IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND DISTRICT - DIVISION FIVE

No. B317378

JAMIL TOURE, *Petitioner and Appellant,* v. JAMICE AMBER OXLEY, *Respondent.*	Superior Court of California Los Angeles County No. 21STFL11506 Hon. Lawrence Riff

PETITION FOR REHEARING

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INTRODUCTION

Appellant Jamil Toure ("Father") respectfully requests rehearing of the Court's unpublished Opinion issued on November 7, 2023 ("Opn.")

An appellate court may grant rehearing on the grounds that material facts are omitted or misstated in its decision, or because the court reached an erroneous decision based upon mistake, omission or misapplication of a material issue of law. (*In re Jessup* (1889) 81 Cal. 408, 471; see also Cal. Rules of Court, rule 8.268.)

"Petitions for rehearing are permitted… for the purpose of correcting any error which the court may have made in its opinion, or of enabling counsel to direct the attention of the court to matters… which may have been overlooked in its decision." (9 Witkins, Cal. Procedure (5th ed. 2008) Appeal § 905, p. 968, internal citations omitted.) Those criteria for rehearing are presented here.

In the instant appeal, Father challenged the trial court's denial of a Domestic Violence Restraining Order ("DVRO") against Jamice Oxley ("Mother"). This Court's majority affirmed the trial court's decision. Acting Presiding Justice Baker, in his dissent, stated:

> "The opinion for the court never engages with the key question: whether the mental and emotional calm of

> Jamil Toure (father) and his daughter were destroyed when Jamice Oxley (mother) forcefully pulled the daughter out of father's arms and then kept the daughter from having any contact with him for nearly three weeks—in violation of a court-issued custody order. (Fam. Code, § 6320, subd. (c).) I believe there is strong evidence that father's and his daughter's peace was so disturbed (In re Marriage of F.M. & M.M. (2021) 65 Cal.App.5th 106, 120, fn. 5) and that there existed a risk mother would engage in further actions disturbing their peace in the future. I would accordingly hold the trial court abused its discretion in refusing to issue the requested restraining order" (Opn. 20).

Father respectfully submits that this Court's Opinion misconstrues or omits many material facts and judicial findings related to abuse subjected to Father and Minor Child at the hands of Mother, by intentionally concealing and secreting the minor child for approximately three weeks. On November 1, 2022, Mother was convicted of 21 counts of child secretion in violation of the October 7, 2021, custody order and the October 13, 2021, custody order.[1] The minor child was also a victim of domestic violence on October 7, 2021, when the screaming mother pulled the minor child, with force, out of Father's arms, engaging the two in a tug-of-war (RT 195: 6–9).

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[1] Father filed a Request for Judicial Notice on April 4, 2023, which was granted by the Court of Appeals. The Contempt Order After Hearing dated November 1, 2022, is attached as Exhibit 1 to the Request for Judicial Notice.

Father asserts that the three-week concealment of the minor child is child abuse and prohibited conduct under the Domestic Violence Protection Act ("DVPA"); Father further asserts that parental abduction is domestic violence on both the parent and child.

A report presented to the United Nations' Convention on Child Rights, by Nancy Faulkner, Ph.D. asserted that parental child abduction is child abuse.[2] Dr. Faulkner's research demonstrates that parental child abduction is child abuse, often leaving deep scars on both the child and the family left behind. She documents how children abducted by a parent often suffer long-lasting psychological trauma.

Dr. Faulkner's report cites Dr. Dorothy Huntington, an early leader in the study of parental child abduction issues, from her article, Parental Kidnapping: A New Form of Child Abuse: "Child stealing is child abuse...Children are used as both objects and weapons in the struggle between the parents which leads to the brutalization of the children psychologically, specifically destroying their sense of trust in the world around them...We must re-conceptualize child stealing as child abuse of the most flagrant sort." (Huntington, Page 6)[3]

Statistics show that children are equally abducted by mothers and fathers. In some cases, the parent might be fleeing with the children from an emotionally disturbed atmosphere at home. But

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[2] https://canadiancrc.com/Nancy_Faulkner_Parental_abduction_is_child_abuse_1999.aspx

[3] https://takeroot.org/ee/pdf_files/library/Huntington_1982.pdf

at least half of the parents who abduct a child have a history of violence, substance abuse or are emotionally disturbed and many have previous criminal records; as in the present case, mother has a history of substance abuse, suicide attempts, mental health issues, and a criminal record.

