shows when the commissioner and opposing counsel was again put on notice the court never procured a signed stipulation, they proceeded to fabricate a stipulation [AR - 4], entered into the record together dated August 22, 2018.

Thereon after both tried to represent the initials of opposing counsel were that of Respondent until impeached almost 10-months later.

A, [see attached hereto as Ex P9] signature on responsive declaration signed under the penalty of perjury, by opposing counsel James Wellman] referencing memorandum points and authority [attached hereto EX P12] he states L224:27

*"Respondent claims he never signed stipulation to the Commissioner (although there is a written stipulation which clearly indicates he did), signed by James Wellman on [Ex P13].*

B. [see attached hereto Ex P15 CRT repr transcripts June 21, 2019 L18:20

Ms Nogueiras: Your honor may I ask counsel if the signature on the stip is his?  
There's only one stip with two signatures.....more dialogue

EX P 16 L6: You may show whatever you want

L9 The court: That's not your signature, is it?

L11 Mr. Wellman: These are my initials, your honor, YES, IT IS MY

SIGNATURE

The Court: So you did sigh?

Mr Wellman; Yes I Did

Please take Judicial Notice of [AR-8 P91#2] attached to courts 4/15/2019 findings and order in response to denying motion to vacate due to no stipulation. Here you have the Commissioner and opposing counsel working in concert until impeached on the record.

The evidence shows appellate has been in front of this court before on two occasions, [AR-9 G058284, AR-12 G061697]

Appellate (a prose litigant) submits the contents in prior opening briefs as a prose litigant were substandard and non compliant to Rule 8.204 do to his misunderstanding of the appellate procedural rules. A result of the deficiencies cited, this court could not rule on 12 of 13 issues on appeal preventing the court from considering any of the evidence contained therein. This court could only cite in favor of the judgment because it had to, [AR-9 ZP 99 Facts prg 1]. Thus declining to address any issues on appeal based on facts in evidence . The clerk transcript deficiencies cited in 9/20/2023 opinion are cured in the instant appeal, with previously omitted facts in evidence contained herein to validate the requirements for the court to dismiss action in 45-days of notice pursuant to Rule 3.1385 (b) [see motion to show cause Docket # 20013981 AR P113-136 ], *not only from previous appeal but also based on new evidence presented by way of judicial admissions by Judger Yolanda Tores*. The instant appeal provides previously omitted motion to show cause, but also new evidence by way of the lower courts subsequent

admission it has been properly noticed by both parties litigants that the case has settled again bringing Rule 3.1385(b) at issue again. The court must dismiss action within 45-days.

The evidence shows **THE COURT MAKES JUDICIAL ADMISSION** it has been **PROPERLY NOTICED** of settlement by both parties litigants

[RT 3/14/2024 p 13 L4:23] Judicial admission the court has been properly noticed

*Respondent: "Is the court aware that the parties have tried to settle this case? Is the court aware that both parties are asking the court to enter debt settlement agreement into the record?"*

*The Court: "I'm aware of the request for relief that are sought and the RFO's that have been filed. YES, I'm aware of that."*

The evidence shows, the lower court has not been able to provide any authority allowing the court to prevent two parties from settling a dispute between them. A review is necessary in the instant appeal to determine whether the lower court has legal standing to prevent two parties from entering settlement documents into the record citing as its ONLY source of authority to deny request, attempting to validate void orders, two non-published disputed opinions from this court.

[see CT P191 supervising judge letter]. "To be clear, Commissioner Michaelson ruling was affirmed AND IS THE LAW OF THIS CASE. It will not be addressed again."

A determination whether or not the lower court, pending no other legal citations to support their actions can rely solely on disputed NON- PUBLISHED OPINIONS to legitimize void orders, and if those decisions complies with Rule 8.116 citation of unpublished opinions, especially when there is a matter of dispute OVER THE OPINIONS CITED.

## **APPEAL #1**

The instant appeal is a result of the lower family court history of failure and refusal to acknowledge its legal errors when it issued a notice to appear on case 05D000275 WITHOUT SUBJECT MATTER JURISDICTION.

This court confirmed on two prior opinions, [CT P100 Appeal Opinion G058284] "in 2017, Deborah called Edward to find out when he was going to resume the monthly payments.... Deborah filed request for order April 17, 2018," then again in second opinion [G061697 9/20/23 CT P150 prg1:3] this court confirming Petitioner

1. Signed debt settlement agreement March 21, 2016 and fully executed
- 2.) Had a phone call in 2017 and
- 3) Filed RFO subject of this 2017 phone call. April 17, 2018.

A review to verify the underlying matter RFO served April 17, 2018 had nothing to do with a 2006 dissolution judgment in family court (no longer at issue) and everything to do with a lawfully entered, fully executed and enforceable civil contract entered by both parties 3/21/2016, by which Family court did not have subject matter jurisdiction pursuant to 8/31/2006 judgement [AR-1 P14 #13]

A review of the appeal opinions, this court outline the reason the RFO filed in the underlying matter April 17, 2018, was based on a phone call, the RFO was filed one month past the expired statute of limitation for oral agreements in civil court jurisdiction if a complaint existed..

## **XI STATEMENT OF FACTS**

1. 8/31/2006 Augmented record hereinafter "AR" [AR-1 P14; #13] Dissolution Judgement Barring subject matter jurisdiction in Family court absent respondent filing for bankruptcy. Executed and entered into the record by a Family Division Superior Court Judge [AR-1 P16 the Hon Michael J. Haughton]
2. 8/31/2006 The dissolution judgment had nothing to do with child support or Alimony

**[see AR-1 P10 Section II. Support A. Spousal Support and B. Child Support]**  
confirming the dissolution judgment was strictly a money judgment that did not include any support payments i.e Judgment P4

3. 1/14/2013 [AR-2 P42-44] Satisfaction of Judgment executed and filed by Petitioner and served upon Respondent. i.e Exhibit "B" to RFO issued by family court.
4. 3/21/2016 [AR-2 P46-49 ] Debt Settlement Agreement fully executed barring subject matter jurisdiction in any court including Family Court. [AR-2 P47 attached to RFO as Ex B]

**"Except to enforce the terms of this Agreement , each party agrees not to bring a claim of any kind against the other party to this Agreement concerning any matter released by this Agreement. EACH PARTY FURTHER AGREES THAT THIS AGREEMENT CONSTITUTES A BAR TO ANY SUCH FUTURE CLAIMS. "**

5. 9/14/2017 Served Respondent with Debtors Exam, (FIRST ATTEMPT) signed by Commissioner Michaelson
6. 10/2/2017 Respondent filed objections informing the court of Filed Satisfaction of Judgment and 3/21/2016 Debt Settlement Agreement
7. 11/3/2019 Debtors Exam Taken Off Calendar following a determination family court did not have subject matter jurisdiction.
8. 4/17/2018 [AR-3 P18-58] An order to appear in Family Court was served upon Appellate to determine amounts due executed by Judge Lon Hurwitz, Superior Court Judge (SECOND ATTEMPT)  
*(1-month after expired statute of limitation in civil court) and knowledge of the lack of subject matter jurisdiction (see #6)*
9. [AR-2 P18-58] ] RFO to appear executed by Judge Lon Hurwitz , #'s (1)(3)(4)(5)(6) above in family court after the same court had already taken off calendar debtors exam for lack of subject matter jurisdiction.
10. 6/11/2018 9 [AR-3 P60-61] The court entered a stipulation "For All Matters into the court record allowing a commissioner to preside over Debtors exam that is not signed by either of the parties litigants
11. On 8/22/2018 [AR-4 P 63-64 ] the court entered a second stipulation "For All Matters" into the court record, attempting to allow a commissioner to preside over a matter of dispute that is not signed by either of the parties litigants.

*The evidence shows the bottom signature (initials) are that of James Wellman opposing counsel acting as if he were Respondent*

*Fraud on the Court*

12. 8/22/2018 The evidence will show the 8/22/2018 stipulation was not entered into the record until March 8, 2019 [AR-8 Meet and confer letter EX "B" P91 #2] or thereafter when counsel for Respondent asked the court for a stipulation the court was relying, Reminding the court a stipulation had not been executed, because Mr. Clark refused to sign. Yet it is in the record dated 8/22/2018.

*Fraud on the Court*

13. 2/26/2019 Commissioner Barry Michaelson filed an un-signed Findings and Order. The evidence will show [AR-6 P74] the signature line of Barry Michaelson is cut and pasted and was not executed until after Petitioner motion requesting the court to sign findings and order heard 4/15/2019. [see attached hereto as Exhibit "P6" RFO filed 4/15/2019 (footer) Request to sign 2/26/2019 order]
14. 3/8/2019 [Clerks Transcript hereonafter "CT" minutes P 36] The court heard and denied respondent motion to vacate VOID order issued by a Commissioner without authority
15. 7/31/2019 [CT P37:38 court minutes] 2019 L6 "The court continues to act as temporary judge pursuant to stipulations filed -- one filed 6-11-18 and one filed 8-22-18" referencing stipulations (7),(8) above

*Fraud on the Court*

16. 4/15/2019 [Attached hereto as Ex "B" ] Respondent filed motion requesting the court to sign 2/26/2019 Findings and ORDER after hearing

{see attached hereto as Ex P6 footer "REQUEST THAT COURT SIGN THE FINDINGS AND ORDER AFTER HEARING FILED FEBRUARY 26, 2019"}

Confirming the entry contained in the docket on February 26, 2019 alleging the Commissioner signed on February 26, 2019 is a FRAUD ON THE COURT! Was not signed on Feb. 26, 2019.

*Please take judicial notice, [AR-8 P89-90] the 4/15/2019 Findings and Order Exhibit "A" of Petitioner motion is omitted from the court record, because it contradicted and disclosed the courts FRAUD backdating, cut and pasting signature line on Feb. 26, 2019*

*Findings and Order. Another example of Fraud by Court Commissioner. Attached hereto as Ex "D" is the omitted motion*

[AR-8 P91-95] | Exhibit "B" Meet and Confer Letter states

#1: *"the order you state was filed on December 10, 2018 we have not agreed to any order as of today's date (March 13, 2019), A review of the docket should suffice to demonstrate to you that the order has not been filed and conclude your statement is false*

#2: *"Subsequent to the hearing go set aside order on 3/8/2018, the court was unable to provide me a stipulation signed by either your client or my client. I have attached as Exhibit "A" . In addition I have attached a copy of my clients drivers license so you can see his signature"*

An internal investigation by the court would reveal the 2/26/2019 order was originally filed un-signed, then replaced following 4/15/2019 hearing with order with a stamp of the commissioners name and then again replaced with a cut and pasted signature line sometime thereafter

17. 4/15/2019 Attached to Petitioner Findings and Order *Docket Exhibit "B"* [AR-8 P91] is Respondent counsel meet and confer letter dated March 13, 2019 filed by Petitioner confirming on [AR P91, #1] as of March 13, 2019 there was no order signed in the docket, and confirming both opposing counsel and Commissioner Michaelson knew the order issued was a VOID order issued by a person who did not have authority.

***ALL SUBSEQUENT ACTS HEREINAFTER WILL SUPPORT INTENTIONAL ACTS OF FRAUD ON THE COURT BY SUBSEQUENT JUDICIAL OFFICERS AND SUPERVISORS TO PREVENT INVESTIGATION BY THE COMMISSION ON JUDICIAL PERFORMANCE AND IN AN EFFORT TO CONCEAL EGGRIGISE JUDICIAL MISCONDUCT alleged in district court case Clark vs State of Calif...District Court Case 8:21-cv-01565-MWF-JPR .***

18. 7/31/2019 court minutes [CT P37:38 L6]

*"The court continues to act as temporary judge pursuant to stipulations filed -- one filed 6-11-18 [CT 15265845] and one filed 8-22-18"[CT 15454166]*

19. 8/2/2019 Respondent filed a claim in civil court to litigate the terms of the 3/21/2016 Debt Settlement Agreement. *Clark v. Clark: Case No. 30-2019-01087758 Sup. Ct. Orange County;*

20. 7/12/21 Both parties litigants settled the terms contained in the 3/21/2016 contract and entered a joint stipulation [AR10 P125] witnessed by A Superior Court Judge the on. Gregory Lewis

**The following evidence was OMITTED FROM PREVIOUS APPEAL, NOT PROPERLY DESIGNATED IN THE RECORD BY APPELLATE**

21. 6/3/2022 [ AR-10 P113-136] Respondent filed a Motion to Show Cause pursuant to Rule 3.1385(b). With attached:  
Exhibit "A" Proof of Service [AR P120-123] w/attached letter of explanation for review of procedure after judgment  
Exhibit "B" Joint Stipulation of Settlement [AR P125-127]  
Exhibit "C" Satisfaction of Judgment entered by Petitioner [AR P129-130]  
Exhibit "D" Debt Settlement Agreement 3/21/2016 [AR P133-135]
22. 6/3/2022 [CT P41-42] The court minutes confirms no cause shown, no appearance by Petitioner, court denied Respondent request to dismiss pursuant to rule 3.1385(b)
23. 6/22/222, In evidence, The lower court took judicial of settlement documents; [attached hereto Exhibit "C" [crt rpt r P 34, Lines 10-12] and rule 3.1385(b)]
24. 7/22/2022 [CTY P44-45] The court denies motion to reconsider pursuant to Rule 3.1385(b) dismissing order issued by a Commissioner
25. 8/5/2022 [AR P139-140] The first request for the court to take judicial notice of settlement documents
26. 12/20/2020 [AR-9 P97-111] Appeal Opinion G058284  
States [AR-9 P99] only 1 of 13 issues on appeal survive fatal opening brief THEREFORE FACTS: *As we are required to do, "we recite facts in the manner most favorable to the judgment"*

**Check court transcripts**

27. 1/13/2023 The court was asked in open court and the court confirmed what ever it previously took judicial notice of, is still judicially noticed by the court confirming settlement documents are already in evidence
28. Please take Judicial Notice, [CT 49-50 1/13/2023] minute order] although the court confirmed it took judicial notice of settlement documents in open court, and without any opposition, failed to disclose in the minutes it took judicial notice then proceeded to deny motion to set aside and vacate order without cause

**FRAUD AND DECEIT**

**THE COURT REJECTED PETITIONERS THREE REQUEST TO DISMISS ACTIONS BY A COMMISSIONER AND REFUSED TO ENTER INTO THE COURT DOCKET AS EVIDENCE FOR APPEAL**

29. 7/28/2023 [CT P 51 minute order] The court acknowledged it has received three request "BY PETITIONER" for dismissal

The court set on its own motion a status conference to discuss dismissal

30. 8/3/2023 [CT P 53-54 minute order] the court denied Respondent CCP170.6 challenge to recuse Judge Yolanda Tores

31. 8/17/2023 [CT P 55-56 minute order] The court denies "Petitioner" request for dismissal, of order issued by commissioner and vacates status conference from its own motion to discuss dismissal

32. 9/20/2023 [AR-12 p146-160] Case G061697 Appeal Opinion #2  
[AR-12 P149] Facts "We recite facts from the prior appeal that are pertinent to this case" Despite irrelevancy

33. 10/6/2023 [CT P 58-59 minute order] the court denies the request to enter "Petitioner (3) request to dismiss into the record for appeal purposes disclosing on the record she doesn't have the authority.

