Adam Steinbaugh, SBN 304829
FOUNDATION FOR INDIVIDUAL RIGHTS & EXPRESSION
510 Walnut Street, Suite 900
Philadelphia, PA 19106
Telephone: (215) 717-3473
Facsimile: (215) 717-3440
Email: adam@thefire.org

Matthew Strugar, SBN 232951
LAW OFFICE OF MATTHEW STRUGAR
3435 Wilshire Blvd., Suite 2910
Los Angeles, CA 90010
Telephone: (323) 696-2299
Email: matthew@matthewstrugar.com

Attorneys for Respondent Amy Gulley

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO — CIVIC CENTER COURTHOUSE

SARRITA ANASTASIA ADAMS,

Petitioner,

vs.

AMY GULLEY,

Respondent.

Case No. CCH-24-587004

Assigned for all purposes to the Hon. Michelle Tong

RESPONDENT AMY GULLEY'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF SPECIAL MOTION TO STRIKE; DECLARATION OF ADAM STEINBAUGH IN SUPPORT OF REQUEST FOR JUDICIAL NOTICE; EXHIBITS A–C

Date: August 20, 2024
Time: 8:30 a.m.
Dept.: 505

Action Filed: June 6, 2024
Trial date: August 20, 2024

REQUEST FOR JUDICIAL NOTICE

Under Evidence Code sections 452 and 453, Respondent Amy Gulley respectfully requests that the Court take judicial notice of the exhibits identified below for two reasons: (1) to allow the Court to evaluate whether to appoint a guardian ad litem for Petitioner Sarrita Adams on its own motion under Code of Civil Procedure section 373, subdivision (c); and (2) because they are relevant to Respondent Amy Gulley's anti-SLAPP motion.

In July 2023, the Court of Appeal dismissed an appeal brought by Sarrita Anastasia Adams, the petitioner in the instant matter, because she had been declared incompetent and could not initiate or maintain her appeal except through a guardian ad litem. (Ex. A at pp. 1-2, 25-26 [citing Code Civ. Proc., § 372, subd. (a)(1)'s requirement that an incompetent person "shall" appear through a guardian ad litem].) The Court of Appeal opinion states that Adams was declared mentally incompetent on October 17, 2018. (*Id.* at pp. 22.) That order remains in place, as evidenced by a "statement" filed by Adams's guardian ad litem in the Superior Court of the County of Alameda on May 23, 2024. On July 11, 2024, Adams sent an email to the undersigned averring that she is a dependent adult.[1]

However, the Court of Appeal expressed skepticism that Adams was not competent, observing that Adams had "repeatedly invoked the trial court's incompetence ruling when it assists her and ignored it when it does not," and that her *in pro per* maintenance of her appeal "demonstrated her ability to understand the nature of the proceedings, to navigate court procedures, and to make legal arguments that support her interests." (Ex. A at pp. 2–3 & fn.3.) Further, *after* the October 2018 order declaring her incompetent, Adams submitted a declaration to a second court, the Santa Barbara Superior Court, testifying that she is a competent adult. (Ex. C, ¶ 1.) In that declaration, Adams further attested that she had accepted an appointment as Power of Attorney in a real estate transaction and prepared at least one legal document for the principal. (Ex. C, ¶¶ 4–7.)

[1] This email was submitted on July 24, 2024, as Exhibit 5 to the Declaration of Adam Steinbaugh in support of Respondent Amy Gulley's Motion to Quash.

Respondent submits the exhibits identified below to bring the matter to the Court's attention, as the Petitioner has previously and recently asserted a legal incapacity to make decisions. In light of the Court of Appeal opinion casting doubt on the propriety of appointing a guardian ad litem, Respondent leaves it to this Court's sound discretion as to whether it would be appropriate to appoint a guardian ad litem on the Court's own motion pursuant to Code of Civil Procedure section 373 subdivision (c) ("If the person lacking legal competence to make decisions is a party to an action or proceeding" a guardian ad litem "shall be appointed . . . by the court on its own motion.")

Respondent further submits these exhibits because they are relevant to her Special Motion to Strike pursuant to Code of Civil Procedure section 426.16. The Court of Appeal opinion establishes that the Petitioner is collaterally estopped from relitigating questions about whether she engaged in domestic violence. The opinion is also relevant to show that the Respondent did not have actual malice in asserting that the Petitioner has not completed her PhD.

I. <u>Exhibits Submitted for Judicial Notice</u>.

Respondent submits the following exhibits to the attached Declaration of Adam Steinbaugh for judicial notice:

1. **Exhibit "A"** is the July 19, 2023, unpublished opinion issued by the First Appellate District, Division Three, in *John Nichols Billings v. Sarrita Anastasia Adams*, No. A162112.
2. **Exhibit "B"** is the May 23, 2024 "Statement of Disqualification for Judge Stephanie Sato for Cause Under Code of Civil Procedure Section 170.1(a)(6)(A)(iii)" filed by Karen Kearney, guardian ad litem for Sarrita Adams, in *John Nichols Billings v. Sarrita Anastasia Adams*, No. HF16830225 in the Superior Court of California, County of Alameda.
3. **Exhibit "C"** is the March 8, 2022 "Declaration of Sarrita Adams, Ph.D. for Motion to Vacate Default Judgment" in *Susan Mowatt v. Lynda Ente, et al.*, No. 21CV04107 in the Superior Court of California, County of Santa Barbara.

II. The Exhibits Are Judicially Noticeable Under Sections 452 and 453.

A. This court may take judicial notice of records of California courts.

Under the Code of Civil Procedure, this Court may take judicial notice of the records of a California court.

Code of Civil Procedure section 452 authorizes this Court to take judicial notice of the records of any California court. It provides, in pertinent part:

> 452. Judicial notice may be taken of the following matters to the extent that they are not embraced within Section 451:
>
> [...]
>
> (d) Records of (1) any court of this state or (2) any court of record of the United States or of any state of the United States.
>
> [...]
>
> (h) Facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.

In turn, Code of Civil Procedure section 453 requires that the Court take judicial notice, providing in full:

> 453. The trial court shall take judicial notice of any matter specified in Section 452 if a party requests it and:
>
> (a) Gives each adverse party sufficient notice of the request, through the pleadings or otherwise, to enable such adverse party to prepare to meet the request; and
>
> (b) Furnishes the court with sufficient information to enable it to take judicial notice of the matter.

The provided records are those of two California courts, the Court of Appeal for the First Appellate District and the Superior Court for the County of Alameda. Petitioner Adams has been provided sufficient notice of the request through the filing of this Request for Judicial Notice in advance of a hearing on the matter. The attached exhibits are sufficient information to enable the Court to take judicial notice of the matter.

B. Judicial Notice of Exhibit A Is Appropriate.

It is appropriate for this Court to take judicial notice of the Court of Appeal opinion in *Billings v Adams* because it affirms the order by the Superior Court of Alameda County finding that the Petitioner in this matter lacks the legal capacity to make decisions.

Respondent does *not* ask this Court to take judicial notice of this unpublished opinion as precedent or legal authority. (See Cal. Rules of Court, rule 8.1115.) Instead, the Court should take judicial notice of the opinion for two reasons.

First, it bears upon the Court's ability to manage the case before it.

Second, it is relevant to Respondent Gulley's special motion to strike under Code of Civil Procedure section 425.16. Respondent argues that Adams is collaterally estopped from relitigating the factual determination that she was the "primary aggressor" in a domestic violence incident. Collateral estoppel is a permissible basis for a party to rely on an unpublished opinion. (Cal. Rules of Court, rule 8.1115, subd. (b)(1).) Respondent also argues that her reliance on the opinion's findings prevents Adams, a limited purpose public figure, from establishing actual malice.

C. Judicial Notice of Exhibit B Is Appropriate.

It is also appropriate for this Court to take judicial notice of Exhibit B, a recent filing by Petitioner through her guardian ad litem in the Superior Court for the County of Alameda. That filing, a "Statement of Disqualification" seeking the disqualification of the judge presiding over the Petitioner's divorce action, is relevant for two purposes. First, it demonstrates that the order finding Petitioner Adams incompetent remains in effect as of its filing on May 23, 2024, and that Petitioner Adams continues to be represented by a guardian ad litem. (Ex. B at p. 9.) Second, it demonstrates that Petitioner Adams continues to assert that she is incompetent. (Ex. B at p. 8).

D. Judicial Notice of Exhibit C Is Appropriate.

It is also appropriate for this Court to take judicial notice of Exhibit C, a declaration signed by Sarrita Adams and filed in the Superior Court for the County of Santa Barbara. That declaration attests that Adams is a competent adult and recounts her appointment as

Power of Attorney in a real estate transaction. This declaration is relevant to this Court's consideration of whether Adams is incompetent.

DATED: July 25, 2024

FOUNDATION FOR INDIVIDUAL RIGHTS & EXPRESSION

By: _____
Adam Steinbaugh

Attorney for Respondent Amy Gulley

INDEX OF EXHIBITS

Exhibit	Description	Page(s)
A	July 19, 2023, opinion of the First Appellate District, Division Three, in *John Nichols Billings v. Sarrita Anastasia Adams*, No. A162112	10–53
B	May 23, 2024, "Statement of Disqualification for Judge Stephanie Sato for Cause Under Code of Civil Procedure Section 170.1(a)(6)(A)(iii)" filed by Karen Kearney, guardian ad litem for Sarrita Adams, in *John Nichols Billings v. Sarrita Anastasia Adams*, No. HF16830225 in the Superior Court of California, County of Alameda	55–63
C	March 8, 2022, "Declaration of Sarrita Adams, Ph.D., for Motion to Vacate Default Judgment," filed in Susan Mowatt v. Lynda Ente, et al., No. 21CV04107 in the Superior Court of California, County of Santa Barbara	65–69

DECLARATION OF ADAM STEINBAUGH

I, Adam Steinbaugh, hereby declare:

1. I am an attorney licensed to practice in California. I work for a non-profit organization, the Foundation for Individual Rights and Expression (FIRE), which provides *pro bono* legal assistance on First Amendment matters. I am an attorney of record for Respondent Amy Gulley in this matter. As such, I have personal knowledge of the matters stated herein and could competently testify thereto.

2. I make this declaration in support of Respondent Gulley's Special Motion to Strike pursuant to Code of Civil Procedure section 425.16.

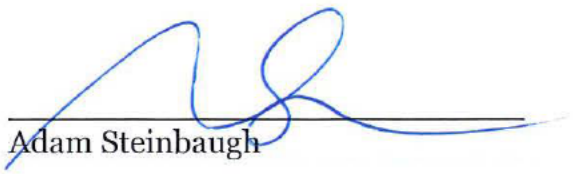
3. Attached as **Exhibit "A"** is a true and correct copy of the July 19, 2023, unpublished opinion issued by the First Appellate District, Division Three, in *John Nichols Billings v. Sarrita Anastasia Adams*, No. A162112.

4. Attached as **Exhibit "B"** is a true and correct copy of the May 23, 2024 "Statement of Disqualification for Judge Stephanie Sato for Cause Under Code of Civil Procedure Section 170.1(a)(6)(A)(iii)" filed by Karen Kearney, guardian ad litem for Sarrita Adams, in *John Nichols Billings v. Sarrita Anastasia Adams*, No. HF16830225 in the Superior Court of California, County of Alameda.

5. Attached as **Exhibit "C"** is a true and correct copy of the "Declaration of Sarrita Adams, Ph.D. for Motion to Vacate Default Judgment" filed in *Susan Mowatt v. Lynda Ente*, et al., No. 21CV04107 in the Superior Court of California, County of Santa Barbara.

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

Executed this 25th day of July, 2024, in Philadelphia, Pennsylvania.



Adam Steinbaugh

EXHIBIT A

Filed 7/19/23 Billings v. Adams CA1/3

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

JOHN NICHOLAS BILLINGS, Plaintiff and Respondent, v. SARRITA ANASTASIA ADAMS, Defendant and Appellant.	A162112 (Alameda County Super. Ct. No. HF16830225)

In March 2018, a judgment of marital dissolution was entered in the proceedings below. Sarrita Adams, Ph.D., who has "autism spectral disorder,"[1] was declared mentally incompetent during postjudgment proceedings and appointed a guardian ad litem. Appearing in pro per, Dr. Adams seeks to appeal from the marital dissolution judgment and ten postjudgment orders of the trial court, contending the judgment and orders should have been vacated because the trial court failed to act, sua sponte, to appoint a guardian ad litem from the outset of the dissolution proceedings. She further argues that Billings committed extrinsic fraud against the trial court by concealing the full extent of Dr. Adams's incompetence, and that the

[1] We adopt Dr. Adams's description of her condition and refer to it in a nonconfidential manner because she relies on the disorder in seeking appellate relief and has filed numerous documents in the trial court and in this court publicly referencing it.

court was judicially biased against her and abused its discretion by failing to rule on motions she filed, including her request for need-based attorney fees under Family Code[2] section 2030.

