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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re the Marriage of T.D. and NORMA M. GIBSON. _____ T.D. GIBSON, Appellant, v. NORMA MITCHELL, Respondent.	B294875 (Los Angeles County Super. Ct. No. BD494808)

APPEAL from orders of the Superior Court of Los Angeles County, Dean H. Hansell, Judge. Reversed in part with directions.

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Brot-Gross-Fishbein and Gary Fishbein for Plaintiff and Appellant T.D. Gibson.

Law Offices of Stephanie E. Story, Stephanie E. Story; Wilson Trial Group, and Dennis P. Wilson for Defendant and Respondent Norma Mitchell.

Plaintiff and appellant T.D. Gibson (Gibson) appeals from an October 2018 Family Code[1] section 2030 award of pendente lite attorney fees to his former wife, Norma Mitchell Gibson (Mitchell), to fund her legal expenses in litigating Gibson's request for a move-away order requiring S.G.—Gibson and Mitchell's minor daughter—to move to Gibson's residence in Atlanta, Georgia (the October order). Gibson challenges the October order on several bases.

First, he argues that, in assessing Gibson's ability to pay, the court failed to consider his monthly expenses and obligations, including payments to Gibson's own attorneys, and improperly viewed Gibson's real property assets as a source of funds. We see no error in the court's finding that Gibson had sufficient ability to pay to warrant an attorney fee award to Mitchell in some amount. We similarly reject Gibson's argument that, because Mitchell is able to pay some portion of her own legal expenses, the court abused its discretion in awarding her fees. In light of the significant income disparity between the parties—which Gibson does not dispute—section 2030 authorizes an award of attorney fees even if Mitchell has some ability to pay, in order to assure parity in the parties' legal representation. Although the extent of Mitchell's ability to pay may be a consideration in determining the amount of such an attorney fee award, that ability does not render the court's award an abuse of discretion.

Second, Gibson argues the trial court abused its discretion by requiring that, if Gibson requests a modification of child support in connection with his move-away petition, he must also fund additional discovery necessitated by such a request.

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[1] Unless otherwise indicated, all statutory references in text or citation are to the Family Code.

Gibson challenges this aspect of the October order as improperly speculative, arguing it is based on a motion no party has yet filed, and cannot account for the parties' financial situations at an unknown point in the future when such fees may come due. Had the court broadly restricted Gibson's ability to request a modification of child support for any reason, we might agree. But we interpret the fee precondition in the October order as applying only to a child-support modification request based on the success of the pending move-away petition. Thus, it is closely tied in time and substance to the move-away proceedings, in the context of which the court made the requisite section 2030 and 2032 findings regarding the parties' finances. These findings justify the fees awarded. Moreover, should Gibson succeed with his move-away petition and want to modify child support on that basis, nothing prevents him from requesting a modification of the court's fee award based on any changes in the parties' financial circumstances since the October order. Thus, as a practical matter, the court's order merely shifts the burden with respect to such fees: instead of Mitchell having to ask the court to award fees after Gibson files a request for child support modification based on the success of the pending move-away petition, Gibson must ask the court to revise its fee award before he files such a request.

Third, Gibson argues the October order awarded fees in an amount greater than what the court itself deemed to be reasonably necessary, and that the court's installment payment schedule was not manageable. We agree with Gibson that the court made a calculation error in assessing the total award amount, and instruct the trial court to revise the total fee award and installment payment amount as outlined below.

Gibson also challenges two decisions of the court related to the October order. Specifically, he appeals from a November 2018

order denying his ex parte application to set an expedited hearing on his motion for new trial regarding the attorney fee award (the November order), and a December 2018 order conditioning the court's further consideration of Gibson's move-away petition on his compliance with the court's attorney fee award (the December order). We find no error in the court's use of such a condition to secure Gibson's compliance with the October order and thereby prevent Gibson from enjoying an unfair advantage in the move-away proceedings.

We therefore reverse the October order solely to the extent it calculates the specific amount of attorney fees owed, but do not disturb the court's finding that an attorney fees award in some amount is just and reasonable under sections 2030 and 2032. The trial court is instructed to award a total of $99,655 in fees, reflecting the total number of hours listed in the operative attorney declaration supporting Mitchell's fee request, less the hours the court determined to be excessive or unnecessary, multiplied by the blended rate the court calculated for Mitchell's two attorneys. The court shall revise the installment payment amounts to reflect two monthly payments of $14,218, a third monthly payment of $14,219, and a fourth and final payment of $57,000, due two days before trial. In all other respects, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Gibson and Mitchell married on December 2, 2007 and separated on October 20, 2008. A judgment of dissolution was entered on August 20, 2009. That judgment provided that Gibson and Mitchell were to share custody of their one minor child, S.G., born July 11, 2007. Gibson owns a home in the Los Angeles area but now lives primarily in Atlanta, Georgia, with his current wife and their infant child. Mitchell lives in the Los Angele area.

Currently, when Gibson has physical custody of S.G., he either stays with her at his house in California, or flies her to Georgia to stay with him in his Atlanta residence.

A. *Gibson's Move-away Petition and Mitchell's Request for Attorney Fees*

On June 1, 2018, Gibson filed a request to modify custody and for a move-away order allowing S.G. to reside primarily with him in Atlanta, arguing this was in her best interests. Alternatively, Gibson requested an order for a custody evaluation to determine whether it is in S.G.'s best interests to relocate to Atlanta and, if so, what the custody schedule should be. Gibson alleged that Mitchell reduced and restricted his custodial time, violated the parenting plan coordinator's orders, and refused to allow him consistent contact with S.G. Gibson also alleged Mitchell filed a request for a domestic violence restraining order, which the court found to be factually unsupported, but which denied him visitation with S.G. for approximately 100 days before it was heard and decided.

Shortly after Gibson filed his move-away petition, Mitchell filed an in propria persona ex parte application for a temporary emergency order awarding her attorney fees to defend against the petition. Gibson opposed the amount of attorney fees Mitchell sought, claiming it was excessive and that he lacked the ability to pay.

B. *August 2018 Interim Award of Attorney Fees*

At the initial hearing on the matter, to avoid "hear[ing] a series of attorney fees motions on the move-away and related issues," the court ordered Mitchell to file an updated request for attorney fees and costs that was "comprehensive through and including the five to ten day long cause hearing and any post-hearing briefing on the move[-]away." The court further

ordered the parties to file updated income and expense declarations. Because the court did not anticipate ruling on Mitchell's request for fees for "some weeks," it ordered Gibson to pay an "interim attorneys fees award of $25,000 to [Stephanie E. Story,] counsel for [Mitchell], subject to reallocation."[2] In September 2018, Gibson did so.