As stated in the dissenting opinion on Page 20, "The opinion for the court never engages with the key question: whether the mental and emotional calm of Jamil Toure (father) and his daughter were destroyed when Jamice Oxley (mother) forcefully pulled the daughter out of father's arms and then kept the daughter from having any contact with him for nearly three weeks—in violation of a court-issued custody order. (Fam. Code, § 6320, subd. (c).)" Father asserts that the germane issue in his appeal is whether concealment of a child, in violation of a valid custody (or in this case, three valid custody orders), is abuse against the parent and child, warranting a domestic violence restraining order under the DVPA.

The majority opinion failed to consider *In re Marriage of F.M. v. M.M.* (2021) 65 Cal.App.5th 1061. *F.M. v M.M.* (2021) which was such an important case, it was published even though the issue was moot as Respondent died prior to the issuance of the final ruling. Footnote No. 5 in *F.M. v M.M.* states, in relevant part:

> "…We observe, however, that if the evidence establishes that father has cut off access to their eldest daughter in violation of the court's order granting mother sole legal and physical custody, that

> may constitute abuse. Section 6320, subdivision (c) explains that "'disturbing the peace of the other party'" within the meaning of section 6320, subdivision (a) "refers to conduct that, based on the totality of the circumstances, destroys the mental or emotional calm of the other party." Depriving a parent of access to his or her child certainly may qualify as abuse under this definition."

The majority opinion also failed to analyze the holding as cited to in Father's Opening Brief (Pg. 42, 48) *In re of Bruno M.* (2018) 28 Cal.App.5th 990.

Father now requests rehearing on the grounds that the Opinion omits and misstates material facts and because the Opinion contains erroneous decisions based upon misapplication of material issues of law. (*In re Jessup*, *supra*, 81 Cal. at p. 471).

Accordingly, rehearing should be granted.

ARGUMENT

I. THE OPINION NEVER ADDRESSED APPELLANT'S PRIMARY CONCERN: THE PARENTAL ABDUCTION OF THE MINOR CHILD.

A. The Opinion's Introductory Statement

Father requests rehearing on the grounds that the Opinion contains a glaring material omission in the introductory paragraph. The majority fails to assert the most relevant issue on appeal:

> *Was the parental abduction and isolation of the minor child, in violation of three court orders, abuse against the minor child and the father?*

Father contends that parental abduction is, in fact, child abuse, and conduct which merits the watchful protections of a DVRO. The majority's analysis fails to consider the relevant facts and, in fact, misstates the pertinent issue on appeal. The Opinion states:

> "On appeal, Toure contends: (1) the trial court did not understand that accessing and deleting electronic data can constitute abuse under the DVPA; (2) the trial court abused its discretion by failing to consider the totality of the circumstances; and (3) the trial court erred by denying the restraining order on the ground that other remedies were available" (Opn. 2).

While the issues presented by the majority above are important, they were not the primary concern presented by Father, in his DVRO application which, on its face, on Page 1 stated the minor child was missing for over two weeks when the application was submitted to the court (CT 13).

B. The Majority's Opinion is Almost Devoid of Any Discussion or Analysis of the Parental Abduction of the Minor Child

As stated in Acting Presiding Justice Baker's Dissent, the Majority Opinion never engaged the primary question on Appeal; Whether the parental abduction of the minor child destroyed the

mental and emotional calm of both the child and Father. The Opinion devotes 19 pages of facts and analysis, leaving little more than one paragraph related to the minor child being ripped from her Father's arms and then isolated.