After the conclusion of briefing, we requested supplemental briefing from the parties clarifying whether the order declaring Dr. Adams to be mentally incompetent is still in effect, and if so, whether this appeal was authorized by her guardian ad litem. Having received supplemental letter briefs from Billings and Dr. Adams's current guardian ad litem, Karen Kearney, we now conclude the appeal must be dismissed. As we discuss in more detail in part A of the Discussion, *post*, the notice of appeal was not signed by the guardians ad litem appointed to represent Dr. Adams at the time the appeal was initiated. Moreover, although Kearney purports to approve of Dr. Adams's filing and prosecution of the appeal, Kearney is not an attorney, and a guardian ad litem who is not an attorney must employ an attorney and cannot represent another in a legal proceeding. In short, this appeal cannot be maintained either by an incompetent person or by a nonattorney guardian ad litem.

We notified Dr. Adams, Kearney, and Billings that we were considering dismissing the appeal on our own motion for the reasons stated above. Having provided notice of our intent and an opportunity to be heard on the matter, we dismiss the appeal.

We do not take this action lightly. Even if we could overlook the defect in the notice of appeal, it appears the only viable alternative to dismissal would be to continue this appeal indefinitely, an option we are unwilling to take in light of the circumstances. Indeed, it was Dr. Adams who on her own advanced this appeal from its initiation, through briefing, and to the setting

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[2] Further unspecified statutory references are to the Family Code.

of oral argument before suddenly seeking to put a halt to the proceedings.[3] She has repeatedly invoked the trial court's incompetence ruling when it assists her and ignored it when it does not, leading to the quandary before us today.

Although we dismiss the appeal, for the benefit of the parties we share our views of the merits of Dr. Adams's appellate contentions.

FACTUAL AND PROCEDURAL BACKGROUND

Billings and Dr. Adams began their relationship in or around 2008 while attending the University of Cambridge (Cambridge) in England. They moved to the United States in 2010, and Billings eventually obtained employment at Yelp, Inc. (Yelp) while Dr. Adams, who was a doctoral candidate at the time, continued her studies at the University of California, at Davis (UC Davis). They married in July 2012 and purchased real property located on Snake Road in Oakland (the Snake Road property).

A. Petition for Dissolution of Marriage

In September 2016, Billings petitioned for dissolution of marriage on the ground of irreconcilable differences. The parties stipulated to the division of other community property assets, leaving the main issues of spousal support and disposition of the Snake Road property for trial.[4]

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[3] In so doing, Dr. Adams has demonstrated her ability to understand the nature of the proceedings, to navigate court procedures, and to make legal arguments that support her interests.

[4] Dr. Adams was represented by counsel during most of the trial court proceedings. Her first counsel, Staci Lambright, filed the initial response to Billings's petition in October 2016 but moved to be relieved as counsel a month later. In December 2016, Cary Schneider substituted in as Dr. Adams's counsel of record. He moved to be relieved in March 2017, and Dr. Adams represented herself for ten days until Terry Szucsko became her counsel of record in early April 2017. In August 2017, Szucsko was replaced by Amanda List, who represented Dr. Adams at trial. In February 2018, List

B. Billings's Application for Domestic Violence Restraining Order

During the dissolution proceedings, Billings applied for a domestic violence temporary restraining order (DVTRO) against Dr. Adams. Dr. Adams filed a response disputing Billings's allegations and accusing him of committing violent acts against her. The trial court issued a DVTRO against Dr. Adams and set the matter for a long cause hearing, but before the hearing took place, the parties stipulated to a mutual stay away order requiring them to stay 100 yards from one another and to have limited communications until September 2019 or further order of the court.

C. Trial

Trial was held over the course of several days in November 2017. Billings testified about Dr. Adams's domestic violence and asked the court to consider it in determining spousal support. He identified photographs of injuries to his person and damage to his property, and testified that on one occasion, Dr. Adams used a circular saw to cut through a door to reach him in a room where he had barricaded himself. Billings explained he had agreed to the mutual stay away order in order to avoid the costs of litigating a domestic violence case and to help reduce the conflict in order to resolve the divorce.

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moved to be relieved, claiming "[t]he attorney-client relationship has irreparably deteriorated," and Brent Kaspar substituted in as counsel of record. In July 2018, Kasper was replaced by Gregory Silva, who moved to be relieved the following month and was replaced by Robyn Ginney in September 2018. From December 2018 to March 2019, Paul Donsbach served as counsel of record, and then Dr. Adams represented herself in family law matters (but she was represented on contempt matters in or around October 2019 by Chelsie d'Malta). In January 2021, Todd Cardiff became counsel of record and represented Dr. Adams until August 2021 when the trial court granted his motion to withdraw.

Billings believed Dr. Adams violated the mutual stay away order on two occasions.

Billings further testified that Dr. Adams's autism made "employment challenging but not impossible" for her, and that she could "become self-sufficient within a reasonable period of time." He believed Dr. Adams was capable of being employed because she would have a Ph.D. from Cambridge once she submitted her dissertation, and she then could perform postdoctoral research or work as a laboratory technician. On cross-examination, Billings acknowledged "a few occasions where [Dr. Adams] lost control or she became agitated" and several occasions during the marriage when she was hospitalized for her mental health.

Billings acknowledged that he was arrested in July 2016 for domestic violence against Dr. Adams. However, he claimed it was Dr. Adams who attacked him, and that after he called the police, Dr. Adams hit herself and then claimed Billings had done it. Billings saw pictures of bruises on Dr. Adams that she submitted in response to his application for a restraining order, but he believed those bruises were caused when she resisted police officers who entered the home to place her on a psychiatric hold. Billings testified that he never struck, punched, kicked, or threatened Dr. Adams.

Dr. Adams testified that her autism rendered her a dependent adult. In addition to autism, she suffered from posttraumatic stress disorder, generalized anxiety disorder, dyspraxia, and asthma. Dr. Adams explained that since moving to the United States, her mental health had deteriorated. She had been hospitalized multiple times, including detentions under Welfare and Institutions Code section 5150, and had regularly received medical and social services. At the time of trial, Dr. Adams was receiving therapy and seeing a psychiatrist and a neurologist.

Dr. Adams testified she was not technically employed at UC Davis but was a Ph.D. student and was continuing her research and rewriting her thesis. She believed she would be able to continue that type of work "with a lot of assistance." Her work towards her dissertation had been disrupted when the parties separated. Since then, Dr. Adams reached out to laboratories at Stanford University and the University of California, San Francisco (UCSF) to host her. However, she was not applying for jobs because she had only just begun receiving in-home care from the Center for Autism and Related Disorders. Dr. Adams described a report she received from UCSF in 2017 stating she "would require extreme supports in the workplace and vocational training."

Dr. Adams estimated the market value of the Snake Road property was $1 million to $1.1 million, and her goal was to buy out Billings's interest in the residence. To that end, Dr. Adams and a friend were in the process of applying for a mortgage to finance the buyout and any extra costs for repairs. Dr. Adams also made multiple other inquiries to refinance the mortgage on the Snake Road property.

Dr. Adams testified that she filed a restraining order against Billings because he hit her on multiple occasions and, on one occasion, shoved her through a wall. She said that Billings consistently emotionally abused her and smeared her name, and that he was "gas lighting" her (meaning that he was attempting to make her think she was losing her mind). Dr. Adams asked the court to consider Billings's domestic violence in setting spousal support.

Diana Yovino-Young, a certified residential real estate appraiser, testified she appraised the Snake Road property for $1,275,000. However, the home required work and repairs to get it in marketable condition.

D. Statement of Decision

On January 25, 2018, the trial court issued its statement of decision. The court set forth a detailed analysis of the spousal support factors under section 4320 and emphasized its careful consideration of Dr. Adams's medical challenges in making its order. The court found that at trial, Dr. Adams "appeared lucid, intelligent and competent." The court observed that her "blanket statement" claiming to be a " 'dependent adult' " and her asserted need for "further vocational training" were "offered without any expert assessment or testimony" and were "insufficient for the court to conclude that she cannot complete her dissertation in a timely manner and obtain employment." While remarking that Dr. Adams "undoubtedly has challenges that have delayed her completion of her Ph.D.," the court determined she did not meet her burden to prove those challenges prevented her from obtaining gainful employment.

With regard to spousal support, the trial court acknowledged that a typical spousal support award for a marriage of short duration is one-half the length of the marriage, and that here, Billings had already provided direct and indirect spousal support to Dr. Adams for 16 months. However, the court found that Dr. Adams needed considerably more time to finish her dissertation and obtain employment with appropriate accommodations. Accordingly, the court ordered Billings to pay Dr. Adams $6,000 a month in spousal support from January 1, 2018, until December 31, 2019.[5]

And while both parties accused the other of domestic violence, the trial court found Billings's testimony "more credible" based on pictures showing

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[5] The trial court also ordered that Billings pay additional support of 15 percent of his restricted stock unit (RSU) income, while reserving jurisdiction to modify the award should Billings's employment with Yelp end for any reason or the RSU income become deferred or delayed.

Dr. Adams "painting on the walls ('I hate you'), damaging [Billings's] property, causing injuries to [Billings's] body and kneeling on the floor with a can of gasoline and two knives [which] presented a disturbing picture." The court did not credit Dr. Adams's insistence that Billings was " 'gas lighting' " her or that she was the abused party. The court stated it was not convinced by Dr. Adams's explanations as to how she obtained her injuries and expressed its opinion that Dr. Adams was "the primary aggressor."

The trial court further ordered that the Snake Road property be listed for sale. The court credited Yovino-Young's valuation of the property at $1,275,000 because Dr. Adams provided no expert testimony to contradict it. The court rejected Dr. Adams's request to buy out Billings's share, finding her proposal to use community assets and obtain a loan with a friend "nebulous at best" and not supported by sufficient evidence that she could obtain the loan. The court ordered the parties to obtain a realtor, and if they could not agree, to provide the court with a list of three potential realtors so the court could choose one. The court ordered that the Snake Road property be listed for sale by March 1, 2018, or as soon thereafter is practicable, and that Billings and Dr. Adams "cooperate fully with the realtor in the sale of the home. So long as [Dr. Adams] cooperates fully, she may remain in the residence until it is sold." The court also ordered Dr. Adams to maintain the property in showable condition and to continue all payments on the mortgage, taxes, utilities, and normal monthly maintenance. "Should she fail to make said payments or cooperate with the listing agent, her continuing tenancy will be ended."

Finally, the trial court addressed Dr. Adams's request that Billings pay her no less than $60,000 in need-based attorney fees under section 2030. The court acknowledged that Billings had already contributed $5,000 towards Dr.

Adams's attorney fees but found that his available assets for payment of fees remained "significantly greater than" Dr. Adams's assets. Balancing the equities, the court ordered that Billings pay an additional $35,000 towards Dr. Adams's attorney fees and costs.

Notice of entry of the final judgment was served on March 6, 2018.

E. Postjudgment Proceedings

1. August 2018 Orders

Shortly after the judgment, the parties filed requests for various orders. In a written order dated August 7, 2018 (hereafter the 8/7/18 order), the trial court found that Dr. Adams had not complied with the terms of the judgment requiring her to pay the mortgage and other expenses for the Snake Road property, and that she had "frustrated the sale of the house." Although the court did not order Dr. Adams to immediately vacate the residence, the court granted Billings "exclusive management and control regarding the sale of" the Snake Road property, ordered him to pay all of the monthly expenses on the residence, and accordingly reduced the spousal support award to $600 per month until the sale was complete. The court also ordered Dr. Adams to "cooperate and sign any necessary documents to effectuate th[e] house sale upon request. If [Dr. Adams] fails to timely sign documents, an elisor may sign on [Dr. Adams's] behalf. [Billings] may submit documents to the court ex parte for the elisor to sign." Finally, the court imposed sanctions of $5,000 on Dr. Adams, payable through an offset to the need-based attorney fee award that Billings was ordered to pay under the judgment. Billings served Dr. Adams with a file-endorsed copy of the 8/7/18 order on August 16, 2018.

On August 27, 2018, the 8/7/18 order was amended to correct an error in the street address of the Snake Road property. Hereafter, we refer to the amended order as the 8/27/18 order.

