

MAR 12 2019

Jake Chatters
Executive Officer & Clerk
By: S. Vjidal, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF PLACER

Jude Chabot,

Petitioner

vs.

Andrea Miller-Rodriguez (Chabot),

Respondent.

Case No.: SDR 47000

COURT RULING ON REQUEST TO
EXTEND DOMESTIC VIOLENCE
RESTRAINING ORDER

On March 4 - 5, 2019, this matter was heard regarding Petitioner's Request to extend the Domestic Violence Restraining Order that protects himself and his daughter. The Petitioner Jude Chabot was present and represented by Susan Raltson, Esq. The Respondent Andrea Miller-Rodriguez was present and represented by Rebecca Esty-Burke, Esq.¹ Upon completion of the hearing, the court heard arguments of counsel and took the matter under submission.

¹ As is customary in family law cases, this Court will refer to the parties by their given names for purposes of clarity and not out of disrespect. (See, i.e. *In re Marriage of Geraci* (2006) 144 Cal.App.4th 1278, 1283 fn.2.)

I. Case Background

The parties were married on August 2, 2011, and during their marriage two children were born: Kennedy, born on November 25, 2011, and Decklyn, born on April 22, 2014. Kennedy is the child of the parties and currently remains in the custody of Jude, as sole custodian. Decklyn, initially believed to be the child of Jude, was actually the biological son of another man, James Bendel from Pennsylvania. At that time, due to Andrea's deception, neither man knew of the other's existence and both of them believed the young child to be their son. Upon discovery, James Bendel petitioned for parental rights and ultimately received full custody of the boy, who has been renamed James Jr. On December 15, 2014, Jude filed for dissolution.

On February 6, 2015, Jude filed a request for a Domestic Violence Restraining Order (DVRO). In his request, he described many reasons for his request: 1.) physical violence against him, to include incidents on October 28, 2014, August of 2014; and two from 2012 and 2011; 2.) disturbing his peace, based upon his discoveries in 2014 - 2015 of Andrea using his identity and personal information and forging his signature to obtain multiple loans and facilitate fraudulent financial transactions; 3.) her arrest in Sacramento occurring on February 5, 2015, involving fraudulent financial acts against her parents; and 4.) her mental instability that included anxiety and depression. (Trial Exhibit (EX) 2.)

1 After a trial on the merits, the court granted a DVRO for a period of three
2 years, to expire on November 5, 2018. (EX 4.)
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4 With respect to the issuance of the final restraining order after the
5 trial in 2015, the court made specific findings of abuse pursuant to Family
6 Code sections (FC) 6203(a)(3), 6203(a)(4), and 6203(b). The court
7 specifically found that Jude was subjected to years of abuse perpetrated by
8 Andrea from 2011 through 2014. That abuse involved physical, emotional
9 and financial abuse. The court also found that Kennedy was traumatized
10 through Andrea's deceit and fraud, and found that FC 3044 applied to her
11 conduct. With respect to Andrea's allegations of abuse by Jude, the court
12 specifically made a finding that there was no credible evidence of domestic
13 violence by Jude and that he did not perpetrate domestic violence on her.
14 These findings were set forth in the minutes and are attached to this
15 ruling. (See Attachment A.)
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19 Since the granting of the original restraining order, the parties'
20 dissolution has become final. Andrea has served her prison sentences from
21 Sacramento and Placer County for her identity theft and fraud related
22 crimes against her parents and Jude. She has served and completed a
23 period of supervision. On March 2, 2018, Andrea filed a Request for Order
24 (RFO) requesting visitation of Kennedy. On June 12, 2018, Jude filed an
25 RFO to move away with Kennedy to the state of Montana. Andrea filed a
26 response objecting to the move-away request on July 3, 2018. On August
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1 6, 2018, the court appointed Timothy Rood, MFT, to perform a full child
2 custody evaluation pursuant to FC 3111.

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4 While these matters have been pending, Jude filed on November 1,
5 2018 a request to renew his restraining order. (EX 15.) On November 16,
6 2018, Andrea filed her response objecting to the restraining order
7 extension. In her response, Andrea denies any conduct in violation of the
8 restraining order; and alleges that Jude instead has been stalking her and
9 filing false police reports in Roseville on May 6, 2017 and in Folsom on
10 August 2017. She has yet to see her child since her incarceration, as the
11 current restraining lists Kennedy as a protected party with no visitation for
12 the mother.
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15 II. Legal Standard

16 The Domestic Violence Prevention Act (DVPA) (Fam. Code, § 6200 et
17 seq.) exists "to prevent acts of domestic violence, abuse, and sexual abuse
18 and to provide for a separation of the persons involved in the domestic
19 violence for a period sufficient to enable these persons to seek a resolution
20 of the causes of the violence." (Family Code section (FC) 6220.) As
21 provided in FC 6345(a), a domestic violence prevention restraining order
22 "may be renewed upon the request of a party, either for five years or
23 permanently, without a showing of any further abuse since the issuance of
24 the original order, subject to termination or modification by further order of
25 the court either on written stipulation filed with the court or on the motion
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1 of a party. The request for renewal may be brought at any time within the
2 three months before the expiration of the orders."