C. *Parties' Respective Income, Expenses, and Attorney Fees*

a. *Gibson's income and expenses*

Gibson is an actor, recording artist, and entrepreneur. The updated income and expense statement Gibson filed on September 28, 2018 reflects that his monthly income varies due to the nature of his work, and that he "do[es] not currently have an acting job."

Nevertheless, Gibson's declaration reports an average monthly income of approximately $47,000. This is comprised of $22,083 in average monthly salary or wages, derived primarily from "one-off concerts," plus an average $25,881 per month from eight LLC's Gibson controls in connection with his work in the field of "[a]cting/[p]roduction/[p]ersonal [a]ppearances, etc." The declaration exhibits unaudited revenue and expense statements for these companies. Based on these statements, one of Gibson's LLC's had income for the first seven months of 2018 of $1,007,207 and expenses of $467,216. Another shows $35,545 in income and $410,209 in expenses (for a net loss of $375,022). The other entities show comparatively modest profits or losses. Gibson's income and

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[2] Mitchell filed her initial ex parte request for attorney fees in propria persona, but her attorney of record, Stephanie E. Story, appeared at the initial hearing on the matter.

expense declaration reflects a significant drop in income since 2014, at which time the court found his monthly income to be $209,324.

Gibson owns and maintains a home in Woodland Hills where he lives when he is in California to visit S.G., as well as a home in Atlanta that was purchased in 2018 for around $4 million. Gibson's declaration lists $105,185 in his bank accounts, although during the October 31, 2018 hearing, his counsel stated that this amount had since been spent. The declaration also lists real property—presumably his homes in Atlanta and Woodland Hills, as the record references no other real property—of $1,872,500 net worth. He does not provide information about any personal property assets.

Gibson's updated declaration lists estimated and actual monthly expenses totaling $132,947. Gibson pays Mitchell $10,690 a month in child support. The monthly expenses listed in his income and expense declaration also include $14,815 for mortgage payments, $7,300 for property taxes, $4,629 for homeowner's insurance, $16,486 for maintenance and repair of his homes, $4,629 for health care, $7,591 for childcare, $7,818 for groceries, $5,689 for utilities, $2,348 for clothes, and $7,847 for entertainment and vacations. Gibson also lists a $20,000 per month in installment payment obligations to pay off $110,00 in credit card debt, $30,000 in unpaid legal fees, and $65,000 in other debts.

b. *Mitchell's income and expenses*

Mitchell's updated income and expense declaration reports that she is currently unemployed, but has received vocational training as a "life coach" and in "clinical hypnosis, mindfulness." (Capitalization omitted.) In the dissolution proceedings, the court determined that Mitchell could work and earn $2,375 per month, and encouraged her to seek employment. Although her declaration

does not so indicate, it is undisputed that she receives $10,690 per month in child support from Gibson. Mitchell's declaration reports that she owns no real property and estimates her personal property to be worth $10,000, comprised primarily of art she has painted and could potentially sell. The monthly expenses in her declaration include $2,600 in rent for an apartment, $1,000 for childcare, $700 for groceries, $250 for dining out, $150 for utilities, and $300 for phone and internet, etc. Mitchell further indicated that she is paying $1,500 monthly to pay down debts from a combination of student loans, $90,000 she owes her lawyers, $10,755 she owes on her Toyota Prius, and the $5,300 balance on her credit card.

c. *Operative attorney declaration in support of Mitchell's fee request*

Per the court's directive, Mitchell supported her request for attorney fees with an updated declaration of her counsel, Stephanie Story, setting forth the need for the fees, qualifications of counsel, and a chart itemizing specific anticipated legal work through trial and related fees. This declaration was supplemented and corrected, and the operative version is dated October 9, 2018 (operative Story declaration). The operative Story declaration describes $170,890 in anticipated fees through trial of the move-away petition, for services to be performed by Mitchell's attorneys Stephanie Story and Dennis Wilson. It also includes an itemized account of $34,416.67 in attorney fees already billed, $25,000 of which Gibson paid (per the court's interim fee order) and $5,000 of which Mitchell paid. None of the work Mitchell's counsel had already performed (per an invoice attached to the declaration) appears in the description of future work Story anticipated would be necessary going forward.

D. *October Order*

On October 31, 2018, the court held a hearing and took the issue of attorney fees under submission. On that same date, the court issued an order requiring Gibson to pay Mitchell's counsel a total of $147,140 in attorney fees. The court based this order on its finding that there was "a substantial income disparity between the parties and inability to pay for counsel." The court explained that, even taking into consideration that Gibson has substantial outstanding "legal bills and mortgages and other expenses on his two homes and that his acting work is episodic with no acting jobs currently," and even if one supplements Mitchell's declaration with the $2,375 in imputed income the court had previously calculated, the record still "demonstrates a significant disparity in income levels."

The court further found that with "almost two million dollars in fixed and liquid assets[,] [Gibson] also has the ability to obtain funds," whereas it is undisputed that Mitchell "has no assets." The court also took into "consideration the fact that [Gibson] is and has been fully represented by counsel throughout the case," explaining that the "law does not allow one party to claim inability to pay for counsel for the other side when it has retained counsel."

The court made several explicit findings regarding whether the requested fees were reasonably necessary to defend the proceeding. First, it concluded that a fee award was necessary generally, as the upcoming trial was "occasioned by [Gibson's] move[-]away petition," and Gibson "indicated that the move[-]away hearing will require five to ten days of testimony with five or six witnesses that he intends to call in his case . . . [and] he plans on introducing 100 documents. This will reasonably require [Mitchell] to conduct depositions of [Gibson's] proposed witnesses and seek

relevant documents," and Mitchell estimated that "she will call as many as ten witnesses to testify and may seek to introduce as many as 100 documents." The court further considered that the case involved "a complex issue about child custody and visitation," the "significant" size of the child support amounts at issue, and that "[t]he attorney skill required and employed is high."

