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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Placer)

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DEREK ALLEN TODD,

Appellant,

v.

SONDRA MARGARET HOFFMAN,

Respondent.

C068867

(Super. Ct. No.  
SDR36420)

Derek Allen Todd (father) appeals from a trial court order awarding Sondra Margaret Hoffman (mother) sole physical and legal custody of their minor child and permitting father limited, supervised parenting time. On appeal, father contends he was denied his right to a jury trial on the issue of domestic violence and was denied appropriate accommodations under the Americans with Disabilities Act. Father asks this court to reverse the trial court's judgment.

Finding none of father's claims to have merit, we affirm the judgment of the court.

## **BACKGROUND**

In August 2001 father filed a petition to establish parental relationship with the minor child. That petition sparked "intense episodes of litigation over the issues of custody and visitation," the most recent of which was a motion heard by the trial court on March 29, 2011.

At the hearing on March 29, both oral and documentary evidence was presented, including the testimony of mother, father, father's teenage son (Z.T.), and two other individuals. Based on Z.T.'s testimony, which the court found credible, the court concluded that "within the past 5 years [father] has perpetrated domestic violence against the sibling of the child whose custody [father] is seeking in this proceeding."

Accordingly, pursuant to the statutory presumption found in Family Code section 3044, subdivision (a), which father failed to overcome, the trial court ruled that awarding custody of the minor child to father would be detrimental to the minor. The court thus awarded sole legal and physical custody of the minor to mother. Father was given a detailed schedule for supervised parenting time, and the court ordered a portion of father's parenting time to be observed and evaluated by "one qualified to make observations and render opinions on the parent-child relationship between [the minor] and [father]." Father also was ordered to pay the costs related to the supervision and evaluation.

Included in the court's order were details regarding transportation to and from the supervised parenting time. The

court also left open the possibility for an increase in father's parenting time and a shift from supervised to unsupervised parenting time. Father appeals from this order.

## **DISCUSSION**

### **I**

Mother filed a motion to dismiss father's appeal, arguing his claims lack merit. "California courts have the inherent power to dismiss frivolous appeals." (*People ex rel. Lockyer v. Brar* (2004) 115 Cal.App.4th 1315, 1318, italics omitted.) We agree with mother that father's claims utterly lack merit and border on frivolous. Nevertheless, in the hope of settling father's claims once and for all, we will resolve this appeal on the merits. Mother's motion to dismiss is therefore denied.

### **II**

Father asks this court to take judicial notice of numerous pleadings contained within the trial court's file. Father argues these documents are relevant to his appeal because they evidence the trial judge's bias against him. We do not agree that father's perception of bias is relevant to either of his claims. Nor do we agree that the documents submitted support his claim of bias. Accordingly, we decline to take judicial notice of the documents submitted by father.

### **III**

Father contends that under article 1, section 16 of the California Constitution he was entitled to a jury trial on the issue of domestic violence. Father is wrong. "The right to a jury trial is not absolute. 'The right so guaranteed by the

Constitution is that of the right as it existed at common law or in those cases triable by a jury as a matter of right under the common law.' [Citation.]" (*In re Marriage of Gagne* (1990) 225 Cal.App.3d 277, 289.) "Family law proceedings and other actions as to which a right to jury trial did not exist at common law do not fall under this constitutional provision." (*Grafton Partners v. Superior Court* (2005) 36 Cal.4th 944, 951, fn. 2.) Accordingly, father was not entitled to a jury in the family court proceedings.

#### IV

Father also contends the court violated the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.) by ordering him to pay for the supervised visitation. Father's claim fails, however, because it is not supported by any meaningful argument or citations to relevant legal authority. (*People v. Hardy* (1992) 2 Cal.4th 86, 150 [a reviewing court need not address any issue purportedly raised without argument or citation to relevant authority]; *Guthrey v. State of California* (1998) 63 Cal.App.4th 1108, 1115-1116 [merely setting forth general legal principles without specifically demonstrating how they establish error is insufficient to raise a cognizable issue on appeal]; *Estate of Hoffman* (1963) 213 Cal.App.2d 635, 639 ["It is the duty of counsel to support his claim by argument and citation of authority. [A reviewing court is] not obliged to perform the duty resting on counsel".].)

**DISPOSITION**

The order of the trial court is affirmed. Costs are awarded to mother. (Cal. Rules of Court, rule 8.278(a)(5).)

\_\_\_\_\_ RAYE \_\_\_\_\_, P. J.

We concur:

\_\_\_\_\_ MAURO \_\_\_\_\_, J.

\_\_\_\_\_ HOCH \_\_\_\_\_, J.