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4 Upon a hearing to renew the restraining order, this court should
5 grant the request "if, and only if, it finds by a preponderance of the
6 evidence that the protected party entertains a 'reasonable apprehension' of
7 future abuse." (*Ritchie v. Konrad* (2004) 115 Cal.App.4th 1275, 1290.) "It
8 is not enough this party entertain a subjective fear the party to be
9 restrained will commit abusive acts in the future. The 'apprehension' those
10 acts will occur must be 'reasonable.' That is, the court must find the
11 probability of future abuse is sufficient that a reasonable woman (or man,
12 if the protected party is a male) in the same circumstances would have a
13 'reasonable apprehension' such abuse will occur unless the court issues a
14 protective order." (*Id.* at 1288.)

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18 Furthermore, "[i]n evaluating whether the requesting party has a
19 reasonable apprehension of future abuse, 'the existence of the initial order
20 certainly is relevant and the underlying findings and facts supporting that
21 order often will be enough in themselves to provide the necessary proof to
22 satisfy that test.' " (*Lister v. Bowen* (2013) 215 Cal.App.4th 319, 333,
23 quoting *Ritchie* at 1291; see also *In re Marriage of Martindale & Ochoa*
24 (2018) 30 Cal.App.5th 54, *Cueto v. Dozier* (2015) 241 Cal.App.4th 550,
25 559-560). With these principles in mind, the court turns to the facts of
26 this case.
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1 III. Application to the Present Case

2 At the hearing on the extension, Jude testified and was credible in
3 expressing his genuine fear of future abuse by Andrea. Although he no
4 longer bases his fear on a concern for further physical incidents between
5 them, he explained in moving detail about the continued disruption of his
6 peace and security based upon his fear of Andrea's capacity for
7 manipulation and deceit; and her sophisticated ability to steal and
8 fraudulently use his personal information and identity. As described
9 above, subjective fear is not enough; it has to be reasonable. As
10 discussed below, this court finds that his fear is in fact reasonable, and he
11 is entitled to renewal. The reasons are set forth below:
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16 A. Andrea's Criminal Acts Involving Fraud and Identity Theft

17 Much ink has already been written to describe the degree of fraud,
18 deception and manipulation perpetrated by Andrea towards her own family
19 that underlies the basis for the restraining order. In this hearing alone,
20 evidence of her sentencing report and the victim impact statement of
21 Andrea's mother Jeanie was admitted. (EX 2.) Jeanie described how her
22 daughter's actions were not only devastating financially, but done with
23 disregard for the personal consequences. Andrea was present to witness
24 the stress and emotional toll she personally created. At the time of her
25 sentencing, Jeanie described her daughter as a "master manipulator one
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1 who had no boundaries when it came to exploiting vulnerabilities and
2 relationships." (EX 3, page 5.)²

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4 Jude testified to the personal damage and chaos that Andrea's
5 conduct inflicted upon him, the repercussions of which he is still
6 experiencing. For years after the restraining order was granted, creditors
7 came after him for loans fraudulently obtained by Andrea. His vehicle he
8 had paid off faced repossession due to her fraud. He still can't open an
9 account at Best Buy due to her fraud. Recently he tried to access his
10 Southwest Rapid Rewards account for a plane flight he obtained for
11 Kennedy to see her brother on the east coast, only to discover that his
12 account information had previously been diverted by Andrea to her own
13 email address.
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16 Jude continues to feel victimized by Andrea, and expressed a genuine
17 fear of her obtaining his private personal information. His emotional state
18 was corroborated by the testimony of his friend, Joshua Smith. Jude also
19 knows that Andrea's attorney has a copy of his confidential psychological
20 evaluation that he had shared with Andrea's mother; and he seeks
21 protection from its disclosure to Andrea and other third parties. He
22 requests lifetime protection due to his concern for his safety, and
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28 ² Further evidence was admitted about her Photoshop skills in creating
phony checks, and her impersonating 26 people in the commission of her
fraud against her parents. (EX 25 & 30.)

1 described how he can't have peace, knowing that someone like Andrea
2 has the ability to steal and use his personal information and identity.

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4 From Andrea's perspective, she has done her time for her crimes and
5 has expressed remorse. She testified that she understands the magnitude
6 of her crimes and has sought out therapy, anger management, and
7 parenting classes. She is now reunited with her parents who were the
8 victims of the Sacramento case. While these steps may indicate progress
9 toward her rehabilitation, they are insufficient in this court's view to
10 alleviate Jude's reasonable apprehension of future abuse.
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14 B. Andrea's Obtaining of Information Through Third Party

15 During the pendency of the restraining order, Andrea has been
16 enjoined from taking any action, either directly or through others, to obtain
17 the addresses or locations of any protected persons. Once out of prison,
18 Andrea entered into an intimate relationship with an old friend of hers,
19 Kenneth Mills. They dated for several months while she was on
20 supervision. According to the testimony of Mr. Mills, which the court finds
21 credible, Andrea asked him to search out information on Jude, including his
22 business, where he was living, his activities, and even what concerts he
23 had attended. Her interest went beyond merely inquiring about the health
24 and welfare of her daughter, who she hadn't seen upon her release from
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1 prison. Andrea's denial in her testimony to this court that Ken offered this
2 information unsolicited was not credible.