2. Appointment of Guardian Ad Litem and Reconsideration of 8/7/18 Order

In October 2018, Dr. Adams applied for appointment of her father, Terence Adams, as her guardian ad litem. The application stated that Dr. Adams was "an incompetent person" and that a guardian ad litem was necessary because Dr. Adams "has been diagnosed as autistic and the Court found that she did not cooperate with the realtor, commented on her behavior in court on the record, noted her diagnosis as autistic, and suggested that her behavior was 'obstreperous.' A Guardian Ad Litem will facilitate the final resolution of this case." On October 17, 2018, the trial court granted the application and appointed Mr. Adams as the guardian ad litem.

Dr. Adams also moved for reconsideration and clarification of the 8/7/18 order, asking the trial court to reinstate her right to participate in decisions regarding the Snake Road property in light of the appointment of the guardian ad litem.

At a November 2018 hearing, the trial court denied Dr. Adams's motion for reconsideration as untimely, but on its own motion the court modified its 8/7/18 order to give the parties "equal input on the sale of the family residence." The court further ordered the parties to meet and confer by November 30, 2018, on a listing price for the residence, and if they could not agree, to each submit a proposed listing price to the court by December 7, 2018. (These rulings were later memorialized in a written order dated January 11, 2019 [hereafter the 1/11/19 order].)

On December 12, 2018, the trial court entered an order (hereafter the 12/12/18 order) stating it received a proposed listing price from Billings, but nothing from Dr. Adams. The court selected Billings's proposal and ordered that the Snake Road property be listed for sale at $799,000. The court clerk

served Dr. Adams's counsel with a file-endorsed copy of the 12/12/18 order on the same day.

3. Billings's Request for Reinstatement of Exclusive Management and Control

In January 2019, Billings requested that the trial court reinstate his exclusive management and control of the Snake Road property, and that Dr. Adams be given 20 days to vacate the property and ordered to pay sanctions. In his supporting declaration, Billings stated that Dr. Adams and the newly-appointed guardian ad litem were not cooperating in the sale of the residence.

The matter was heard in early March 2019. Dr. Adams appeared with her guardian ad litem, as well as newly retained counsel, Paul Donsbach. Billings's counsel argued that the sale of the Snake Road property could not proceed because Dr. Adams would not allow the realtor to take photographs of the residence or perform inspections and open houses.

Donsbach expressed his view that Dr. Adams "is profoundly disabled and has enormous difficulty functioning and communicating on these issues," and that upon looking at the case "with fresh eyes," "there's an issue in the fact [that] she was determined to be mentally incompetent" and "has been mentally incompetent since the beginning of this proceeding." The trial court noted that Dr. Adams had several attorneys throughout the life of the case, and none had raised the issue of incapacity at trial, "which would indicate to the Court that she was not incapacitated to an extent that would prevent her from participating in these proceedings." Donsbach conjectured that "the seven successive breakdowns in the attorney-client relationship happened so quickly and pervasively that the counsel just weren't able to effectively communicate with their client."

The trial court asked if Mr. Adams was refusing to cooperate in the sale of the home, and Billings's attorney explained that Mr. Adams "refused to set

up appointments for those people to enter the home." Donsbach acknowledged there had been no progress in the sale of the Snake Road property since the appointment of the guardian ad litem but he attributed this to Mr. Adams's distant residence in England.

After the argument concluded, the trial court ruled it would return exclusive management and control of the sale of the Snake Road property to Billings. The court further ordered Dr. Adams to remove her belongings and vacate the residence no later than April 15, 2019. The court imposed $5,000 in sanctions on Dr. Adams, to be taken from her share of the sale proceeds. Finally, the court ordered that monthly spousal support be increased from $600 to $3,593 once Dr. Adams vacated the residence.

In early April 2019, the trial court issued its written order memorializing all its rulings. Billings's counsel served Dr. Adams with notice of entry said order on April 19, 2019 (hereafter the 4/19/19 order).

4. Writ of Possession

At a status conference in April 2019, Billings appeared through counsel, but Dr. Adams made no appearance. Billings's counsel informed the trial court that Dr. Adams had not vacated the Snake Road property and that Dr. Adams's guardian ad litem had sent communications arguing that Dr. Adams was entitled to tenant relocation benefits under a city eviction ordinance. The guardian ad litem also accused the court, Billings, and Billings's counsel of "continu[ing] to violate" Dr. Adams's "ADA rights." The matter was continued to June 2019.

Thereafter, Billings filed an application for a writ of possession, which the trial court granted on April 24, 2019.

At the continued status conference, Dr. Adams and her guardian ad litem failed to appear once again. Billings informed the trial court that Dr. Adams had still not vacated the house.

5. Combined Contempt and Family Law Proceedings

a. September 2019

The trial court ordered Dr. Adams to show cause why she should not be held in contempt for disobeying the court's order to vacate the Snake Road property. At the show cause hearing in September 2019, Dr. Adams appeared in pro per, accompanied by a case worker from the Regional Center of the East Bay. Billings's counsel informed the trial court that the sheriff's department had evicted Dr. Adams earlier that month, but that "[s]he was back in the house that evening after calling the Oakland police who misunderstood the process." Thereafter, Billings's counsel reported, Dr. Adams "was out of the home again" but "was back in the home again a few times," and "when the locksmith came back, there were keys broken off in all the door locks. But it's believed now that the property is secure." Billings's counsel explained that her client was not withdrawing the contempt petition, but was willing to continue it until Dr. Adams secured housing.

The trial court informed Dr. Adams of her rights and the nature of the contempt proceedings, and Dr. Adams requested appointment of counsel. She reminded the court that she was previously declared an incompetent person and orally requested attorney fees from Billings for "extort[ing] me out of my home" and "[stealing] over $50,000 worth of RSUs from me and as a result now I am homeless and penniless." Billings's counsel explained that her client was no longer employed by Yelp, and certain RSU bonus income was no longer being paid.

Dr. Adams argued that the court process had been unfair and suggested that Mr. Adams was unable to serve her needs as guardian ad litem because he was in England. Accordingly, Dr. Adams asked the trial court to appoint another guardian ad litem, and the court instructed her to file the appropriate paperwork.

The trial court ordered that Billings arrange a date and time with Dr. Adams for her to collect her belongings from the Snake Road property. The court also ordered that the $6,000 monthly spousal support payments be "resumed immediately" and that Billings pay the entire mortgage on the property. The court continued the matter and ordered Billings to provide documentation of spousal support payments. As the hearing came to a close, Dr. Adams argued that the writ of possession was void and accused the court of helping Billings to cause her to be homeless.

Billings took possession of the property in September 2019.

b. October 2019

In October 2019, Billings provided the trial court with the requested documentation of spousal support payments. He indicated that arrangements had been made for Dr. Adams to access the Snake Road property and gather her belongings, but that she did not appear. He also stated that after the writ of possession was issued, Dr. Adams entered the Snake Road property several times through a crawl space and moved or removed various personal effects.

At a hearing in October 2019, Dr. Adams was represented on contempt matters by her privately retained counsel, Chelsie d'Malta, who requested a continuance so she could file a demurrer. The trial court continued the contempt matter to December 2019. Turning to the family law matters, the trial court found deficiencies in Billings's documentation of spousal support

payments. The court left intact the $6,000 monthly spousal support obligation by suspending its previous order that payments would terminate on December 31, 2019, until the court received an accounting of expenses. Additionally, due to the parties' income disparity, the court ordered Billings to pay $5,000 in attorney fees to Dr. Adams for the family law matters. The court set the matter for a continued status conference on December 10, 2019.

c. Dr. Adams's December 2019 Ex Parte Requests

On December 10, 2019, Dr. Adams filed an ex parte request for emergency orders, including a stay of the sale of the Snake Road property, restoration of her property rights in the residence, modification of spousal support, and attorney fees. Citing section 2122, subdivisions (a) and (d),[6] Dr. Adams requested that the trial court vacate "all prior orders regarding the unequal distribution of the" Snake Road property due to her mental incapacity and Billings's fraud.

At the continued status conference on December 10, 2019, Dr. Adams appeared in pro per on the family law matters and through counsel on the contempt matter. The contempt matter was dismissed with prejudice based on the stipulation of the parties.

Turning to the family law matters, the trial court asked Dr. Adams why she had not retained an attorney, and Dr. Adams said that the attorneys she contacted were dissuaded from working with her by Billings's counsel. When Dr. Adams asked the court to appoint someone to represent her, the court reminded her that she already had a guardian ad litem, but Dr. Adams responded that Mr. Adams "is not present in this country, and he cannot

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[6] Under section 2122, the grounds for setting aside a dissolution judgment include actual fraud (§ 2122, subd. (a)), and mental incapacity (*id.*, subd. (d)).

represent me." The court responded that it would "need to notify [the] current guardian ad litem to see whether there are any objections to removing him, and if so, appointing another guardian ad litem." The court preserved the stay on termination of spousal support and ordered that the matter be continued for consideration of removal of the current guardian ad litem and appointment of a new one.

On December 12, 2019, the trial court denied Dr. Adams's December 10 ex parte request. That same day, Dr. Adams filed a substantially similar ex parte request, which, like the prior one, sought modification of the spousal support order, a stay of the sale of the Snake Road property, and attorney fees. Dr. Adams again cited to section 2122, subdivisions (a) and (d), and sought "[v]acation of all prior orders" regarding the disposition of the Snake Road property.[7]

At the continued hearing in early February 2020, Dr. Adams appeared in pro per, accompanied by her case worker from Regional Center of the East Bay. Billings's counsel told the trial court that the Snake Road property was in the process of being sold for $910,000, but that "escrow came to a complete halt because they will not issue title insurance with [a] pending hearing" on Dr. Adams's motion. Counsel further told the court that Dr. Adams continued to frustrate the sale of the home, and that "[w]e've had to have an elisor sign every single document related to the house sale, because she's refused to do so." Billings requested sanctions against Dr. Adams under section 271 for her continued efforts to obstruct the sale. In asking the court to deny Dr. Adams's request for exclusive use and control, Billings's counsel

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[7] Though not styled a motion to set aside the judgment, Dr. Adams's December 12 ex parte motion effectively sought such relief, as Billings acknowledges the motion "in effect sought to vacate these elements of the Judgment" on the basis of fraud and Dr. Adams's mental incompetence.

reminded the court that "the elisor was appointed, because [Dr. Adams] was refusing to sign any documents. She was . . . given joint management and control back when her father was appointed the guardian ad litem. But he failed . . . to cooperate." Dr. Adams disputed that an elisor had been appointed in this case, arguing that the trial court had, at most, authorized Billings to file an ex parte request for appointment of an elisor.

The trial court denied Dr. Adams's requests to stay the sale of the Snake Road property and to be granted exclusive use and control. The court left spousal support intact until Dr. Adams was appointed a new guardian ad litem, and the court indicated it would obtain assistance from the Office of County Counsel to have a guardian ad litem appointed for Dr. Adams. The matter was continued to March 2020. These rulings were memorialized in a written order dated February 10, 2020 (hereafter the 2/10/20 order). Notably, the 2/10/20 order specified that "[t]he order made on June 14, 2018 (filed August 27, 2018) appointing an elisor to sign all house sale documents presented to [Dr. Adams] which she does not sign remains in full force and effect." Billings's counsel served Dr. Adams with notice of entry of the 2/10/20 order on February 14, 2020.[8]

6. Report from Guardian Ad Litem

In early March 2020, Mr. Adams filed a guardian ad litem report accusing Billings of lying to the trial court about the nature and severity of Dr. Adams's autism, and accusing Billings's counsel of committing a fraud on the court, as well as dependent elder abuse (Welf. & Inst. Code, § 15610.30)

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[8] For reasons that are not clear from the record or briefing, on September 10, 2020, the trial court entered a written order from the February 4, 2020, hearing that differs slightly from the 2/10/20 order, but sets forth the same ruling denying Dr. Adams's request for control and possession of the Snake Road property (hereafter the 9/10/20 order).

against Dr. Adams by convincing court clerks to sign documents authorizing the disposal of Dr. Adams's real property without valid orders. Mr. Adams accused the trial court of aiding and abetting this conduct and refusing to make proper orders to ensure that Dr. Adams could afford counsel, and he urged the court "to stop these proceedings."

7. Restraining Order and Motion to Quash Subpoena

In March 2020, Billings filed a motion to quash a subpoena duces tecum that Dr. Adams had served on a Coldwell Banker receptionist. Billings argued the subpoena was defective because, among other things, Dr. Adams did not serve a notice to consumer required under Code of Civil Procedure section 1985.3, subdivision (b). Billings further sought sanctions against Dr. Adams under section 271 for her misuse of the subpoena process.

On June 3, 2020, the trial court heard argument on Billings's motion to quash, along with two additional matters: Billings's request for a domestic violence restraining order against Dr. Adams, and Dr. Adams's "elder abuse" petition.[9] Dr. Adams and her father appeared by video, and Dr. Adams was represented on the restraining order matter by privately retained counsel. The trial court continued the restraining order and elder abuse matters before turning to Billings's motion to quash the subpoena.