[see crt rpttr transcripts dated Oct 6, 2023 p10 L5:L13]

*Respondent: I'm just trying to have the record reflect exactly what happened, your honor, so that going forward it makes sense and we don't have to try and figure this out again*

*The Court: "So I have the request, AND I CANNOT—I HAVE NO POWER TO HAVE THOSE REFLECTED ON THE REGISTER OF ACTIONS; THAT'S OUTSIDE OF MY CONTROL; THAT'S SOMETHING HOW THEY MANAGE UPSTAIRS. SO ITS BEYOND MY CONTROL; THAT'S SOMETHING THEY MANAGE UPSTAIRS, number one; two AGAIN, I DO NOTE THAT YOU WANTED THE 7/28/2023 REQUEST FOR DISMISSAL FILED BY THE PETITIONER REFLECTED IN THE register of actions. I do understand that—and the 8/2/23 – and again dismissal request – you want that reflected; again. I cannot do that.*

34. 10/27/2023 [“CT P71-85] “Petitioner filed a request to enter settlement documents into the record
  35. 10/27/2023 [CT 60-70] “Petitioner file JOINT Request for the Court to take Judicial Notice in support of her motion to enter settlement documents into the record
  36. 12/20/2023 [CT 86-87] Respondent Submits and Agrees to Petitioner request to enter settlement documents into the record.
  37. 1/3/2024 [CT P88-89] Respondent in open court submits to Petitioner request (motion) to enter settlement documents into the record. The courts tentative was to grant request bu declined to do so because Petitioner (an out of state litigant did not appear for her own motion. Thereby continuing until 1/25/2024 ordering the clerk to give notice ultimately continued to March 14, 2024
  38. 2/1/2024 [CT P 91-101] Respondent files the exact same motion as Petitioner requesting the court to enter settlement documents into the record to prevent any misunderstanding both parties litigants are asking the court to do the same thing i.e “Conclude case”
  39. 2/15/2024 [CT P104:110] Respondent was forced to file ex-parte motion to ask the court to show both identical hearings filed by each party on the court docket requesting the court to enter settlement documents into the record.
  40. 3/14/2024 [CT P118-119] Issues before the court were Petitioners request to enter settlement documents into the record filed 10/27/2023; a joint request for the court to take judicial notice of settlement documents filed 10/27/2023; Respondent identical request to enter settlement documents into the record filed 2/1/2024.
  41. 3/14/2024 [CT P118] Respondent did not appear and has not telephoned, despite authorization for remote appearance, she was noticed by the court clerk. The court denied both Petitioners request and Respondent request to enter settlement documents into the record despite previously taking judicial notice of settlement documents motions. [Attached as Ex p1-2 rfj & ex P4 crt rprr tr lS-112]
- Please take judicial notice, the court minutes [CT P 118:119] only reflects the court denying Respondent request to enter settlement documents into the record and again fails to address (CONCEALS) Petitioners (RFO) request to enter settlement documents into the record, and fails to address both parties Joint request to take judicial notice of settlement documents filed by Petitioner also executed by Respondent.*
42. 3/14/2024 [RT crt rprr tr p 13 LA:23] Judicial admission the court has been properly noticed

*Respondent: "Is the court aware that the parties have tried to settle this case? Is the court aware that both parties are asking the court to enter debt settlement agreement into the record?"*

*The Court: "I'm aware of the request for relief that are sought and the RFO's that have been filed. YES, I'm aware of that."*

43. 3/14/2024 The court again took judicial notice of settlement documents indirectly. Refused current request to judicially notice settlement documents but stated if she did it before, then they are judicially noticed. Referencing documents judicially noticed in (21) above. Before she denied motion
44. 3/25/2024 [CT P 120-136] Respondent filed motion to set aside order issued denying both Petitioner and Respondent separate motions to enter Debt Settlement Agreement dated 3/21/2024 into the record: **SUBJECT OF APPEAL #1**
45. 3/25/2024 [CT 137-202] Respondent simultaneous motion to Vacate all VOID order. SUBJECT OF APPEAL #2.

## **XII OVERVIEW**

Appellate has been in front of this court before , unfortunately with a sub-standard appeal not compliant with Rule 8.204 failing to present to this court undisputed material facts proving the underlying court matter was initiated without subject matter jurisdiction, without issuing a summons on a civil matter and presided over by a person who is not a judge. Thereby issuing orders that were VOID on their face.

This court has not adjudicated the merits of the case in two previous appeals. Failing to address 12 of 13 issues on appeal and reciting facts favorable to the judgment, not based on a review of evidence presented Rather "because it has to" . Nor are any of the previous opinions relevant to the instant appeal.

The underlying matter was presided over by a Commissioner who upon having a Sham case exposed, thumbing his nose at the law that mandates a stipulation be signed for him to preside. Refusing to recuse himself and dismiss actions that were VOID on

their face. [see meet and confer letter AR-8] attached to Petitioner 4/15/2019 request for the court to sign 2/26/2019 Findings and Order as exhibit "B". Proves at all times, the commissioner knew he proceeded in violation of all legal statutes.

Continuing the cover up because a complaint for judicial misconduct was filed with the commission on Judicial performance, , Judge Yolanda Tores refused to dismiss pursuant to rule 3.1385 (b) when both parties consented to dismissal of unlawful actions by a commissioner when no cause was shown otherwise. When the court was duly noticed in a noticed motion to Show cause [AR-10 P113-136]

And finally the current actions under Judge Yolanda Tores causing instant appeals even though based on her own admission in open court she has been properly noticed of settlement, refuses to dismiss within 45-days pursuant to Rule 3.1385 (B) Refuses to Vacate VOID orders and refuses to enter settlement documents into the record.

There are no other options available to the parties to settle the case once and for all, finally and forever.

**A. NEW Evidence makes RULE 3.1385 (b) AT ISSUE AGAIN**

2. In the instant matter, NOW on March 14, 2024 the court admits it has been properly noticed by Both parties of a settlement, yet refuses to comply with Rule 3.1385 (b) again. [ (Ex p305) (Crt rpt'r Tr P13 L13:20)]

*The respondent; " Is the court aware that both parties are asking this court to enter a debt settlement agreement into the record? "*

*The Court: " I'm aware of the request for relief that are sought and the RFO's that have been filed. YES"*

**APPEAL #1**

**SINCE THE COURT REFUSED TO DISMISS CASE AT THE REQUEST OF BOTH PARTIES, AND CONCEALED THE REQUEST FROM THE COURT**

**DOCKET - BOTH PARTIES FILED IDENTICAL MOTIONS REQUESTING  
THE COURT TO ENTER SETTLEMENT DOCUMENTS INTO THE RECORD**

*Whereas:* On 10/27/23 "Petitioner" filed a noticed motion to enter settlement documents into the record. [See CT 71:85]

*Whereas:* On 10/27/23 "Petitioner" filed a joint request with Respondent for the court to take judicial notice of settlement documents executed and witnessed by a superior court judge [see CT 60:70]

*Whereas:* On 12/5/23 Respondent submitted to Petitioner motion to enter settlement documents into the record.[CT P86:87]

*Whereas:* On 2/2/24 following a continuance of Petitioners motion Respondent also filed the identical motion with the same request to enter settlement documents into the record to remove any possible confusion the court could have regarding both parties intentions. [see CT 91:103]

*Whereas:* Both identical motions were scheduled to be heard on 3/14/24 where both parties litigants were requesting the court to enter settlement documents into the record, yet the court refused Respondent request to show both parties hearings on the court calendar until respondent filed an ex-parte motion exposing again the courts attempt to conceal. [filed 2/15/2024 CT 111-117]

*Whereas:* On 3/14/2024 the court denied both parties request to enter settlement documents into the record, [CTP118-119] citing as its only authority two non-published opinions by this court. [see Ex. 16 (Ex p302) crt rpttr tr. P10, L23 : P11, L7 ] despite the court confirming it has been properly noticed of settlement by both parties litigants.

*Whereas:* On 3/25/2024 Respondent filed a motion for reconsideration [CT P120-134] based on the courts error of law and a separate motion to vacate set aside VOID orders issued by the Commissioner and all subsequent orders. [CT P137-149]

*Whereas:* On 5/3/24 the court denied motion to set aside its denial to enter settlement documents into the record and denied motion to vacate void orders threatening Respondent if he files anything else on the matter he would considered a Vexatious litigant [see CT P203:204] . Consequently, based on the courts threats, Respondent could not exercise his right to file a motion for reconsideration of the courts denial to vacate void orders further demonstrating the legal errors to the court.

**APPEAL #2:**

*Whereas:* It is well established by the Fourth Circuit appellate Div. 3 in two-non-published Opinions [ AR-9 12/2/2020 P3 prg 4] and [AR-12 9/20/23 p4 prg 2] ] this court found (and appellate submits) the underlying matter resulted from a phone call in 2017 questioning a fully executed Debt Settlement Agreement executed 3/21/2016. Thus, proving the underlying matter had nothing to do with 2006 judgment as argued by lower court.

*By this courts opinions, the court not only verifies the order issued was outside the statute of limitation for civil court, verifies the instant matter had nothing to do with a 2006 dissolution judgement, as claimed by the lower court in their effort to claim subject matter jurisdiction. Rather was based on a complaint from a 2017 phone call subsequent to a fully executed, valid and enforceable civil contract entered 3/21/2016.*

*Furthermore,*

**B. SUBJECT MATTER JURISDICTION**

12. Please take judicial notice of the RFO to appear filed 4/17/2018 [AR-2] had

attached to it as Exhibits:

**Exhibit "A"** 8/31/2006 judgment [AR-1 P8 #13 ] executed by a Family Court Superior Court Judge that barred subject matter jurisdiction in family court since there were no provisions for alimony [ Ar-1 P34 II. Support (A) ] or child support [ P34 II. (B) ].

An agreement to equalize a distribution of cash assets over time in a final judgment "Equalization payments" is not alimony. The 8/31/2006 final judgment judgement. Alimony was not awarded in 8/31/2006 Final Judgment [AR-1 P10 II. Support "(A) Alimony]

**Exhibit "B"** [AR- 2 P42-43] Satisfaction of Judgment executed and filed by Petitioner informing the court case 05D000275 was no longer at issue *and also attached to Exhibit "B"* [AR-2 P47 prg 4] 3/21/2016 Debt settlement Agreement barring subject matter jurisdiction in any court.

13. It is unclear why the court claims the satisfaction of judgment wasn't filed or aware of the satisfaction of judgment when it was attached to RFO issued by the court and in the court record previously attached to objections? But the statement is consistent with the Family courts actions manipulating the record.

14. Without subject matter jurisdiction pursuant to the 2006 judgment [VIII #(1)] and without subject matter jurisdiction (XI # (1)(2)(3)(4) ), and without subject matter jurisdiction based on 3/21/2016 contract (XI (4) ), and outside the statute of limitation in Civil Court (XI # 8 ), Appellate (Respondent) in Family Court) was served an RFO (XI #(8)) generated as a result of a 2017 phone call.(VIII # (25), (30)) to appear in Family court (XI #(9)). Served without serving a summons addressing any complaints with the 3/21/2016 contract and after the statute of limitation for alleged oral conversation upon entering 3/21/2016 contract had expired.

Absent subject matter jurisdiction in any court, orders or judgments are void when issued without subject matter jurisdiction.

NO STIPULATION SIGNED BY EITHER PARTY EXIST

(XI #'s (10)(11)(12)(13)#

*Even if the lower court could somehow justify subject matter jurisdiction, which it cant. it cannot overcome the undisputed material fact a Commissioner relied on two stipulations unsigned by either parties litigant as his sole authority to preside as a judge.*

*(XI #(10)(11) )*

15. Respondent (before a hearing commenced) refused the courts request asking him to execute a stipulation to allow the commissioner to preside as Judge "FOR ALL MATTERS". Despite respondent refusal, the court recessed and ordered the parties back a different day only to order respondent to participate in a two day trial despite respondent objections and refusal to sign a stipulation. Respondent filed written objections by way of a non-suit with its objections. The court refused to enter objections as evidence into the record and proceeded to conduct hearing issuing a Findings and Order (XI (13) ). Although Commissioner Michaelson found the 3/21/2016 contract valid, enforceable entered without undue influence, he authored an adverse ruling disregarding the terms contained in the fully executed valid contract, which is the subject of the underlying matter, while at all times knew he did not have subject matter jurisdiction.

16. Respondent challenged Commissioner on several occasions to cite authority for his decision to preside as a judge,

[XI # 17] crt minutes 7/31/2019 L6 "The court continues to act as temporary judge pursuant to stipulations filed -- one filed 6-11-18 [CT 15265845] and one filed 8-22-18"[CT 15454166]

17. The evidence shows the commissioner, at all times was aware he did not have

authority to execute and issue order before he back dated signature on Findings and Order to Feb. 26, 2019 to give the appearance his actions were not pre-mediated with malice. [see AR-8, P87-95 EX "B" Findings and order after hearing 4/15/2019]. Also CT 16355948, opposing counsel requesting the court to sign February 26, 2019 order in his motion filed 4/15/2019.,

Please take judicial notice of the contents in evidence of the meet and confer letter [XI. #(16)] attached to the courts April 15, 2019 Findings and order signed by Commissioner Michaelson:

*The evidence reveals Judicial misconduct with malice;* the court was provided a copy of the attached meet and confer prior to signing 4/15/2019 Findings and order and prior to back-dating the February 26, 2019 Findings and Order.

.The meet and confer reveals:

1. As of March 13, no order had been signed or was in the court docket
2. Subsequent to hearing on 3/3/2019 the court was unable to provide a stipulation signed by either parties litigant
3. The court only had statutory authority to provide subordinate duties
4. The court intentionally misstates facts

The evidence shows it was not disclosed for over 10-months by opposing counsel or the commissioner that the name on the stipulation was actually that of opposing counsel signing stipulation as if he were Respondent.

Opposing counsel and commissioner Michaelson went on to conceal his fraud on the court until impeached 10-months later. [see]see attached hereto as Ex P9] signature on responsive declaration signed under the penalty of perjury, by opposing counsel James Wellman] referencing memorandum points and authority [attached hereto EX P12] he states L224:27

*"Respondent claims he never signed stipulation to the Commissioner (although there is a written stipulation which clearly indicates he did), signed by James Wellman on [ Ex P13].*

B. [see attached hereto Ex P15 CRT reptr transcripts June 21, 2019]  
L18:20

Ms Nogueiras: Your honor may I ask counsel if the signature on the stip is his?  
There's only one stip with two signatures.....more dialogue

[EX P 16 L6]: You may show whatever you want

L9 The court: That's not your signature, is it?

L11 Mr. Wellman: These are my initials, your honor, YES, IT IS MY

SIGNATURE

The Court: So you did sigh?

Mr Wellman; Yes I Did

Consequently, one must ask, how does commissioner Michaelson sign this order 4/15/2019 then follow up with back dating an order to Feb 26,2019 to give the appearance his malicious acts were not intentional? Then omit the request by opposing counsel from the record.

18. Respondent subsequently filed a claim in civil court, the court with proper subject matter jurisdiction, case # 30-2019-01087758-CU-BC-CJC in Superior Court to litigate the terms contained in the 3/21/2016 Debt Settlement Agreement, the commissioner found to be a valid contract

19. Both parties litigants subsequently settled the civil action, entered a stipulation in Superior court filed July 12, 2021 . attached to Petitioner motion requesting the court to enter into evidence [see CT P83-84] agreeing the 3/21/2016 contract again was valid and enforceable confirming the actions in the Family court division were done so in Breach of Contract.

20. Defendant (Petitioner in family court) agreed she Breached the 3/21/2016 contract by issuing or caused to have issued RFO [see CT P83-84] joint stipulation executed by both parties]

21. The lower family court has refused to accept in any form the joint stipulation

by both parties litigants resolving all issues filed in the Superior court with proper subject matter jurisdiction to litigate a civil contract. This despite the joint stipulation being witnessed and verified by a tenured Superior Court Judge. The Hon. Gregory Lewis and both parties asking the court to take judicial notice of joint stipulation.

#### **UN-PUBLISHED OPINIONS ON THE MERITS OF VOID ORDERS**

22. Appellate has been in front of this court before arguing these same points. Case G061697 & Case G058030. Where this court had issued two non-published opinions on the merits of VOID orders issued by a person who was not a judge, without subject matter jurisdiction and without service of a summons. Thus, effectively through its opinion discussing the merits of a VOID Order, appears to have inadvertently allowed the lower court to believe this court intended to legitimized VOID orders under the law, The instant appeal should clarify this courts intentions.

23. This court unfortunately denied to consider Appellate Petition for Review informing the court it issued opinions on the merits of a VOID order [attached hereto as Exhibit "F"] The lower court is using the non-published opinion to legitimize a void judgment to use as a shield to cover for judicial misconduct alleged in district court, since it is unable to cite any legal authority for the courts actions.

28. The lower court family judge, when specifically asked on what authority she is basing her decision to deny motion to vacate void orders, she cited as her only authority the two non-published opinions issued by this court that are void opinions under the law.

**[RT tr P22 L18: October 6, 2023**

*Respondent: As I indicated in the motion to amend the order, the request for dismissal is not a request to dismiss 2006 judgment; it's a request to dismiss the work that was done by Commissioner Michaelson for 2018*

*The Court: I cannot do that, and I think you properly went to the Court of Appeal for that issue. And they made their decision. I cannot dismiss whatever Commissioner Michaelson —his orders—number one cant do that.....*

*[Please refer to RT March 14, 2024]*

*Respondent: P9 L26: In that regard what is the courts legal standing to not do what the parties ask them to do, if the case has been settled?.....*

*Respondent: P10 L23 Which Law? Can you tell me which law your following?*

*The Court: I'm not refusing, the fact the it'd already been adjudicated. This matter has already been decided; and your recourse, which any litigant has the ability to do— your recourse or any litigants recourse would be to go to the court of appeal and seek relief there; AND THAT RECOURSE HAS ALREADY BEEN RESOLVED AND ADJUDICATED THERE; A DECISION WAS RENDERED; I WANT TO SAY IT WAS RENDERED EARLIER THIS YEAR WHEN THE DECISION WAS ISSUED.*

*P12 L 4*

*Respondent: Can you tell me which Law your following? I'm trying to understand which law your following. You keep saying that in every hearing; yet you don't cite any relevant law to support your position.*

*The Court: Well, the fact that its already been adjudicated; A decision was made; that decision stands. I'm not the court of appeal.*

*P17 L10*

*Respondent: Well, if the court has legal authority to NOT do what both parties are requesting you to do, I would like to know what that legal authority is.*

*L17 The Court: For the record Im not refusing. Im following the law.*

29 The lower court has failed to offer any other authority or any evidence to prove the orders issued by a commissioner, are valid and somehow not Void under the law. Or authority to support its decisions to refuse to let the parties settle case.