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4 At some point Mr. Mills became disillusioned with Andrea and their
5 relationship. This was after she had used him for a stable environment to
6 visit while on curfew, lied to him about having a relationship with someone
7 else at that time, sought his help to file a restraining order against Jude,
8 and ultimately asked him for a character letter. He described how Andrea
9 called him after she filed the first restraining order in August of 2017 and
10 expressed concern about the information she had written that could
11 implicate her in wrongdoing. As to his opinion of Andrea's honesty, he
12 testified that he believed her to be "fairly dishonest." After their break up
13 in 2017, he decided to call Jude and warn him about Andrea's conduct in
14 searching for his information.³
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19 C. Allegations of Stalking and Attempts at Restraining Orders

20 During the hearing, the court heard evidence of two instances in
21 which the parties ran into each other while out in public; once at an
22 intersection in Roseville on May 6, 2017, and once at a gym in Folsom on
23 August 17, 2017. In both instances, the police were called and each party
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27 ³ The court received some testimony about Jude obtaining from a
28 probation officer Andrea's home and work information. The court finds this
information to be irrelevant. It is Andrea, and not Jude, who is restrained
from obtaining this type of information.

1 suspected or feared harassment from the other. The most likely
2 explanation for both of the events, based on the evidence presented in
3 court, was that their interactions were coincidental. However, due to the
4 level of mistrust between them, the incidents were blown out of proportion
5 by both parties.
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7 With respect to Jude, his concern and reaction upon unexpectedly
8 encountering Andrea was not unfounded. Both times he called the police
9 because he wanted the incident documented for his own protection. Jude
10 testified about Andrea's capacity to manipulate others to believe her; and
11 of his fear of being accused of doing something he didn't do by an
12 elaborate professional. Andrea had falsely accused him of domestic
13 violence during their marriage resulting in his arrest. Although charges
14 were not filed and she recanted (EX 24), the damage to his career as a
15 Roseville Police Officer was done. All of this had been litigated during the
16 previous trial on the restraining order:
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21 "Prior to the dissolution trial, a trial on Husband's
22 request for a restraining order was held. The court
23 issued a restraining order protecting Husband and
24 the minor child and restraining Wife. Wife falsely
25 accused Husband of abuse during the trial and on
26 prior occasions. The court finds Wife was not
27 credible. Husband was in no way responsible for any
28 domestic violence conduct previously alleged by
Wife. The court finds that Wife, *and not Husband*,
has perpetrated emotional and physical abuse on
Husband within the meaning of Family Code section

1 6211." (Ruling on Submitted Matter, filed December
2 23, 2015.)

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4 Andrea's response to these encounters only corroborates Jude's
5 fears. Upon being contacted by a Folsom Police Officer about the gym
6 incident, she accused Jude of following her there and stalking her. Even
7 though Jude had reported the incident to police, he became the focus of
8 the investigation and felt victimized yet again. Andrea then attempted to
9 file two DVRO(s) in August and September of 2017 in Sacramento County,
10 despite Placer County being the venue that has had the history between
11 the parties.⁴ In both restraining order requests she referred to previous
12 allegations of abuse that had already been litigated and found to lack
13 credibility. The first restraining order was denied in full pending a hearing
14 (EX 10), and the second was granted in part pending hearing (EX 11).
15 She failed to show up for her hearings and the matters were dropped.
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28 ⁴ While Andrea has a right to file for a DVRO in her county of residence,
her filing there appears more consistent with forum shopping than
convenience.

1 D. Discovery Requests for Irrelevant Personal Information

2 During the pendency of the restraining order, Andrea has been
3 enjoined from harassing and disturbing the peace of Jude. Jude has
4 testified that Andrea's discovery request of irrelevant information involving
5 his personal information has been a form of harassment. Her various
6 discovery requests were apparently in response and to gather evidence for
7 her opposition to Jude's move-away and restraining order extension
8 requests. After extensive and voluminous filings by both sides on this
9 discovery issue, the matter had to be heard before this court to resolve.
10 (See Attachment B, Court Ruling filed February 19, 2019.)

11 At the discovery hearing, much of the contested matters were
12 withdrawn by Andrea's counsel. While the court appreciates the
13 congeniality of counsel, it belies the fact that most of the matters being
14 requested by the respondent were not relevant. Despite being subject to
15 a restraining order issued in part due to her emotional and financial abuse,
16 and despite her being convicted of multiple counts of identity theft,
17 Andrea's discovery requests constituted a far reaching attempt to uncover
18 personal information of Jude. (See i.e. Attachment B, Orders on
19 Discovery, Documents Requests 1, 2, 4, 20, 35, Form Interrogatories
20 Question 1, 11.2.) Additionally, other requests appeared to be an attempt
21 to re-litigate matters that had already been ruled upon, and subject to
22 collateral estoppel. (See, i.e. Attachment B, Orders on Discovery,
23 to re-litigate matters that had already been ruled upon, and subject to
24 collateral estoppel. (See, i.e. Attachment B, Orders on Discovery,
25 to re-litigate matters that had already been ruled upon, and subject to
26 collateral estoppel. (See, i.e. Attachment B, Orders on Discovery,
27 to re-litigate matters that had already been ruled upon, and subject to
28 collateral estoppel. (See, i.e. Attachment B, Orders on Discovery,

1 Admissions of Fact 1-6; Form Interrogatories Questions 2.12, 2.13, 12.4,
2 12.6; see also *Ritchie v. Konrad* (2004) 115 Cal.App.4th 1275, 1290.)