The trial court first confirmed that Mr. Adams was the current guardian ad litem for Dr. Adams and that he had not retained counsel and was therefore "appearing as a pro per for Ms. Adams." After the court questioned Mr. Adams about the purported defects in the subpoena, Dr. Adams interrupted the court several times, objecting to the court "forcing me

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[9] The references to "elder abuse" are reasonably construed as allegations of dependent adult financial abuse under Welfare and Institutions Code section 15610.30.

to receive inferior representation against a $500 an hour attorney" and arguing that the court previously indicated it was going to appoint someone to represent her because Mr. Adams was not an attorney. Mr. Adams likewise objected that he was not "legally competent or legally aware of U.S. family law."

The trial court granted the motion to quash but denied Billings's request for sanctions due to Billings's failure to meet and confer. Mr. Adams objected to the ruling, telling the court that Dr. Adams was incompetent and that he was "3,000 miles away," but the court responded that Mr. Adams was "clearly able" to hire counsel, just as he had retained counsel for Dr. Adams on the restraining order matter."[10]

8. Order to Show Cause on Continuing Spousal Support

At a hearing in July 2020, Dr. Adams was represented by newly appointed guardian ad litem and family law attorney, Lita Pettus-Dotson. The court stayed the August 2020 spousal support payment pending a show cause hearing on whether to continue or terminate spousal support. (A written order on these rulings would eventually be filed on September 15, 2020 [hereafter the 9/15/20 order].)

At a hearing on August 4, 2020, Billings's counsel confirmed that the Snake Road property had been sold. Pettus-Dotson argued that in light of the sale, Billings's request for a restraining order was moot. As to the dependent adult restraining order sought by Dr. Adams, Pettus-Dodson told the court that she reviewed the request and had difficulty making out some of

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[10] For reasons that are not clear from the record or briefing, it appears that a written order on the two matters decided at the June 3, 2020, hearing—i.e., granting the motion to quash and denying Billings's request for attorney fees—was not filed until January 4, 2021 (hereafter the 1/4/21 order).

the issues, but that some of the matters relating to lack of access to the residence and the forced sale of the residence also appeared to be moot. Billings's counsel responded that the restraining order issue was not moot because Billings was still concerned about Dr. Adams's continued harassment.

After the conclusion of argument, the trial court denied both Dr. Adams's and Billings's requests for restraining orders against one another. The court then lifted the stay on termination of spousal support. As the court explained, an extension on spousal support would effectively vacate the judgment, and there had been no motion seeking to vacate or modify the judgment. The court noted "there was a full-blown trial. Judge Nixon issued a detailed Statement of Decision. He noted that Ms. Adams was represented by attorney Amanda List who I believe to be a competent family law lawyer who has appeared before the Court multiple times. [¶] And as [Billings's counsel] stated, this was a four-year-one-month marriage, and we are past the length of the marriage. And the law, as everybody here knows, states that the presumption is . . . that a party should be self-supporting within half the length of the marriage with a short-term marriage. [¶] So effectively, Ms. Adams has received spousal support for about the length of the marriage. . . . So there's been . . . essentially a windfall for Ms. Adams for many months. And I don't think I have a legal basis to do anything else, and I'm not even sure I have equitable discretion to do something where there's no statutory basis for extending the Judgment here."

A written order memorializing the above rulings was filed on October 30, 2020 (hereafter the 10/30/20 order).

9. Notice of Appeal

On February 22, 2021, Dr. Adams filed a notice of appeal in pro se, identifying the following matters: the judgment entered on March 6, 2018; the 8/7/18 order; the 8/27/18 order; the 12/12/18 order; the 1/11/19 order; the 4/19/19 order; the 2/10/20 order; the 9/10/20 order; the 9/15/20 order; the 10/30/20 order; and the 1/4/21 order.

The notice of appeal reflects the following. At the top of the page, under the heading "ATTORNEY OR PARTY WITHOUT ATTORNEY," only Dr. Adams's name and contact information were listed. Below that, the case caption listed the names of the parties but bore no mention of a guardian ad litem representing Dr. Adams. While the first numbered paragraph indicated that notice was given by "Sarrita Adams via Terrence Adams (GaL)," the notice of appeal was signed only by Dr. Adams, and the proof of service reflects that the notice of appeal was not served on Mr. Adams.

10. Postappeal Matters[11]

On February 24, 2021, two days after Dr. Adams filed her notice of appeal in pro se, the trial court removed Mr. Adams and Pettus-Dotson as Dr. Adams's guardians ad litem and appointed Kearney to be the new guardian ad litem.

In July 2021, Cardiff moved to be relieved as Dr. Adams's counsel. In his supporting declaration, Cardiff averred that Kearney "demanded that I withdraw from representation," and that Dr. Adams "has continued to object to my representation." Cardiff further acknowledged that he was "not aware

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[11] The record on appeal contains postappeal filings that are relevant to the court's dismissal of the appeal. (See *In re Josiah Z.* (2005) 36 Cal.4th 664, 676 [courts may consider postjudgment evidence on motion to dismiss]; *In re N.S.* (2016) 245 Cal.App.4th 53, 57 [courts may consider postappeal rulings that affect its ability to grant effective relief].)

of a successor attorney," and that Kearney could not represent Dr. Adams because she was not an attorney, but that prejudice to Dr. Adams could be avoided if Cardiff's motion to withdraw was granted in conjunction with a pending motion to stay the proceedings. On August 23, 2021, the trial court granted Cardiff's motion to be relieved as counsel.

On April 11, 2023, this court scheduled oral argument in May on Dr. Adams's appeal. On April 19, 2023, this court received a letter "ghost-written on behalf of Dr. [Sarrita] Adams," contending, among other things, that the trial court has refused to issue any orders in response to Dr. Adams's postappeal requests for appellate attorney fees, and that proceeding with oral argument would violate Dr. Adams's right to due process because she lacks legal capacity and an attorney to represent her. Notably, Dr. Adams had—on her own—filed the opening appellate brief and an appellate reply brief and requested oral argument on the matter.

After receipt of the April 2023 "ghost-written" letter, this court, on its own motion, ordered that oral argument be vacated. Additionally, we requested supplemental briefs from the parties addressing whether the October 17, 2018, order declaring Dr. Adams to be mentally incompetent was still in effect, and if so, whether Dr. Adams was currently represented by a guardian ad litem who authorized the instant appeal. The court received supplemental letter briefs from Billings and Kearney.[12] In light of the parties' responses, on June 12, 2023, the court requested and received further

[12] The court also received an ex parte email communication from an individual purporting to be Dr. Adams's sister, dated April 18, 2023. We acknowledged receipt of the email and provided a copy to counsel and Kearney in the event they wished to respond. On May 31, 2023, Kearney filed a responsive letter, attaching various postappeal exhibits. We have not considered the information contained in the ex parte communication or the postappeal exhibits submitted by Kearney.

supplemental briefing from Billings and Kearney on the court's proposed motion to dismiss the appeal.[13]

DISCUSSION

A. Dismissal of Appeal

On our own motion, we conclude the appeal must be dismissed because (1) the notice of appeal was not signed by either of the guardians ad litem representing Dr. Adams at the time, and (2) in any event, the appeal cannot be maintained by Dr. Adams (an incompetent person) or by Kearney (a nonlawyer).

The relevant events are as follows. As previously mentioned, on October 17, 2018, the trial court entered an order declaring Dr. Adams mentally incompetent and appointing Mr. Adams as her guardian ad litem.

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[13] Shortly after this court served its June 12 request for supplemental briefing, we received three documents from Kearney or unidentified persons "ghost-writ[ing]" on Dr. Adams's behalf: (1) "Appellant's Letter Re Ongoing Abuse of Dependent Adult (Welfare and Institutions Code § 15610.30) and Attorney Misconduct" (received June 14, 2023); (2) "Request for Order on Matters Relating to Attorney's Fees and Money Judgments, as Per Code of Civil Procedure § 909" (filed June 15, 2023); and (3) Application to File Confidential Neuropsychological Evaluation for Sarrita Adams, PhD, Under Seal, as Exhibit to Motion on Matters Relating to Attorney's Fees and Money Judgments, Filed on 06/15/2023 (received June 15, 2023). Together, these documents asked this court either "to recuse itself and refer the criminal conduct reported in the . . . GaL'[s] letter briefs to an outside agency" or to issue an order requiring the trial court to rule on Dr. Adams's need-based attorney fees requests filed in December 2019, July 2021, October 2022, and November 2022. No valid authority was cited for either request, particularly for an order compelling the trial court to rule on requests for attorney fees that postdated the filing of this appeal. Accordingly, and because these documents were not responsive to the court's June 12 request for supplemental briefing, the request for fee orders is denied, the remaining submissions will remain marked received but not filed, and no further action will be taken on them.

That order has remained in effect, and Dr. Adams has been represented by one or more guardians ad litem ever since.

At the time the notice of the instant appeal was filed in February 2021, Dr. Adams was represented by guardians ad litem Lita Pettus-Dotson (a lawyer) and Mr. Adams (a nonlawyer). She was also represented by attorney Cardiff. However, the notice of appeal was signed only by Dr. Adams.

Two days after the notice of appeal was filed, the trial court removed Mr. Adams and Pettus-Dotson as the guardians ad litem and appointed a new guardian ad litem, Kearney, who is not an attorney.

About six months after the notice of appeal was filed, the trial court granted Cardiff's motion to withdraw as Dr. Adams's counsel, per the wishes of both Dr. Adams and Kearney. However, it appears there was no substitute counsel ready or willing to take over the case. (See *Torres v. Friedman* (1985) 169 Cal.App.3d 880, 888 (*Torres*) ["a trial judge should not ordinarily permit an attorney to withdraw unless other qualified counsel has been obtained"].)

Thereafter, it appears Dr. Adams and Kearney made requests to the trial court for need-based attorney fees, including appellate attorney fees, under section 2030. Although the record contains some of these postappeal matters, it does not reflect how or when (or even whether) the trial court ruled on said requests. Based on Dr. Adams's other submissions, we can infer that fees were not awarded, but it is unclear whether the trial court actually denied Dr. Adams's attorney fee request, either with or without prejudice, or whether the court simply deferred the request without ruling.

On January 3, 2023, Dr. Adams filed a petition for writ of mandate in this court contending that the trial court erred in striking statements of disqualification that Dr. Adams had filed pro se against the trial judges who did not award her attorney fees. Based on that particular contention, this

court denied the petition for writ of mandate. Dr. Adams petitioned the California Supreme Court for review of our denial on the disqualification issue and raised the additional issue whether our court properly denied "a petition for writ of mandate which concerns the disqualification of two trial court judges who both required that a legally incompetent respondent, who must appear by GaL [citation] in a family law matter, be forced to represent herself in pro per, where the trial court refuses to hear her requests for attorney's fees, and refuses to enforce the spousal support and attorney fee awards made in the final judgment." On April 12, 2023, the Supreme Court denied review.[14]

In light of the foregoing, we are constrained to conclude that this appeal cannot proceed and must be dismissed. Because Dr. Adams was incompetent at all relevant times, the notice of appeal had to be signed and filed, and the appeal maintained, by one of the appointed guardians ad litem on her behalf. (See Code Civ. Proc., § 372, subd. (a)(1) [incompetent person "shall" appear through guardian ad litem]; *cf. In re Moss* (1898) 120 Cal. 695, 697 (*Moss*) [holding generally that under Code Civ. Proc., § 372, an appellant may take an appeal "only" through general guardian or guardian ad litem, but concluding the statute did not apply to an appeal from the order of guardianship].) Even though Kearney states in her supplemental letter brief that she approves of Dr. Adams's appellate filings and maintenance of this appeal, and even assuming for the sake of argument that we could liberally construe the notice of appeal to include the omitted name of a guardian ad litem (see Cal. Rules of Court, rules 8.100(a)(2) [notice of appeal must be

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[14] We take, sua sponte, judicial notice of the petition for writ of mandate and the petition for review, including the allegations and arguments raised by Dr. Adams therein. (Evid. Code, §§ 452, subd. (d), 459.)

liberally construed], 8.405(a)(3) [same]),[15] Kearney was not the guardian ad litem at the time the notice of appeal was filed, and there is no indication that the guardians ad litem at that time (i.e., Mr. Adams/Pettus-Dotson) approved of Dr. Adams's filing and maintenance of this appeal.