30. APPELLANT now seeks the relief to address and reverse the lower court order denying respondent request to vacate Feb..26, 2019 order a pursuant to CRC 2.831;CRC 2024; Rule 8.108(c),(e);CCP 170.6(a), 259(d), 412.20, 415.10-414.95, 663(a);664.6, 473(d), or dismiss pursuant to Rule 3.1385 (b) and all subsequent VOID orders .

31. Appellate further seeks relief from this court to vacate its previous non-published opinions it issued on the merits of void orders for Case G061697 & Case G058030. Vacating the orders will prevent the lower family court from further judicial misconduct attempting to use non-published opinions on the merits of void orders in its efforts to validate void orders it issued to cover up judicial misconduct.

### XIII ARGUMENT

Despite the history of this lower family court denying both parties exhaustive efforts trying to get the lower family court to allow both of them to enter final settlement documents into to the court record, we must look at the reason why and what possible grounds could a court have to prevent two parties from settling a case. What is the motive?. A complaint is pending in district court Clark vs State of Calif...District Court Case 8:21-cv-01565-MWF-JPR with allegations against all parties in the lower family of judicial misconduct.

A review will see the only defense Orange county judicial defendants have to dismiss case in district court is by creating immunity protection by refusing both parties request to let them settle the case finally and forever. Intentionally refusing to close case as if a legitimate dispute still exist.

The lower family court entered final dissolution judgment Aug. 31, 2006 [AR-1] disposing of all issues. The one judgment rule in California prevents the lower family court from relitigating, changing the terms of a Final judgment entered in Family Court 18-years ago, August 31, 2006, where a Family Law Superior Court Judge barred subject matter jurisdiction in Family Court with only ne exception bankruptcy. [AR-1 P 14 #13]

The issues results from a court commissioner who violated the law, breached his Fiduciary Duty to be Fair, Honest, and Impartial, and upon getting caught proceeded to try to use the office of superior court to cover up his judicial misconduct, exposing all those around him, including subsequent Judicial Officers and Supervisors. who supported his efforts, or tried to help cover up illegal activity.

The actions of the lower court are so aggregates, you cant make this stuff up. Here we have judicial admissions by a Superior Court Judge, Judge Yolanda Tores, who she has been properly noticed by both parties of settlement, they both are asking the court to enter settlement documents into the record and the court refuses;

[see Court Reporters Transcript hereinafter "RT" crt rprr tr 3/14/24 p 13 L4:23]

*Respondent: "Is the court aware that the parties have tried to settle this case? Is the court aware that both parties are asking the court to enter debt settlement agreement into the record?"*

*The Court: " I'm aware of the request for relief that are sought and the RFO's that have been filed. YES, I'm aware of that"*

We have a superior court judge, Judge Yolanda Tores who in open court reviewed the 8/31//206 final dissolution judgment barring subject matter jurisdiction, read the terms contained in the 3/21/2016 Debt Settlement Agreement, acknowledges the language barres subject matter jurisdiction, recognizes a summons was not served yet and refuses to Vacate Void orders stating she (A SUPERIOR COURT JUDGE DOES NOT HAVE THE AUTHORITY)

[see "RT" crt rprr tr P22 L18: October 6, 2023

*Respondent: As I indicated in the motion to amend the order, the request for dismissal is not a request to dismiss 2006 judgment; it's a request to dismiss the work that was done by Commissioner Michaelson for 2018*

*The Court: I cannot do that, and I think you properly went to the Court of Appeal for that issue. And they made their decision. I cannot dismiss whatever Commissioner Michaelson ---his orders---number one cant do that....*

*["RT" crt rptr tr March 14, 2024]*

*Respondent: P9 L26: In that regard what is the courts legal standing to not do what the parties ask them to do, if the case has been settled?.....*

*Respondent: P10 L23 Which Law? Can you tell me which law your following?*

*The Court: I'm not refusing, the fact the it'd already been adjudicated. This matter has already been decided; and your recourse, which any litigant has the ability to do— your recourse or any litigants recourse would be to go to the court of appeal and seek relief there; AND THAT RECOURSE HAS ALREADY BEEN RESOLVED AND ADJUDICATED THERE; A DECISION WAS RENDERED; I WANT TO SAY IT WAS RENDERED EARLIER THIS YEAR WHEN THE DECISION WAS ISSUED.*

*P12 L 4*

*Respondent: Can you tell me which Law your following? I'm trying to understand which law your following. You keep saying that in every hearing; yet you don't cite any relevant law to support your position.*

*The Court: Well, the fact that its already been adjudicated; A decision was made; that decision stands. I'm not the court of appeal.*

*P17 L10*

*Respondent: Well, if the court has legal authority to NOT do what both parties are requesting you to do, I would like to know what that legal authority is.*

*L17 The Court: For the record Im not refusing. Im following the law.*

*NOTE: the Statute of Limitation for alleged 2017 oral agreements had expired, preventing Petitioner from filing in Civil Court. Thus, trying to justify in Family court, trying to re-open and relitigate to change the terms of a final judgment without a summons, without subject matter jurisdiction and without a judge is a clear abuse of power and the process. And is unlawful*

*The Commissioner judicially admits in the record - admits he relied on two stipulations as authorization to preside as a judge, only to find neither of which were ever signed by either of the parties litigants, and the stipulation he ultimately relies is a Fraud on the Court*

**(YOU CANT CHANGE WHAT IS IN THE RECORD )**  
**(i.e. JUDICIAL ADMISSIONS BY THE COMMISSIONER STATING WHAT HE RELIED**  
**ON TO PRESIDE AS A JUDGE.)**

**PREJUDICE, BIAS, FRAUD ON THE COURT MUST BE REVIEWED**

A review by this court is necessary to determine if any party can have a fair unbiased trial with an impartial judge when the judge admits in open court, after she had taken judicial notice of settlement documents already in evidence (Evidence herein after "XI" #32 above ) then (XI #48) the court understands what both parties are asking, is aware of relief requested yet refuses to enter settlement documents into the record.

When a Superior Court Judge refuses to let the Petitioner who filed three requests to dismiss case , who filed the original RFO admits in open court she has no authority or power to ensure the record is correct, refusing to enter Petitioners three request to dismiss case into the record to allow proper appeal of the issues (#E39) stating her authority is dictated from "UP-STAIRS" demonstrates up stairs is dictating the outcome trying to protect (conceal) all the illegal actions in lower court. [see XI #(27)] trying to relitigate and change the terms of a final judgment entered 18-years ago. [AR-1 August 31, 2006].

Evidence (VIII #39 above)

***The Court: "So I have the request, AND I CANNOT—I HAVE NO POWER TO HAVE THOSE REFLECTED ON THE REGISTER OF ACTIONS; THAT'S OUTSIDE OF MY CONTROL; THAT'S SOMETHING HOW THEY MANAGE UPSTAIRS. SO ITS BEYOND MY CONTROL; THAT'S SOMETHING THEY MANAGE UPSTAIRS, number one; two AGAIN, I DO NOTE THAT YOU WANTED THE 7/28/2023 REQUEST FOR DISMISSAL FILED BY THE PETITIONER REFLECTED IN THE register of actions. I do understand that—and the 8/2/23 – and again dismissal request – you want that reflected; again. I cannot do that.***

***[See Letter from Supervising Judge Julie Palofax [CT p186] Letter p3 prg 1 "I also noted two court of appeal decisions, one in 2020, and a second in 2023".***

***[CT p190] ( Letter p7 footnote) "This was the same explanation the court of appeal gave you"***

*(p168l last prg – 169prg 2) “Your complaint is the family court continues to try to validate a void judgment issued by a Commissioner without stipulation signed by the parties and without subject matter jurisdiction. P8 As this issue was squarely addressed and disposed of by the court of appeal in its first opinion and cited again in its second opinion, it will not be addressed again.”*

*To be clear, Commissioner Michaelson's ruling was affirmed and is the law of this case.*

### **EVIDENCE OF COURT MANIPULATING THE DOCKET**

A review by this court is necessary to determine if any party can have a fair impartial trial with an impartial judge when the court actively is manipulating the record to fabricate a narrative for its own self serving reasons trying to create their defense in district court and cover up intentional malicious acts of judicial misconduct.

First on 4/15/2019 (VIII #25) the court issued a Findings and order at Petitioners request to sign February 26, 2019 order [Attached as EX P6 is the first page of Petitioners request ]. The court omitted exhibit “A from the docket because it identifies the Feb. 26, 2019 order had not been signed as of April 15, 2019. Yet a review of the Feb. 26 2019 Findings and Order (VIII #23) shows a signature cut and pasted, dated February 26, 2019. WHY?.

Ex “B” to the 4/15/2019 order “meet and Confer letter” proves as of March 8, 2019 a Findings and Order had not been agreed to or in the court docket. Nor could the court provide a stipulation signed by the parties. Sometime thereafter a stipulation was added to the court docket [XI #21] the commissioner would thereafter refer as his authority to preside despite not being signed by either parties litigants.

It is one thing to have a subordinate judicial officer break the rules, but another when you have a Superior court judge manipulating the evidence.

(XI #32) Judge Yolanda Tores takes judicial notice of settlement documents and does not include in court minutes (XI # 31).

(XI #34) Again is requested to take judicial notice of settlement documents, fails to disclose in minutes

Judge Yolanda Tores refuse noticed motion by Respondent requesting the court to enter Petitioner three request to dismiss lower court actions by a commissioner into the record (XI #36)( VIII #39) to allow appeal on the courts decision not to provide an accurate court record for appeal.

More disturbing is Judge Yolanda Tores refused to dismiss action initiated by Petitioner at Petitioners request to dismiss.

[XI #41 ] The court refusal to acknowledge the court had already judicially noticed settlement documents that were already in the record then denying a joint request to judicially notice settlement documents requested by both parties litigants

[XI #40 & VIII #44] The court attempted to conceal and not disclose two identical motions on calendar filed by each party, where both parties are asking the court to enter settlement documents into the record, requiring Respondent to file ex-party motion to demand the record was accurate [XI #45] so there was a record of both parties identical motions to be heard on the calendar to document evidence both parties were asking the court to do the same thing enter settlement documents into the record.

*Please take judicial notice, the court minutes [CT P 118:119] then only reflects the court denying Respondent request to enter settlement documents into the record and again fails to address (CONCEALS) Petitioners (RFO) request to enter settlement documents into the record, and fails to address both parties Joint request to take judicial notice of settlement documents filed by Petitioner also executed by Respondent.*

**Supervisory oversight is necessary since the Superior Court presiding Judge Yolanda Tores has indicated on the record and the evidence shows she is not the judge:**

1. Judge Yolanda Tores has no authority to make sure the court record is correct, for appeal
2. Judge Yolanda Tores has no authority to enter Petitioner (3) request to dismiss into the record as evidence Petitioner who filed the RFO in breach of contract is asking the court to dismiss,

3. **Judge Yolanda** has no authority to dismiss an action even when the Petitioner makes three separate request to the court?

3. **Judge Yolanda Tores** has no authority to dismiss actions under Rule 3.1385(b), despite her admission on the record the court has been properly noticed of settlement by both parties,

4. **Judge Yolanda Tores** has no authority to enter settlement documents requested by both parties into the record, despite both parties filing a joint request to take judicial notice of documents she had already judicially noticed.

5. and finally **Judge Yolanda Tores** cannot provide any authority to support her decisions to prevent two parties from concluding the case between them except

## **IX POINTS AND AUTHORITIES**

### **AUTHORITY FOR VACATING ORDERS/JUDGMENTS**

#### ***Established Precedent By the Fourth Appellate District***

***LEAH LORCH Petitioner VS THE SUPERIOR COURT OF SAN DIEGO COUNTY,  
Respondent; KIA MOTORS AMERICA INC. Party of Interest  
(certified publication 6/4/24)***

The case cited by this fourth appellate district is on point. In both cases the trial court denied 170.6 challenge to recuse... Where in the cited case, the case was purported to provide any Superior court judge the power to act as a master calendar department. This court did not agree. The court found the orders issued were void and ordered them vacated.

The instant action, first we have an order to appear in Family Court without Subject Matter Jurisdiction, then a commissioner preside who issued an order without subject matter jurisdiction, without serving a summons and without authority to be a judge. Then a subsequent superior court judge presiding over a case without authority to be a judge, without the authority to insure an honest clear record, and without authority to settle a dispute when both parties ask her to because , 1). she is conflict due to being a

defendant in district court for alleged judicial misconduct, also denying a 170.6 challenge preventing impartiality and 2) trying to validate void orders issued by a Commissioner who is not a judge, who issued orders that are VOID under the law.

*The Section 170.6 Challenge Was Timely Filed Before Instant Rulings. Section 170.6 provides that a "judge, court commissioner, or referee of a superior court of the State of California shall not try a civil or criminal action or special proceeding of any kind or character nor hear any matter therein that involves a contested issue of law or fact when it is established as provided in this section that the judge or court commissioner is prejudiced against a party or attorney or the interest of a party or attorney appearing in the action or proceeding." (§ 170.6, subd. (a)(1).) Prejudice for purposes of the statute is established by a motion supported by a declaration under penalty of perjury or an oral statement under oath that the assigned judge is prejudiced against a party or attorney such that the party or attorney believes they cannot have a fair and impartial trial or hearing before the judge. (Id., subd. (a)(2); Maas v. Superior Court(2016) 1 Cal.5th 962, 972-973 (Maas)*

*Trial courts have no discretion to deny a section 170.6 challenge filed in compliance with the statute's procedures. (Bontilao v. Superior Court (2019) 37 Cal.App.5th 980, 987.) "Because the trial court exercises no discretion when considering a section 170.6 motion, it is appropriate to review a decision granting or denying a peremptory challenge under section 170.6 as an error of law." (Id. at pp. 987-988 [cleaned up].) We therefore apply a de novo standard of review. (Id. at p. 988.*

The Subsequent Orders and Judgment Are Null and Void "The law is clear that when a party properly makes a motion under section 170.6 and the judge against whom it is directed fails to disqualify himself from hearing the matter before him, his action thereon and his subsequent orders and judgment are null and void." (Retes, supra, 122 Cal.App.3d at p.807.) We thus conclude that Judge Taylor's orders denying Lorch's section 170.6 challenge, his subsequent orders in this action, and the judgment are null and void. The court should find the same in the instant matter for the same reasons. Concluding, Judge Yolanda Tores rulings are null and void for the same or similar reasons.

**A. The Standard of Review**

**Plain error** - Plain error is a special standard of review that allows an appellate court to review a decision that is so at odds with the law, Plain error is error that is plainly evident from the record and affects a litigant's substantial right(s). The purpose of the plain error rule is not only to protect the defendant from serious injustices, but to also protect the reputation of the courts and ensure that their decisions follow a fair procedure.

Clearly erroneous standard is the standard for questions of factual judgment. An appeals court will overturn a trial courts conclusion of facts only if clearly "erroneous" left with the definite and firm conviction that a mistake has been committed. *Inwood Laboratories, Inc. v. Ives Laboratories, Inc.* 456 U.S. 844, 855 (1982).

The *de novo* standard of review is used for questions of legal judgment. An appeals court will look at legal conclusions without giving difference to the lower court. Conclusions of law receive De novo review *Horton v Reliance Standard Life Insurance, Co* 141 F.3d 1038, 1040 (11th Cir. 1998). The court gives no deference to the lower court decision and applies the same standard as the district court *Whatley v. CAN Ins. Co.*, 189 F.3d 1310, 1313 (11th Cir 1999).

**Abuse of Discretion** : It is reversible error if the appellate court concludes the court has made a clear error of judgment or has applied an incorrect legal standard. *Alexander v. Fulton County*, 207 F.3d 1303, 1326 (11th Cir. 2000).

**Substantial Evidence Standard** is when such relevant evidence as the interpretation of the California Rules of Court is such relevant evidence as a reasonable mind would accept as adequate to support a conclusion *Richardson v. Peralis*, 402 U.S. 389, 401 (1971).

The trial court erred when it took judicial notice of undisputed facts and rules of the court 3.1385 (b) and CCP §452, then disregarded those facts as evidence in its failure to comply with and apply California Rules of Court, Rule 3.1385(b) and that of judicial notice under CCP §452. The court took judicial notice of undisputed material facts, both parties requested the court to take judicial notice of settlement documents yet for its own

self serving reasons disregarded those facts refusing to accept as the Truth of the matter. While at all times ignoring the one judgment rule, parole evidence rule of legally entered, executed and legally binding contract 3/21/2016 entered by the parties litigants dissolving case 05D000275.

Here, when each of the standards for review cited are applied, the lower court fails on each standard. .supporting the need to reverse the lower courts decisions.

**B. The Standard For Dismissal Pursuant To California Rule of Court 3.1385(b)**  
**(b) Dismissal of case**

If the plaintiff or other party required to serve and file the request for dismissal does not do so, the court must dismiss the entire case 45 days after it receives notice of settlement unless good cause is shown why the case should not be dismissed.

Good cause has not been shown by Petitioner or the court.. The evidence shows, the court has been notified and taken judicial notice of the undisputed material fact both parties have noticed the court of settlement and both parties have requested the court to enter settlement into the record as an alternative to dismissal at the courts discretion..