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4 Given the nature and volume of information requested, it is not
5 surprising that Jude views these requests as another form of harassment,
6 and another instance in which Andrea was able to manipulate others to his
7 detriment. His counsel had to file a request for a protective order out of
8 fear that some of this information would be shared with Andrea by her
9 attorney. With respect to penalizing Andrea in this hearing for the legal
10 strategies of her counsel, the court agrees with her counsel that such
11 attribution would be inappropriate. There may be other remedies for such
12 discovery abuse, but extending a restraining order on the basis of the
13 legal strategies of counsel is not one of them. The court does, however,
14 find that Jude's on-going fear of Andrea obtaining and using his personal
15 information to be genuine and reasonable.
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20 IV. Conclusion and Findings

21 As described above, the law permits a restraining order to be
22 renewed without a showing of any further abuse. (FC 6345.) In assessing
23 whether or not there is a reasonable apprehension of future abuse, the
24 underlying facts supporting the initial restraining order may be enough.
25 (Lister at 333, quoting *Ritchie* at 1291.) The *Ritchie* case goes on to
26 instruct us that "potentially relevant are any significant changes in the
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1 circumstances surrounding the events justifying the initial protective
2 order. For instance, have the restrained and protected parties moved on
3 with their lives so far that the opportunity and likelihood of future abuse
4 has diminished to the degree they no longer support a renewal order? Or
5 have there been no significant changes or even perhaps changes that
6 enhance the opportunity and possibility of future abuse?" (*Ritchie* at
7 1291.) "Also relevant are the seriousness and degree of risk, such as
8 whether it involves potential physical abuse, and the burdens the
9 protective order imposes on the restrained person, such as interference
10 with job opportunities. (*Lister* at 333, citing *Ritchie* at 1291.)

14 In the present case, upon consideration of all the evidence presented
15 to the court during the renewal request, this court finds Jude to have
16 reasonable apprehension for future abuse such that a permanent
17 restraining order is appropriate. The court acknowledges that it has
18 discretion to choose the alternative of only five years, but chooses not to
19 do so. Given what he has experienced, Jude's reasonable fear from Andrea's
20 sophisticated ability to fraudulently use the personal information of others
21 will not subside in five years, ten years, or even twenty. Although the
22 parties have separated, the specter of fraud, unlike physical abuse,
23 remains. The parties are intertwined due to their daughter, and ongoing
24 protection for the father is vital to his emotional well-being and sense of
25 security. Andrea remains a convicted felon, and there was no evidence
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1 presented involving any additional burdens imposed upon her by the
2 restraining order.

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4 The current restraining order also protects their daughter Kennedy.
5 The court in the initial order previously found that Andrea's conduct
6 constituted abuse toward her daughter, and included Kennedy as a
7 protected party. Generally, for a protected party to be included in a DVRO
8 there must be a showing of good cause. (FC 6320.) As to this renewal,
9 insufficient evidence was presented as to Kennedy remaining a protected
10 party. The family court has jurisdiction over custody and visitation, and
11 can fashion appropriate contact orders that are in her best interest.
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14 Accordingly, Kennedy will not be listed as a protected party. Andrea
15 shall have no contact with her daughter at present until further order of
16 this court. Jude's restraining order shall be extended permanently and
17 subject to future modification for appropriate peaceful contact to facilitate
18 any court custody and visitation orders. Counsel for petitioner shall
19 prepare the final restraining order consistent with this court's ruling.
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23 IT IS SO ORDERED.
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26 Dated: 3/12/19

Signed: 

Garen J. Horst

Placer County Superior Court Judge

**SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF PLACER
FAMILY LAW FINDINGS AND ORDERS**

SDR0047000

Domestic Violence Restraining Orders

- ☐ Court grants the request of ☐ (Petitioner _____) ☐ (Respondent _____) to dissolve the DV TRO
- ☐ Court dissolves DV TRO on own motion
- ☐ Non CLETS, Peaceful contact
- ☐ See Visitation Order
- ☐ Temporary Restraining Order per DV 110/109 - Extended To: _____
- ☐ Pending trial, or until further order of this court, existing orders shall continue in effect except as modified by this order.
- ☒ **Final Restraining Order granted per DV 130/140/145/150. The Court hereby issues the order for a period of 3 years and will expire on November 5, 2018.**
- ☐ Restrained party served and failed to appear in Court
- ☐ Restrained party properly noticed or waives notice and agrees after being advised of rights to a hearing, and the consequences of a restraining order
- ☒ **After Hearing the Court finds by a preponderance of evidence has been met of reasonable proof of past act or acts of abuse as follows:**
- ☐ 6203(a)(1) intentionally or recklessly cause or attempt to cause bodily injury
- ☐ 6203(a)(2) sexual assault
- ☒ **6203(a)(3) to place a person in reasonable apprehension of imminent serious bodily injury to that person or to another**
- ☒ **6203(a)(4) behavior that has been or could be enjoined pursuant to 6320.**
- ☒ **6203(b) behavior that is not limited to the actual infliction of physical injury or assault.**

The Court finds the following specific conduct supporting the issuance of the restraining order:

The court finds Father was subjected to years of abuse perpetrated by Mother from 2011 through 2014. The court finds Mother committed acts of striking Father, hitting Father and chasing father with a knife in the home while Kennedy and during some acts, the child originally known as Decklyn¹ born in 2014, were present. These acts begin in 2011 when Mother struck Father in the face while she was intoxicated. The acts of domestic violence continued through 2012 when Mother engaged in burning toilet paper while Kennedy was at home. In 2012 Mother also tried to attack Father in the kitchen with a knife. After the attempted attack with the knife in the kitchen Mother chased Father down the street with knife. During this attack the minor child was left at home and Father ran back to the home to protect Kennedy. Mother, after Father secured the house, in attempting to get in the house, stabbed the garage door entrance multiple times. Finally, Mother slapped Father in 2014 and Father suffered injuries from this abuse. Mother's continued physical and emotional abuse of Father continued through 2013 and 2014. In 2013, at one time, a neighbor found Kennedy walking around the neighborhood and tracked Father down. Father came back to the residence and found Mother at home passed out and inattentive to the minor. In addition, Mother, during a period of time from 2009 through 2013, engaged in acts of significant and serious emotional and financial abuse perpetrated on her own mother and father and Mr. Chabot and Kennedy that affected both Father and their child Kennedy. Mother's deceit and fraud as demonstrated through Exhibits 22 and 23 and the fraud perpetrated on her own Mother and Father demonstrate the emotional abuse perpetrated on the minor and demonstrate the minor is not safe in and around Mother at this time. As part of the emotional abuse perpetrated on the minor and Father, the court finds Mother deceived Father that another child born to her was Father's son. During this time Mother also deceived their child Kennedy. Mother told both Father and Kennedy, the minor child, the son, at one time called child Decklyn was Kennedy's full brother. However, there were instances when Mother wanted to continue to perpetrate the fraud while Kennedy was present and required Kennedy to call "Decklyn" by a different name, "James," while Mother and Kennedy were present in front of the biological father. During this time Mother committed further fraud by telling Father she was a photographer for the Pittsburgh Steelers, which was a complete fabrication. The court finds this aspect of Mother's

¹ See Court order of: March 19, 2015.

Attachment A

**SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF PLACER
FAMILY LAW FINDINGS AND ORDERS**

actions is just one example of Mother's emotional abuse perpetrated on Kennedy and Father. Through Mother's deceit and fraud Kennedy was traumatized by her actions.

As to Mother's testimony during this trial the Court does not find Mother credible in any aspect. Not only does the Court finds Mother's testimony was impeached with two felony convictions involving moral turpitude from October 1, 2015, the Court also found Mother's testimony inconsistent with Father's and, as to some portions, inconsistent with some of the documentary evidence provided.

In all aspects the court found Father's testimony credible and persuasive.

The court makes a specific finding regarding Mother's allegations of abuse perpetrated by Father: The court does not find credible any evidence presented by Mother that Father perpetrated domestic violence on Mother. The court makes a specific finding Father did not perpetrate domestic violence on Mother.

- ☐ Court finds good cause to modify the Restraining Order and it is reissued today.
Family Code, section 3044
- ☒ **The court finds by preponderance of evidence that Mother, Andrea Chabot aka Miller-Rodriguez, perpetrated domestic violence, within the meaning of Family Code, section 3044, against Father, Jude Chabot. The court therefore finds there is a rebuttable presumption that an award of sole physical custody or joint physical or legal custody of the restrained party would be detrimental to the best interests of the child. This presumption may be rebutted by a preponderance of the evidence as specified in Family Code, section 3044(b).**
- ☐ The court also finds _____ (the party seeking custody) has rebutted the presumption by a preponderance of the evidence. The court has considered each of the rebuttal factors in Family Code section 3044(b) and the specific custody and visitation orders made today are in the best interest of the child.
- ☐ The court does not find the presumption rebutted, however, to give the restrained party guidance, the court will consider the following actions important in rebutting that presumption: _____
-
- ☐ Parties may have peaceful contact for child exchange / visitation purposes only.
- ☐ Parties may have peaceful telephone contact for the limited purpose of child issues / purposes.
- ☐ Parties may have contact regarding the child as allowed for in the family law orders.
- ☐ **Attorney Fees**
The court orders discretionary [6344(a)]/mandatory [6344(b)] attorneys fees to the prevailing party pursuant to Family Code in the amount of _____ Payable beginning _____.

Additional Orders / Findings of Fact:

The court advises the parties of section 3044 and each is provided a copy attached to the court's orders issued today.

The court advised Mother of her 5th amendment rights related to the allegations of the Yukon and the loan on the Yukon as that matter is still pending. Mother chose not to testify as to these allegations. Counsel for Father respected Mother's rights and did not question Mother about these events. While the Court

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF PLACER
FAMILY LAW FINDINGS AND ORDERS

received information from Father on these allegations the Court did not base it's ruling on the evidence received on this topic.

The court confirms the custody and parenting time orders and specifically includes Kennedy as a protected party on the restraining order and specifically orders, at this time, no visitation to Mother. The court finds it would be detrimental to the child to have contact with Mother. The court has considered all aspects of the best interest of the child and considered and balanced frequent and continuing contact with the child. In light of the courts findings, the court finds these orders are in the best interest of the minor.

Family Code Section 3044

- (a) Upon a finding by the court that a party seeking custody of a child has perpetrated domestic violence against the other party seeking custody of the child or against the child or the child's siblings within the previous five years, there is a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence is detrimental to the best interest of the child, pursuant to Section 3011. This presumption may only be rebutted by a preponderance of the evidence.
- (b) In determining whether the presumption set forth in subdivision (a) has been overcome, the court shall consider all of the following factors:
 - (1) Whether the perpetrator of domestic violence has demonstrated that giving sole or joint physical or legal custody of a child to the perpetrator is in the best interest of the child. In determining the best interest of the child, the preference for frequent and continuing contact with both parents, as set forth in subdivision (b) of Section 3020, or with the non custodial parent, as set forth in paragraph (1) of subdivision (a) of Section 3040, may not be used to rebut the presumption, in whole or in part.
 - (2) Whether the perpetrator has successfully completed a batterer's treatment program that meets the criteria outlined in subdivision (c) of Section 1203.097 of the Penal Code.
 - (3) Whether the perpetrator has successfully completed a program of alcohol or drug abuse counseling if the court determines that counseling is appropriate.
 - (4) Whether the perpetrator has successfully completed a parenting class if the court determines the class to be appropriate.
 - (5) Whether the perpetrator is on probation or parole, and whether he or she has complied with the terms and conditions of probation or parole.
 - (6) Whether the perpetrator is restrained by a protective order or restraining order, and whether he or she has complied with its terms and conditions.
 - (7) Whether the perpetrator of domestic violence has committed any further acts of domestic violence.