Furthermore, even assuming Kearney's post hoc approval could suffice to cure the notice of appeal, a guardian ad litem must either be an attorney or be represented by an attorney in order to maintain the action on the charge's behalf. (See *Torres*, *supra*, 169 Cal.App.3d at p. 887 [" 'The necessity of employment of an *attorney* by a guardian ad litem who is not himself a lawyer is obvious' "].) This requirement was clearly conveyed on Judicial Council form CIV-010, the mandatory form for appointment of a guardian ad litem, which states: "An individual cannot act as a guardian ad litem unless he or she is represented by an attorney or is an attorney." (See also 35A Cal.Jur.3d (2021) Guardianship and Conservatorship, § 336 [nonattorney guardian ad litem "must employ an attorney because a person who is not an attorney may not represent another in a legal proceeding"], citing *J.W. v. Superior Court* (1993) 17 Cal.App.4th 958 (*J.W.*) [nonattorney guardian ad litem who represents another in court violates prohibition on unauthorized practice of law], and *Torres*, *supra*.) Thus, neither Dr. Adams nor Kearney can maintain this appeal without an attorney.

Dr. Adams and Kearney place the blame for this predicament on the trial judges who supposedly refused to award Dr. Adams need-based appellate attorney fees, as well as on this court for denying her writ petition seeking to effectively disqualify those judges. Setting aside the circumstance that the claimed fee order denial has never been squarely presented to this court, the fact remains that this appeal cannot be maintained either by an

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15 Further rule references are to the California Rules of Court.

incompetent person or by a nonattorney guardian ad litem. (See Code Civ. Proc., § 372, subd. (a)(1); *J.W.*, *supra*, 17 Cal.App.4th at pp. 962, 968; *Torres*, *supra*, 169 Cal.App.3d at p. 887; *Moss*, *supra*, 120 Cal. at p. 697.) Additionally, it was only after briefing in this appeal had been completed that Dr. Adams asserted this court must appoint her an appellate attorney, presumably to represent her at oral argument. But she has provided no authority supporting such an appointment in marital dissolution proceedings, and the law generally affords no such right. (See *In re Marriage of Campi* (2013) 212 Cal.App.4th 1565, 1575 [no due process right to appointed counsel in dissolution proceedings].) Moreover, and in any event, no appointed counsel should be expected to simply act as Dr. Adams's representative at oral argument in pressing appellate claims that no California attorney had previously reviewed, developed, or approved.

For all of these reasons, we conclude the appeal must be dismissed. Nevertheless, for the parties' benefit, we provide the following discussion sharing our views as to why Dr. Adams's appellate contentions are without merit.

B. Timeliness of Appeal

As a threshold matter, Billings contends we lack appellate jurisdiction to review the judgment and many of the postjudgment orders listed in the notice of appeal because the notice was not timely filed. We agree.

A notice of appeal must be filed on the earliest of 60 days after either the superior court clerk or a party serves the appellant with notice of entry of the judgment or order, or if no notice of entry was served, 180 days after entry of the judgment or order. (Rule 8.104(a)(1).) "The time for appealing a judgment is jurisdictional; once the deadline expires, the appellate court has no power to entertain the appeal." (*Van Beurden Ins. Services, Inc. v.*

Customized Worldwide Weather Ins. Agency, Inc. (1997) 15 Cal.4th 51, 56.) Accordingly, "[i]f a notice of appeal is filed late, the reviewing court must dismiss the appeal." (Rule 8.104(b).)

We have set forth above the dates when the judgment and postjudgment orders were entered and, if applicable, when notice of entry of said rulings was served on Dr. Adams. Based on those dates, we conclude Dr. Adams's sole notice of appeal, filed on February 22, 2021, was not timely filed within 60 days of service of notice of entry of the judgment on March 6, 2018, the 8/7/18 order, the 12/12/18 order, the 4/19/19 order, and the 2/10/20 order, or within 180 days of entry of the 8/27/18 order and the 1/11/19 order.[16]

However, setting aside, for the moment, the circumstance that Dr. Adams's guardian ad litem did not file the notice of appeal so as to preserve this court's jurisdiction, we conclude the appeal was timely filed as to the 9/10/20 order denying Dr. Adams's requests for control and possession of the Snake Road property and to stay the sale; the 9/15/20 order to show cause why Dr. Adams should continue to receive spousal support; the 10/30/20 order lifting the stay on terminating spousal support; and the 1/4/21 order quashing Dr. Adams's subpoena duces tecum.

C. Forfeiture

Billings further contends Dr. Adams forfeited her claims of error arising from the trial court's failure to appoint a guardian ad litem because she did not object on this ground in the proceedings below.

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[16] In light of this conclusion, we need not reach Billings's additional contention that some of these postjudgment orders are also nonappealable, either because the order merely addresses an issue already covered by the judgment, or Dr. Adams is not aggrieved by the order and therefore lacks standing to appeal it.

"[A] reviewing court ordinarily will not consider a challenge to a ruling if an objection could have been but was not made in the trial court." (*In re S.B.* (2004) 32 Cal.4th 1287, 1293.) At least one court has held that the failure to appoint a guardian ad litem may be waived. (*White v. Renck* (1980) 108 Cal.App.3d 835, 840.)

Here, however, the record demonstrates that Dr. Adams raised the need for a guardian ad litem at several points during the postjudgment proceedings, including her initial request in October 2018; her arguments during various hearings that Mr. Adams was unable to competently represent her; and her ex parte request to vacate the judgment due to the lack of a guardian ad litem at trial. Furthermore, the main thrust of Dr. Adams's claim is that the trial court had a sua sponte duty to appoint a guardian ad litem. (See *In re A.C.* (2008) 166 Cal.App.4th 146, 155 (*A.C.*) [court with knowledge of party's incompetence must appoint guardian ad litem sua sponte].) In other contexts, appellate courts have found no forfeiture of an appellate claim despite the failure to object where the claim is based on the trial court's sua sponte duty to act. (See, e.g., *People v. Ervine* (2009) 47 Cal.4th 745, 771, fn. 12; *People v. Carter* (2010) 182 Cal.App.4th 522, 532.) Based on the circumstances before us, we conclude Dr. Adams did not forfeit her claim that the trial court had a sua sponte duty to appoint a guardian ad litem.

As to the 1/4/21 order, however, Dr. Adams has forfeited any claim of error on appeal because she sets forth no cogent argument supported by legal authority that the trial court erred in quashing the subpoena duces tecum. (*In re Marriage of Falcone & Fyke* (2008) 164 Cal.App.4th 814, 830 [absence of cogent legal argument or citation to authority allows court to treat contention as waived].)

D. Motions for Judicial Notice

Both parties have filed motions for judicial notice, which we previously deferred until our consideration of the merits of this appeal. Although our dismissal of the appeal renders these motions moot, we provide the following discussion of our views.

1. *Billings's Motion*

Billings moves for judicial notice of two records filed by Dr. Adams in an unrelated lawsuit against her in Santa Barbara County. These records are (1) Dr. Adams's declaration in support of her motion to vacate a default judgment, filed in March 2022; and (2) a "California Real Estate Power of Attorney" attached as an exhibit to the aforementioned declaration. Billings contends the court may take judicial notice of these documents because they are court records (Evid. Code, § 452, subd. (d)), and they are relevant to the instant appeal because they contain Dr. Adams's representations regarding her competence that are inconsistent with her contentions here.

Judicial notice of the records referenced in Billings's motion would be inappropriate, as the records postdate the matters appealed from (*In re Marriage of Lechowick* (1998) 65 Cal.App.4th 1406, 1414, fn. 9 [denying request for judicial notice where documents postdate trial court order appealed from]) and, in any event, are unnecessary to the substance of the appeal (*City of Emeryville v. Cohen* (2015) 233 Cal.App.4th 293, 312, fn. 13).

2. *Dr. Adams's Motion*

Dr. Adams moves for judicial notice of the following documents or categories of documents: (1) a request for judicial notice she filed in the trial court proceedings below in March 2021; (2) nine published California appellate decisions; (3) two California statutes; (4) a grant deed for the Snake Road home, with a recording date of July 2, 2020; and (5) an order of the

Alameda County Superior Court, dated June 1, 2020, implementing the Judicial Council of California's emergency order in response to the COVID-19 pandemic.

The records identified in Dr. Adams's March 2021 request for judicial notice filed below are already part of the record on appeal, making judicial notice unnecessary. (*Davis v. Southern California Edison Co.* (2015) 236 Cal.App.4th 619, 631–632, fn. 11 [judicial notice unnecessary where documents are part of trial court and appellate record].)

The decisional and statutory authorities cited in Dr. Adams's motion are already subject to mandatory judicial notice under Evidence Code section 451, subdivision (a).

Lastly, while the grant deed for the Snake Road home and the Alameda County Superior Court's June 1, 2020, implementation order are permissible subjects of judicial notice (see *Poseidon Development, Inc. v. Woodland Lane Estates, LLC* (2007) 152 Cal.App.4th 1106, 1117; Evid. Code, § 452, subd. (d)), Dr. Adams seeks to use the vehicle of judicial notice to adjudicate a specific factual controversy that was not resolved below—namely, that the grant deed for the Snake Road property could not have been signed by an elisor or notarized at the courthouse during the time the Alameda Superior Court was physically closed to the public at the start of the COVID-19 pandemic. This is not an appropriate use of the judicial notice process. (*Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort* (2001) 91 Cal.App.4th 875, 882.)

E. Guardian Ad Litem

As we understand it, Dr. Adams's appellate contention regarding the guardian ad litem issue is largely three-fold. First, she contends the March 2018 judgment should have been vacated because the trial court failed to appoint, sua sponte, a guardian ad litem at the outset of the case despite its

knowledge of Dr. Adams's autism.[17] Second, Dr. Adams contends the judgment should have been vacated because Billings committed extrinsic fraud by concealing the full extent of Dr. Adams's disability during the trial. Finally, Dr. Adams argues the postjudgment rulings were made in violation of her right to due process because the trial court knew that Mr. Adams was an ineffective guardian ad litem due to his residence in England and his absence from several hearings in 2019.[18] Dr. Adams maintains the court was required to stay the postjudgment proceedings until it appointed a guardian who could effectively represent Dr. Adams's interests.

In dissolution proceedings, the trial court may grant relief from a judgment or any part thereof. (§ 2121, subd. (a).) The statutory grounds for relief include "[a]ctual fraud where the defrauded party was kept in ignorance or in some other manner was fraudulently prevented from fully participating in the proceeding" (§ 2122, subd. (a)), and the moving party's "mental incapacity" (*id.*, subd. (d)). Before granting relief, "the court shall find that the facts alleged as the grounds for relief materially affected the original outcome and that the moving party would materially benefit from the granting of the relief." (§ 2121, subd. (b).) "The failure to appoint a [guardian ad litem] or to compel a person's guardian to appear is not jurisdictional, but 'merely irregular.' [Citation.] If the person's interests were not substantially prejudiced as a result, there is no reversible error. [Citation.] We do not set aside the judgment unless a different result would

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[17] We emphasize that Dr. Adams did not affirmatively request appointment of a guardian ad litem before or during the November 2017 trial.

[18] The record reflects that Mr. Adams did not appear at five hearings occurring in April 2019, June 2019, August 2019, September 2019, and December 2019.

have been probable had the error not occurred." (*A.C.*, *supra*, 166 Cal.App.4th at p. 157.)

An order denying a motion to set aside a dissolution judgment is reviewed for abuse of discretion. (*In re Marriage of Walker* (2012) 203 Cal.App.4th 137, 146.) Under this deferential standard of review, " '[t]he trial court's findings of fact are reviewed for substantial evidence, its conclusions of law are reviewed de novo, and its application of the law to the facts is reversible only if arbitrary and capricious.' " (*Ibid.*)

In marital dissolution proceedings, an "incompetent spouse must appear through a guardian or a conservator of the estate or a guardian ad litem appointed by the court in which the action is pending." (*In re Marriage of Caballero* (1994) 27 Cal.App.4th 1139, 1148–1149; see Code Civ. Proc., § 372, subd. (a)(1) [when "a person who lacks legal capacity to make decisions" is a party to an action or proceeding, "that person shall appear either by a guardian or conservator of the estate or by a guardian ad litem appointed by the court in which the action or proceeding is pending, or by a judge thereof, in each case"].) A person lacks legal capacity to make decisions if a preponderance of the evidence shows that he or she is a person for whom a conservator could be appointed, or that he or she is unable to understand the nature of the proceedings or to assist counsel in protecting their interests. (*In re James F.* (2008) 42 Cal.4th 901, 910.) Legal capacity to make decisions means "the person in question is able to take part meaningfully in the proceedings." (*In re Christina B.* (1993) 19 Cal.App.4th 1441, 1451.) The issue is whether the person's " 'abilities were so limited that she was effectively rendered incompetent to understand the nature of the proceedings or to assist her counsel in representing her interest.' " (*Id.* at p. 1450.) When a court has knowledge of a party's incompetence, it must appoint a guardian

ad litem sua sponte. (*A.C.*, *supra*, 166 Cal.App.4th at p. 155; see Code Civ. Proc., § 373, subd. (c) [guardian ad litem may be appointed "by the court on its own motion"].)