The Court never addresses Father's primary concern. The Opinion instead focused on the least damaging behavior of Mother and diminished the blinding issue of lifelong trauma to Father and the minor child caused by Mother's admitted abuse (RT 31: 14–18).

II. EXISTING LAW CONTROLLING THE PROTECTION OF THE MINOR WAS MISAPPLIED BY BOTH THE TRIAL AND APPELLATE COURT, WHICH COMMANDS A REHEARING.

A. Under Evidence Code § 410, Direct Evidence Conclusively Establishes that Fact

The trial court abused its discretion by "weighing" the admissions of Mother that she concealed and isolated the child for approximately three weeks, in violation of the October 7, 2021, Ex Parte Order, which gave Father sole legal and sole physical custody with monitored visitation to Mother; the October 13, 2021, Order, which demanded the immediate return of the minor child and the October 21, 2021, TRO, which named the minor child as a protected party, affirming the two previous orders. Evidence Code section 410 states, "As used in this chapter, "direct evidence" means evidence that directly proves a fact, without an inference or presumption, and which in itself, if

true, conclusively establishes that fact." An admission of a party is direct evidence under the code. At the trial, Mother unabashedly admitted to concealing and isolating the child, also admitting that she was present in court when the October 7, 2021, orders were issued and that she had knowledge of the two other orders stated above. (RT 163: 10–12, 166: 22- 25) There was no discretion in the court's decision making as related to this admission, the testimony was uncontroverted that the child was forcibly taken from Father and concealed by Mother for approximately three weeks.

Family Code section 6320, subdivision (c)(1), states, in part, "disturbing the peace of the other party refers to conduct that, based on the totality of the circumstances, destroys the mental or emotional calm of the other party. This conduct may be committed directly or indirectly, including…. (as stated in subsection (1)), Isolating the other party from friends, relatives, or other sources of support." In the present matter, the trial court misapplied the Evidence Code and the DVPA by "weighing" the admission of Mother rather than determining that her conduct was intentional and willful, isolating the minor child from all that was familiar and routine to her, including her school, friends, and her father. Similarly, Mother isolated Father from his daughter when he was the primary caretaker throughout her young life. As stated by the dissenting Opinion, this was an abuse of judicial discretion and a misapplication of a material issue of law, which demands rehearing (Opn 20).

This court 's ruling failed to address the trial court's abuse of discretion under Evidence Code section 410 and has a duty to right the wrong committed by the trial court. When a trial court exceeds the bounds of their discretion it is incumbent upon this court to take up the matter and direct corrective action be taken. When a trial court either overreaches, or as in this case fails to enforce the law, this court must take action to protect the rights of the parties. Failure to act by this Court, under these circumstances, is a mistake that must be corrected by a rehearing.

B. The Panel's Perfunctory Review of the Admitted Parental Abduction Prevented it from Applying Both the Code, And Relevant Case Law, For the Protection of the Minor Child and Father Under The DVPA.

1. The Court Failed to Analyze the Relevant Codes

According to the U.S Dept of Justice's Office of Juvenile Justice and Delinquency Prevention, about 200,000 children are reported missing each year as a result of parental abduction[4]; among those children 53% of family abductions were gone less than a week, but an astounding 21% of victims of parental abductions are missing for more than a month and those children suffer long-term detrimental effects.

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[4] https://ojjdp.ojp.gov/library/publications/crime-family-abduction-childs-and-parents-perspective

The California Legislature was at the forefront of parental abductions laws; 24 years ago, it was one of only two states that made it crime. The Legislature took the issue of parental abduction so seriously that when they enacted Penal Code section 278.5, they included subsection (c) to section 278 which states that:

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

The present matter involves a case of parental abduction where Mother was subsequently convicted of 21 counts of child secretion in violation of two valid custody orders.[5]

Children have rights and liberties like adults. But children are more fragile and vulnerable than adults. When family courts make custody orders there is a mandate that they will be followed by the parents. As this court knows, custody orders are always made in the best interest of the child. Family Code section 3020, subdivision (a) states, in part:

> "The Legislature finds and declares that it is the public policy of this state to ensure that the health, safety, and welfare of children shall be the court's primary concern in determining the best interests of

[5] Father filed a Request for Judicial Notice on April 4, 2023, which was granted by the Court of Appeals. The Contempt Order After Hearing dated November 1, 2022, is attached as Exhibit 1 to the Request for Judicial Notice.