- (c) For purposes of this section, a person has "perpetrated domestic violence" when he or she is found by the court to have intentionally or recklessly caused or attempted to cause bodily injury, or sexual assault, or to have placed a person in reasonable apprehension of imminent serious bodily injury to that person or to another, or to have engaged in any behavior involving, but not limited to, threatening, striking, harassing, destroying personal property or disturbing the peace of another, for which a court may issue an ex parte order pursuant to Section 6320 to protect the other party seeking custody of the child or to protect the child or the child's siblings.
- (d) (1) For purposes of this section, the requirement of a finding by the court shall be satisfied by, among other things, and not limited to, evidence that a party seeking custody has been convicted within the previous five years, after a trial or plea of guilty or no contest, of any crime against the other party that comes within the definition of domestic violence contained in Section 6211 and of abuse contained in Section 6203, including, but not limited to, a crime described in subdivision (e) of Section 243 of, or Section 261, 262, 273.5, 422, or 646.9 of, the Penal Code.
- (2) The requirement of a finding by the court shall also be satisfied if any court, whether that court hears or has heard the child custody proceedings or not, has made a finding pursuant to subdivision (a) based on conduct occurring within the previous 5 years.
- (e) When a court makes a finding that a party has perpetrated domestic violence, the court may not base its findings solely on conclusions reached by a child custody evaluator or on the recommendation of the Family Court Services staff, but shall consider any relevant admissible evidence submitted by the parties.
- (f) In any custody or restraining order proceeding in which a party has alleged that the other party has perpetrated domestic violence in accordance with the terms of this section, the court shall inform the parties of the existence of this section and shall give them a copy of this section prior to any custody mediation in the case.

SDR0047000

FILED
Superior Court of California
County of Placer

FEB 19 2019

Jake Chatters
Executive Officer & Clerk
By: S. Vidal, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF PLACER

Jude Chabot,

Petitioner

vs.

Andrea Chabot,

Respondent.

Case No.: SDR 47000

COURT RULING

On February 11, 2019, this matter was heard regarding Petitioner's Request for Order (RFO) dated June 12, 2018; Respondent's RFO filed November 19, 2018; and Petitioner's RFO filed November 2, 2018. The Petitioner (Father) was present and represented by Susan Raltson, Esq. The Respondent (Mother) was present and represented by Rebecca Esty-Burke, Esq. Upon considerations of the pleadings filed in this case and the arguments of counsel, the court now issues its ruling.

1 I. Petitioner's RFO filed June 12, 2018

2 With respect to Petitioner's request for a move-away, the parties are
3 currently set for trial in May of this year. The court has recently received
4 the Family Code section (FC) 3111 report from Timothy Rood, M.A.,
5 L.M.F.T., and discussed with counsel the recommendation of psychological
6 testing for both parents. The parties agreed to meet and confer on this
7 issue. Counsel and the court will have a telephonic conference to discuss
8 the issue on February 25, 2019 at 8:15 am.
9
10
11

12 II. Respondent's RFO filed November 19, 2018

13 In this motion, the Respondent has filed a motion to compel and the
14 Petitioner has filed his objections. The court hereby rules on the specifics
15 in the motion in the attachment, based upon the proposed orders form
16 document filed by the Petitioner. (See Attachment A.) All matters that are
17 marked as "withdrawn" in Attachment A are also denied at present.¹ The
18 request for sanctions is denied.
19
20
21

22 With respect to Mother's request for the Father's income, the court
23 has made specific rulings in Attachment A, finding generally that such
24 requests are at present not relevant or at least pre-mature. However, in a
25

26
27 ¹ For many of these items, the court's notes from the court hearing
28 indicate either the question was waived or withdrawn, and not at issue. In
order to avoid any further confusion, the court also has reviewed these
requests on their merits.

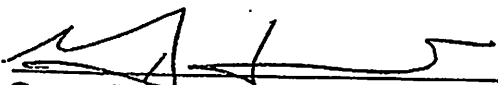
1 move-away case, the child's health, safety and welfare is still an important
2 consideration. (FC 3011(a).) As such, some information related to where
3 the child will be living and how Father will be providing for her is relevant
4 in these pending proceedings. It is this court's understanding that Father
5 does not object to providing this type of information to Mother, including
6 the fact that he has a job offer and his approximate salary.²
7
8
9

10 III. Petitioner's RFO filed November 2, 2018

11 In light of the court's ruling as listed above, the Petitioner's request
12 for a protective order is unnecessary at this time. Petitioner may renew
13 this motion should it become relevant.
14
15

16 IT IS SO ORDERED.
17
18

19 Dated: 2/19/19

20 Signed: 

21 Garen J. Horst
22 Placer County Superior Court Judge
23
24
25
26
27

28 ² For instance, Father has complied with Production of Documents Request No. 3 related to job searches in Montana.