We conclude the trial court did not abuse its discretion in refusing to set aside the judgment on the grounds of Dr. Adams's asserted mental incompetence and the lack of a guardian ad litem at trial. The record amply reflects that Dr. Adams was able to participate meaningfully at trial and to cooperate with her counsel in representing her interests despite her condition of autism. (See *In re Ronell A.* (1996) 44 Cal.App.4th 1352, 1367–1368 [no error in failing to appoint guardian ad litem despite father's impaired mental capacity and schizophrenia]; *In re R.S* (1985) 167 Cal.App.3d 946, 979–980 [although mother had mild mental impairment and dependent personality disorder, she understood nature of proceedings against her and was able to meaningfully participate and to cooperate with trial counsel in representing her interests].)

As indicated in its statement of decision, the trial court "carefully considered" Dr. Adams's condition and found she "appeared lucid, intelligent and competent" at trial. In making this assessment, the trial court was entitled to consider Dr. Adams's behavior on the stand and the manner in which she testified at the hearing. Based on its direct observation of Dr. Adams at trial, the court "was in a better position" than this court "to pass upon her mental condition." (*Guardianship of Walters* (1951) 37 Cal.2d 239, 249.) Indeed, the trial record reflects no indication that Dr. Adams did not understand the nature of the proceedings within the meaning of Code of Civil Procedure section 372. To the contrary, Dr. Adams demonstrated a clear understanding of her interests with regard to spousal support and her desired disposition of the Snake Road property.

That the trial court later appointed a guardian ad litem in October 2018 does not compel a different conclusion. It appears the trial court's decision in October 2018—nearly a year after trial—was based on events postdating the judgment, including Dr. Adams's repeated efforts to obstruct the sale of the Snake Road property in direct contravention of the terms of the judgment. Whatever the merits of the court's decision to appoint a guardian ad litem in October 2018 due to Dr. Adams's obstructionist conduct, it does not affect our conclusion that the court did not have a sua sponte duty to appoint a guardian ad litem in or around November 2017 based on the circumstances at that time.

Dr. Adams also fails to demonstrate that "a different result would have been probable" had the trial court appointed a guardian ad litem at trial (*A.C.*, *supra*, 166 Cal.App.4th at p. 157), and that the failure to do so "materially affected the original outcome" of the trial (§ 2121, subd. (b)). We are not persuaded by Dr. Adams's contention that the trial court was prevented from understanding the full extent of her disability due to the absence of a guardian ad litem. Dr. Adams's autism and its effects on her life were raised and extensively probed at trial, and she had a clear incentive to demonstrate the full extent of her disability to support her proposed level of spousal support. Moreover, Dr. Adams was represented during trial by her retained counsel, List, and Dr. Adams does not claim she was unable to communicate with List in order for counsel to advance her interests. Nor does Dr. Adams identify what facts regarding her disability were withheld from the trial court or why she or her counsel could not have apprised the court of these matters during her testimony, let alone why the failure to do so was attributable to the lack of a guardian ad litem.

Instead, Dr. Adams posits that a guardian ad litem could have "requested" that a multidisciplinary evaluation completed by UCSF in April 2017 be entered into evidence. But as the reporter's transcript reflects, Dr. Adams sufficiently addressed the UCSF evaluation during her trial testimony by describing the procedure, its purpose, and the report's conclusion that Dr. Adams "would require extreme supports in the workplace and vocational training." Moreover, having reviewed the UCSF evaluation, we conclude it is cumulative in all material respects of the testimony given at trial with regard to Dr. Adams's autism, anxiety, social phobia, emotional instability, and her need for assistance in order to continue her laboratory research. Thus, even assuming (generously) that the appointment of a guardian ad litem would have led to the admission of the UCSF report into evidence at trial,[19] we fail to see how the absence of this evidence materially affected the outcome of the case given Dr. Adams's similar testimony and motive to demonstrate the full extent of her disability.

Dr. Adams further maintains that a guardian ad litem could have prevented the trial court from hearing Billings's domestic violence testimony, as the guardian "would have advised the new attorney that the domestic violence matters were barred by estoppel" due to the mutual stay away order. But Dr. Adams neglects to mention that her trial counsel *did* argue that Billings should not be permitted to testify on domestic violence because "this issue has already been decided and the parties have mutual restraining orders and therefore this is irrelevant." The trial court overruled the objection, finding that the evidence of domestic violence "go[es] to the

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[19] Notably, the UCSF report was marked "Confidential," and Dr. Adams's counsel told the trial court in no uncertain terms that she was "not entering the [UCSF] report into evidence; I just want to talk to her about some of her scores. I would never put this into evidence."

[section] 4320 support factors," and Dr. Adams does not contend this ruling was in error. (See § 4320, subd. (i) [circumstances to be considered in ordering spousal support include all documented evidence of any history of domestic violence between parties].)

Dr. Adams's claim of extrinsic fraud fails as well. Dr. Adams maintains that "Billings withheld [her] incompetence from the court to [e]ffect a judgment that would diminish his spousal support contributions and ensure that [Dr.] Adams did not keep her home [at] Snake Road." For purposes of setting aside a dissolution judgment under section 2122, subdivision (a), "[e]xtrinsic fraud occurs when a party is deprived of [her] opportunity to present [her] claim or defense to the court, where [she] was kept in ignorance or in some other manner fraudulently prevented from fully participating in the proceeding." (*In re Marriage of Varner* (1997) 55 Cal.App.4th 128, 140.) Here, Dr. Adams does not demonstrate that she was kept in ignorance of any relevant matters, or that she was fraudulently prevented from presenting evidence of her disability to the trial court. As discussed, Dr. Adams's condition was extensively addressed at trial. Even if Billings attempted to downplay the extent of Dr. Adams's disability in order to reduce his spousal support obligation, Dr. Adams and her counsel had a full and fair opportunity to demonstrate otherwise through Dr. Adams's own testimony and evidence.

Dr. Adams's reliance on *Olivera v. Grace* (1942) 19 Cal.2d 570 (*Olivera*) and *In re Marriage of Park* (1980) 27 Cal.3d 337 (*Park*) is unavailing. In *Olivera*, it was alleged that a granddaughter obtained a default judgment against her grandmother without disclosing the grandmother's incompetence to the court. (*Olivera*, at pp. 572–573.) In *Park*, a husband failed to disclose his wife's deportation in a marriage dissolution proceeding, breaching his duty of disclosure and perpetrating a fraud on the court and the wife. (*Park*,

at p. 343.) By contrast, Dr. Adams's autism and its effects were known to the trial court and parties, and Dr. Adams was present at trial to provide testimony on that score. The record reveals no evidence of extrinsic fraud.

In sum, Dr. Adams fails to demonstrate that the trial court abused its discretion in refusing to set aside the judgment on the grounds of mental incompetence and extrinsic fraud. We now turn to Dr. Adams's secondary contention that the court was required to stay postjudgment proceedings once it became apparent that Dr. Adams's father was ineffective in his role as guardian ad litem, and that the court's failure to do so deprived her of due process.

Due process is " 'a fundamental principle of justice which is not subject to any precise definition but deals essentially with the denial of fundamental fairness, shocking to the universal sense of justice.' " (*In re Marriage of Carlsson* (2008) 163 Cal.App.4th 281, 290.) The failure to appoint a guardian ad litem (or, in this case, to replace an allegedly ineffective one) does not necessarily constitute a deprivation of due process, and any error in this regard is subject to a harmless error analysis. (See *A.C.*, *supra*, 166 Cal.App.4th at pp. 157, 158–159.)

Here, Dr. Adams was represented by her chosen guardian ad litem (Mr. Adams) since October 2018 and was granted a second guardian ad litem (Pettus-Dotson) in or around July 2020. Dr. Adams cites no authority that required the trial court to act sua sponte to replace Mr. Adams simply because he failed to appear for five hearings in 2019. It was not until the hearings in September and December 2019 that Dr. Adams expressly argued her father was unable to serve her needs as guardian ad litem, and the trial court reasonably concluded at that time that Mr. Adams, as the then-current guardian ad litem, would have to be notified to see if he objected to removal.

The court then continued the matter while it sought to obtain assistance from the Office of County Counsel to have a new guardian ad litem appointed for Dr. Adams, all the while keeping spousal support intact. Ultimately, the court granted Dr. Adams's request and appointed Pettus-Dotson, a family law attorney, as the new guardian ad litem. The trial court's actions were not unreasonable or fundamentally unfair.

Furthermore, even if we assume the trial court erred by not staying the proceedings until a new guardian ad litem was appointed, the error was harmless. (*A.C.*, *supra*, 166 Cal.App.4th at pp. 158–159.) Most of the 2019 hearings that Mr. Adams missed simply resulted in continuances, with spousal support remaining intact. The family law rulings at the September 2019 hearing were largely in Dr. Adams's favor. And by the time the court ordered Dr. Adams to show cause regarding termination of spousal support, attorney Pettus-Dotson had already been appointed Dr. Adams's new guardian ad litem. Nowhere does Dr. Adams suggest how the proceedings would have transpired more favorably had she appeared through a new guardian ad litem at the hearings in 2019, or had the proceedings been stayed until Pettus-Dotson's appointment.

In sum, Dr. Adams fails to demonstrate that the trial court prejudicially erred in failing to appoint a guardian ad litem prior to trial and in staying postjudgment proceedings pending appointment of a second guardian ad litem due to Dr. Adams's autism. Dr. Adams's motion to vacate the judgment and postjudgment orders was properly denied.

F. Failure to Rule on Motions

Dr. Adams contends the trial court abused its discretion by failing to rule on motions she filed on December 10, 2019, and January 29, 2020, which

included a request for need-based attorney fees under section 2030. We find these contentions to lack merit.

The record clearly shows that on December 12, 2019, the trial court denied Dr. Adams's December 10 ex parte request for emergency orders. It was on that day, December 12, 2019, that Dr. Adams filed her second ex parte request for the same relief. Although Dr. Adams claims she filed a *motion* for attorney fees on January 29, 2020, there is no evidence in the record supporting that claim. The portion of the record Dr. Adams cites contains the "Declaration of Sarrita Adams in Support of Ex Parte Motion to Stay Termination of Spousal Support and Related Issues." (Boldface and capitalization omitted.) While Dr. Adams characterizes this as a "second motion" that the trial court failed to rule upon, the court apparently and reasonably construed this document as a declaration in support of Dr. Adams's earlier ex parte motion filed on December 12, 2019, which the court ruled on at the conclusion of the February 2020 hearing when it denied Dr. Adams's requests to stay the sale of the Snake Road property and for exclusive use and control of the property.

In short, the record demonstrates that the trial court ruled on the motions in question filed by Dr. Adams.

G. Alleged Judicial Bias

Dr. Adams claims the trial court was biased against her in violation of her right to due process because the court (1) "demonstrated a dismissive attitude" with regard to her lack of capacity; (2) "collaborated" with Billings's counsel to evict Dr. Adams from her home using a writ of possession that did not comply with Code of Civil Procedure section 512.010 and that additionally contained false information; and (3) used orders containing false

statements regarding the appointment of an elisor to strip Dr. Adams of the opportunity to participate in the sale of the Snake Road property.[20]

The due process clause "sets an exceptionally stringent standard" for claims of judicial bias. (*Schmidt v. Superior Court* (2020) 44 Cal.App.5th 570, 589 (*Schmidt*).) "It is 'extraordinary' for an appellate court to find judicial bias amounting to a due process violation. [Citation.] The appellate court's role is not to examine whether the trial judge's behavior left something to be desired, or whether some comments would have been better left unsaid, but to determine whether the judge's behavior was so prejudicial it denied the party a fair, as opposed to a perfect trial. . . . Numerous and continuous rulings against a party are not grounds for a finding of bias." (*Ibid.*)

Under this standard, Dr. Adams fails to demonstrate that the trial court's conduct denied her fundamental fairness in the proceedings. Having reviewed the record thoroughly, we see nothing dismissive in the trial court's comments or consideration of Dr. Adams's disability, and certainly nothing so prejudicial that it denied Dr. Adams due process.