> children when making any orders regarding the physical or legal custody or visitation of children. The Legislature further finds and declares that children have the right to be safe and free from abuse, and that the perpetration of child abuse or domestic violence in a household where a child resides is detrimental to the health, safety, and welfare of the child."

The right of a parent to frequent and continuous contact with their child can sometimes be in conflict with the child's best interest and the health, safety, and welfare of the child. Family Code section 3020, subdivision (c) resolves this conflict by stating:

> "When the policies set forth in subdivisions (a) and (b) of this section are in conflict, a court's order regarding physical or legal custody or visitation shall be made in a manner that ensures the health, safety, and welfare of the child and the safety of all family members."

In the present matter, as stated below, three different judges applied this code and determined that Mother's right to frequent and continuous contact with the minor child could be achieved by monitored visitation while protecting the health, welfare and safety of the minor child. Here, the majority failed to analyze or even discuss in any manner, the three relevant orders related to the protection of the minor child.

The appellate majority failed to consider the legislative intent behind the two statutes. As the Opinion states, the DVPA is not to punish past acts of abuse, rather to prevent them from

reoccurring in the future. In the nascent stages of custody cases, orders may be fluid. It is clear from Penal Code section 278 that while modification of orders is predictable, it is not a defense nor excuse for parents to take the law into their own hands. The facts of this case, by the admissions of Mother and her violation of three orders, demonstrate unequivocally that the trial court abused its discretion by denying the DVRO and the appellate court failed to consider the three orders in place. In fact, the Opinion repeatedly states "order," failing to acknowledge the existence of the other two orders. The court issued three orders that were in the best interest of the minor child:

> a. In her October 7, 2021, Custody Order, Judge Kaufman granted sole legal and sole physical custody to Father with monitored visitation to Mother, citing that there was proof of potential irreparable harm to the child. A fact that became true later that afternoon when Mother forcibly and violently removed the minor child from Father's arms and concealed her for approximately three weeks. (CT 34);
>
> b. Judge Riff made a subsequent custody order on October 13, 2021, affirming Judge Kaufman's Orders and ordered that Mother was to immediately return the minor child to father (CT 55–58, RT 168, 18–25); and
>
> c. The third order, a TRO issued by Commissioner Laura Cohen, granted on October 21, 2021, protected Father and Child from further acts of abuse. In the present matter, Mother did not return the minor child to the care of Father until October 26, 2021 and

> only did so, under a direct court order from Judge Thomas. While the Opinion states that the Parties agreed to exchange the child that day, the *only* issue agreed upon by the parties was the location of the exchange. (CT 60–67)

Subsection A., Family Code section 6320, subdivision (c)(1), cited examples of what could disturb the peace or emotional calm of the other party (or a protected party), one of those examples was "Isolating the other party from friends, relatives, or other sources of support." In the majority's omission of any substantial review of these facts, there was a corresponding material omission of the application of this subsection in the DVPA.

Three judges, in three separate hearings, granted and affirmed Father's sole legal and sole physical custody based upon evidence of potential irreparable harm to the minor child. Three separate Judges made orders to protect the minor child. The California Legislature enacted Penal Code section 278 and Family Code section 6320, subdivision (c)(1) for just such an occasion as this, to prevent anarchy in family law and to protect children. Rehearing should be granted on the grounds that the Appellate Court's ruling utterly failed to examine and implement the legislative intent behind the Penal and Family codes. The facts of this case, and the application of the relevant laws were entirely omitted by the majority opinion. These material omissions demand rehearing.