LAW OFFICE OF SUSAN J. RALSTON APC
Susan J. Ralston C.F.L.S. 204302
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Rocklin Ca 95765
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SDR0047000

Attorneys for Petitioner, Jude Chabot

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF PLACER

JUDE CHABOT,
Petitioner,

Case No. S-DR-004700

vs.

ORDERS ON DISCOVERY

ANDREA MILLER-RODRIGUEZ CHABOT,
Respondent,

Petitioner proposes the following protective orders regarding his request filed
November 2, 2018.

PROPOSED ORDERS

I. RE: PETITIONER'S REQUEST FOR PROTECTION FROM PRODUCING
VARIOUS DOCUMENTS IN PRODUCTION OF DOCUMENTS SET ONE

1. Respondent's request for Production of Document Request No. 1 (proof of all income
sources including pay stubs, copies of checks, W-2's and 1099's received by
Petitioner) from January 1, 2015 to date of production:

Granted: _____ Denied: ☒

Modified: The request is not relevant at present.

2. Respondent's request for Production of Documents Request No. 2 to produce all
documents related to employment with the city of Roseville and/or the Roseville

Police Department, including but not limited to memoranda, performance evaluations, letters of termination, letters of suspension, reprimands, accommodations, emails, texts, etc, from January 1, 2010 to date of production.

Granted: _____ Denied: _____ (Withdrawn.)

Modified: _____

3. Respondent's request for Production of Documents **Request No. 3** related to job searches in Montana, including but not limited to internet searches, emails, texts, letters, resumes, job applications, correspondence from job offers from January 1, 2015 to date of production.

Granted: ☒ Denied: _____

Modified: This request was not at issue.

4. Respondent's request for Production of Documents **Request No. 4** to produce any and all statements, or bills for any and all cellular or telephone account records with call records and texting records, if any, from January 1, 2015 to the date of production.

Granted: ☒ Denied: ☒ (in part)

Modified: The request is too broad. Regarding text messages pertaining to the proposed move away, that is granted.

5. Respondent's request for Production of Documents **Request No. 6** to produce any and all communication including but not limited to messages, emails, texts, voicemails, and any and all other written communication between you and Eric Petterson related to any plans to move away from Roseville, California from January 1, 2015 to date of production.

Granted: ☒ Denied: _____

Modified: Father indicates he has complied with 4 (as modified) & 5.

SDR0047000

6. Respondent's request for Production of Documents **Request No. 20** to produce all financial information in the form of profit and loss, accounting ledgers, Quickbooks, spreadsheets or any other document related to income and expenses for Chabot Creations from January 1, 2015 to the present.

Granted: _____ Denied: _____ (Withdrawn)

Modified: _____

7. Respondent's request for Production of Documents **Request No. 22** to produce all receipts for clothing and/or school supplies purchased for Kennedy Chabot (the minor child age 7) from January 1, 2015 to the present.

Granted: _____ Denied: _____ (Withdrawn)

Modified: _____

8. Respondent's request for Production of Documents **Request No. 28** to produce any and all documents, including but not limited to invoices, bills, receipts for payments, practice schedules, text messages, emails or any other writings evidencing Kennedy Chabot's participation in gymnastic classes and/or performances from January 1, 2015 to present.

Granted: _____ Denied: _____ (Withdrawn)

Modified: _____

9. Respondent's request for Production of Documents **Request No. 35** to produce any psychological evaluation or report given or shown to any person other than a mental health professional, medical professional or legal professional from January 1, 2015 to present.

(Withdrawn)

II. RE: PETITIONER'S REQUEST FOR PROTECTION FROM ANSWERING THE
FOLLOWING REQUEST FOR ADMISSIONS OF FACT

1. **Question No. 1:** Admit that on or about October 28, 2014, you drank alcohol.

Granted: _____ Denied: ☒ _____

Modified: _____

2. **Question No. 2:** Admit that on or about October 28, 2014, you were intoxicated.

Granted: _____ Denied: _____ (Withdrawn)

Modified: _____

3. **Question No. 3:** Admit that on or about October 28, 2014, you told Chris Uribe that
you were drinking heavily.

Granted: _____ Denied: _____ (Withdrawn)

Modified: _____

4. **Question No. 4:** Admit that on or about October 28, 2014 you told Chris Uribe that
you were drink.

Granted: _____ Denied: _____ (Withdrawn)

Modified: _____

5. **Question No. 5:** Admit that on or about October 28, 2014, you took two Ambien.

Granted: _____ Denied: ☒ _____

Modified: _____

1 6. **Question No. 6:** Admit that on or about October 28, 2014, you drank alcohol and
2 took two Ambien within two hours of one another.

3 Granted: _____ Denied: ☒ _____

4 Modified: _____
5

6 **III. RE: PETITIONER'S REQUEST FOR PROTECTION FROM ANSWERING THE**
7 **FOLLOWING GENERAL FORM INTERROGATORIES:**

8 (All questions in this section withdrawn, not at issue)
9

10 1. **Question 2.12:** At the time of the incident (October 28, 2014), did you or any other
11 person have any physical, emotional, or mental disability or condition that might have
12 contributed to the occurrence of the incident.

13 Granted: _____ Denied: _____

14 Modified: _____

15 2. **Question 2.13:** Within 24 hours before the incident (October 28, 2014) did you or any
16 person involved in the incident use or take any of the following substances: alcoholic
17 beverages, marijuana, or other drug or medication or any kind (prescription or not)?