***The Elements of This Action***

The elements to dismiss pursuant to CRC, Rule 3.1385(b) are:

1. The court was noticed "motion for order to show cause" attached contract
2. Petitioner was properly served and proof of service filed
3. The court **MUST dismiss 45-days after it receives notice of settlement** unless good cause is shown the case should not be dismissed. [see writ of certiorari 3 ]
4. The court makes judicial admission the court has been properly noticed by both parties litigants that case has settled.
5. Both parties litigants filed a joint request for the court to take judicial notice of settlement documents requesting the court to enter into the court record

6. Petitioner herself filed three request to dismiss orders issued by a Commissioner amongst other things in Breach of 3/21/2016 contract

7. Concurrently filed and referenced hearin whereby the order issued by the Commissioner is VOID on its face and must be dismissed.

**C. NO REMAINING ISSUES, BOTH PARTIES HAVE CLEARLY NOTIFIED THE COURT THE CASE HAS SETTLED, AND THE COURT HAS CONFIRMED IT HAS BEEN PROPERLY NOTICED OF SETTLEMENT**

[see "RT" crt rprr tr 3/14/24 p 13 L4:23]

*Respondent: "Is the court aware that the parties have tried to settle this case? Is the court aware that both parties are asking the court to enter debt settlement agreement into the record?"*

*The Court: "I'm aware of the request for relief that are sought and the RFO's that have been filed. YES, I'm aware of that"*

Since the court CONTINUES not to comply with C.R.C. Rule of Court 3.1385 (b), both parties litigants as an alternative to the courts refusal to dismiss pursuant to Rule 3.1385 (b) requested the court through separately filed identical motions to enter settlement into the record to give both parties proof the case is over. The court refuses. The parties litigants are without any further options.

**D, RULE 3.1385(b)**

**NEW EVIDENCE – JUDICIAL ADMISSION BY JUDGE YOLANDA TORES.**

Although the previous failure of the court to comply with Rule 3.1385(b) has been previously in front of this court [see case G061697 opinion (p122) specific to the issue of Rule 3.1385 (b) ], New evidence by Judge Yolanda Tores confirms the court has been properly noticed by both parties the case has settled]. Making Rule 3.1385 (b) at issue again with new evidence, judicial admission, presented by Judge Yolanda Tores.

California Rule of Court, Rule 3.1385(b) leaves no room for interpretation. The rule specifically states the court "MUST DISMISS" if an order to show cause is unopposed. "SHALL" is not a word of obligation, shall really means "May". . The word "MUST" is the only word that imposes a legal obligation that something is mandatory.

Here the lower court: a) was provided a JOINT request to take judicial notice of settlement documents filed "BY PETITIONER" and still refuse to enter settlement documents into the record. b) previously failed to dismiss action from three written request "BY PETITIONER" to dismiss actions caused by her in Breach of Contract, c) again refuses to comply with Rule 3.1385.

#### **E.. CCP §1876 PAROL EVIDENCE**

Whereas: the Parol Evidence Rule under CCP §1856 bars extrinsic evidence, including prior or contemporaneous oral agreements and prior or contemporaneous written agreements that contradict or create a variation of a term in writing that the parties intended to be completely integrated. This courts findings that the underlying action was brought based on a 2017 phone call subsequent to the full execution of lawfully entered 3/21/2016 contract, confirms Parol evidence applies to the 8/31/2006 Final judgment and the 3/21/2016 Debt Settlement Agreement.

Please take judicial notice there is no evidence in the record suggesting the terms in the 8/31/2006 judgment has been changed by a mutually acceptable written agreement. nor for the 3/21/2016 Debt Settlement Agreement

#### **F.. ONE JUDGMENT RULE. CCP §577**

577. A judgment is the final determination of the rights of the parties in an action or proceeding.

The final judgement for dissolution action 05D000275 determined [AR-1 P14 #13] determined that Family court does not retain jurisdiction with one exception a bankruptcy action. The final judgement states there is no Alimony. [AR-1 P10 (A) ]

Concluding the subsequent action (RFO) filed April 17, 2018 and all subsequent actions was without subject matter jurisdiction and is not executor to a 2006 judgment barring such action. Equalization payments agreed upon by the parties, in a final judgment is not Alimony, especially when the judgment specifically barres alimony. [AR-! PP10 II (A) Spousal Support]

#### G. CCP §452, JUDICIAL NOTICE

May be taken of; (e) Rules of the Judicial notice is a rule in the law of evidence that allows a fact to be introduced into evidence if the truth of the fact is so notorious or well known. Judicial notice when accepted is recognition by the court of a fact that is not reasonably disputable and without the introduction of supporting evidence. A doctrine of evidence applied by a court to recognize and accept the existence of a particular fact commonly known by persons of average. The evidence available shows the intent of the parties. The underlying family court admits it understands the parties request.

It is incomprehensible when two parties to a complaint file a joint request for the court to take judicial notice of settlement documents in support of both Petitioner and Respondent filing identical motions requesting the court to enter into the record as evidence the case is over, you have judicial officers who refuse to comply due to a conflict of interest.

#### H. Rule 8.116 CITATIION OF UN-PUBLISHED OPINIONS

##### (a) Unpublished opinion

Except as provided in (b), an opinion of a California Court of Appeal or superior court appellate division that is not certified for publication or ordered published must not be cited or relied on by a court or a party in any other action.

##### (b) Exceptions

An unpublished opinion may be cited or relied on:

- (1) When the opinion is relevant under the doctrines of law of the case, res judicata, or collateral estoppel; or
- (2) When the opinion is relevant to a criminal or disciplinary action because it states reasons for a decision affecting the same defendant or respondent in another such action.  
*(Subd (b) amended effective January 1, 2007.)*

Neither exception (1) or (2) apply. The instant claim for Rule 3.1385(b) rises from new judicial admission (evidence) from Judge Yolanda Tores the court was properly noticed of settlement. A VOID order/judgment can be attacked at any time. The previous opinion of this court only cited facts favorable to judgment because of fatal flaws in brief by appellate (a prose litigant)

## **I. ESTABLISHED PRECEDENT FOR VOID ORDERS**

### **1. SUMMONS MUST BE SERVED: California Code of Civil Procedure (CCP) section 583.210(a)**

Requires that a summons and complaint be served on a defendant within three years of the action being started against them. If the defendant is not served within that time frame, the action must be dismissed, even if the defendant was named fictitiously as "Does". The requirements of this section are mandatory and cannot be extended, excused, or waived, except as expressly stated by statute. The complaint was based on a contract entered on a lawfully entered fully executed 3/21/2016 contract. It is now 2024, over 8-years later and a summons has never been served.

### **2. STIPULATION TO PRESIDE AS A JUDGE**

The power of a court commissioner to act as a temporary judge emanates solely from stipulation by the parties to the proceeding. (Cal. Const., art. VI, § 21; *Rooney v. Vermont Investment Corp.*, 10 Cal. 3d 351, 360 [110 Cal. Rptr. 353, 515 P.2d 297]; *People v. Tijerina*, 1 Cal. 3d 41, 48-49 [81 Cal. Rptr. 264, 459 P.2d 680].) Section 21, article VI provides: "On stipulation of the parties litigant the court may order a cause to

be tried by a temporary judge who is a member of the State Bar, sworn and empowered to act until final determination of the cause." Section 259a, subdivision 4, Code of Civil Procedure gives certain commissioners the power to "act as judge pro tempore when otherwise qualified so to act ...." This statute does not enlarge the power granted in the Constitution. (Rooney v. Vermont Investment Corp., 10 Cal. 3d 351 [110 Cal. Rptr. 353, 515 P.2d 297].)

The instant matter, the commissioner judicially admits he Eminently relied on two stipulations of which neither were executed by the parties litigants as his sole authority to preside as a judge.

### 3. SUBJECT MATTER JURISDICTION

Zaal Aresh vs Monica Marin-Morales G060579, G060827: citing in its opinion People vs America Contractors Indemnity Co. (2002) 33 Cal 4<sup>th</sup> 653, 660

Found a judgment is void, as opposed to merely avoidable when the court lacks fundamental jurisdiction over the subject matter or the parties. Stated "When a court lacks jurisdiction in a fundamental sense, an ensuing judgment is void, and thus vulnerable to direct or collateral attack at any time" The request to certify and publish opinion was granted May 16, 2023 was granted

*When the Court has no jurisdiction of the cause, there the whole proceeding is before a person who is not a judge, and actions will lie against them without any regard of the precept or process..."*

Where there is no jurisdiction, there can be no discretion, for discretion is incident to jurisdiction. *Piper v. Pearson*, 2 Gray 120, cited in *Bradley v. Fisher*, 13 Wall. 335, 20 L.Ed. 646 (1872)

Here, Final Judgment executed by a Superior Court Judge barring jurisdiction in Family Court that disposed of all issues including subject matter jurisdiction in Family court

J. U.S. Const. amend. XIV: The Fourteenth Amendment states: No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

When appeal is taken from a void judgment, the appellate court must declare the judgment void, because the appellate court may not address the merits, it must set aside the trial court's judgment and dismiss the appeal. A void judgment may be attacked at any time by a person whose rights are affected. See *El-Kareh v. Texas Alcoholic Beverage Comm'n*, 874 S.W.2d 192,194 (Tex. App.—Houston [14th Dist.] 1994, no writ); see also *Evans v. C. Woods, Inc.*, No. 12-99-00153-CV, 1999 WL 787399, at \*1 (Tex. App.—Tyler Aug. 30, 1999, no pet. h.).

**A Party Affected by VOID Judicial Action Need Not APPEAL.** State ex rel. Latty, 907 S.W.2d at 486. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." Ex parte Spaulding, 687 S.W.2d at 745 (Teague, J., concurring). If an appeal is taken, however, the appellate court may declare void any orders the trial court signed after it lost plenary power over the case, because a void judgment is a nullity from the beginning and is attended by none of the consequences of a valid judgment.

The law firm and lower court corrupted Judges issued illegal multiple orders to cover up no due process and fraud upon the court, so no one would find out the truth on what really occurred here. The facts are the statute of limitation had expired in civil court resulting in the parties having to devise a sham scheme in Family court to get around an expired statute of limitations. In their haste, they made fatal legal errors trying to cover up their illegal acts. There was No Summons issued or served upon Appellate to complain about a 3/21/2016 fully executed contract, based on a 2017 phone call.

The family division of Superior Court did not have subject matter jurisdiction over a lawfully entered 3/21/2016 contract executed pursuant to the terms in a 2006 final

judgment. And a the family law division allowed a Commissioner to preside without authority to be a judge, despite Appellate refusal to execute a stipulation when asked by the court. Due process was denied and the judges and the court knew this.

Fraud Upon the Court without lack of standing on a Void Judgment, is illegal. No excuse offered by the lower court or its judges can correct the wrong after the crime was committed based upon Fraud on The Court.. Constitutional Laws were violated here, that was covered up illegally with illegal orders based upon fraud and fraud upon the court's.

Under Federal law which is applicable to all states, the U.S. Supreme Court stated that if a court is "without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal in opposition to them. They constitute no justification; and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers.

When rule providing for relief from void judgments is applicable, relief is not discretionary matter, but is mandatory, Omer. V. Shalala, 30 F.3d 1307 (Cob. 1994). *This cannot be ignored its fact recorded! Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, Fed. Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A., U.S.C.A. Const. Amend. 5 —Klugh v. U.S., 620 F.Supp. 892 (D.S.C. 1985).*

The law is well-settled that a void order or judgement is void even before reversal", VALLEY v. NORTHERN FIRE & MARINE INS. CO., 254 U.S. 348,41 S. Ct. 116 (1920) "Courts are constituted by authority and they cannot go beyond that power delegated to them. If they act beyond that authority, and certainly in contravention of it, their judgements and orders are regarded as nullities; they are not voidable, but simply void, and this even prior to reversal." WILLIAMSON v. BERRY, 8 HOW. 945, 540 12 L. Ed. 1170, 1189 (1850)

Since the lower family court conducted a trial on a civil matter without serving a summons, without subject matter jurisdiction by a person who is not a judge, the order

issued is void, it may be attacked either by direct appeal or collateral attack Ex parte Williams, No. 73,845 (Tex.Crim.App. 04/11/2001). "A void judgment is a nullity from the beginning, and is attended by none of the consequences of a valid judgment. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." Ex parte Spaulding, 687 S.W.2d at 745 (Teague, J., concurring). A court cannot confer jurisdiction where none existed and cannot make a void proceeding valid. A void judgment which includes judgment entered by a court which lacks jurisdiction over the parties or the subject matter, or lacks inherent power to enter the particular judgment, or an order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that the party is properly before the court. See Long v. Shorebank Development Corp., 182 F.3d 548 (C.A. 7 Ill. 1999).

**K. THE COURT HAS A LEGAL OBLIGATION TO FOLLOW THE RULES**

In this case, the court "MUST"

- (1) VACATE All Void Orders
- (2) Dismiss pursuant to California Rules of Court, Rule 3.1385(b) and set aside Findings and order entered February 26, 2019. or
- (3) in the alternative enter settlement documents into the record AS REQUESTED BY BOTH PARTIES OR

**L. MOTIVE – CONFLICT OF INTEREST**

Please take judicial notice of district court case Clark vs State of Calif. 8:22-cv-01390-MWF-JPR pending appeal in the ninth circuit case 23-55715 where the judicial defendants including Judge Yolanda Tores only defense for alleged judicial misconduct is to somehow legitimize a Commissioners void order using this courts previous two non-published orders as consent to keep case open for a shield under Rooker Feldman and alternatively Younger Abstention doctrine. A review will reveal

**M. APPELLATE RESPECTFULLY REQUEST OPINION TO BE  
PUBLISHED**

Appellate would like to believe it is a very rare occurrence that a Lower Court VOID judgment finds its way to the appellate court. A published opinion is necessary regardless of the courts opinion as it will either affirm existing case law some of which has been established by this court, or dramatically change established precedent.

1. It is apparent by the conduct of Lower Family Court and its Supervising Judges, the need for Guidelines to be set forth by the Appellate Court.
2. Clarity by this court establishing the fact the term "FOR ALL MATTERS" on a family court stipulation, to allow a commissioner to preside, only relates to matters in family court jurisdiction. It does not give family court the right to assume jurisdiction on matters it does not have subject matter jurisdiction.
3. Prose Litigants Should Have Full Constitutional Rights Regarding Void Judgments
4. The Court of Appeals Should Remind Lower Courts That a Void Judgment Cannot Gain Legitimacy, Therefore Any Issue Trying To Justify The Void Judgment Is Also Void As A Matter Of Law
5. The Appellate Court Should Act Here To Establish Precedence on the ramifications when The Lawyers, as well as Judicial Officers and Judicial Officer Supervisors; All of Them, Have Constructively Thumbed Their Nose at the Judicial Process, The Code of Ethics, and The Code Of Civil Procedure. Trying to Legitimize a Void Judgment.

An exercise of the Appellate Court's supervisory power is necessary to establish Guidelines and Repercussions when judicial officers disregard the Code of Judicial Conduct, disregard the code of civil procedure, thus creating their own set of rules without fear of being held accountable. The same for officers of the court (Attorneys) when they are permitted to operate so far outside their limited authorization as to blatantly commit fraud on the court, falsify and fabricate phony stipulations, fabricate sham cases for the sole intent of using the power and authority of Superior Court to extort settlements.

**N. APPELLATE REPECTFULLY REQUEST 20-MINUTES OF  
ORAL ARGUMENT**

**X. CONCLUSION**

That based on all the foregoing reasons, Respondent respectfully request this court to Confirm VOID orders can be attacked at anytime, need not be appealed at anytime, They are simply VOID. Concluding the 8/31/2006 judgment barred subject matter jurisdiction in Family Court. Thereby the order issued April 17, 2018 [AR-2] was issued without subject matter jurisdiction. Then even if the court did have subject matter jurisdiction, the issue presided over by a person who was not a judge is VOID because he relied on stipulations not signed by either parties litigants.

Respondent respectively request the court to Provide clarity "as LAW" the term "FOR ALL MATTERS" on a stipulation, even if it had been signed, is limited to "ALL MATTERS" in which Family Court has subject matter jurisdiction. It does not extend to cases outside family court jurisdiction and/or to be used as a defense to taking jurisdiction of a civil matter outside family courts jurisdiction.

Or in the alternative; reverse order issued by Judge Judge Yolanda Tores pursuant to Rule 3.1385(b) based on her judicial admission the court has been properly noticed by both parties of settlement. The court must dismiss in 45-days.

Or in the alternative; enter settlement documents she took judicial notice of, already in evidence into the record because both parties requested her to in noticed motions. Documents in evidence the court has judicially noticed, needs no further litigation.

Finally, allowing two parties finally and forever conclude a case, they are both trying to end that the lower family court made gross errors of law.

Respectfully submitted,

Dated: 11/8/2024.

  
EDWARD L. CLARK, Jr.