Next, the court considered the reasonableness of the specific fee amount requested. The court found the rates of Mitchell's attorneys—$300 per hour for Story and $650 per hour for Wilson—to be reasonable, given their respective experience levels and skills. The court also considered the necessity of the specific work and associated hour estimates itemized in a chart at paragraph 22 of the operative Story declaration. The court found that a total of 51 hours listed in the chart were unnecessary or unreasonable for various reasons, and deducted from Mitchell's initial fee request the amount of fees the court concluded those unnecessary 51 hours would cost, resulting in a total fee award of $147,140, down from Mitchell's requested $170,890.

Thirty-one of the 51 hours the court concluded should not provide a basis for a fee award involved financial discovery, which the court deemed irrelevant to the move-away petition. Still, the court ordered that, if Gibson's pending move-away petition is successful, and if he seeks a modification of child support based on that successful petition, he must pay attorney fees necessary to facilitate financial discovery, which the court calculated as $14,725.

The court ordered Gibson to pay the $147,140 fee award in three monthly payments of approximately $30,000 each, beginning December 1, 2018, and a fourth payment of $57,000 "[t]wo court days before trial is scheduled to begin." Because the fourth payment reflected attorney time spent during trial, the court ordered that, if a trial did not take place, the last payment need

not be made. Mitchell's counsel was to return any unused portion of the fee award to Gibson.

E. *New Trial Motion*

On November 9, 2018, Gibson filed a notice of his intent to move the court for a new trial on Mitchell's request for attorney fees, granted via the October order. On November 19, Gibson filed a memorandum of points and authorities and declaration in support thereof. Through his motion, Gibson challenged the October order with the same arguments he now raises on appeal.

On November 26, 2018, Gibson filed an ex parte request for an order setting his motion for new trial for an expedited hearing and staying enforcement of the October order pending the outcome of that motion, claiming inability to pay the award.

F. *November and December Orders*

In a November 26, 2018 minute order, the court denied Gibson's ex parte request for an expedited hearing on his motion for new trial, finding no exigent circumstances to justify ex parte relief. The court further noted that a motion for a new trial was not a remedy available to Gibson, as there had been no "trial" on the attorney fees issue, and that, to the extent there were any new facts or changes in the law or other circumstances, Gibson should have filed a motion for reconsideration.

On December 10, 2018, Mitchell filed an ex parte application to stay the proceedings and for sanctions, asserting that Gibson's counsel had failed to communicate about attorney fee payments due, and that Gibson had failed to make the first installment payment of $30,000, and instead mailed a check for $5,000 without explanation.

The next day, Gibson filed an ex parte application for order vacating the November order, setting Gibson's motion for new trial

for a hearing pursuant to Code of Civil Procedure section 660, and staying the award of attorney fees in the October order, pending the resolution of Gibson's motion for new trial.

The court ruled on both parties' December 2018 ex parte applications in the December order. As to Gibson's application, the court again found no exigent circumstances that could justify ex parte relief and denied the application. The court further "note[d] that [the application] raise[d] no issues or facts different from those raised in the ex parte application brought by [Gibson] on November 26, 2018," and that "[i]f the [c]ourt were to consider [Gibson's] motion for a new trial it would be denied." As to Mitchell's application, the court ordered that "[i]f [the first payment] of the [October order] is not complied with by December 17, 2018, [Gibson's move-away request] is off calendar," and that "[s]imilarly[,] if any future payment required by the [October order] is late by more than 24 hours then the move[-]away RFO [(request for order)] is deemed off calendar."

G. *Gibson's Writ Petition and Appeal*

On December 27, 2018, Gibson filed a Petition For Writ of Prohibition, Mandate, or Other Appropriate Relief and Request for Immediate Stay, challenging the October and December orders, which this court summarily denied. Gibson also filed a timely notice of appeal from the October, November, and December orders.

DISCUSSION

I. Applicable Law: Section 2030 Attorney Fees

Section 2030 requires that "in any proceeding subsequent to entry of a related judgment, the court shall ensure that each party has access to legal representation, including access early in the proceedings, to preserve each party's rights by ordering, if necessary based on the income and needs assessments, one party . . . to pay to the other party, or to the other party's attorney, 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." (§ 2030, subd. (a)(1).) "The public policy purpose behind section[ ] 2030" is " ' "leveling the playing field" and permitting the lower-earning spouse to pay counsel and experts to litigate the issues in the same manner as the spouse with higher earnings.' " (*In re Marriage of Tharp* (2010) 188 Cal.App.4th 1295, 1315 (*Tharp*); accord, *In re Marriage of Falcone & Fyke* (2012) 203 Cal.App.4th 964, 974 (*Falcone & Fyke*) [goal of section 2030 attorney fee award is "to ensure parity of legal representation in the action"].)

A fee award under section 2030 must be "just and reasonable under the relative circumstances of the respective parties" (§ 2032, subd. (a)), and accordingly "should be the product of a nuanced process in which the trial court should try to get the 'big picture' of the case." (*Alan S. v. Superior Court* (2009) 172 Cal.App.4th 238, 254 (*Alan S.*); *In re Marriage of Dietz* (2009) 176 Cal.App.4th 387, 406 ["The proper legal standard for determining whether to award fees . . . [requires] the trial court . . . to determine how to apportion the overall cost of the litigation equitably between the parties under their relative circumstances."].) A court may not simply require the party with more means to cover the other

party's attorney fees. (*Alan S., supra,* 172 Cal.App.4th at p. 258 [pendente lite fee award requires "a coming to grips by the trial court with the totality of circumstances bearing on a fee order, not just a quick ascertainment of whose income is higher"].) Rather, the court must "take into consideration the need for the award to enable each party, to the extent practical, to have sufficient financial resources to present the party's case adequately, taking into consideration, to the extent relevant, the circumstances of the respective parties described in Section 4320." (§ 2032, subd. (b); see § 4320 [addressing factors relevant to assessing spousal support].) The parties' circumstances described in section 4320 " ' "include assets, debts and earning ability of both parties, ability to pay, duration of the marriage, and the age and health of the parties" ' " (*In re Marriage of Rosen* (2002) 105 Cal.App.4th 808, 829 (*Rosen*), quoting *In re Marriage of Duncan* (2001) 90 Cal.App.4th 617, 630), as well as "[a]ny other factors the court determines are just and equitable." (§ 4320, subd. (n).)