2. The Court Failed to Analyze Relevant Case Law

a. In re of Bruno M. (2018) 28 Cal.App.5th 990

In re Bruno M., *supra*, 28 Cal.App.5th 990*,* established that when a child witnesses domestic violence, their mental and emotional peace can be disturbed, which justifies a restraining order. This case also explains that seeking a juvenile-court-ordered restraining order is appropriate when an abusive parent threatens to take a child from a non-abusive parent. Custody orders are awarded using the best interest of the children standard, it is therefore not in the child's best interest to be deprived of custody when that parent has been granted custody from family court. Children may be protected under a DVRO where the "the restrained person 'disturbed the peace' of the protected child. (*Id.* at p. 997). Disturbing the peace means "'conduct that destroys the mental or emotional calm of the other party." (*Perez v. Torres- Hernandez* (2016) 1 Cal.App.5th 389, 401.) The present Opinion failed to consider or analyze whether Mother's conduct "disturbed the peace" destroyed the emotional calm of father and child when she concealed the child for three weeks.

The appellate court did not analyze the evidence that the restrained person has previously stalked, attacked, or inflicted physical harm on the protected child "is certainly sufficient to justify issuance of a restraining order, however the issuance of a

restraining order does not require such evidence. (*In re Bruno M.*, *supra*, 28 Cal.App.5th at p. 193; *In re C.Q.* (2013) 219 Cal.App.4th 355, 363 *(C.Q).*) Nor does it require evidence of a reasonable apprehension of future physical abuse. (*Ibid*.) The court in *Bruno M.*, held that while the children had not yet been hurt during these altercations, the court could properly consider the extent and violence of father's attacks on mother when issuing the order. Here, while the child may not have been physically harmed on October 7, 2021, the trial court didn't need to wait until there were physical scars to issue a DVRO; such logic would fly in the face of the objectives of the DVPA. There need only be evidence that the restrained person "disturbed the peace" of the protected child." While parental abduction would not leave a physical scar, it is clear from Family Code section 6320, subdivision (c)(1) that the Legislature considers isolation from friends and family abuse under the DVPA.

All Father had to do was establish one act by a preponderance of the evidence that mother engaged in one or more of the prescribed acts under the family code defined in the DVPA. In the present matter, mother admitted to parental abduction with full knowledge of the existence of the three relevant orders. Petitioner testified that he was heartbroken during his daughter's absence from his life (CT 24:6–7). Ripping the child from the arms of the father, followed by approximately three weeks of concealment of the child established a pattern of abuse, more than needed to issue a DVRO. The majority opinion failed to address this in any manner.

b. In re Marriage of F.M. & M.M. . (2021) 65 Cal.App.5th 1061

In the majority's stunning omission of the facts related to the parental abduction of the minor child, it subsequently failed to consider Footnote No. 5 in *In re Marriage of F.M. v. M.M.*, *supra*, 65 Cal.App.5th 1061 which states:

> "5. Mother additionally contends on appeal that the trial court erred when it concluded that parenting order issues are "not really relevant" to the issue of the restraining order. We need not resolve whether the trial court committed error in this instance. We observe, however, that if the evidence establishes that father has cut off access to their eldest daughter in violation of the court's order granting mother sole legal and physical custody, that may constitute abuse. Section 6320, subdivision (c) explains that "'disturbing the peace of the other party'" within the meaning of section 6320, subdivision (a) "refers to conduct that, based on the totality of the circumstances, destroys the mental or emotional calm of the other party." Depriving a parent of access to his or her child certainly may qualify as abuse under this definition."