Dr. Adams next contends the trial court's bias was evidenced by its issuance of a writ of possession that did not comply with Code of Civil Procedure section 512.010, as there was no judgment that transferred possession to Billings from Dr. Adams. But a judgment transferring possession is not required. Rather, Code of Civil Procedure section 512.010 requires that the application for writ of possession show "the basis of the plaintiff's claim," the plaintiff's entitlement to possession of the property, and

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[20] Dr. Adams did not seek review of the writ of possession, and as discussed above, her appeal from the 8/7/18 order (which authorized the use of an elisor) and the 2/10/20 order (which contained the purportedly false statements regarding the elisor) is untimely. Thus, we reference these rulings only in the context of Dr. Adams's judicial bias claim.

the wrongful detention by the defendant. (Code Civ. Proc., § 512.010, subd. (b)(1), (2).) Here, the basis for Billings's claim of possession and Dr. Adams's wrongful detention was the dissolution judgment ordering the Snake Road property sold, as well as the postjudgment orders requiring her to vacate the residence due to her failure to cooperate in the sale.

Dr. Adams also claims the writ of possession was not founded upon a valid judgment because it lists a judgment date of January 25, 2018, and there was no entry of judgment on that date in this case. Dr. Adams further claims the writ of possession "contains notable falsehoods, including the stated claim that a Judgment for a Writ of Possession was issued on September 8, 2016"—which was merely the date that Billings filed his petition and summons for dissolution. As to Dr. Adams's first point, it appears the writ of possession used the date of the statement of decision (January 25, 2018) rather than the date of entry of judgment (March 6, 2018). Dr. Adams provides no authority that such a de minimis error invalidates the writ of possession. As to her second point, we note the application for writ of possession does indeed ask for the date "[t]he complaint was filed." Billings appropriately used the date that he filed his summons and petition for dissolution to complete this portion of the application.

Dr. Adams's contention regarding the elisor appears to be based on a misreading of the record. She contends that at the June 2018 hearing, the trial court "gave permission to Billings to appear ex parte to request an elisor be appointed." Thus, in Dr. Adams's view, the court contemplated "a subsequent motion and hearing to appoint an elisor, even if the motion was on shortened notice." However, the 8/7/18 order states that if Dr. Adams "fails to timely sign documents, an elisor *may sign* on [Dr. Adams's] behalf. [Billings] may submit *documents* to the court ex parte *for the elisor to sign*."

(Italics added.) In other words, rather than simply authorizing Billings to file an ex parte *application* for appointment of an elisor, the trial court authorized the *use* of an elisor if Dr. Adams was uncooperative and permitted Billings to submit the document itself ex parte for the elisor to sign. We disagree with Dr. Adams that the 8/7/18 order contradicted the statements of the court and Billings's counsel at the hearing regarding the use of the elisor.

More to the point, even assuming for the sake of argument that there were procedural defects in the writ of possession and the use of the elisor, this does not meet the "exceptionally stringent" bar for demonstrating judicial bias in violation of due process. (*Schmidt*, *supra*, 44 Cal.App.5th at p. 589.) Viewed in context, the trial court acted pursuant to its inherent power to control the litigation before it and ensure obedience with its judgment and orders. (See *Blueberry Properties, LLC v. Chow* (2014) 230 Cal.App.4th 1017, 1021 [court's statutory power to use elisors to compel obedience to judgments and orders derives from court's inherent power to control litigation].) To wit, the judgment required that the Snake Road property be listed for sale and that Dr. Adams cooperate in signing all necessary documents to effectuate the sale. But because Dr. Adams repeatedly frustrated the sale and refused to cooperate, the court gave exclusive control and management of the Snake Road property to Billings. The court's issuance of the possession order and orders regarding the elisor were in furtherance of the judgment, which ordered disposition of the Snake Road property. On this record, Dr. Adams fails to persuade us that the court's conduct and rulings, however flawed she believes them to be, were motivated by bias against her.

We conclude by noting that Dr. Adams's oversized opening brief contains numerous additional assertions and accusations that do not

constitute cogent legal argument and/or are not stated under a separate heading or subheading as required under rule 8.204(a)(1)(B). We have addressed all main contentions coherently raised and presented. (See *Pizarro v. Reynoso* (2017) 10 Cal.App.5th 172, 181 [reviewing court is not responsible for arranging party's arguments coherently]; *Lewis v. Superior Court* (1999) 19 Cal.4th 1232, 1261–1264 [appellate court need not discuss every case or fact raised].)

DISPOSITION

The appeal is dismissed. In the interests of justice, each side shall bear its own costs on appeal.

FUJISAKI, ACTING P.J.

WE CONCUR:

PETROU, J.

RODRÍGUEZ, J.

Billings v. Adams (A162112)

EXHIBIT B

Karen Kearney GaL for Sarrita Adams

[redacted]

CA [redacted]

[redacted]

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

JOHN NICHOLAS BILLINGS,

Petitioner,

v.

SARRITA ANASTASIA ADAMS,

Respondent

Case No.: HF16830225

STATEMENT OF DISQUALIFICATION FOR JUDGE STEPHANIE SATO FOR CAUSE UNDER CODE OF CIVIL PROCEDURE SECTION 170.1(a)(6)(A)(iii)

INTRODUCTION

Respondent, Sarrita Adams, Ph.D (Dr. Adams) makes this "Judicial Challenge CP Section 170.3" objecting to the Honorable Judge Stephanie Sato from hearing any motions in the above-captioned case ("Case"). Moreover, owing to the ongoing and persistent prejudicial acts that have been practiced by Alameda County Superior Court Judges in their unconstitutional treatment of incompetent parties, the case should be transferred to another venue, to ensure proper adherence to the Americans with Disabilities Act, and the 14th Amendment of the U.S. Constitution.

The court should treat this as a challenge pursuant to Code of Civil Procedure section 170.1. The grounds alleged are: "a person aware of the facts might reasonably entertain a doubt that the judge would be able to be impartial."(Code Civ. Proc.,§ 170.1 (a)(6) (A)(iii)) ("Challenge"). In

particular Judge Sato's prejudicial actions can be described based on her actions as carried out over a two week period from May 6, 2024 to May 20, 2024. These prejudicial acts include: 1) **Widespread violations of the Americans with Disabilities Act (ADA),** through deliberately limiting access to the proceedings owing to Adams' protected disability of autism. This included using humiliating language in open court, where Judge Sato singled Dr. Adams out due to her status as an incompetent party (determined by her disability of autism) and where Judge Sato interrupted, shouted at, and called undue attention to Dr. Adams in a manner designed to humiliate or embarrass her in court.

2) Deprivation of due process rights. Where Judge Sato threatened to issue orders against Dr. Adams, an incompetent party, if she did not retain counsel, despite being aware that she had no funds to secure legal representation. And where such acts would constitute a deprivation of due process. At this same time Judge Sato, aware Dr. Adams had no opportunity to defend against petitioner's claims, accused Dr. Adams of owing money to the petitioner without providing her, an incompetent and unrepresented party, an opportunity to defend against these claims. **3) Deprivation of Rights under Color of Law.** Where Judge Sato denied a request for attorney's fees, based on Dr. Adams' status as an incompetent party and in so doing deprived her of equal protection under the law, by failing to uphold her right to attorney's fees. The court is statutorily required to order needs based attorney fees upon a request pursuant to Family Code Section 2030. This statute provides a mandatory requirement that the "the court shall ensure that each party has access to legal representation...," and that this shall be achieved through the court ordering the more well off party pay to the other "whatever amount is reasonably necessary for attorney's fees and for the cost of maintaining or defending the proceeding during the pendency of the proceeding." **4) Systemic Isolation and Exclusion:** During the hearing on May 6, 2024, Judge Sato repeatedly referred to Dr. Adams' incompetence as a basis for denying her access to attorney's fees and legal representation. The court is required to protect the rights of incompetent parties, but Judge Sato has deliberately sought to isolate and exclude Dr. Adams from the proceedings, continuing a pattern of biased conduct since she first encountered my case. Judge Sato's bias and prejudice has been so extreme that she misrepresented a court of appeal opinion

as a basis for depriving Dr. Adams of access to attorney's fees, though failed to cite where in the opinion the court granted Judge Sato to violate Dr. Adams' constitutional rights by depriving her of equal protection under the law.

Submitted with the statement as proof of Judge Sato's prejudice conduct is her order denying an attorney fee request which was submitted at the request of the court in October 2022. Judge Sato's order is highly prejudicial, as it was issued under the basis that an incompetent party is not permitted to make a fee request in order to retain counsel, unless they are represented by counsel.

Judge Sato is engaged in clear cut prejudice where she seeks to use the incompetence of a party to deprive them of their constitutional rights, and to discriminate against under the ADA by depriving them of access to courts programs, benefits and services. It is quite clearly determined that a court has a sua sponte obligation to protect the rights of incompetent parties. (Briggs v. Briggs, (1958) 160 Cal. App. 2d 312) Judge Sato is refusing to enforce money orders owed to Dr. Adams and allowing former counsel to interfere with the proceedings to prejudice Dr. Adams' rights to enforcement of the judgment issued over 6 years ago.

I.

THE COURT MUST PROTECT THE LEGAL RIGHTS OF INCOMPETENT PARTIES

Where a party to an action is found incompetent the court is required to act to protect their legal rights (Estate of Hathaway (1896) 111 Cal. 270, 271, 43 P. 754; In re Marriage of Caballero (1994) 27 Cal.App.4th 1139, 1148-1149, 33 Cal. Rptr. 2d 46.). In essence, failing to ensure access to counsel, by denying an ex-parte RFO for retrospective attorney's fees would be deemed a failure of the court to uphold its obligation to protect the legal rights of incompetent parties. The refusal to ensure access to legal representation through deprivation of rights under color of law, violates Code of Civil Procedure § 372, which mandates Dr. Adams appear by way of the GaL. The GaL can only appear where she is represented by counsel.

On May 20, 2024, the court demonstrated its clear prejudice towards Dr. Adams by issuing an order denying an attorney fee request either submitted by Dr. Adams or the GaL (EXHIBIT 1)., The failure to ensure access to legal representation is prejudicial to an incompetent party as the non-attorney GaL is unable to act as counsel for an incompetent party (J.W. v. Superior Court (1993) 17 Cal. App. 4th 958). The court's actions represent a deliberate effort to deprive Dr. Adams of her due process rights. This conduct has been ongoing by the Family Court in Alameda County for 5 years, and is directly targeted at Adams based upon her disability of autism, as this was the basis of the court determining her incompetence.

II.

REQUEST TO DISQUALIFY JUDGE SATO FOR CAUSE (CODE OF CIVIL PROCEDURE § 170.1 (a)(6) (A)(iii))

Owing to the peculiar treatment of the court, Dr. Adams is trapped in the US, and denied any benefits from her marriage. The court's refusal to enforce the judgment is preventing Dr. Adams from rebuilding her life, forcing her to incur significant debt to compensate for the failure to ensure access to court ordered property and finances. The court is committed to unnecessarily delaying the enforcement of money judgments, while subjecting Dr. Adams to protracted hearings in an effort to wear Dr. Adams down. It is clear the court is unconcerned with the prejudiced appearance of it conduct and the loss of faith the general public may experience when observing a judiciary that targets an incompetent party, at the sole benefit of an incredibly wealthy, competent ex-husband.

Given the court's continued refusal to ensure Dr. Adams' due process rights are protected, and the most recent confirmation that Judge Sato intends to discriminate against Dr. Adams based on her disability, by denying her access to the proceedings, by preventing her from receiving attorney fee awards to retain counsel, Dr. Adams requests Judge Sato be disqualified from hearing any matters under the above case number. Further, Dr. Adams requests that the judge refer the matter to the presiding judge of Alameda County, Judge Nixon, and facilitate a change of venue to San

Francisco County. Dr. Adams contends that the conduct of the Family Court in Alameda County has been highly prejudicial from the outset, and any reasonable objective party would agree that Dr. Adams stands no chance of receiving a fair hearing in front of neutral judge if the case were to remain in Alameda County.

A Change of Venue to San Francisco County will not harm the rights of the petitioner, as he resides in San Francisco County, and his attorney's offices are present in San Francisco County. Given that the only issues left are the enforcement of the judgment, the Family Court in San Francisco County is just as able to issue writ of execution and take all steps necessary to enforce the judgment and decide on attorney fee requests. Alameda County has refused to uphold such duties for six years, hopefully a new venue will ensure a fresh unbiased pair of eyes bring this matter to resolution.

III.

JUDGE SATO ORDER OF MAY 20, 2024 VIOLATES THE 14th AMENDMENT EQUAL PROTECTION CLAUSE AND SUBJECTS DR. ADAMS TO DEPRIVATION OF RIGHTS UNDER COLOR OF LAW

Judge Sato takes the view that the mandatory language used in Family Code Section 2030 is not applicable to incompetent parties in dissolution proceedings. There is nothing provided in the U.S. Constitution or elsewhere that permits a court to deprive an incompetent party of access to attorney's fees to retain counsel.