If the court finds a "disparity in access to funds to retain counsel" and that "one party is able to pay for legal representation of both parties," an award of attorney fees is mandatory. (§ 2030, subd. (a)(2) ["shall award" where findings of income disparity and ability to pay]; see *In re Marriage of Morton* (2018) 27 Cal.App.5th 1025, 1049–1050 (*Morton*).)

The court has broad discretion to determine the amount of attorney fees "reasonably necessary," although it must "actually exercise[] that discretion, and consider[] the statutory factors." (*In re Marriage of Braud* (1996) 45 Cal.App.4th 797, 827.) In so doing, courts apply the same statutory standards that govern the threshold decision of whether any award is appropriate. (See §§ 2030, subd. (a), 2032, subd. (b).) Courts also consider the complexity and nature of the litigation, skills and tasks required

therefor, the reputation and efforts of counsel involved, and the cost of work for which counsel has already billed. (See *In re Marriage of Cueva* (1978) 86 Cal.App.3d 290, 296.)

II. Standard of Review

We review awards of attorney fees for an abuse of discretion. (*In re Marriage of Sullivan* (1984) 37 Cal.3d 762, 768–769; *In re Marriage of Marsden* (1982) 130 Cal.App.3d 426, 446.) " 'Exercises of legal discretion must be grounded in reasoned judgment and guided by legal principles and policies appropriate to the particular matter at issue.' " (*People v. Superior Court (Alvarez)* (1997) 14 Cal.4th 968, 977.) Because discretionary authority "must be exercised within the confines of the applicable legal principles" (see *Sargon Enterprises, Inc. v. University of Southern California* (2012) 55 Cal.4th 747, 773), in reviewing an award of section 2030 attorney fees, we must also be cognizant of the statute's mandatory provisions. (See *Falcone & Fyke*, *supra*, 203 Cal.App.4th at p. 975; *Morton, supra,* 27 Cal.App.5th at p. 1050.)

III. Arguments Regarding the October Order

A. *Gibson's Ability to Pay*

Gibson does not challenge the court's finding that a significant income disparity exists between the two parties. Rather, he challenges the court's finding that Gibson had the ability to pay the amount of fees awarded. He argues that, in determining his ability to pay, the court "failed to take into account [his] expenses" and other monthly obligations. Along these same lines, he argues that enforcing the October order would render him unable to afford his own counsel.

"Expenses are relevant" to the analysis that section 2030 requires. (*Alan S., supra*, 172 Cal.App.4th at p. 253, italics omitted;

see § 2032, subd. (b) ["[f]inancial resources are only one factor for the court to consider in determining how to apportion the overall cost of the litigation equitably between the parties under their relative circumstances"]; § 4320, subd. (e) [directing the court to consider parties' "obligations and assets"].) In assessing both possible disparity in income and the parties' respective abilities to pay, a court should consider the amount of income remaining after each party has satisfied his or her other obligations, including child or spousal support, and take into account that the paying party should be able to afford his or her own counsel. (See *In re Marriage of Keech* (1999) 75 Cal.App.4th 860, 867–868 (*Keech*); *Rosen, supra*, 105 Cal.App.4th at p. 830 [abuse of discretion for court to base fee award to wife on a determination regarding husband's ability to pay that failed to account for husband's spousal support obligation].)

In the October order, the court expressly states that it considered Gibson's income and expense declaration, as well as his hearing testimony regarding expenses. We reject Gibson's assertion that the court considered such evidence only "for [the] purposes of determining whether there was a disparity of income between the parties," and not "in determining [Gibson's] ability to pay." (Boldface omitted.) That the order does not expressly state the court considered this evidence in making its ability to pay finding does not suggest the court ignored it.

Gibson next argues that the fee award in the October order would render him unable to pay his own monthly expenses—including his own legal fees in this case. He relies on *Alan S., supra,* 172 Cal.App.4th 238 and *Keech, supra,* 75 Cal.App.4th 860. Gibson's reliance on this authority is misplaced.

First, in both of these cases, the court erred in large part by assessing ability to pay without taking into consideration the paying party's expenses and other obligations, including

the ability to afford one's own counsel. (See *Keech, supra,* 75 Cal.App.4th at p. 868 ["the record does not sufficiently reflect, for example, any consideration of the husband's needs to pay his own outstanding legal fees during that period" (italics omitted)]; *Alan S., supra*, 172 Cal.App.4th at pp. 254–255 [rejecting as a "truncated approach" an analysis that failed to take into consideration several of husband's monthly expenses and obligations, as well as his lack of additional assets].) As discussed above, the court here did consider Gibson's monthly expenses, obligations, and legal fees.

Second, in both *Keech* and *Alan S.*, there existed the "paradoxical possibility" that fees the court awarded in an effort to assure "a fair hearing with two sides equally represented" might "effectively deprive the paying party of the ability to present his or her own case." (*Alan S., supra,* 172 Cal.App.4th at pp. 251–252; see *Keech, supra,* 75 Cal.App.4th at p. 868.) This possibility arose in both cases based on circumstances that simply do not exist here. In *Alan S.*, for example, the court ordered husband to pay attorney fees despite, inter alia, "[husband's] $800-plus-a-month deficit, apparently financed by credit cards" and failed to take into account "the inability of [husband] to be able to afford to see his children . . . ; the apparent fact that [husband] had already spent all of his liquid assets ($25,000) on an attorney; [and husband's] $1,800 a month child support payments." (*Alan S.*, *supra*, at p. 255.) The court also failed to consider "the total assets of the parties, including whether either [party] has any equity in the houses in which they currently live," despite a record suggesting they did not. (*Ibid.*) Similarly, the pendente lite fee order in *Keech*, when taken together with the husband's spousal and child support obligations, tax liability, and $700 in rent for his one-bedroom apartment, left husband $93 per month to pay for all remaining

living expenses and his own attorney fees. (*Keech*, *supra*, at p. 868.) The record suggested husband had no equity in real property and "no other source of funds from which the fees could be paid." (See *id.* at p. 864.) Thus, the monthly deficits at issue in *Alan S.* and *Keech* resulted from expenses that could not—or at least could not easily—be reduced, such as child support obligations or rent on a modest apartment, and the husbands ordered to pay had no additional assets with which to pay the fees ordered. As a result, the lower courts in these cases erred by failing to consider the possibility that their fee awards left the husbands no way of funding basic living expenses and/or their own attorney fees.

