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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION THREE

In re the Marriage of  
PETER LIBERMAN and  
SUZANN GOLDBERG.

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PETER LIBERMAN,

Respondent,

v.

SUZANN GOLDBERG,

Appellant.

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B259847

(Los Angeles County  
Super. Ct. No. BD497839)

APPEAL from an order of the Superior Court of  
Los Angeles County, Stephen M. Moloney and Michael J. Convey,  
Judges. Affirmed.

Suzann Goldberg, in pro. per., for Appellant.

Mansouri Law Offices, Pedram Mansouri and  
Michelle Rolfs, for Respondent.

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## **INTRODUCTION**

Suzann Goldberg appeals from an order awarding attorney's fees as a sanction against her for impeding resolution of custody and visitation issues after the dissolution of her marriage to Peter Liberman. We affirm.

## **FACTS AND PROCEDURAL BACKGROUND**

On March 15, 2010, the California family court entered a judgment dissolving the parties' marriage. That judgment also set forth the parties' custody of and visitation with their two daughters. Specifically, the parties would share legal custody, with Goldberg having primary physical custody of the children in New York. Although Goldberg had primary physical custody, Liberman was awarded five extended holiday visits per year with his daughters in New York or Boston. In addition, during Goldberg's custodial time with the children, Liberman would have Skype webcam or telephone contact with the children three times per week; the judgment stated Goldberg was responsible for "ensuring that the children are available for the computer and/or telephonic communications" with Liberman on certain days and times.

Shortly after the judgment was entered, Goldberg attempted to restrict or deny Liberman visitation with the children based on allegations that he was mentally ill, addicted to drugs, and had molested or allowed his family to molest the children while they were in his care. After Goldberg was unsuccessful in obtaining an order from a California family court requiring that Liberman's visits with the children be monitored and that Liberman provide a drug test certifying no drug usage before any visitation, she turned to the New York family courts.

In 2011, Goldberg sought emergency orders from New York family court judges based on allegations that Liberman had sexually abused the children or placed them at risk due to his mental illness and drug abuse. Ultimately, a New York judge dismissed Goldberg's requests for emergency jurisdiction noting that there was "not one iota of proof" to support Goldberg's allegations against Liberman. At one point during these 2011 proceedings, Goldberg asked Liberman to relinquish his parental rights and allow her to change the children's last name from Liberman to Goldberg.

On September 12, 2011, Liberman filed an order to show cause in the California family court to modify the judgment's custody and visitation provisions, and obtain attorney's fees under Family Code section 271.<sup>1</sup> Liberman alleged that after the judgment was entered, Goldberg had "tried everything in her power to interfere with [his] visitation and destroy [his] relationship with [their] two young daughters." For example, on one occasion, Liberman flew to New York for his court-ordered visitation but Goldberg refused to allow Liberman to see the children. In addition, although there is no requirement in the judgment for drug testing or monitored visitation, Goldberg insisted Liberman could not see his daughters unless he took a drug test or a monitor was present. As for fees under section 271, Liberman sought \$58,676 to reimburse him for having to defend against Goldberg's false sexual abuse allegations and to combat her efforts to interfere with Liberman's visitation with the children. The day after Liberman filed his order to show cause, Goldberg filed her own order to show cause requesting a child

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<sup>1</sup> All further statutory references are to the Family Code.

custody evaluation and attorney's fees under sections 2030 and 271.

After several years of litigation, the court adopted the recommendations of the child custody evaluator. The court's order continued to provide Liberman with unmonitored visitation with the children, and increased the amount of time they would spend with him. During the hearing, the court stated that Goldberg "did not have any evidence" to establish that Liberman had abused drugs or alcohol, or to support her contention that Liberman was mentally ill. The court also noted that there was no evidence of sexual abuse, and Goldberg "needs to apologize for accusing [Liberman] of being a pedophile.'" Towards the end of the hearing, the court acknowledged that the parties' section 271 requests were still pending and said they would be resolved after it had an opportunity to review additional invoices.

The court heard extensive argument on the parties' requests for section 271 sanctions on May 2, 2014. Both parties were represented by counsel during this proceeding. Liberman emphasized that as a result of Goldberg's actions, he was forced to retain counsel in New York to defend him against Goldberg's unfounded allegations. Liberman submitted evidence that he had incurred more than \$125,000 in attorney's fees and costs associated with defending himself against Goldberg's claims and in an attempt to enforce his visitation rights with his children. For her part, Goldberg "admittedly used the wrong term, when she said molestation" but contended sanctions against her were not warranted. At the conclusion of the two-hour hearing, the court encouraged the parties to resolve the matter but indicated it would enter an order if they could not come to an agreement.

Since the matter was not resolved by the parties, the court scheduled another hearing for August 1, 2014 to rule on their sanctions requests. Both parties were represented by counsel during the August 1, 2014 proceeding. At the beginning of the hearing, the court made certain findings: the parties' judgment did not require monitored visitation although Goldberg insisted that it did; Goldberg's attempt to prevent Liberman from visiting with his children unless the visits were monitored was not reasonable; Goldberg interfered with Liberman's visitation with the children by making unfounded allegations he had sexually molested them; and, as a result of Goldberg's unproven allegations, Liberman incurred substantial attorney's fees. Because Goldberg's conduct frustrated settlement and caused Liberman's fees in the case to increase substantially, the court imposed \$20,000 in section 271 sanctions against Goldberg; those sanctions would be paid from the parties' 401(k) account after that account is divided. The court also denied Goldberg's competing request for sanctions against Liberman under section 271. The court then asked Liberman's counsel to prepare an order after hearing.