As already established above, isolating a party from friends and family is considered abuse under the DVPA, Family Code section 6320, subdivision (c)(1). The Court never addressed Father's primary concern, the protection of the child and whether parental abduction disturbs the peace and unseats the emotional and mental calm of Father and child. As previously stated, *F.M. v*

M.M. was such an important case, it was published even though the issue was moot, as sadly the father died during the appeal. As Footnote 5 states, "depriving a parent of access to his or her child certainly may qualify as abuse under this definition", in his dissenting opinion, Justice Baker agreed with Father that the concealment of the child constituted abuse against both Father and Child and, in fact, stated that there existed a risk mother would engage in further actions disturbing their peace in the future (Opn. 20). In fact, while the trial court and appellate court disagreed with Father's argument that Mother violated the TRO by disturbing the peace when she unceremoniously dumped his life's belongings on the side of the road, the court failed to consider the fact that the very act of dumping his belongings roadside was a violation of the TRO and a subsequent order from the homecourt judge which warrant the issuance of a DVRO (RT 23: 14 - 25: 19)

The Opinion focused on the least damaging behavior of Mother. They dismissed the admission of Mother, her violation of three valid court orders, her concealment and isolation the minor child which kept her away from all that was familiar and routine to her, including her legal guardian, her Father.

The Majority's glaring omissions of fact and law, as well as their misapplication of applicable law demand a rehearing.

III. MATERIAL MISSTATEMENTS AND FACTUAL OMISSIONS IN THE COURT'S OPINION DEMAND A REHEARING TO ADDRESS THE PRIMARY OVERLOOKED ISSUE IN THIS APPEAL

A. Opinion's Misstatement of Facts

The Majority stated that Father filed an ex parte request for custody and visitation on October 7, 2021. While this misstatement of fact might be considered immaterial, it simply isn't true. Father filed for dissolution on October 6, 2021 and concurrently filed an ex parte request for custody and monitored visitation to Mother, which was granted on October 7, 2021 (Opn. 4).[6]

The majority also stated that Mother's failure to comply with the "order" to relinquish the child to the father violated the Temporary Restraining Order and associated custody order (Opn. 8). This is a misstatement of the facts. As stated above, there was an order on October 7, 2021, granting Father sole legal and sole physical custody and a subsequent order on October 13, 2021, which demanded Mother immediately return the minor child to Father.[7] Finally, On October 21, 2021, the TRO included the minor child as a protected party.

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[6] The Majority's Opinion misstated multiple facts of this matter. With respect to the issue in the Petition for Rehearing, many of those misstatements are immaterial.

[7] The October 7, 2021, order and the October 13, 2021, orders were subject to Father's Request for Judicial Notice which was granted by the Justices of the panel.

Subsequently, the Opinion incorrectly stated that there was an ex parte hearing on October 26, 2021. October 26, 2021, was a hearing on Father's ex parte application filed on October 6, 2021, and heard on October 7, 2021. On October 26, 2021, both parties were present with counsel, the matter was heard, argues, and decided by Judge Thomas (Opn. 6). The language in this paragraph is vague and ambiguous, it is unclear if the court believes that the parties came to an agreement that a custodial exchange would take place later that day, or if there was a court order. The only agreement of the parties was the location of the custodial exchange (RT 140, 20–26). It was at this hearing that Judge Thomas made a subsequent order that the parties were to meet and confer regarding the TRO order for Father to enter the family residence with police to keep the peace to retrieve his personal property. Another order that was violated by Mother, depriving Father of his personal property.

While the majority acknowledged that the child witnessed loud and emotional arguments, the Opinion omitted the fact that the testimony from Father and third-party witnesses was that the child witnessed Mother and the Maternal Grandmother yelling and screaming at everyone, including police officers. Thereafter, Mother violently grabbed the minor child from Father's arms, concealing and isolating her for the next three weeks (Opn 8, CT 31, 19–23, RT 106, 22–27).

While the panel quotes the trial court stating, in part, "….I will tell you that the closest for me to [Father] carrying [his] burden of proof to prove abuse under the standard, under the

DVPA[,] is Mother's apparent . . . disregard of a clear court order for nearly two weeks…" (Opn. 8). Although it was clear in Father's opening brief and the testimony that there were three court orders and they were violated for three weeks, it appears that the majority relies upon the trial court's inaccuracies and misstatements in their decision.