Not so here. Even if Gibson does not have enough monthly income after expenses to cover the revised (and lower) fee award we instruct the trial court to enter upon remand, unlike the husbands in *Keech* and *Alan S.*, Gibson has at least some "ability to obtain funds," because he has, according to his updated income and expense declaration, approximately $1.8 million in equity in his homes and, at the time he signed his declaration, approximately $100,000 in the bank.[3] Also, unlike *Keech* and *Alan S.,* Gibson is not powerless to reduce a monthly shortfall—at least to some extent—by adjusting discretionary expenses.

Gibson implies that he actually does not have assets from which he could pay his obligations. Specifically, Gibson argues the trial court should not have considered the equity in his real property as a potential payment source in assessing his ability to pay, because accessing it would "require [Gibson] to borrow funds" despite the lack of evidence that Gibson would qualify to do so.

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[3] We note, however, that Gibson's counsel represented to the court at the October 31, 2018 hearing that this $100,000 had been depleted since executing the declaration.

We disagree. "In assessing . . . ability to pay, the family court may consider all evidence concerning the parties' current incomes, assets, and abilities, including investment and income-producing properties." (*Tharp*, *supra*, 188 Cal.App.4th at pp. 1313–1314; accord, *Rosen, supra,* 105 Cal.App.4th at p. 829; see § 2032, subd. (c) [a court "may order payment of an award of attorney's fees and costs from any type of property, whether community or separate, principal or income"]; § 4320, subd. (c) [enumerating as relevant factor "[t]he ability of the supporting party to pay . . . taking into account the supporting party's earning capacity, earned and unearned income, assets, and standard of living"].) At least one court has more specifically held that equity in a home is among the assets a court may consider. (See *Alan S., supra,* 172 Cal.App.4th at p. 255 ["the total assets of the parties, including whether either [party] has any equity in the houses in which they currently live" is a "relevant factor[ ]" in section 2030 analysis].) Moreover, "[n]either [section 2032] nor any other authority prohibits the trial court from making orders that require a party to borrow money under appropriate circumstances." (*In re Marriage of Hofer* (2012) 208 Cal.App.4th 454, 460 (*Hofer*).) Such "appropriate circumstances" may *not* exist where, for example, a fee award leaves a party "near penniless" and "in a position of having to borrow for his living expenses." (See *In re Marriage of Mosley* (2008) 165 Cal.App.4th 1375, 1386–1387 [spousal support order "exceeded the bounds of reason" in that it "require[d] [husband] to pay nearly 100 percent of his take-home pay in support payments" despite lack of other assets or savings].) But the record before us reflects nothing of the sort. Gibson is not "near penniless," even if the bulk of his declared assets are not liquid. Neither *Keech*, nor *Alan S.*, nor anything in section 2030 or related case law permits him to avoid paying attorney fees simply because he is unwilling (rather than unable)

to liquidate or borrow against available assets. (See *Hofer*, *supra*, 208 Cal.App.4th at pp. 460–461 [distinguishing *Mosley* and noting it "does not stand for the proposition that as a matter of law there is always a miscarriage of justice where an order requires a party to borrow," but rather that "under the circumstances of that case, the order worked a miscarriage of justice"].)

We recognize that the equity in Gibson's real property may not be a source of funds *immediately*—liquidating such assets may take time. But the first three monthly installment payments, as modified as a result of our opinion, are less than $15,000 each, and the majority of the award is not due (if at all) until two days before trial, which is at least four months after the first installment. The record supports that Gibson could reduce his discretionary monthly expenses as a source of additional funds to cover some of these smaller installment amounts due in the short term. Thus, although we recognize some limitations on Gibson's ability to pay—and disagree with Mitchell's characterization of his income as "[u]nlimited"—the record reflects that he has sufficient ability to pay to justify an award of attorney fees in the manageable installments outlined below. (Capitalization and boldface omitted.)

B. *Mitchell's Ability to Contribute to Her Own Legal Fees*

Gibson further argues that the court "failed to take into account . . . [Mitchell's] imputed income" of $2,375 per month in assessing Mitchell's ability to pay her own attorney fees. Gibson argues that, between this imputed income and the amount she receives in child support, she has the ability to pay "at least some part of her own attorney fees." As a threshold matter, nothing in the court's order suggests it did not consider Mitchell's imputed income; to the contrary, it specifically references the "August 24, 2014 imputation of income order." More importantly, even if

Mitchell has the ability to pay some portion of her own attorney fees, this does not prevent or undermine the court's finding that a vast disparity exists between the parties' respective incomes and assets. "The fact that the party requesting an award of attorney's fees and costs has resources from which the party could pay the party's own attorney's fees and costs is not itself a bar to an order that the other party pay part or all of the fees and costs requested." (§ 2032, subd. (b); see *ibid.* ["Financial resources are only one factor for the court to consider in determining how to apportion the overall cost of the litigation equitably between the parties under their relative circumstances."].) Thus, " '[a] disparity in the parties' respective circumstances may itself demonstrate relative "need" even though the applicant spouse admittedly has the funds to pay his or her fees.' " (*In re Marriage of Drake* (1997) 53 Cal.App.4th 1139, 1167, italics omitted; see *In re Marriage of O'Connor* (1997) 59 Cal.App.4th 877, 883–884 [trial court acted reasonably in awarding husband $450,000 in pendente lite attorney fees despite his having approximately $4 million in assets at outset of litigation, given wife's $40 million in assets]; *In re Marriage of Sorge* (2012) 202 Cal.App.4th 626, 659–660, 662–663 (*Sorge*) [even though wife had " 'ample resources' " of her own, no abuse of discretion in awarding her pendente lite fees given "huge disparity" in parties' respective assets].) In short, section 2030 "is concerned with *relative* need" as between the two parties, given its focus on assuring parity and a level playing field. (*Sorge, supra*, at pp. 662–663.)

Thus, neither Mitchell's imputed income, nor her possible ability to contribute to her attorney fees, provide a basis for concluding the trial court abused its discretion in finding that a fee award to Mitchell in some amount was "just and reasonable under the relative circumstances of the respective parties." (§ 2032,

subd. (a).) Of course, that both Mitchell and Gibson have some ability to pay may be a consideration in determining the fee award *amount* that is just and reasonable under the circumstances, because requiring that a requesting spouse with some ability to contribute to his or her own legal expenses actually do so creates incentives for all parties and their counsel to act reasonably in litigating the matter.