On December 23, 2014, the court entered the order after hearing stating that the \$20,000 awarded to Liberman from Goldberg's portion of the 401(k) "will be paid when the 401(k) is divided." Goldberg appeals from that order.

## **DISCUSSION**

Goldberg challenges the court's imposition of sanctions against her under section 271. She contends she does not have the ability to pay them, and the court's order was not supported

by substantial evidence.<sup>2</sup> Goldberg also contends the court abused its discretion when it conducted two hearings on days when she was allegedly out of the country. Goldberg’s contentions are meritless.

Section 271 provides in pertinent part as follows:

“(a) Notwithstanding any other provision of this code, the court may base an award of attorney’s fees and costs on the extent to which the conduct of each party or attorney furthers or frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation by encouraging cooperation between the parties and attorneys. An award of attorney’s fees and costs pursuant to this section is in the nature of a sanction. In making an award pursuant to this section, the court shall take into consideration all evidence concerning the parties’ incomes, assets, and liabilities.”

Section 271 “ ‘authorizes sanctions to advance the policy of promoting settlement of litigation and encouraging cooperation of the litigants’ and ‘does not require any actual injury.’ [Citation.] Litigants who flout that policy by engaging in conduct that

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<sup>2</sup> Goldberg also appears to argue that the court erred by not addressing her request for attorney’s fees under section 2030 before ruling on the parties’ requests under section 271. We note, however, that Goldberg’s appeal is limited to challenging the court’s section 271 order, not its deferral of her request for fees under section 2030. Regardless, the court did not err in determining it could not reach the issue of fees under section 2030 until the parties submitted updated income and expense declarations. Unlike an award made under section 271, an award made under section 2030 is based on economic need and ability to pay. (See *Burkle v. Burkle* (2006) 144 Cal.App.4th 387, 403 [filing income and expense declaration was not a requirement for an award of fees under section 271 which is in the nature of a sanction].)

increases litigation costs are subject to imposition of attorney fees and costs . . . .” (*In re Marriage of Corona* (2009)

172 Cal.App.4th 1205, 1225 (*Corona*.) Courts have imposed section 271 sanctions for delaying the resolution of child custody issues by taking unreasonable positions or making unsupported legal arguments. (See, e.g., *Parker v. Harbert* (2012)

212 Cal.App.4th 1172, 1178.) While the court must take into consideration evidence concerning the parties’ incomes, assets and liabilities, the only stricture imposed by section 271 is that the sanctions may not impose an unreasonable financial burden on the sanctioned party. (See *Burkle v. Burkle, supra*, 144 Cal.App.4th at p. 403.)

We review an order under section 271 for abuse of discretion, reversing it “only if, considering all of the evidence viewed most favorably in its support and indulging all reasonable inferences in its favor, no judge could reasonably make the order.” (*Corona, supra*, 172 Cal.App.4th at pp. 1225-1226; see *In re Marriage of Feldman* (2007) 153 Cal.App.4th 1470, 1478.)

Applying the above principles, the court did not abuse its discretion by imposing sanctions against Goldberg under section 271. First, the court plainly did not disregard evidence of Goldberg’s ability to pay the sanctions. Indeed, the court expressly stated that it considered the “parties’ income, assets, and liabilities,” and that the sanctions imposed on Goldberg could not be an “unreasonable burden” on her. Moreover, the court considered Goldberg’s probable inability to pay the sanctions out-of-pocket by ordering that the award was to be paid from Goldberg’s portion of the parties’ 401(k) pension plan after that asset was divided. The record, therefore, does not show that the award imposed an unreasonable burden on Goldberg.

Second, there is substantial evidence in the record to support the court's finding that Goldberg's conduct needlessly increased Liberman's attorney's fees and frustrated the policy underlying section 271. As we discuss above, the parties' judgment did not provide for monitored visitation or drug testing, yet that is exactly what Goldberg sought from the California and New York courts. Further, as noted by the California and New York courts, there was no credible evidence to support Goldberg's allegations that Liberman was mentally ill, a drug abuser, or a pedophile. As such, the court below could reasonably have determined that Goldberg purposely delayed and frustrated Liberman's visitation with his children, and thereby needlessly increased Liberman's attorney's fees.

We also reject Goldberg's assertion that the court abused its discretion by conducting certain hearings when it knew Goldberg was traveling in Mongolia. The section which follows this argument heading contains no legal analysis of any kind—nor does it contain a single citation to a case or statute. We decline to consider the issue further. (See, e.g., *Landry v. Berryessa Union School Dist.* (1995) 39 Cal.App.4th 691, 699-700 [issue that is not supported by pertinent or cognizable legal argument may be deemed abandoned].) We note, however, that Goldberg was represented by counsel during those hearings and her counsel never objected or requested a continuance based on Goldberg's absence.



**DISPOSITION**

The order is affirmed. Liberman shall recover his costs on appeal.

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LAVIN, J.

WE CONCUR:

ALDRICH, Acting P. J.

GOSWAMI, J.\*

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\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.