Footnote No. 2 states "In accordance with the standard review, the facts are stated in the light most favorable to the judgment. (*Curcio v. Pels* (2020) 47 Cal.App.5th 1, 11.) The majority glosses over the fact that Mother was convicted of 21 counts of contempt for willfully disobeying *two* valid custody orders. Therefore, in granting Father's Request for Judicial Notice, the Court should have given weight to these important facts. Aside from a footnote in the Opinion, it does not appear that the convictions of contempt were given any weight in this matter at all.

Courts have often used the disentitlement doctrine to dismiss appeals where the appellant has flouted court orders. "The disentitlement doctrine enables an appellate court to stay or dismiss the appeal of a party who has refused to obey the superior court's legal orders." In re Marriage of Hofer, 208 Cal.App.4th 454,459 (2012). In the civil context, the remedy is most often used in family law cases. The disentitlement doctrine is a sword used by the appellate court to deprive an appellant the right to appeal for their steadfast failure to comply with court orders. For the appellate court to dismiss an appeal, no finding of contempt is required. In the present matter, Mother has been convicted of violating two custody orders where Father was

granted sole legal and sole physical custody of the minor child (CT 34, 36). In addition, Mother violated the TRO by refusing to allow Father access to the family residence as ordered in the TRO (RT 23: 14 - 25: 19, CT: 63). Additionally, Judge Thomas made an order to enforce the terms of the TRO by demanding meet and confer to select a date when Father would enter the home pursuant to the TRO to retrieve his life's belongings. Mother also defiantly refused to comply with the subsequent order of Judge Thomas. These violations of multiple court orders occurred over a two-month period.

If a litigant's failure to comply with court orders is of such paramount importance that they may lose their right to appellate review, it stands to reason that an appellate panel must give proper weight to 21 convictions of contempt for secreting a child in violation of two valid custody orders and a two-month long violation of two valid court orders regarding Father's life's belongings. The recalcitrant conduct of Mother and her obstinately uncooperative attitude toward the rights of her own daughter, the lawful rights of Father to custody of their daughter and to his own personal property and peace of mind must be considered by this court. The absence of any acknowledgment of Mother's intractable conduct by the Majority in their analysis demands rehearing.

CONCLUSION

For each and all the above reasons, Father submits that rehearing should be granted.

NADINE LEWIS,
ATTORNEY AT LAW

Respectfully submitted,

Dated: November 21, 2023

By: /s/ Nadine Lewis

Attorney for Petitioner and Appellant

CERTIFICATE OF COMPLIANCE

This brief is set using **13-pt Century Schoolbook**. According to TypeLaw.com, the computer program used to prepare this brief, this brief contains **4,944** words, excluding the cover, tables, signature block, and this certificate.

The undersigned certifies that this brief complies with the form requirements set by California Rules of Court, rule 8.204(b) and contains fewer words than permitted by rule 8.204(c), 8.268(b) or by Order of this Court.

Dated: November 21, 2023 By: /s/ Nadine Lewis

PROOF OF SERVICE

I declare:

At the time of service I was at least 18 years of age and not a party to this legal action. My business address is 1305 Pico Boulevard, Santa Monica, CA 90405. I served document(s) described as Petition for Rehearing as follows:

By U.S. Mail

On November 21, 2023, I enclosed a copy of the document(s) identified above in an envelope and deposited the sealed envelope(s) with the US Postal Service with the postage fully prepaid, addressed as follows:

Hon. Lawrence Riff
Spring Street Courthouse
Department 7
312 North Spring Street
Los Angeles, CA 90012

I am a resident of or employed in the county where the mailing occurred (Santa Monica, CA).

By TrueFiling

On November 21, 2023, I served via TrueFiling, and no error was reported, a copy of the document(s) identified above on:

David Zarmi
(for Jamice Amber Oxley)

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

Dated: November 21, 2023 By: /s/ Spenscer Greenberg