C. *Reasonableness of Fee and Installment Amounts*

Gibson further argues that, even assuming the court correctly concluded Gibson should pay any attorney fees under section 2030, it abused its discretion in determining the amount of fees awarded. He does not challenge the award amount as generally unreasonable, but rather raises three specific errors he argues the court made in calculating the award and installment amounts. We address each of these arguments below.

1. *Adjustment based on August 2018 interim award*

Gibson argues that the court should have "credit[ed]" Gibson with the $25,000 he has already paid pursuant to the August 2018 interim award, and reduced the award in the October order by that amount. But, as of the date of the operative Story declaration, Mitchell's attorneys had used the $25,000 interim award to pay for the $34,416.67 in legal work they had already performed. The operative Story declaration sets forth $170,890 in estimated future attorney fees for work separate from and in addition to the work Mitchell's counsel had already done. Only these estimated *future* fees form the basis for the fee request the court granted (with modifications) in the October order. The court thus did not err by failing to account for the $25,000 interim award in calculating the fees to award Mitchell for future legal work in the October order.

2. *Calculation errors regarding attorney trial time*

To understand Gibson's next argument, one must understand the approach the court took in calculating the fee award amount at issue.

a. *Court's calculation approach*

Mitchell based her $170,890 fee request on the anticipated work itemized in a chart in the operative Story declaration, which lists the time associated with various tasks, as well as the attorneys who will perform them. In the October order, the court concluded certain anticipated attorney tasks listed in that chart either were not reasonably necessary, or could be completed in less time than the chart indicated. Specifically, the court identified a total of 51 hours for which it would not award fees. Accordingly, it calculated the legal fees associated with these 51 hours, and deducted that fee amount from the $170,890 in fees Mitchell had requested.

In calculating such deductions from the requested amount, "the [c]ourt used the ratio of Ms. Stor[y's] time relative to Mr. Wilson's time resulting in a $475 average" hourly rate and "use[d] that average figure throughout" the order. The October order awards the amount that remained from the requested $170,890, after the court deducted the amounts it calculated in this manner.

The trial court used its averaged $475 hourly rate based on a view that, in the operative Story declaration, "[Mitchell] does not break down how much of each [of her two] attorney's time will be used" in the time entry for each task. But the declaration *does* indicate which attorney or attorneys are anticipated to bill the hours listed for particular tasks, as well as the individual rate each attorney charges. Specifically, a column entitled "Worker"

indicates either "SS" (Stephanie Story) or "DWP" (Dennis Wilson), or "SS/DWP," and a column entitled "Rate" indicates "[$]300" (for entries with only "SS" listed as the "Worker"), [$]650 (for entries with only "DWP" listed as "Worker"), or "[$]300/[$]650" for entries with "SS/DWP" listed as the "Worker[s]." (See Appendix A.)[4]

Interpreting the number of hours listed in a "Time" column entry associated with a task attributed to "SS/DWP" as the *combined* number of hours spent by *both* attorneys—as the court appears to have done—is inconsistent with the subtotals of hours the chart provides. Namely, the subtotals of hours for each attorney at the end of the chart, when added together, exceeds the sum of all the hours listed alongside each task in the chart. This is only consistent with the number of hours listed for work to be performed by "SS/DWP" reflecting that SS and DWP *each* spend the number of hours listed.

Thus, because the operative Story declaration bases Mitchell's $170,890 fee request on this chart, that requested amount is based on entries indicating "SS/DWP" as the "Worker[s]" being billed at a $950 per hour rate—the $300 per hour rate for Story plus the $650 per hour rate for Wilson—*not* the $475 per hour rate calculated by the court.[5]

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[4] To facilitate clarity in our discussion of this chart, a copy thereof is attached as an appendix to this decision.

[5] Similarly, although it does not affect the argument Gibson raises on appeal, Mitchell's fee request amount is also based on entries listing only SS or DWP being billed at either $300 or $650, not $475. Yet, in calculating deductions from the total fee request for activities to be performed by only one attorney, the court employed its $475 average hourly rate.

b. *Gibson's argument*

Gibson is correct that the court's approach to calculating the fee award amount, combined with the court's incorrect interpretation of the operative Story declaration chart, led the court to inadvertently include $114,000 worth of fees for attorney trial time in the total amount of fees the October order awards, even though the order also states that it is awarding only $57,000 in such fees.

Specifically, the 120 hours of attorney trial time listed in the operative Story declaration chart are attributed to "SS/DWP." Thus, Mitchell's $170,890 total fee request—which, again, the court used as a baseline in calculating the October order award—included $114,000 in trial time fees (both Story and Wilson working, resulting in a $950 per hour rate, multiplied by 120 hours). In the October order, the court stated it was awarding only $57,000 in trial time attorney fees, based on the court's $475 blended rate multiplied by 120 hours. But the court did not deduct from the total fee award amount the difference between the $114,000 requested and the $57,000 the court stated it was awarding. In this way, the October order awards $114,000 in trial time attorney fees although it states that it is awarding only half that ($57,000).

The trial court certainly has broad discretion to determine what constitutes a reasonable hourly rate, and what number of hours may reasonably form the basis for a fee award. The calculation error Gibson identifies, and which our opinion reverses, occurred not as a result of any abuse in determining either of these metrics. Rather, it occurred as a result of the court using as a baseline the $170,890 fee request amount the Story declaration calculated based on one interpretation of the hours chart, but calculating deductions therefrom using a different interpretation of

the hours chart. This disconnect, rather than any error in the rate or number of hours the court deemed reasonable, generated the calculation error we now reverse.

We therefore calculate a revised fee award working only with the number of hours the court deemed reasonable and the hourly rate the court deemed reasonable, thereby avoiding the disconnect from which the court's deduction method suffered. The operative Story declaration lists 260.8 hours of time, and the court concluded that 51 of those hours should be deducted, resulting in a total of 209.8 hours of attorney time for which to award fees. The court further concluded that a blended rate of $475 per hour was appropriate and reasonable. Multiplying that $475 hourly rate by 209.8 hours results in a $99,655 fee award.

We therefore reverse the October order, but solely to the extent that it calculates a specific total fee amount and installment payment amounts. Upon remand, the trial court shall award fees in the amount of $99,655, payable in installments. The first three payment installment amounts and deadlines are as follows: $14,218 due a month after the entry of the court's revised order, $14,218 due a month after that, and $14,219 due a month after that. The final installment payment remains $57,000, reflecting fees for attorney trial time, and remains due two days before trial begins. This revised installment payment structure adopts the same approach the trial court employed, but applies it to the lower, corrected award amount.