Appellant, In pro per

**XI WORD COUNT CERTIFICATION**

**CRC 8.44**

**EDWARD L. CLARK, Jr., APPELLANT, hereby certifies that this APPELLANT'S OPENING BRIEF contains 13,993 words as measured by Microsoft Word starting with Issues on Appeal. Excluding I-VIII in table of contents**

**Dated: November 8, 2024.**



**EDWARD L. CLARK, Jr.**

**Appellant, In pro per**

**EXHIBIT(S): "Page 1" to "Page 17" 059**

A60

Exhibit Page 1

1 Edward L. Clark Jr,  
2 5582 McFadden Ave  
3 Huntington Beach, Calif. 92649  
4 714 448-7115

ELECTRONICALLY FILED  
Superior Court of California  
County of Orange  
Lemoreaux Justice Center  
6/24/2022 4:11 PM  
David H. Yamaseki, Clerk of the Court  
By: e Clerk, Deputy

In Proper

5 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
6 FOR THE COUNTY OF ORANGE

8 Deborah L. Clark,  
9  
10 Petitioner,

11 vs.

12 Edward L. Clark Jr.  
13 Respondent.

Case No.: 05D000275  
Assigned to: Hon. Yolanda Torres  
Dept. L-62

14 REQUEST FOR JUDICIAL NOTICE IN  
15 SUPPORT OF RESPONDANT NOTICE OF  
16 MOTION AND MOTION TO AMEND  
17 ORDER ENTERED 6/3/22 PURSUANT TO  
18 CALIFORNIA RULES OF THE COURT  
19 3.1385 (B)

DATE: 7-15-22  
TIME: 8:45 AM  
DEPT: L-62

[INCORPORATED HEREIN BY  
REFERENCE ARE ALL COURT RECORDS  
CONTAINED ON DOCKET FOR CASE  
05D000275, THE CALIFORNIA RULES OF  
THE COURT, THE CALIFORNIA CODE OF  
CIVIL PROCEDURE]

Exhibit Page 2

1 COMES NOW, the Respondent Edward L. Clark Jr., in Proper to submit, and  
2 hereby do submit his Request for Court to take Judicial Notice. Pursuant to evidence code  
3 451,452,453, 459 and the California Rules of the Court Rule 8.54, certified reporters'  
4 transcripts Court is requested to take judicial notice of, all court records, rules of the  
5 court and evidence code below;

6 DESCRIPTION

7 RFJ #1: Court Docket 20234562 minute order entered 6/3/2022

- 8 a. Court notes proof of service was served March 28, 2022 to appear to show cause  
9 b. Court Notes Petitioner Did Not Appear in morning call via zoom or afternoon call.

10  
11 RFJ #2: California Rule of the Court Rule 1.1385 (B) "Dismissal of Case"

12 If the plaintiff or other party required to serve and file the request for  
13 dismissal does not do so, *the court must dismiss* the entire case 45 days  
14 after it receives notice of settlement unless good cause is shown why the  
case should not be dismissal

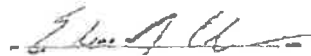
15 RFJ #3 Court Docket # 20013981 filed 3/22/22  
16 motion to Show Cause.

17 THE DATE THE COURT RECEIVED NOTICE OF CONTRACT entered  
18 witnessed by superior court judge in orange county the Hon Gregory Lewis  
19 when a motion to show cause was filed

20 RFJ #4: The date of motion to amend order is dated July 15, 2022; (115-  
21 Days after NOTICE given) 70-days past statutory maximum time to dismiss

22  
23 RFJ #5 Courts Docket # 20013981 Motion To Show Cause  
24 No Opposition or Appearance from Petitioner

25  
26 Respectfully Submitted,



27 Dated 6/23/2022

Edward L. Clark Jr.

28

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 COUNTY OF ORANGE  
3 LAMOREAUX JUSTICE CENTER - DEPARTMENT L62

4 -000-  
5

6 DEBORAH L. CLARK,  
7 PETITIONER,  
8 VS NO 05D000275  
9 EDWARD L. CLARK JR ,  
10 RESPONDENT )

11

12

13 HONORABLE YOLANDA V TORRES, JUDGE PRESIDING  
14 REPORTER'S TRANSCRIPT OF PROCEEDINGS  
15 JULY 22, 2022

16

17 A P P E A R A N C E S

18

19 FOR THE PETITIONER: NO APPEARANCE

20

21 FOR THE RESPONDENT EDWARD L. CLARK JR  
22 IN PROPRIA PERSONA

23

24

25

26

1 RESPONDENT NOTICE FOR MOTION TO AMEND ORDER, AND IT  
2 SPECIFICALLY RELATES TO CALIFORNIA RULES OF COURT  
3 1.1385(B).

4 THE COURT: I DO SEE HERE THERE'S A REQUEST FOR  
5 JUDICIAL NOTICE IN SUPPORT OF RESPONDENT NOTICE OF  
6 MOTION AND MOTION TO AMEND ORDERS ENTERED 6/3/2022  
7 PURSUANT TO CALIFORNIA RULES OF COURT 3.1385 SUBSECTION  
8 B.

9 SO THAT -- YES.

10 THE RESPONDENT: THE COURT DID TAKE JUDICIAL  
11 NOTICE OF THAT RULE; IS THAT CORRECT?

12 THE COURT: YES, SIR.

13 THE RESPONDENT: AND THAT RULE SPECIFICALLY STATES  
14 "THE COURT MUST DISMISS THE CASE UPON ORDER TO SHOW  
15 CAUSE NOT BEING OPPOSED BY PETITIONER."

16 THE COURT: THE COURT --

17 THE RESPONDENT: SO MY QUESTION -- SO MY QUESTION  
18 IN RESPONSE TO YOUR TENTATIVE RULING, YOUR HONOR, THIS  
19 CASE HERE TODAY, THIS RESPONSE OR THIS MOTION IS A VERY  
20 NARROW PARAMETERS, IF YOU WILL, AND IT'S STRICTLY TO  
21 FIND OUT IF THE COURT IS GOING TO FOLLOW THE CALIFORNIA  
22 RULES OF THE COURT 3.1385 WHERE IT SPECIFICALLY STATES,  
23 "THE COURT MUST DISMISS THE CASE IF THERE'S NO  
24 OPPOSITION OR UPON NOTICE TO SHOW CAUSE." SHE FAILED TO  
25 RESPOND.

26 THE COURT: WELL --

RACHEL AVOLA CSR #14324


1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**REPORTER'S CERTIFICATE**

STATE OF CALIFORNIA }  
COUNTY OF ORANGE }

I, RACHEL AVOLA, CSR, CSR NO. 14324, OFFICIAL COURT REPORTER IN AND FOR THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF ORANGE, DO HEREBY CERTIFY THAT THE WITHIN AND FOREGOING TRANSCRIPT OF THE PAGES HEREIN INCLUSIVE OF TYPEWRITING, IS A FULL, TRUE AND CORRECT TRANSCRIPT OF MY SHORTHAND NOTES OF TESTINONY AND PROCEEDINGS HAD IN SAID CAUSE TO THE BEST OF MY ABILITY.

DATED: AUGUST 9, 2022

  
RACHEL AVOLA, CSR, CSR NO. 14324  
OFFICIAL COURT REPORTER

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Navid Moshtael (SBN: 242282)  
James L. Wellman (SBN: 116357)  
**MOSHTAEL FAMILY LAW**  
4 Park Plaza, Suite 850  
Irvine, California 92614  
Telephone: (714) 409-8701  
Facsimile: (714) 202-0620

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
LAWYER'S JUSTICE CENTER

APR 15 2019

DAVID H. YAMASAKI, Clerk of the Court

BY: M. GONZALEZ DEPUTY

Attorney for Petitioner, **DEBORAH L. CLARK**

**SUPERIOR COURT OF CALIFORNIA**

**COUNTY OF ORANGE**

In Re the Marriage of:

Petitioner: **DEBORAH L. CLARK.**

and

Respondent: **EDWARD L. CLARK, JR.**

Case No.: 05D000275

**REQUEST THAT COURT SIGN THE  
FINDINGS AND ORDER AFTER  
HEARING SUBMITTED BY  
PETITIONER; DECLARATION OF  
JAMES L. WELLMAN**

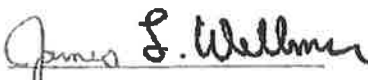
Department L52  
Commissioner Barry Michaelson

**TO THE CLERK OF THE COURT, ALL PARTIES AND TO THEIR ATTORNEYS OF  
RECORD:**

Petitioner **DEBORAH L. CLARK**, pursuant to the provisions of California Rule  
of Court 5.125, does hereby respectfully request that the Court sign the Findings and  
Order After Hearing filed by Petitioner **DEBORAH L. CLARK**.

**DATED: April 2, 2019**

Respectfully submitted,

By:   
James L. Wellman

**APR 03 2019**

1

**REQUEST THAT COURT SIGN THE FINDINGS AND ORDER AFTER HEARING FILED ON  
FEBRUARY 28, 2019**

Exhibit Page 7

FL-320

PARTY WITHOUT ATTORNEY OR ATTORNEY NAME: <b>Navid Moshtael (Bar No. 242282)</b> FIRM NAME: <b>MOSHTAEL FAMILY LAW</b> STREET ADDRESS: <b>4 Park Plaza, Suite 650</b> CITY: <b>Irvine</b> TELEPHONE No: <b>714.408.3701</b> EMAIL ADDRESS: <b>navid@moshtaelaw.com</b> ATTORNEY FOR (name): <b>DEBORAH L. CLARK</b>		STATE BAR NUMBER:  STATE: <b>CA</b> ZIP CODE: <b>92614</b> FAX NO:	FOR COURT USE ONLY           ELECTRONICALLY FILED Superior Court of California County of Orange Lamoreaux Justice Center 6/10/2019 3:23 PM David H. Yamaseki, Clerk of the Court By: V. Chavez, Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF <b>Orange</b> STREET ADDRESS: <b>341 The City Drive</b> MAILING ADDRESS: <b>P.O. Box 14170</b> CITY AND ZIP CODE: <b>Orange 92668</b> BRANCH NAME: <b>Lamoreaux Justice Center</b>			
PETITIONER: <b>DEBORAH L. CLARK</b> RESPONDENT: <b>EDWARD L. CLARK</b> OTHER PARTY/PARTY:			
RESPONSIVE DECLARATION TO REQUEST FOR ORDER			CASE NUMBER: <b>05D000275</b>
HEARING DATE: <b>June 21 2019</b>	TIME: <b>9:00 am</b>	DEPARTMENT OR ROOM: <b>L-52</b>	

Read Information Sheet: Responsive Declaration to Request for Order (form FL-320-JNEQ) for more information about this form.

1.  RESTRAINING ORDER INFORMATION
  - a.  No domestic violence restraining/protective orders are now in effect between the parties in this case.
  - b.  I agree that one or more domestic violence restraining/protective orders are now in effect between the parties in this case.
  
2.  CHILD CUSTODY  
 VISITATION (PARENTING TIME)
  - a.  I consent to the order requested for child custody (legal and physical custody).
  - b.  I consent to the order requested for visitation (parenting time).
  - c.  I do not consent to the order requested for  child custody  visitation (parenting time)  
 but I consent to the following order:
  
3.  CHILD SUPPORT
  - a. I have completed and filed a current *Income and Expense Declaration* (form FL-150) or, if eligible, a current *Financial Statement (Simplified)* (form FL-155) to support my responsive declaration.
  - b.  I consent to the order requested.
  - c.  I consent to guideline support.
  - d.  I do not consent to the order requested  but I consent to the following order:
  
4.  SPOUSAL OR DOMESTIC PARTNER SUPPORT
  - a. I have completed and filed a current *Income and Expense Declaration* (form FL-150) to support my responsive declaration.
  - b.  I consent to the order requested.
  - c.  I do not consent to the order requested  but I consent to the following order:

1 Navid Moshtael [Bar No. 242282]  
2 James L. Wellman [Bar No. 116857]  
3 **MOSHTEAL FAMILY LAW**  
4 4 Park Plaza, Suite 850  
5 Irvine, CA 92614  
6 Telephone: (714) 409-8701  
7 Facsimile: (714) 202-0620

8 Attorney for Petitioner **DEBORAH L. CLARK**

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **COUNTY OF ORANGE - LAMOREAUX JUSTICE CENTER**

11 In Re Matter of

CASE NO.: 05D000275

12 Petitioner **DEBORAH L. CLARK**

13 v.

14 Respondent **EDWARD L. CLARK, JR.**

**DECLARATION OF ATTORNEY  
JAMES L. WELLMAN IN  
SUPPORT OF PETITIONER'S  
REQUEST FOR SANCTIONS  
AGAINST RESPONDENT AND HIS  
ATTORNEY OF RECORD  
PURSUANT TO C.C.P. SECTION  
128.7**


15 I, **JAMES L. WELLMAN, ESQ.**, declares:

16 1. I am over the age of 18 and I have personal knowledge of all the facts  
17 stated herein, except such facts as are explicitly designated as made based on  
18 information and belief. If called upon to testify in any Court, I could and would so  
19 testify to all of the facts stated herein. I offer the within declaration in lieu of personal  
20 testimony, pursuant to Code of Civil Procedure section 2209, California Rules of

22 **DECLARATION OF ATTORNEY JAMES L. WELLMAN IN SUPPORT OF**  
23 **PETITIONER'S REQUEST FOR SANCTIONS AGAINST RESPONDENT**  
24 **AND HIS ATTORNEY OF RECORD PURSUANT TO C.C.P. SECTION 128.7**

1           15. I respectfully represent to the court in good faith that 20 hours of  
2 attorney time is a reasonable estimate and at \$375 this comes to \$7500 in fees  
3 anticipated to address the frivolous motions of Respondent if she does not do the right  
4 thing and withdraw them during the 21 day safe harbor period.  
5

6  
7 I declare under penalty of perjury under the law of the State of California that the  
8 foregoing is true and correct. Executed on May 16, 2019, at Irvine,  
9 California.  
10

11  
12   
13 JAMES L. WELLMAN, ESQ.  
14 Declarant  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 Navid Moshtael (SBN: 242282)  
2 James L. Wellman (SBN: 116867)  
3 **MOSHTAEL FAMILY LAW**  
4 8 Park Plaza, Suite 850  
5 Irvine, California 92614  
6 Telephone: (714) 409-8701  
7 Facsimile: (714) 202-0620

8 Attorney for Petitioner  
9 **DEBORAH CLARK**

10 **SUPERIOR COURT OF CALIFORNIA**  
11 **COUNTY OF ORANGE, LAMOREAUX JUSTICE CENTER**

12  
13 Petitioner: **DEBORAH L. CLARK**  
14 v.  
15 Respondent: **EDWARD L. CLARK, JR.**

CASE NO.: 05D000275

MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
PETITIONER'S REQUEST FOR  
SANCTIONS AGAINST BOTH  
RESPONDENT AND ATTORNEY  
MARITA NOGUEIRAS  
PURSUANT TO C.C.P. SECTION  
128.7; DECLARATION OF JAMES  
L. WELLMAN; ORDER  
[PROPOSED]

Hearing:  
Time:  
Dept.:

**III.**

**RESPONDENT EDWARD CLARK'S THREE FRIVOLOUS MOTIONS  
SIGNED BY AND SUBMITTED FOR FILING BY HIS ATTORNEY OF  
RECORD MARITA NOGUEIRAS VIOLATE THE PROVISIONS OF CCP  
SECTION 128.7(b)**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

On or about May 6, 2019, Ms. Nogueiras filed three motions, approximately 46 pages each with exhibits or over 185 pages. They purport to be for (1) Motion for Reconsideration; (2) Motion: Request for New Trial; and (3) Motion: Request for Judicial Review. Each of the motions are specious and without merit.

As to Motion #1 (Motion for Reconsideration), it must be brought under CCP Section 1008 within 10 days of the order sought to be reconsidered. A reading of the Respondent's motion makes it clear she seeks to have the court reconsider the Court's October 12, 2018 order which rendered the determination of arrearages which was at issue. Respondent filed on May 6, 2019, about 7 months after the order. Indeed, Respondent has actually already filed the duplicative motion previously on December 10, 2018 which was denied on March 8, 2019. Again, the May 6, 2019 filing is nearly 2 months late.

Even if not time barred, which it is, the Respondent's second motion for reconsideration would fail on its merits just like his first. The arguments in support of the Motion for Reconsideration are specious. Respondent claims he never stipulated to the Commissioner (although there is a written stipulation which clearly indicates he did). Respondent, in a pleading submitted to the court and

Exhibit Page 12

1 Nogueiras, violate the provisions of CCP 128.7(b) and the sanction request meets  
2 the requirements of CCP 128.7(c) ad (d) and are warranted.