Given that Dr. Adams cannot protect her legal rights then it is necessary that the court make a determination on her fee request ex-parte, or on its own motion. Judge Sato has subjected Dr. Adams to deprivation of her due process right to take action to protect her property and legal interests by depriving her of her statutory right to obtain attorney fees. There is no comparison between an appellate court declining to hear an appeal submitted by an

unrepresented incompetent party and a trial court refusing to fashion an attorney fee award for an incompetent party. Quite clearly, this reasoning is judicially incoherent, as had the trial court not deprived Dr. Adams of attorney's fees then her appeal would have been heard.

The court has no discretion, nor authority, to deprive unrepresented incompetent parties of attorney's fees, and Judge Sato's commitment to such an outcome demonstrated her prejudice towards Dr. Adams, and warrants her disqualification from the case. (EXHIBIT 1)

The prejudicial nature of Judge Sato's conduct is demonstrated through the findings made in re Marriage of Morton. (In re: Marriage of Morton, (2018) 27 Cal.App.5th 1025)(Morton). In Morton, it was concluded the phrase "the court shall make findings" as requiring family courts to make express findings, either in writing or orally on the record. (Id. at p. 1050.) The relevant text in subdivision (a)(1) of section 2030 are the phrases "including access early in the proceeding" and "maintaining or defending the proceeding during the pendency of the proceeding." (§ 2030, subd. (a)(1).) Those phrases unambiguously require the family court to hear and resolve the request during the course of the proceeding. In other words, a family court that does not resolve a request for attorney fees until after trial has not ensured a self-represented party's access to legal representation "during the pendency of the proceeding," much less "early in the proceedings." (§ 2030, subd. (a)(1).) This interpretation is also consistent with the legislative intent expressed in the last sentence of subdivision (a)(2) of section 2030, which refers to an order for the payment of "a reasonable amount to allow the unrepresented party to retain an attorney in a timely manner before proceedings in the matter go forward." (§ 2030, subd. (a)(2).)

Dr. Adams has no insight into any of the matters surrounding the enforcement of the judgment, the payment of spousal support, division of community property, and the destruction of all her personal possessions by Mr. Billings. This deprivation of her property rights will be the case for as long as she is of access to counsel. It is not merely that Dr. Adams needs a lawyer to accompany her to court. The court must uphold its sua sponte obligation to ensure that the due process rights of incompetent parties are protected, as it relates to all the legal advice, representation, and filing of

necessary actions for discovery, damages and so forth (Briggs v. Briggs, (1958) 160 Cal. App. 2d 312).

IV.

JUDGE SATO'S PREJUDICE EXTENDS TO IMPERMISSIBLY LIMITING THE ENFORCEMENT OF THE MONEY ORDER FOR ATTORNEY'S FEES MADE IN THE FINAL JUDGMENT

Alongside the attorney fee request, Judge Sato has refused to enforce the order of attorney fees made in the March 2018 Judgment to Dr. Adams. Mr. Billings has chosen not to pay the fees, and admits as much, the court lacks jurisdiction to modify this order, and this requires that the order be enforced as stated in the judgment. **In re. Marriage of Curtis, the appellate court affirmed monies ordered payable according to the divorce judgment, must be paid in accordance with that order, and that debts incurred since the judgment cannot be used to offset the amounts owed. The court further explained that the judgment did not reserve jurisdiction to give consideration to any debts that were later incurred (In re Marriage of Curtis, 208 Cal. App. 3d 387, 256 Cal. Rptr. 76, 1989).**

Thus Mr. Billings refusal to pay the attorney fee award of $35,000 should be subject to the full costs incurred by Dr. Adams owing to this six year long delay, including all calculated interest. It is a requirement that the court acts to enforce those orders as set forth in the final judgment. Absent a reversal of the final judgment, or authority to amend the judgment, a Judge lacks the authority to refuse enforcement of a final judgment (Family Code § 290)(Mueller v. Walker (1985) 167 Cal.App.3d 600, 605- 606).

CONCLUSION

Dr Adams' first RFO for attorney's fees was filed with the court in December 2019, and it was never heard. A further oral request for fees was made by the GaL, Ms. Karen Kearney, in October 2022, and this was denied pending the filing of a written request. A written request for attorney's fees was filed on 11/18/2022, and this RFO was never heard. Finally, a written request

for fees was made again on May 8 2024, which is the court denied based on its discriminatory view of incompetent parties.. **The court has failed to order on multiple requests for attorney's fees for over 4.5 years. The court has also failed to enforce the attorney fee award of $35,000 made in the judgment, 6 years ago. For the last 7.5 years, Mr. Billings has been represented by counsel, and in this same period, he has paid to Dr. Adams the sum total of $5000 towards her attorney fee costs. Dr. Adams has not been represented by Counsel since March 2019 (save for a short period Feb-Sep 2021).**

The Failure to Enforce the Money Judgments contained in the Final Judgment and the Failure to Adhere to the Statutory Text of Family Code 2030 Constitutes a Breach of Judicial Canon 3(B)(8) . Canon 3(B)(8) of the California Code of Judicial Ethics provides: "A judge shall dispose of all judicial matters fairly, promptly, and efficiently. A judge shall manage the courtroom in a manner that provides all litigants the opportunity to have their matters fairly adjudicated in accordance with the law."

There is no legal basis upon which the court is permitted to continue to deprive Dr. Adams of the means to retain counsel, even as an incompetent party. Judge Sato's May, 20 Order makes clear it is her intent to deprive incompetent parties of the means to retain counsel, while threatening to order against them when they have no funds for counsel.

To any reasonable objective party, Judge Sato has demonstrated her bias and prejudice against Dr. Adams, and she should disqualify herself from the matter. In addition, her conduct clearly violates the Americans with Disabilities Act, and is Constitutionally forbidden. Dr. Adams disability of autism is the reason she was found incompetent and Judge Sato is preventing proper access to the proceedings by denying attorney fees that are mandated to parties irrespective of disability, and based upon disparity in income. Additionally, the court should move to change venue to have the matter transferred to San Francisco County Superior Court as the bias and prejudice exhibited by Judge Sato is by no means unique to her, but rather has been an ongoing theme in this matter. It is clear that the attitude of the Alameda county Superior Court is that individuals are found

incompetent and this is used as shorthand to strip them of their property, access to funds, enforcement of the judgment and their most basic due process rights. Judge Sato's order denying attorney's fees to Dr. Adams solely because she is incompetent and without counsel is a clear indication of the court's intent.

I sign this as the Guardian ad Litem, Karen Kearney, on behalf of Sarrita Adams. I am aware that as a non-attorney I cannot represent Dr. Adams, this Memorandum of Points and Authorities does not constitute legal representation as it was prepared on the advisement of separate legal assistance.

Dated: May 23, 2024

Karen Kearney GaL for Sarrita Adams

EXHIBIT C

Mark T. Coffin, State Bar No. 168571
Scott A. Jaske, State Bar No. 340059
MARK T. COFFIN, P.C.
21 E. Carrillo Street, Suite 240
Santa Barbara, California 93101
Telephone: (805) 248-7118
Facsimile: (866) 567-4028
Email: mtc@markcoffinlaw.com
Email: scott@markcoffinlaw.com

Attorneys for Defendant, LYNDA ENTE

SUPERIOR COURT OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA

SANTA MARIA – COOK DIVISION

SUSAN MOWATT

Plaintiff,

v.

LYNDA ENTE, an individual; SARRITA ADAMS, an individual; AND DOES 1 - 20

Defendants

Case No. 21CV04107

DECLARATION OF SARRITA ADAMS, Ph.D. FOR MOTION TO VACATE DEFAULT JUDGMENT

Assigned for all purposes to the Hon. Jed Beebe

Dept: SM4
Complaint Date: October 7, 2021
Trial Date: TBA

DECLARATION OF SARRITA ADAMS, Ph.D.

I, Sarrita Adams, Ph.D., declare:

1. I am a competent adult and a former party to the above-captioned lawsuit. I have personal knowledge of the facts stated in this Declaration. I could competently testify to the truth of these facts, except for those stated upon information and belief, and as to those matters, I believe them to be true. This Declaration is submitted in support of Ms. Ente's Motion to Set Aside Default Judgment.
2. I have known Lynda Ente on both a personal and professional level for several years. For example, I have worked with her in connection with a conservatorship of family members.
3. Ms. Ente contacted me in September of 2021, and I learned about the contract transaction she was involved in to sell her real property in Buellton. She was extremely stressed and agitated, and in my opinion the ordeal was detrimental to her health. I agreed to act as her Attorney-In-Fact, to assist and advise her on the sale transaction process.
4. On September 3, 2021, Ms. Ente and I executed a California Real Estate Power of Attorney ("POA"), providing that I am authorized to act as her agent on her behalf, for the purpose of selling the real property and improvements at 1265 W. Highway 246, Buellton, CA 93427. A true and correct copy of the POA is attached to this Motion as **Exhibit 1**.
5. The POA provides that I am authorized to act on her behalf, including executing, modifying, and delivering documents necessary to complete the transaction, and accepting the closing proceeds for deposit into her account.
6. After reviewing Ms. Ente's purchase and sale transaction documents from the start, I came to the conclusion that the buyers had not produced adequate evidence to support their loan obligation, as required by the contract. Ms. Ente had already served several Notices to Perform on the buyers through her realtor.
7. On September 15, 2021, I prepared a Cancellation of Contract, which Ms. Ente and I both executed. A true and correct copy of the Cancellation of Contract is attached to this Motion as **Exhibit 2**.

8. As the Court is aware, Plaintiff Susan Mowatt's October 7, 2021 Complaint in this case names me as an individual Defendant, in addition to naming Lynda Ente as a Defendant.

9. After filing the Complaint, Plaintiff's counsel Tyler Sprague filed not one, but two separate "motions to compel arbitration." I welcomed the opportunity to explain the matter to the Court at the motion hearings. Ms. Ente and I planned to agree to arbitration. However, Mr. Sprague withdrew each of the motions before they were heard by the Court.

10. Instead, Mr. Sprague then filed a Request for Entry of Default against me and against Ms. Ente, which I believe were improper. For example, based on my research, specific performance of a contract is not available to a party who cannot demonstrate their own performance.

11. Attached to this Motion as **Exhibit 3** to this Motion is a true and correct copy of the Demurrer motion that I prepared on or about February 2, 2022, entitled "Notice of Hearing on Demurrer for Defendant Sarrita Adams, PhD" and "Demurrer of Defendant Sarrita Adams, PHD," with multiple exhibits. I provided a copy of this document to Plaintiff counsel Tyler Sprague, on or about that same date, and I also attempted to file the Demurrer with the Court. However, I learned that the Demurrer was not accepted by the Court, because after receiving the Demurrer, attorney Sprague had already filed a Request for Dismissal (that same day), dismissing me as a Defendant.

12. I did not prepare a similar Demurrer motion for Ms. Ente, because I am not an attorney, and I understand that it would be improper to act as her legal representative.

13. Attached to this Motion as **Exhibit 4** to this Motion is a true and correct copy of the "Declaration of Interested Party, Sarrita Adams, Ph.D, As Power Of Attorney For Ente," that I filed with the Court on February 7, 2022. I reaffirm the matters stated in my Declaration.

/ / /

/ / /

14. I continue to believe that the case against Ms. Ente is frivolous and improper, and that Ms. Ente will prevail if she is allowed to present evidence in this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this Declaration was executed on 8th March 2022 at Oakland, California.

Sarrita Adams, Ph.D., Declarant

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I am employed in the County of Santa Barbara, State of California. I am over the age of 18 years and not a party to this action. My business address is 21 E. Carrillo Street, Suite 240, Santa Barbara, California 93101. On March 9, 2022, I served the foregoing documents described as **DECLARATION OF SARRITA ADAMS, Ph.D. FOR MOTION TO VACATE DEFAULT JUDGMENT,** on the interested parties in this action:

Counsel	Party
Tyler J. Sprague, Esq. (SBN 314626) SPRAGUE LAW GROUP 2078 Rebild Drive Solvang, CA 93463 T: 805-316-0387 E: tyler@spraguelawgroup.net	*Attorney for Plaintiff, SUSAN MOWATT.*

☐ **BY U.S. MAIL:** This document was served by United States mail through the US Postal Service. I enclosed the document in a sealed envelope or package addressed to the person(s) at the address(es) above and placed the envelope(s) for collection and mailing, following our ordinary business practices. I am readily familiar with this firm's practice of collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service at Santa Barbara, California, in a sealed envelope with postage fully paid.

☒ **VIA EMAIL:** I served the documents above on all parties via electronic mail, to the addresses as listed on the attached service list, following my employer's business practice for collection and processing of correspondence. Such electronic transmission was reported as complete and without error on this date.

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

Executed on March 9, 2022, at Santa Barbara, California.

Scott A. Jaske