3. *Installment amounts*

Gibson argues that, even if the court did not err in the overall amount of fees ordered, "[r]equiring [Gibson] to pay some $30,000 per month to [Mitchell]" does not reflect such manageable installments, given his average monthly income of approximately $48,000 and his almost $11,000 monthly child support obligation. (See *Keech, supra,* 75 Cal.App.4th at p. 868 [court may require that a pendente lite attorney award be payable in manageable installments, if necessary to assure a fee amount awarded is just and reasonable to both parties].) Gibson's argument is moot in light of our decision revising the installment payment amounts, which we conclude to be manageable in light of Gibson's income, expenses, obligations, and assets, as discussed above. We need not consider whether the earlier installment amounts were manageable.

D. *Speculative Future Fees*

In the October order, the court concluded that financial discovery was not immediately relevant to Gibson's move-away petition, given that he had not requested modification of child support in connection with the petition. The court therefore did not order Gibson to pay fees associated with financial discovery as part of the overall fee amount awarded. Rather, it ordered that, if and when Gibson seeks a modification of child support based on the success of his pending move-away petition, he must pay fees to fund the financial discovery such a request would necessitate. The court set a specific amount for such fees, based on estimates in the operative Story declaration, applying the court's $475 per hour average rate.

Gibson argues that, in "predetermining the amount of fees which the court would award based on future, speculative discovery motions," the court "improperly prejudged the right to fees on

matters which were not pending" and "predetermined the amount of such fees and responsibility for them." Gibson cites no law to support this argument.

As a preliminary matter, that the fee award is based on a motion not yet filed is not a sufficient basis for finding error. Section 2030 fee awards necessarily require a court to make educated estimates regarding work not yet performed on tasks not yet undertaken. The statute leaves it in the discretion of the trial court to determine what legal work is reasonably necessary, based on several factors. The October order reflects that the court considered these factors. To the extent the fee estimates for financial discovery prove incorrect—either because they were calculated before a modification request had been filed or for some other reason—the court's order requires that any unused funds be returned to Gibson.[6]

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[6] In his reply brief and at the hearing before this court, Gibson raised a similar argument regarding the October order's award of fees for motions to compel discovery, due only if and when Mitchell files such a motion and the court deems it to be meritorious. Specifically, the court acknowledged that it was not clear whether a motion to compel discovery would be necessary, but weighed this against the fact that "it is not cost effective to either party to have to continually seek attorneys' fees in successive RFO's." On this basis, the court ordered that "if it is necessary to file a motion to compel and if the [c]ourt deems the motion not to be frivolous then it will allow $2850 in attorneys' fees (but will require a declaration from counsel about the time spent on preparing and arguing the motion)." In addition, the court denied Mitchell's request for fees to fund a second motion to compel further discovery, to be filed in "Nov/Dec"—and thus potentially after the discovery deadline—but ordered that "if [Mitchell] does file a motion to compel and the [c]ourt deems it timely it will award

Further, we disagree with Gibson's characterization of the October order as imposing a precondition to "*any* future request by [Gibson] for child support modification" (italics added), regardless of the basis for the request. We read the October order as imposing its $14,725 fee award precondition solely on a child support modification request based on Gibson's pending move-away petition succeeding, and affirm this aspect of the order only to the extent it is so limited. Gibson's briefing quotes portions of the October order that do not utilize such limiting language and instead speak in broader terms. Read as a whole, however, the court's order restricts only a request based on S.G. relocating to Atlanta to live with Gibson as a result of the pending move-away petition. For example, the court notes that, "[i]f the move[-]away does not happen then there is no need to conduct [the] discovery [on which the $14,275 award is based]." The $14,275 contingent fee award is therefore closely connected—in terms of both substance and timing—to the move-away request, in connection with which the court made the requisite section 2030 and 2032 findings. Just as these findings provide a sufficient basis for a fee award to defend against the move-away petition, so too do they support a fee award

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[Mitchell] $3800 in attorneys' fees." Gibson argues that these awards "improperly prejudged speculative future fees by predetermining the amount of fees which the court would award based on future, speculative discovery motions." We reject this argument for the same reasons we reject Gibson's challenge to the financial discovery fee award above. That the court required Mitchell's counsel to submit a declaration regarding a motion to compel for which Mitchell seeks fees provides further grounds for rejecting Gibson's characterization of the award as "improperly prejudg[ing]" the fees to be awarded.

to defend against a child support modification request that derives directly from that same petition.

To the extent the financial situation, based on which the court made the October order fee award, significantly changes by the time Gibson would file a child support modification request based on the success of his pending move-away petition—for example, if Gibson were to become "broke," as his counsel hypothesized during the hearing before this court—Gibson may seek to modify the award. In this sense, the October order merely shifts the burden to Gibson: instead of Mitchell needing to request Gibson pay fees, Gibson must request that he be relieved of the obligation to pay fees.

IV. November 2018 and December 2018 Orders

Gibson next argues that the court erred in its November 2018 and December 2018 orders by rejecting two ex parte applications related to Gibson's motion for a new trial on the attorney fees award.

A. *November 2018 Order*

Gibson argues the court erred by denying Gibson's November 2018 ex parte application for an expedited hearing on his motion for a new trial and a stay of the October 2018 attorney fees award in the interim. At the November 26, 2018 hearing, the trial court denied this request, based on an insufficient showing of any statutory basis justifying ex parte relief. The court further advised Gibson through its order that a new trial motion was "not available to [Gibson] to challenge the [October order]" because "[t]here ha[d] not been a trial," but rather a "ruling on a motion," and identified a motion for reconsideration as the "correct way to have sought medication [*sic*] or revocation of the prior order."

Gibson mischaracterizes the November order as containing a "summary denial" of Gibson's motion for new trial. It does not. We therefore need not consider Gibson's arguments as to why such a ruling would be in error. Nor need we address the parties' dispute as to whether Gibson's motion was, in effect, a motion for reconsideration. In any event, the arguments raised in Gibson's motion—however styled—are the same as those raised on appeal, which we address above.

B. *December Order*

Gibson argues that the court erred in the December order, which adjudicated ex parte applications from both parties.