3 Dated: May 16, 2019

Respectfully submitted,

4  
5 **MOSHTAEL FAMILY LAW**

6  
7 By:



8 David Moshtael  
9 James L. Wellman  
10 Attorneys for Petitioner  
11 **DEBORAH CLARK**

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF ORANGE - LAMOREAUX JUSTICE CENTER  
DEPARTMENT L52

IN RE THE MARRIAGE OF: )  
DEBORAH CLARK, )  
PETITIONER )  
VS. ) CASE NO. 05D000275  
EDWARD CLARK, )  
RESPONDENT. )

HONORABLE BARRY S. MICHAELSON, COMMISSIONER PRESIDING  
REPORTER'S TRANSCRIPT  
FRIDAY, JUNE 21, 2019

APPEARANCES OF COUNSEL:

FOR THE PETITIONER:

MR. JAMES WELLMAN, ATTORNEY AT LAW, APPEARED AS COUNSEL  
FOR THE PETITIONER.

FOR THE RESPONDENT:

MS. MARITA NOGUEIRAS, ATTORNEY AT LAW, APPEARED AS  
COUNSEL FOR THE RESPONDENT.

WARREN WEBB. OFFICIAL SHORTHAND REPORTER,  
CSR NO. 12639

Warren Webb, Official Court Reporter, CSR No. 12639  
DO NOT DUPLICATE PURSUANT TO GOVERNMENT CODE 69941D;

1 MS. NOGUEIRAS: ACTUALLY, YOUR HONOR, I  
2 SPECIFICALLY ASKED THE COURT IF THE COURT WAS CONSIDERING  
3 THAT AGREEMENT VOID AND THE COURT SAID, "NO." SO IF IT'S  
4 NOT CONSIDERED VOID THEN IT'S A VALID ACKNOWLEDGMENT.

5 THE COURT: THE COURT FOUND BASED UPON THE FACTS  
6 PRESENTED TO THE COURT THAT IT WAS SIGNED. IT WAS FILED  
7 BUT IT WAS NOT VALID TO AVOID PAYING THE BALANCE DUE  
8 UNDER THE JUDGMENT. THAT'S THE COURT'S RULING.

9 MS. NOGUEIRAS: I NEVER HEARD IT STATED THAT WAY.  
10 I DON'T THINK IT'S IN YOUR DECISION THAT WAY, THE WAY  
11 THAT YOU'RE SAYING IT TODAY, YOUR HONOR.

12 THE COURT: THAT MAY BE, BUT THAT'S MY OPINION.  
13 NOW, WE GO TO THE MOTION FOR A NEW TRIAL. THE COURT HAS  
14 GONE THROUGH THE MOTION FOR A NEW TRIAL IN DETAIL, AND IT  
15 IS A CONTINUED ARGUMENT THAT THE STIPULATION IS INVALID.  
16 I OVERRULED THAT. THE TRIAL WAS HELD ON SEPTEMBER 18TH,  
17 OCTOBER 12TH, 2018.

18 MS. NOGUEIRAS: YOUR HONOR, MY I ASK COUNSEL IF  
19 THE SIGNATURE ON THIS STIP IS HIS? THERE'S ONLY ONE STIP  
20 WITH TWO SIGNATURES.

21 THE COURT: I HAVE A COPY. THE STIP WAS -- I  
22 HAVE A COPY RIGHT IN FRONT OF ME. DO YOU KNOW ANYTHING  
23 ABOUT THAT, SIR?

24 MR. WELLMAN: YOUR HONOR, MY UNDERSTANDING IF I  
25 RECALL CORRECTLY, THERE WAS ANOTHER ASSOCIATE FROM OUR  
26 FIRM THAT APPEARED AT THE FIRST HEARING IN THIS MATTER

1 AND MAY HAVE SIGNED THE STIPULATION.

2 THE COURT: THIS STIPULATION SOLELY IS BY  
3 MS. NOGUEIRAS. DEPUTY STEP FORWARD, PLEASE.

4 MS. NOGUEIRAS: THAT ONE THAT YOU'RE HOLDING,  
5 YOUR HONOR, I HAVE A COPY OF BUT THERE'S ANOTHER  
6 SIGNATURE BENEATH MINE THAT'S NOT MY CLIENT'S. SO TO ME  
7 IT APPEARS THAT SOMEBODY TRIED TO SIGN ON BEHALF OF MY  
8 CLIENT.

9 THE COURT: MA'AM, YOU SIGNED IT. THAT'S THE  
10 WHOLE ISSUE.

11 MS. NOGUEIRAS: I DID SIGN IT. BUT THE SIGNATURE  
12 UNDERNEATH IT IS NOT MY CLIENT'S.

13 THE COURT: THAT MAY VERY WELL BE. AS LONG AS  
14 YOU SIGNED IT AND YOU PARTICIPATED AND THERE WAS NO  
15 OBJECTION DURING THE TWO DAYS OF HEARING. THAT PART, AS  
16 FAR AS I'M CONCERNED, IS TAKEN CARE OF.

17 MS. NOGUEIRAS: I HAVE ONE LAST QUESTION.

18 THE COURT: OF COURSE.

19 MS. NOGUEIRAS: ISN'T IT REQUIRED THAT THE  
20 LITIGANT SIGN THE STIPULATION AS WELL?

21 THE COURT: NO, IT IS NOT. DO YOU DISAGREE, SIR?

22 MR. WELLMAN: NO. NO, YOUR HONOR, I WAS JUST  
23 GOING TO ADD THAT IT IS NOT REQUIRED TO HAVE A WRITING  
24 THAT CONDUCT OF THE PARTIES CAN CONSTITUTE.

25 THE COURT: BUT COUNSEL HAS THE AUTHORITY.

26 MR. WELLMAN: OF COURSE SHE DOES, YOUR HONOR.

1 THE COURT: AND THERE WAS NO OBJECTION DURING THE  
2 TRIAL.

3 MS. NOGUEIRAS: MAY I JUST SHOW IT TO COUNSEL,  
4 YOUR HONOR, TO SEE IF --

5 MR. WELLMAN: IT'S IRRELEVANT, YOUR HONOR.

6 THE COURT: YOU MAY SHOW WHATEVER YOU WANT, OF  
7 COURSE.

8 MR. WELLMAN: FASCINATING.

9 THE COURT: THAT'S NOT YOUR SIGNATURE, IS IT?

10 MS. NOGUEIRAS: THE TOP ONE IS MINE, YOUR HONOR.

11 MR. WELLMAN: THESE ARE MY INITIALS, YOUR HONOR.

12 YES, IT IS MY SIGNATURE.

13 THE COURT: SO YOU DID SIGN?

14 MR. WELLMAN: YES, I DID.

15 THE COURT: SO BOTH COUNSEL HAVE SIGNED, BUT  
16 THERE WAS NO OBJECTION DURING THE TRIAL. I FEEL  
17 COMFORTABLE WITH THAT ASPECT OF THE CASE. I'VE GONE  
18 THROUGH THE MOTION FOR RECONSIDERATION. I'M DENYING  
19 THAT.

20 NOW THE MOTION FOR A NEW TRIAL IS A DIFFERENT  
21 STORY. NOW, LET'S GO THROUGH THE MOTION FOR A NEW TRIAL  
22 BECAUSE TO ME THAT'S -- NOT THAT THE OTHERS ARE NOT  
23 IMPORTANT BUT THAT'S THE MOST SUBJECTIVE.

24 WHAT ARE THE KNEW FACTS NOT -- I'LL GET TO IT --  
25 IF YOU WANT TO REHASH OTHER FACTS YOU'RE WELCOME TO DO  
26 SO. JUST TELL ME WHAT YOU WANT TO TELL ME.

STATE OF CALIFORNIA )  
                          )     SS.  
COUNTY OF ORANGE    )

**REPORTER'S CERTIFICATE**

I, WARREN WEBB, CSR #12639, OFFICIAL COURT REPORTER IN AND FOR THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF ORANGE, DO HEREBY CERTIFY THAT THE FOREGOING TRANSCRIPT IS A TRUE AND CORRECT TRANSCRIPT OF MY SHORTHAND NOTES AND IS A FULL, TRUE AND CORRECT STATEMENT OF THE PROCEEDINGS HAD IN SAID CAUSE.

DATED THIS TWENTY-SEVENTH DAY OF JUNE, 2019.



CSR #12639

WARREN D. WEBB, OFFICIAL COURT REPORTER  
ORIGINALS AND COPIES SIGNED IN BLUE INK

Warren Webb, Official Court Reporter, CSR No. 12639  
DO NOT DUPLICATE PURSUANT TO GOVERNMENT CODE 69954(D)

## App. "2"

Case No.

**G064157**

**IN THE COURT OF APPEAL OF THE  
STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIV-3**

---

EDWARD L. CLARK, Jr.,

Appellant and lower court Respondent,

v.

DEBORAH L. CLARK,

Respondent and RESPONDENT.

**APPELLATES MOTION TO DISMISS APPEAL AND VACATE VOID  
ORDERS IN LOWER COURT FOR LACK OF SUBJECT MATTER  
JURISDICTION**

---

Appeal From an Order of the Superior Court of Orange County  
Judge: Yolanda V. Torres: Dept. L-62  
(Superior Ct. No. 05D000275)

EDWARD L. CLARK, Jr.  
5582 McFadden Ave.  
Huntington Beach CA 92649  
(714) 448-7145]  
ed@theelectricalexpert.com  
Appellant, In pro per

**MEMORANDUM IN SUPPORT**  
**Overview**

COMES NOW, the Appellant, Edward L. Clark Jr., hereby respectfully moves this Honorable Court pursuant to CCP 473 (d) to grant Appellant's motion to dismiss case and vacate orders issued that are void under the law for lack of subject matter jurisdiction..

The rulings under review are not post judgment orders or a result of a judgment in family court jurisdiction. The 8/31/2006 "FINAL" judgment [Augmented Record hereinafter "AR"AR-1 P5-16] case 05D000275 disposed of all issues in Family Court pursuant to Code of Civil Procedure §904.1(a)(1), and including barring subject matter jurisdiction in the Family Law Division of Superior Court [AR-1 P14 #13]. The 8/31/2006 Final Judgment was executed and entered by a Family Law Division Superior Court Judge the Hon Michael J. Naughton on Aug. 25, 2006 [AR-1 P16] barring Subject matter jurisdiction. [AR-1 P14 #13] and entered into the record Aug 31, 2006. [AR-1 P5].

The rulings under review are a result of an order to appear in Family court issued 4/17/2018 without a summons, that did not have subject matter jurisdiction over a 2017 phone call complaining about a Debt Settlement Agreement entered 3/21/2016, 10-years after Final judgment was entered 8/31/2006 and barring subject matter jurisdiction in Family court.

The orders herein are in direct conflict with the Final judgement terms entered 8/31/2006 requiring any changes to the judgment be agreed upon by the parties in writing. [AR-1, P11 (B) Integration prg 2] and not venued in Family court because Equalization payments of assets over time is not Alimony or any type of bankruptcy action.. Alimony was specifically barred and agreed to by both parties. [AR-1, P10 Support (A) Spousal Support]. Also the orders CANNOT be considered executory to a Final judgment entered 8/31/2006 that disposed of all allegations pursuant to Code of Civil Procedure §904.1(a)(1).and barred subject matter jurisdiction. The 8/31/2006 judgment does not

make provisions for equalization payments of assets to be executory, as if it was Alimony, as the court specifically barred Alimony payments [AR-1 P10 II(A) Alimony] .and Child Support [AR-1 P 10 II (B)]

The April 17,2018 orders to appear in “FAMILY COURT” [AR-2 P18-58] were issued without legal authority, *without SUBJECT MATTER* jurisdiction and not in response to a summons/complaint served upon Respondent. The orders at issue can only be referred to as VOID orders under the law as they were issued without subject matter jurisdiction.

The Rulings under review arise out of the lower family court errors in law, attempting to open and relitigate a final dissolution judgment entered Aug. 31, 2006 on case 05D000275 no longer at issue in Family court now for 12-years, that barred subject matter jurisdiction in Family court. [AR-1 P14 #13]

If this court finds the lower family court had subject matter jurisdiction, despite being specifically barred in 8/31/2006 judgment, *it must then determine* if the orders are VOID based on undisputed material Facts a commissioner presided over a case relying on two stipulations as his sole authority to be a judge [Clerk transcript hereinafter “CT” CT P37 7/31/2019 minutes] , that he failed to have either parties litigant sign. see [ Ar-3 P60-61] and [Ar-4 P63-64] rendering his orders VOID because they were not issued by a judge.

If this court finds the orders are VOID, for lack of subject matter jurisdiction, AND/or because a judge did not preside, then this court also loses jurisdiction to offer opinions on the merits of VOID orders. This court must order the lower court appropriately and dismiss action and vacate all void orders from 4/17/2018 to present.

### **JURISDICTIONAL STATEMENT**

A question of jurisdiction arises based on whether or not this court can validate VOID orders issued in the lower Family court. If this court finds the orders issued in the lower court are VOID as a matter of law, then this court loses jurisdiction to offer any opinions on the merits of VOID orders. Making oral arguments on the merits mute.

Whereas can this court validate orders issued in Family Court without subject matter jurisdiction pursuant to 8/31/2006 FINAL judgment [AR-1 P14 #13], by a person who is not a judge, who has by his actions, changed the terms in the 2006 FINAL judgment (12-years later) to allow family court to circumvent civil court to get around expired statute of limitation,

### STATEMENT OF FACTS

1. On 5/13/2024, Appellant filed a Notice of Appeal in this matter, challenging the family court decision where Superior Court Judge Yolanda Tores has issued orders in an attempt to validate orders that are void under the law and refused to allow two parties litigants to settle the case between them.
2. The opening brief has two parts, first to determine if this court has subject matter jurisdiction and second the merits of the appeal.
3. Appellant timely filed opening brief on 12/6/2024
4. Despite being properly served with Appellant opening brief, respondent failed to file a responsive brief by the court ordered deadline extending time to file 15-days from January 7, 2025.
5. No brief filed by respondent entered in the court docket as of 1/24/2025 offering any argument in opposition to Appellate brief outlining undisputed facts both parties have worked in concert to have this case concluded the void orders issued between them and the lower court, refusal to let the parties settle.
6. On 2/3/2025 Appellate filed a motion to dismiss appeal for Defendant failure to appear arguing amongst other things (the merits of appeal) and this court lack of subject matter jurisdiction when the lower court was without subject matter jurisdiction and conducted a a case entering orders without a judge presideing.
7. On 2/4/2025 Appellate motion to dismiss for failure to appear was denied

## ISSUE

The issue in the instant motion under CCP § 473 (d) is a determination by the court if a clerical error has been made by the lower court attempting to validate void orders that are void under the law. Whereas a determination must be made if this court has subject matter jurisdiction to review the merits of an order that is void under the law and void pursuant to established precedent by this court

Appellate is only allowed 15 minutes of argument and cannot argue the fact this court does not have subject matter jurisdiction and the merits of the appeal in 15-minutes prompting the underlying motion to dismiss and vacate void orders based on the lack of subject matter jurisdiction from a void order issued by a person who is not a judge and issued without subject matter jurisdiction.

## ARGUMENT

- A. Appellant respectfully request the court to take judicial notice of:
1. Opinion published by this court May 16, 2023:  
*See Zaal Aresh vs Monica Marin-Morales G060579, G060827: citing in its opinion People vs America Contractors Indemnity Co. [2002] 33 Cal 4<sup>th</sup> 653, 660 Found a judgment is void, as opposed to merely voidable when the court lacks fundamental jurisdiction over the subject matter or the parties;., ' an entire absence of power to hear or determine the case, an absence of authority over the subject matter or the parties".. "When a court lacks jurisdiction in a fundamental sense, an ensuing judgment is void, and thus vulnerable to direct or collateral attack at any time" The request to certify and publish opinion was granted May 16, 2023 by the Fourth Circuit Div III.*
  2. Opinion published Nierenberg v. Superior Court [Civ. No. 48407. Court of Appeals of California, Second Appellate District, Division One. June 29, 1976.]  
The power of a court commissioner to act as a temporary judge emanates solely from stipulation by the parties to the proceeding. (Cal. Const., art. VI, § 21; Rooney v. Vermont Investment Corp., 10 Cal. 3d 351, 360 [110 Cal. Rptr. 353, 515 P.2d 297]; People v. Tijerina, 1 Cal. 3d 41, 48-49 [81 Cal. Rptr. 264, 459 P.2d 680].) Section 21, article VI provides: "On stipulation of the parties litigant the court may order a cause to be tried by a temporary judge who is a member of the

State Bar, sworn and empowered to act until final determination of the cause." Section 259a, subdivision 4, Code of Civil Procedure gives certain commissioners the power to "act as judge pro tempore when otherwise qualified so to act ...." This statute does not enlarge the power granted in the Constitution. (Rooney v. Vermont Investment Corp., 10 Cal. 3d 351 [110 Cal. Rptr. 353, 515 P.2d 297].