18 Granted: _____ Denied: _____

19 Modified: _____
20

21 3. **Question 11.2:** In the past 10 years have you made a written claim or demand for
22 worker's compensation benefits?

23 Granted: _____ Denied: _____

24 Modified: _____
25

26 4. **Question 12.4:** Do you or anyone acting on your behalf know of any photographs, films,
27 or videotapes depicting any place, object or individual concerning the incident or plaintiff's
28 injuries?

SDR0047000

Granted: _____

Denied: _____

Modified: _____

5. **Question 12.6:** Was a report made by any person concerning the incident (October 28, 2014).

Granted: _____

Denied: _____

Modified: _____

IV. RE: PETITIONER'S REQUEST FOR PROTECTION FROM ANSWERING THE FOLLOWING FAMILY LAW FORM INTERROGATORIES:

1. **Question No. 1** on Family Law Form Interrogatory requesting his social security number in the personal history question:

Granted: _____ Denied: ☒

Modified: The request is not relevant at present.

2. **Question No. 3** on the Family Law Form Interrogatory requesting information about other legal actions.

Granted: ☒ Denied: _____ (in part - criminal only)

Modified: Relevance was not established for non-criminal legal actions.

3. **Question No. 5** on the Family Law Form Interrogatory requesting financial information about support provided to others:

Granted: _____ Denied: ☒

Modified: Relevance has not been established.

4. **Question No. 6** on the Family Law Form Interrogatory requesting financial information about support received for others.

Granted: _____ Denied: ☒Modified: Relevance has not been established.

5. **Question No. 7** on the Family Law Form Interrogatory requesting financial information regarding Petitioner's Current Income.

Granted: _____ Denied: ☒ (Withdraw prejudice)Modified: Should Respondent file an RFO for 2030 fees, an I & E will be needed to be filed by both parties.

6. **Question No. 8** on the Family Law Form Interrogatory requesting financial information regarding petitioner's possible "other income."

Granted: _____ Denied: ☒Modified: (Same as above)

7. **Question No. 9** on the Family Law Interrogatory requesting tax returns.

Granted: _____ Denied: ☒Modified: Relevance has not been established.

8. **Question No. 18** on the Family Law Interrogatory requesting information on respondent's health conditions limiting his ability to work.

Granted: _____ Denied: _____ (Withdrawn)

Modified: not at issue

9. **Question No. 20** on the Family Law Interrogatory requesting information about attorney fees paid. (Withdrawn)

Granted: _____ Denied: _____

Modified: Not at issue

V. PETITIONER'S REQUEST TO QUASH THE FOLLOWING SUBPOENAS
SEEKING PERSONAL INFORMATION ABOUT PETITIONER

- *1. Subpoena for Petitioner's Verizon Records: Verizon phone and account records as requested on "Attachment 3" including all phone account information, call logs, text logs, payment information, triangulation information
- *2. Subpoena for Petitioner's LifeTime Fitness Records:
- Copies of any and all records of account information including but not limited to membership number, billing information, including but not limited to credit and or debit card on file for payment, billing addresses, contact information, including but not limited to mailing and email addresses, phone numbers for any and all accounts held by Jude Chabot from January 1, 2017 to date of production.
 - Copies of any and all records of communications with Jude Chabot including but not limited to phone call logs for August 19, 2017 for all locations including but not limited to the Folsom location located at 110 Serpa Way, Folsom CA 95630 and the Roseville location located at 1435 East Roseville Pkwy, Roseville CA.

DATED: 2/19/19

JUDICIAL OFFICER

Garen J. Horst

- This issue appears to be resolved as modified. Father has provided his phone bill for August 2017, which includes phone calls and text messages for 8/19/17
- This issue appears to be resolved, Mother may issue an SDT to LifeTime Fitness for "phone communications between Jude Chabot and LifeTime Fitness on 8/19/17 from any phone number other than 916 969 9309."

SUPERIOR COURT OF CALIFORNIA
IN AND FOR THE COUNTY OF PLACER

SDR0047000

CLERK'S CERTIFICATE OF MAILING (C.C.P. §1013a(4))

Case No.: S-DR-0047000

Case Name: Judge Chabot vs. Andrea Chabot

I, the undersigned, certify that I am the clerk of the Superior Court of California, County of Placer, and I am not a party to this case.

I mailed copies of the documents(s) indicated below

COURT RULING ON SUBMITTED MATTER

True copies of the documents were mailed following standard court practices in a sealed envelope with postage fully prepaid, addressed as follows:

I am readily familiar with the court's business practices for collecting and processing correspondence for mailing; pursuant to those practices, these documents are delivered to

Burke Law Firm, Inc.
Rebecca Esty-Burke
1107 Investment Blvd, STE. 180
El Dorado Hills, CA. 95762

Susan Ralston
A Professional Corporation
6532 Lonetree Blvd.
Rocklin, CA. 95765

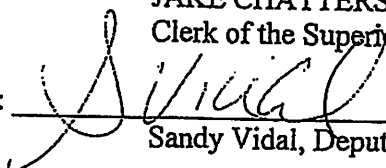
- ☒ the US Postal Service
☐ UPS
☐ FedEx
☐ Interoffice mail
☐ Other

On February 20, 2019 in Placer County, California.

JAKE CHATTERS
Clerk of the Superior Court

Dated: 2/19/19

by:


Sandy Vidal, Deputy Clerk

RECEIVED
JUN 13 2019
BY: _____