3. *A Party Affected by VOID Judicial Action Need Not APPEAL. State ex rel. Latty, 907 S.W.2d at 486. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." Ex parte Spaulding, 687 S.W.2d at 745 (Teague, J., concurring). If an appeal is taken, however, the appellate court may declare void any orders the trial court signed after it lost plenary power over the case, because a void judgment is a nullity from the beginning and is attended by none of the consequences of a valid judgment.*

**B. THE ORDERS ISSUED IN THE INSTANT UNDERLYING CASE ARE VOID , FOR TWO SEPARATE REASONS:**

1. The order to appear in court [4/17/2018 AR p18-58]] was issued without subject matter jurisdiction specifically barred in Aug 31, 2006 judgment in family court [AR-1 P14 #13] when Superior Court Judge Hon Michael J. Naughton executed Aug. 31, 2006 judgment barring subject matter jurisdiction absent a bankruptcy action. Furthermore at the time the order to appear was executed, Attached to the RFO was not only the August 31, 2006 judgment barring subject matter jurisdiction but also attached was a Debt settlement agreement [AR p 44-46] also barring subject matter jurisdiction.

*When the Court has no jurisdiction of the cause, there the whole proceeding is before a person who is not a judge, and actions will lie against them without any regard of the precept or process.. "*

2. Orders were issued by a person who is not a judge is a void order see [Clerk transcript hereinafter "CT" CT P37 7/31/2019 minutes] , that he failed to have either parties litigant sign. see [Ar-3 P60-61] and [Ar-4 P63-64] rendering his orders VOID because they were not issued by a judge and without subject matter jurisdiction..

## History

Appellate has been in front of this court twice before, Hence prudent to address statements not consistent with the evidence presented.

First: Opinion dated 12/20/2020 [AR P97] the opening brief was submitted by attorney Thomas Mckintosh on behalf of Appellate. The court found the brief fatal stating the court could not rule on 12 of 13 issues yet ruled on one, subject matter jurisdiction without addressing the terms contained in the 2006 judgment barring subject matter jurisdiction and without citing any authority that allows the court to rule on 1/13 issues and not the remainder OF ISSUES. Stating under facts the court must recite facts most favorable to the judgment, i.e. disregarding all the merits of the case, including the fact the Aug 31, 2006 judgment bars subject matter jurisdiction in Family Court.

Second opinion: (1) , [AR-P 146 prg 1] the court clearly was confused; the court states ""....The assumption is clearly a wrong assumption by the court as the parties do not wish to unwind a 2006 divorce...This wrong assumption however is warranted, with the confusion intended by the lower court attempting to circumvent civil court by issuing an order on a case in 2018, no longer at issue, without subject matter jurisdiction, without issuing a summons, and using the same case number of a case no longer at issue.

Hence the reason lower courts have supervisory oversight from an appellate court to insure procedural guidelines and the law is upheld equally and impartially.

(2) The second opinion 9/20/2023 [AR-P 146 prg 1] relied on the first opinion for subject matter jurisdiction again not commenting on the language in the 2006 judgment barring subject matter jurisdiction [AR P37 #13] that states, " *the waiver of spousal support is expressly made contingent upon Respondent not declaring bankruptcy. If Respondent declares bankruptcy , the court has reserved jurisdiction for Petitioner on the issue of spousal support from respondent to Petitioner*" or the debt settlement agreement barring subject matter jurisdiction or the fact

Please take judicial notice the underlying matter is not a bankruptcy action, nor has Defendant made any such argument to this court..

At no time has Defendant offered any opposition or cause contradicting the facts above contained herein..

The evidence shows. Commissioner Michaelson himself stated on the record and in court minutes he relied on two stipulations as his sole authority to proceed, neither of which were signed by either parties litigant. Nor has this court addressed the terms agreed to in 2006 judgment barring subject matter jurisdiction.

### **REQUEST FOR RELIEF**

Based on all the foregoing reasons, and lack of Subject matter jurisdiction, Appellate respectfully requests this court to notify the lower court to dismiss actions initiated without subject matter jurisdiction on 4/17/2018 by Judge Lon Hurwitz [AR p18-58] and all subsequent orders to present, including orders issued by a Commissioner who is not a judge and all orders issued by Judge Yolanda Tores in and attempt to legitimize void orders

**Respectfully Submitted,**

  
Edward L Clark Jr.  
Appellant  
In Proper

  
Date

App. "3"

Case No. **G064157**

IN THE COURT OF APPEAL OF THE  
STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT  
DIV-3

EDWARD L. CLARK, Jr.,  
Appellant and lower court Respondent,

v.

DEBORAH L. CLARK,  
Respondent and RESPONDENT.

---

**APPELLATES EMERGENCY MOTION REQUESTING THE COURT TO  
CORRECT LEGAL ERROR BY THE COURT. THIS COURT LACKS  
SUBJECT MATTER JURISDICTION TO HEAR ARGUMENTS ON THE  
MERITS AS REQUESTED OF VOID ORDERS**

---

Appeal From an Order of the Superior Court of Orange County  
Judge: Yolanda V. Torres: Dept. L-62  
(Superior Ct. No. 05D000275)

---

EDWARD L. CLARK, Jr.  
5582 McFadden Ave.  
Huntington Beach CA 92649  
(714) 448-7145]  
ed@theelectricalexpert.com  
Appellant, In pro per

**MEMORANDUM POINTS AND AUTHORITIES IN SUPPORT**  
**Overview**

COMES NOW, the Appellant, Edward L Clark Jr., hereby respectfully moves this Honorable Court pursuant to CCP 473 (d) to RULE on Appellant's motion to dismiss case for lack of subject matter jurisdiction before a hearing for oral arguments on the merits is scheduled. because absent subject matter jurisdiction this court cannot hear the case.

The court issued a ruling , attached hereto as **Exhibit "A"** incorporated herein by reference. filed 2/19/2025 *that contradicts the rule of law*, and well established precedent, including precedent established by this court:

See Zaal Aresh vs Monica Marin-Morales G060579, G060827: citing in its opinion People vs America Contractors Indemnity Co. (2002) 33 Cal 4<sup>th</sup> 653, 660 *Found a judgment is void, as opposed to merely voidable when the court lacks fundamental jurisdiction over the subject matter or the parties;., ' an entire absence of power to hear or determine the case, an absence of authority over the subject matter or the parties"'. "When a court lacks jurisdiction in a fundamental sense, an ensuing judgment is void, and thus vulnerable to direct or collateral attack at any time" The request to certify and publish opinion was granted May 16, 2023 by the Fourth Circuit Div III.*

whereby stating "will be decided in conjunction with the decision on appeal". It is well established and by this court that without subject matter jurisdiction, this court cannot hear the merits of the case. Therefore cannot here concurrently unless subject matter jurisdiction is established.

This court *"Found a judgment is void, as opposed to merely voidable when the court lacks fundamental jurisdiction over the subject matter or the parties;., ' an entire absence of power to hear or determine the case, an absence of authority over the subject matter or the parties"'.*

A court cannot hear the merits of a case if it does not have subject matter jurisdiction, meaning it lacks the legal authority to decide the type of dispute presented in the case, regardless of the parties' consent; if a court lacks subject matter jurisdiction, it

must dismiss the case entirely CCP 473 § (d) A judgment may be void on its face if review of the court file reveals that the judgment was improperly entered.

**Deciding a Motion to Dismiss for Lack of Subject Matter Jurisdiction in Conjunction with hearing the merits of a VOID order Prejudice the Parties litigants and violates their fourteenth amendment right whereby the court is denying person (litigants) within its jurisdiction the equal protection of the laws**

Besides contradicting well established precedent, the ruling is in direct conflict with the courts direction on 9/20/2023 augmented record [AR 145-60] whereby when Appellate tried to make an oral argument and get a ruling on subject matter jurisdiction, before making arguments on the merits of another matter, the court informed appellate it was too late, stating he should have filed a motion to dismiss for lack of subject matter jurisdiction before the hearing making the argument on subject matter jurisdiction mute.

The court forced the appellate to make oral arguments on the merits of void orders without subject matter jurisdiction.

Appellate has cured that discrepancy by filing a motion to dismiss, incorporated herein by reference on 2/18/2025.

**Appellate appeals to the court to rule on Appellate motion to dismiss for lack of Subject matter jurisdiction on the following grounds:**

**1. Procedural Due Process – The Fourteenth Amendment**

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws

Due process requires that the procedures by which laws are applied must be evenhanded, so that individuals are not subjected to the arbitrary exercise of government power

- 2. A Final Judgment was executed and entered 8/31/2006 by A Superior Court Judge barring subject matter jurisdiction in Family Court and cannot be changed over 10-years later.**

Code of Civil Procedure CCP § 577; Terms in a final judgment are considered "final" meaning they are the conclusive decision of a court and generally cannot be changed unless there is a successful appeal or specific legal grounds for modification, effectively ending the litigation on that issue between the parties involved; the only remaining action is typically to enforce the judgment.

By statute, a judgment is "the final determination of the rights of the parties in an action or proceeding." (Code Civ. Proc., § 577.) Case law explains that a judgment is Your Final Judgment. By Dean A. Bochner California Litigation Vol. 29 • No. 1 • 2016 Dean A. Bochner 23 terminates the litigation and "leaves nothing to be done but to enforce by execution what has been determined." (Doudell v. Shoo (1911) 159 Cal. 448, 453.)

A subsequent court can not arbitrarily claim it has subject matter jurisdiction when the parties to a fully executed final judgment agreed it does not.

- 3. A Commissioner Cannot Preside Over A Matter of Dispute Without a Signed Stipulation By The Parties LITIGANT**

*Opinion published Nierenberg v. Superior Court [Civ. No. 48407. Court of Appeals of California, Second Appellate District, Division One. June 29, 1976.] The power of a court commissioner to act as a temporary judge emanates solely from stipulation by the parties to the proceeding. (Cal. Const., art. VI, § 21; Rooney v. Vermont Investment Corp., 10 Cal. 3d 351, 360 [110 Cal. Rptr. 353, 515 P.2d 297]; People v. Tijerina, 1 Cal. 3d 41, 48-49 [81 Cal. Rptr. 264, 459 P.2d 680].) Section 21, article VI provides: "On stipulation of the parties litigant the court may order a cause to be tried by a temporary judge who is a member of the State Bar, sworn and empowered to act until final determination of the cause." Section 259a, subdivision 4, Code of Civil Procedure gives certain commissioners the power to "act as judge pro tempore when otherwise qualified so to act ...." This statute does not enlarge the power granted in the Constitution. (Rooney v. Vermont Investment Corp., 10 Cal. 3d 351 [110 Cal. Rptr. 353, 515 P.2d 297].*

**4. Prevent from Prejudicing Appellate as addressed above when the court previously would not rule on its lack of subject matter jurisdiction specifically avoiding undisputed material facts in evidence proving the orders issued in the lower family court were in fact void resulting in the lack of subject matter jurisdiction for this court to hear arguments on the merits.;**

a. August 31, 2006 judgment barring subject matter jurisdiction, The 8/31/2006 Final Judgment was executed and entered by a Family Law Division Superior Court Judge the Hon Michael J. Naughton on Aug. 25, 2006 [AR-1 P10] barring Subject matter jurisdiction. [AR-1 P12 #13] and entered into the record Aug 31, 2006. [AR-1 P3]. The orders herein are in direct conflict with the Final judgement terms entered 8/31/2006 requiring any changes to the judgment be agreed upon by the parties in writing. [AR-1, P9 (B) Integration prg 2] and not venued in Family court because Equalization payments of assets over time is not Alimony or any type of bankruptcy action.. Alimony was specifically barred and agreed to by both parties. [AR-1, P8 Support (A) Spousal Support]. Also the orders CANNOT be considered executory to a Final judgment entered 8/31/2006 that disposed of all allegations pursuant to Code of Civil Procedure §904.1(a)(1).and barred subject matter jurisdiction. The 8/31/2006 judgment does not make provisions for equalization payments of assets to be executory, as if it was Alimony, as the court specifically barred Alimony payments [AR-1 P8 II(A) Alimony] .and Child Support [AR-1 P 8 II (B)]

b. 3/21/2016 Debt Settlement Agreement, barring subject matter jurisdiction [AR P44-46]

c. Satisfaction of Judgment filed by Defendant, barring subject matter jurisdiction [AR P41-42]

d. If this court finds the lower family court had subject matter jurisdiction,

despite being specifically barred in 8/31/2006 judgment, *it must then determine* if the orders are VOID based on undisputed material Facts a commissioner presided over a case relying on two stipulations as his sole authority to be a judge [Clerk transcript hereinafter “CT” CT P37 7/31/2019 minutes] , that he failed to have either parties litigant sign. see [ Ar-3 P59] and [Ar-4 P62] rendering his orders VOID because they were not issued by a judge.

e. Failure to serve a summons: barring subject matter jurisdiction prior to hearing oral arguments on the merits

f. This court does not have subject matter jurisdiction or legal grounds to hear the oral argument on the merits without finding it has subject matter jurisdiction. pursuant to the Aug 31, 2006 judgment, the 3/21/2016 deb Settlement Agreement, and the undisputed fact a judge did not preside.

### ARGUMENT

The rulings under review are not post judgment orders or a result of a judgment in family court jurisdiction. The 8/31/2006 “FINAL” judgment [Augmented Record hereinafter “AR”AR-1 P2-16] case 05D000275 disposed of all issues in Family Court pursuant to Code of Civil Procedure §904.1(a)(1), and *including barring subject matter jurisdiction* in the Family Law Division of Superior Court [AR-1 P12 #13]. The 8/31/2006 Final Judgment was executed and entered by a Family Law Division Superior Court Judge the Hon Michael J. Naughton on Aug. 25, 2006 [AR-1 P14] barring Subject matter jurisdiction. [AR-1 P12 #13] and entered into the record Aug 31, 2006. [AR-1 P3].

**This court has already determined and published an opinion it does not have the authority to hear a case it does not have subject matter jurisdiction:**

*Opinion published by this court May 16, 2023:*

See Zaal Aresh vs Monica Marin-Morales G060579, G060827: citing in its opinion People vs America Contractors Indemnity Co. (2002) 33 Cal 4th 653, 660 *Found a judgment is void, as opposed to merely voidable when the court lacks*

*fundamental jurisdiction over the subject matter or the parties;.. ' an entire absence of power to hear or determine the case, an absence of authority over the subject matter or the parties".. "When a court lacks jurisdiction in a fundamental sense, an ensuing judgment is void, and thus vulnerable to direct or collateral attack at any time" The request to certify and publish opinion was granted May 16, 2023 by the Fourth Circuit Div III.*

*The rulings under review are a result of an order to appear in Family court issued 4/17/2018 without a summons, that did not have subject matter jurisdiction over a 2017 phone call complaining about a Debt Settlement Agreement entered 3/21/2016, 10-years after Final judgment was entered 8/31/2006 and barring subject matter jurisdiction in Family court.*

The orders herein are in direct conflict with the Final judgement terms entered 8/31/2006 requiring any changes to the judgment be agreed upon by the parties in writing. [AR-1, P9 (B) Integration prg 2] and not venue in Family court because Equalization payments of assets over time is not Alimony or any type of bankruptcy action.. Alimony was specifically barred and agreed to by both parties. [AR-1, P8 Support (A) Spousal Support]. Also the orders CANNOT be considered executory to a Final judgment entered 8/31/2006 that disposed of all allegations pursuant to Code of Civil Procedure §904.1(a)(1).and barred subject matter jurisdiction. The 8/31/2006 judgment does not make provisions for equalization payments of assets to be executory, as if it was Alimony, as the court specifically barred Alimony payments [AR-1 P8 II(A) Alimony] .and Child Support [AR-1 P 8 II (B)]

The April 17,2018 orders to appear in "FAMILY COURT" [AR-2 P17-58] were issued without legal authority, *without SUBJECT MATTER* jurisdiction and not in response to a summons/complaint served upon Respondent. The orders at issue can only be referred to as VOID orders under the law as they were issued without subject matter jurisdiction.

The Rulings under review arise out of the lower family court errors in law, attempting to open and relitigate a final dissolution judgment entered Aug. 31, 2006 on

case 05D000275 no longer at issue in Family court now for 12-years, that barred subject matter jurisdiction in Family court. [AR-1 P12 #13]

If this court finds the lower family court had subject matter jurisdiction, despite being specifically barred in 8/31/2006 judgment, *it must then determine* if the orders are VOID based on undisputed material Facts a commissioner presided over a case relying on two stipulations as his sole authority to be a judge [Clerk transcript hereinafter "CT" CT P37 7/31/2019 minutes] , that he failed to have either parties litigant sign. see [ Ar-3 P59] and [Ar-4 P62] rendering his orders VOID because they were not issued by a judge.

Opinion published Nierenberg v. Superior Court [Civ. No. 48407. Court of Appeals of California, Second Appellate District, Division One. June 29, 1976.].

The power of a court commissioner to act as a temporary judge emanates solely from stipulation by the parties to the proceeding. (Cal. Const., art. VI, § 21; Rooney v. Vermont Investment Corp., 10 Cal. 3d 351, 360 [110 Cal. Rptr. 353, 515 P.2d 297]; People v. Tijerina, 1 Cal. 3d 41, 48-49 [81 Cal. Rptr. 264, 459 P.2d 680].) Section 21, article VI provides: "On stipulation of the parties litigant the court may order a cause to be tried by a temporary judge who is a member of the State Bar, sworn and empowered to act until final determination of the cause." Section 259a, subdivision 4, Code of Civil Procedure gives certain commissioners the power to "act as judge pro tempore when otherwise qualified so to act ...." This statute does not enlarge the power granted in the Constitution. (Rooney v. Vermont Investment Corp., 10 Cal. 3d 351 [110 Cal. Rptr. 353, 515 P.2d 297].

If this court finds the orders are VOID, for lack of subject matter jurisdiction, AND/or because a judge did not preside, then this court also loses jurisdiction to offer opinions on the merits of VOID orders. This court must order the lower court appropriately and dismiss action and vacate all void orders from 4/17/2018 to present.

*A Party Affected by VOID Judicial Action Need Not APPEAL. State ex rel. Latty, 907 S.W.2d at 486. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." Ex parte Spaulding, 687 S.W.2d at 745 (Teague, J., concurring). If an appeal is taken, however, the appellate court may declare void any orders the trial court signed after it lost plenary power over the case, because a void judgment is a nullity from the beginning and is attended by none of the consequences of a valid judgment.*

## **Procedural Due Process – The Fourteenth Amendment**

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws

Due process requires that the procedures by which laws are applied must be evenhanded, so that individuals are not subjected to the arbitrary exercise of government power

## **A Final Judgment executed and entered 8/31/2006 by A Superior Court Judge CCP § 577;**

Terms in a final judgment are considered "final" meaning they are the conclusive decision of a court and generally cannot be changed unless there is a successful appeal or specific legal grounds for modification, effectively ending the litigation on that issue between the parties involved; the only remaining action is typically to enforce the judgment.

By statute, a judgment is "the final determination of the rights of the parties in an action or proceeding." (Code Civ. Proc., § 577.) Case law explains that a judgment is That Your Final Judgment? By Dean A. Bochner California Litigation Vol. 29 • No. 1 • 2016 Dean A. Bochner 23 terminates the litigation and "leaves nothing to be done but to enforce by execution what has been determined." (Doudell v. Shoo (1911) 159 Cal. 448, 453.)

## **Subject Matter Jurisdiction**

A court cannot fabricate subject matter jurisdiction because it's based on the laws of the jurisdiction. Subject matter jurisdiction is the power of a court to hear a specific type of case.

In order to hear cases, a court must have jurisdiction over both the parties to the lawsuit and the subject matter of the lawsuit. These two types of jurisdiction are

referred to as personal jurisdiction and subject matter jurisdiction. A court must have both personal jurisdiction and subject matter jurisdiction over all the parties to a lawsuit, or the court will not have the authority to hear that lawsuit.

**THERE IS NO OPPOSITION FROM DEFENDANT**

The evidence is clear, there is no opposition from Defendant opposing dismissing of this case, in fact just the opposite. The undisputed materia facts in evidence, Defendant herself filed 3 motions to dismiss case, a motion requesting the court to enter settlement documents into the record after requesting the court to take judicial notice of settlement documents, all of which the courts have denied .

**REQUEST FOR RELIEF**

Based on all the foregoing reasons, upon review confirming this court lacks subject matter jurisdiction to hear the merits of VOID orders, Appellate respectfully requests this court to notify the lower court to dismiss actions initiated without subject matter jurisdiction on 4/17/2018 by Judge Lon Hurwitz [AR p17-58] and all subsequent orders to present, including orders issued by a Commissioner who is not a judge and all orders issued by Judge Yolanda Tores in an attempt to legitimize void orders

**Respectfully Submitted,**

  
Edward L Clark Jr.

**Appellant  
In Proper**



**Date**

A

# EXHIBIT "A"

**COURT OF APPEAL - STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION THREE**

**In re the Marriage of DEBORAH L. and EDWARD L. CLARK, JR.**

**DEBORAH L. CLARK,  
Respondent,  
v.  
EDWARD L. CLARK, JR.,  
Appellant.**

**G064157  
Orange County Super. Ct. No. 05D000275**

Appellant's motion to dismiss appeal and vacate void orders in lower court, filed on February 18, 2025, will be decided in conjunction with the decision on appeal once this matter is assigned to a panel for decision.

**O'Leary, P.J.  
Presiding Justice**

App. "4"

Case No.

**G064157**

**IN THE COURT OF APPEAL OF THE  
STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT  
DIV-3**

**EDWARD L. CLARK, Jr.,**

**Appellant and lower court Respondent,**

**v.**

**DEBORAH L. CLARK,**

**Respondent and RESPONDENT.**

**APPELLANT'S REQUEST FOR APPELLATE COURT TO  
PUBLISH OPINION FOR BOTH APPEAL #1 & Appeal #2**

Appeal From an Order of the Superior Court of Orange County  
Judge: Yolanda V. Torres: Dept. L-62  
(Superior Ct. No. 05D000275)

**EDWARD L. CLARK, Jr.**  
5582 McFadden Ave.  
Huntington Beach CA 92649  
(714) 448-7145]  
ed@theelectricalexpert.com

**TO ALL THE APPELLATE COURT JUSTICES AND THE DEFENDANT AND HER ATTORNEYS  
OF RECORD FOR DEFENDANT:**

**Appellate Hereby makes Request For both Appellate Opinions on case G064157 for  
Appeal #1 and Appeal #2 To Be Published For The Reasons Set For the Herein;**

Appellate would like to believe it is a very rare occurrence that a Lower Court  
VOID judgment finds its way to the appellate court.

1. It is apparent by the conduct of Lower Family Court and its Supervising Judges,  
the need for Guidelines to be set forth by the Appellate Court..
2. Lower courts should not be used for the theft of money
3. Crooked Lawyers and Crooked Judicial Officers Should Be Stopped From Deviating  
From Constitutional Law.
4. Prose Litigants Should Have Full Constitutional Rights Regarding Void Judgments
5. The Court of Appeals Should Remind Lower Courts That a Void Judgment  
Cannot Gain Legitimacy, Therefore Any Issue Trying To Justify The Void  
Judgment Is Also Void As A Matter Of Law
6. The Appellate Court Should Act Here To Establish Precedence on the  
ramifications when The Lawyers, as well as Judicial Officers and Judicial Officer  
Supervisors; All of Them, Have Constructively Thumbed Their Nose at the  
Judicial Process, The Code of Ethics, and The Code Of Civil Procedure. Trying to  
Legitimize a Void Judgment.

An exercise of the Appellate Court's supervisory power is necessary to establish  
Guidelines and Repercussions when judicial officers disregard the Code of Judicial  
Conduct, disregard the code of civil procedure, thus creating their own set of rules  
without fear of being held accountable. The same for officers of the court (Attorneys)  
when they are permitted to operate so far outside their limited authorization as to  
blatantly commit fraud on the court, falsify and fabricate phony stipulations, fabricate  
sham cases for the sole intent of using the power and authority of Superior Court to extort  
settlements.

The granting of appeal in favor of appellate preserves the long established  
case precedent on each of the subjects below. Whereas denying appeal will  
redefined the law as we know it today, virtually negating each of the following  
subjects in the destruction of established well known precedent.

1. Requirement for a court to have subject matter jurisdiction
2. Requirement for a judge to preside over a matter of dispute
3. Requirements for service of a summons.
4. Deterrence from all attempts to legitimize void orders

5. Deterrence from the lower court prevents two parties from resolving all issues between them.
6. Deterrence from Reliance on un-published appeal opinions issued on the merits of a void order.
7. Deterrence preventing a Family Court from attempting to fabricate subject matter jurisdiction over a civil matter by trying to trick parties into signing a stipulation "FOR ALL MATTERS", giving family court subject matter jurisdiction over a civil court matter.
8. Deterrence for Supervising Judges to aid and albeit judicial misconduct in direct violation of their code of ethics.
9. Deterrence for a Commissioner or a judge who fail to recuse themselves when:
  - a. A party refuses to execute a stipulation to allow a commissioner to preside over a matter of dispute (In this case neither party consented)
  - b. A judge has a conflict of interest when she is named as a Defendant for judicial misconduct in the same case.
  - c. When the power and authority to preside as a judge has been stripped from her by someone she refers to be located "UPSTAIRS" managing litigation of judicial misconduct.
10. Parameters to establish Deterrence for all judges and their supervisors who engage in manipulating the court record (docket) to prevent appeal of issues.
11. Validity of Parol Evidence on existing contracts
12. Validity of the One judgment rule
13. Validity of the California Rules of the Court.
14. Validity of the Code of Civil Procedure
15. Validity of the Professional Code of Conduct
16. Deterrence from utilizing a case no longer at issue as leverage to trick a litigant into giving family court subject matter jurisdiction: FOR ALL MATTERS".
17. Requirements accepting documents requested by the parties to take judicial notice as the truth of the matter, no longer needing further litigation
18. Accept undisputed Material Facts both parties agree in Evidence as true
19. Must accept and enforce established precedent
20. Must conform to your oath of office.
21. Establish precedent when officers of the court, subordinate judicial officers, judicial officers, and their supervisors encourage fraud on the court to provide a shield for judicial misconduct.

Appellate submits he is not an attorney and has never been to law school, but concedes the rules seem pretty clear and easy to understand. It is believed that the Rules of the Court, the California Code of Evidence, the United States Constitution is intended applies to everyone and doesn't exclude judicial officers. The question in the instant case is a determination if the Rule Of Law, the Code of Civil Procedure and the Code on Judicial Ethics actually means anything in the Orange County Judicial system. Or are judicial officers and officers of the court free to disregard at will the Laws of Our Land, free from repercussions when they get caught. Do local rules allow Judicial Officers to utilize state owned facilities under the color of office in Superior Court in an effort to shield themselves from liability when they try to extort money.

**OFFER OF PROOF**  
**WHY PUBLICATION IS NECESSARY**

Concurrently filed is a book of exhibits for reference attached to both appeal #1 and appeal #2. Exhibits [Ex8(F) (Ex p161)] is a 9-page Letter received from Supervising Judge Julie A. Palofax March 11, 2024, as an example of how the lower court tries to use and hide behind two non-published VOID opinions to legitimize Void orders issued in Family court in an effort to fabricate judicial immunity..

First; please note pages 1-7 IS without substance merely reciting history of my efforts trying to get a resolution from Family court.

Second: Page 7 starting with last paragraph thru p 9, Ms Palofax rather than addressing any issues of undisputed material fact in evidence explaining why:

- a. A summons was not issued?
- b. Or how family court can fabricate Subject matter jurisdiction when subject matter jurisdiction is specifically barred in 2006 judgment and 3/21/2016 lawfully entered and fully executed Debt Settlement Agreement.
- c. The court allowed a commissioner to continue to preside when it learned the commissioner in his own words "Eminently " relied on two stipulations as his authority, neither of which were signed by either party?
- d. The court allowed Judge Yolanda to preside in conflict of interest without authority to make decisions based on the evidence and request of the parties?

each of which render an order issued by a commissioner void on its face.

Supervising Judge Julie Palofax merely passes the baton hiding behind two appellate un-published opinions on the merits of VOID Judgments for her sole reason not to address as a Supervising Judge, ERRORS OF THE COURT, allegations and evidence of judicial misconduct, thereby allowing the parties to conclude the case between them.

**Reliance on Opinion #1 12/2/2020 (see Exhibit #12 (Ex p 192))**

Prg 3 “Only one issue survives” whether the family court had jurisdiction to hear and adjudicate the dispute between Edward and Deborah. We hold that it did. The rest of the issues relating to the set aside motion are not reviewable by the court

(Ex p192) Facts pg 2 prg 1 “As we are required to do, we recite the facts in the manner most favorable to the judgment”

Reliance on an opinion that fails to address the merits of the case because the appeal was fatally flawed does not address the issues of a VOID Findings and Order [ see Ex 19 (Ex p 376)] issued by a person who is not a judge who relied on a fraudulent stipulation a commissioner engaged in creating. Who failed to issue a summons and subject matter jurisdiction was barred in the 2006 judgment (Ex P355) and 3/21/2016 Debt settlement agreement (see Exhibit 2 (1) (Ex p 30).

Supervising Judge Julie Palofax reliance on an un-published opinion she is aware that openly admits it does not address the merits of the case and written intentionally to prejudice appellate is nothing short of a complete dereliction of duty as a Supervisor. Hence, the need for judicial oversight of this court.

The failure to make the tuff decisions and answer basic questions by addressing the issues in her capacity as supervising judge, and her effort to use the appellate division as an escape goat is the reason we are now back in front of this court.

1. Why did presiding judge Lon Hurwitz issue an RFO to appear in court to determine monies owed when he had in his possession attached to the RFO [Ex 18 (Ex p335)] a 2006 judgment (EX p345) , a satisfaction of judgment [Ex p 358] and a fully executed Debt settlement agreement [Ex p363] all of which prohibited subject matter jurisdiction in family court.

2. If a complaint existed based on a 2017 phone call after case was no longer at issue, how come Judge Hurwitz didn't send to civil court and require a summons to be served?
3. Was it because the statute of limitation had expired in civil court?
4. Is it standard in Family court to trick litigants into signing a stipulation "FOR ALL MATTERS" to take subject matter jurisdiction of civil matters and to avoid expiration of the statute of limitation?
5. Why did Commissioner Michaelson and on what authority did he have to force respondent to participate in a hearing after he refused to sign a stipulation.
6. Why did Commissioner Michaelson refuse to enter a noticed written non-suit motion of objections into the record.
7. Why did Commissioner Michaelson issue a findings and order after respondent filed additional objections informing him, he did not have authority as a commissioner?
8. Why did Commissioner Michaelson when impeached on the record, proving the stipulations he relied on were not executed by the parties, not recuse himself and dismiss the action, since he did not have authorization to preside as a judge?
9. Why did Supervising (at the time) Judge Lon Hurwitz write a letter that effectively prevented an investigation on judicial misconduct from the commission on judicial performance.
10. Why did Judge Yolanda Tores conduct hearings as a judge without authority to make decisions based on the evidence.
11. What is the authority for Judge Yolanda Tores to not comply with Rule 3.1385(b), refusing to dismiss actions filed in Breach of Contract when she admits the court has been properly notified of a settlement from both parties?. And both parties ask the court "IN JOINT REQUEST" for the court to take judicial notice of settlement documents? (see Ex 2 ( Ex p47))]

12. Why would superior court judge Yolanda Tores refuse to accept a stipulation settling dispute witnessed by another superior court judge when both parties asked her to enter into the record.
13. What is the authority for Judge Yolandas Tores to refuse to enter settlement documents into the record requested by both parties to conclude case?
14. What Superior court judge other then Judge Yolandas Tores doesn't have authority to ensure the record is correct and add Petitioners (3) request to dismiss case.
15. Why would a judge refuse to show on the court calendar two identical motions to be heard, requesting the court enter settlement documents into the record?
16. Why would a judge deny both parties request to dismiss action served in Breach of Contract, or both parties request to enter settlement documents into the record?
17. Is it normal in the orange county judicial system for a judge sitting the bench to not have authority to be judge without getting permission from "UPSTAIRS". Prior to make rulings?
18. **And finally why did supervising judge Julie Palafox not provide any offer of proof or explanation of**
  - a. *How family court had subject matter jurisdiction over a civil matter?*
  - b. *How does family court overcome the specific language barring subject matter jurisdiction in 2006 judgment? Satisfaction of judgment filed by Petitioner? And 3/21/2016 contract?*
  - c. *How does family court justify not serving a summons when this court validates the underlying action was a result of a 2017 phone call over two rears after a lawfully entered contract was fully executed 3/21/2016 ?*
  - d. *On what authority did Commissioner Michaelson preside as a judge when he himself states admits his own mistake stating he "EMINENTLY" relied on two stipulations that neither were signed by either party*

- e. *Why did she not inquire and provide answers why Commissioner Michaelson and the Moshtail family law firm concealed the fact their Attorney James Wellman signed a fraudulent stipulation, (falsely representing he was respondent) where both he and the Commissioner concealed from Respondent for over 10-months? And that stipulation is the stipulation the Commissioner states on the record he "EMINENTLY RELIED ON". As his authority to preside as a judge.*
- f. *Why is there no offer of proof from supervising judge Julie Palafox to prove the order issued by a commissioner is in fact a valid order, issued by a judge with subject matter jurisdiction.*

Unfortunately, this court denied Appellate request for re-hearing [see Ex p389] to address VOID opinions.

With new evidence and actions of the lower court, trying to use the non-published opinions as exclusive remedy to legitimize void orders as a shield for judicial misconduct, the new evidence presented in concurrently filed appeal #1 and appeal #2 must be addressed in this court.

Appellate submits it is with regret, and a complete dereliction of duty by a supervising superior court judge, the conduct of judicial officers in the Orange County Judicial system must be exposed to this court. Void orders need not be appealed. If an order is void, then all subsequent orders are void. The lower court knows this, yet has attempted to utilize this appellate court as cover to validate void orders as a shield for judicial misconduct with malice.

It is for these reasons Appellate respectfully request this courts opinions to be published on both Appeal #1 & Appeal #2 concurrently filed to establish and present guidelines for lower courts the proper procedures and conduct involving VOID Judgments. If any are to continue to exist.

Respectfully Submitted

*6/20/00*  
Date

*Edward L. Clark Jr.*  
Edward L. Clark Jr.  
PROSE Litigant