First, after denying Gibson's ex parte application, the December order notes that "were it to consider [Gibson's] motion for new trial, it would be denied." Gibson characterizes this as the court "seemingly denying a motion it had not read." But the December order did not deny Gibson's motion for new trial. Thus, as with the November order, we need not address Gibson's argument—unsupported by citation to any legal authority—that his motion for new trial "demonstrated insufficiency of the evidence to justify the [October order], that the [October order] was against the law, that there was error in law, and accident or surprise which ordinary prudence could not have guarded against."

Second, Gibson argues the court abused its discretion in granting Mitchell's ex parte application and ordering Gibson's move-away proceedings be taken off calendar, if and when Gibson does not pay the attorney fee installments as required by the October order. In *Kopasz v. Kopasz* (1949) 34 Cal.2d 423, our Supreme Court held that a "court will not proceed with an action against a spouse who is unable to pay the amounts actually necessary to conduct a defense, unless the spouse seeking the

assistance of the court is able to and does pay such amounts," on the theory that "it is less harmful to leave the parties *in statu quo* than to run the risk that the moving party will obtain an unfair advantage because of the inability of the other party to make an adequate defense." (*Id.* at pp. 424–425.) Gibson argues the trial court erred in relying on *Kopasz*, because that case involved only a dissolution of marriage, whereas here, Gibson's "motion to modify child custody and for move[-]away concern[s] a matter of public policy involving a minor child." But the importance of the issues to be adjudicated only reinforces the need to "level the playing field" between the parties and assure neither party has an unfair advantage. Gibson cites no authority supporting a contrary conclusion.

Gibson argues *Kopasz* does not support the trial court's order, because, unlike in *Kopasz*, Mitchell is not "unable to pay the fees ordered" and Gibson is not "able to" pay such amounts. We reject Gibson's ability to pay arguments above, and reject them in this context as well.

More broadly, "[a] court's power to withhold its processes . . . rests on the necessity of upholding the court's dignity and enforcing its orders." (See *Hull v. Superior Court* (1960) 54 Cal.2d 139, 153 (con. opn. of Traynor, J.).) Having concluded, as we do above, that the court did not abuse its discretion in ordering Gibson to pay attorney fees associated with his move-away request, we likewise find no error in the court enforcing its fee order by declining to adjudicate that request unless Gibson pays the amount ordered.

DISPOSITION

We therefore reverse the October order solely to the extent it requires Gibson to pay a particular amount of attorney fees, but do not disturb the court's finding that an award of attorney fees in some amount is just and reasonable under sections 2030 and 2032.

Upon remand, the trial court shall reduce the total amount of the fee award to $99,655, payable in four installments as follows: $14,218 due a month after the entry of the court's revised order, $14,218 due a month after that, $14,219 due a month after that, and $57,000 due two days before trial begins. If Gibson has already paid some or all of the fees set forth in the original October order, the trial court shall issue all necessary orders to implement the revised fee award amount ($99,655), including, as necessary, orders setting forth a different installment payment schedule than that set forth above.

In all other respects, we affirm. Parties are to bear their own costs on appeal.

NOT TO BE PUBLISHED.

ROTHSCHILD, P. J.

We concur:

BENDIX, J.

WEINGART, 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.

APPENDIX A

[Paragraph No. 22 from the Operative Story Declaration (Respondent's Appendix, pp. RA000118-RA000120):]

22. The anticipated work to do includes, but is not limited to:

Date	Activity	Time	Worker	Rate
Oct/Nov	Drafting and appearing for Motion to compel responses to deposition questions and to produce documents	8.0	SS/DWP	300/650
Oct/Nov	Draft discovery requests for bank statements, loan applications, personal and business taxes,	2.0	SS	300
Nov/Dec	Preparation of Deposition of Petitioner's wife Samantha Gibson	8.0	SS/DWP	300/650
Nov/Dec	Taking Deposition of Petitioner's wife Samantha Gibson in Los Angeles	6.0	DWP	650
Nov/Dec	[alternatively, taking deposition of Petitioner's wife in Atlanta if not made available in Los Angeles]	20	SS/DWP	300/650
Nov/Dec	Preparation of Deposition of Petitioner's	4.0	SS/DWP	300/650

	Nanny Elva Lemaster in Los Angeles			
Nov/Dec	Taking of Deposition of Petitioner's Nanny Elva Lemaster in Los Angeles	4.0	DWP	650
Nov/Dec	Preparation of Deposition of [S.G.'s] therapist [D.C.]	2.0	SS/DWP	300/650
Nov/Dec	Taking of Deposition of [S.G.'s] therapist [D.C.]	2.0	DWP	650
Nov/Dec	Preparation of Deposition of Petitioner's business manager James Llewelyn	2.0	SS/DWP	300/650
Nov/Dec	Taking of Deposition of James Llewelyn	4.0	DWP	650
Nov/Dec	Subpoena records from GSO Management	1.0	SS	300
Nov/Dec	Subpoena records from CAA	1.0	SS	300
Nov/Dec	Subpoena records from APA	1.0	SS	300
Nov/Dec	Preparation for Deposition of Petitioner's manager Michael Oppenheim	2.0	SS/DWP	300/650
Nov/Dec	Taking of Deposition of Michael Oppenheim	4.0	DWP	650
Nov/Dec	Preparation for Deposition of agent Jim Osborn	2.0	SS/DWP	300/650
Nov/Dec	Taking of Deposition of agent Jim Osborn	2.0	DWP	650
Nov/Dec	Preparation of Deposition of agent Kyle Laughlos	2.0	SS/DWP	300/650
Nov/Dec	Taking of Deposition of Kyle Laughlos	2.0	DWP	650
Nov/Dec	Preparation for Deposition of manager Joanne Horowitz	2.0	SS/DWP	300/650
Nov/Dec	Taking of Deposition of manager Joanne Horowitz	2.0	SS/DWP	300/650
Nov/Dec	Preparing for and taking deposition of police officers responding to DV in 2011	2.0	SS/DWP	300/650
Dec	Depositions of expert witnesses if needed	2.0	DWP	650
Nov/Dec	Further discovery questions propounded if needed (production, admissions, specials)	3.0	SS	300
Nov/Dec	Drafting and appearing for Motion to compel further production of documents if needed	8.0	SS/DWP	300/650
Dec/Jan	Communicating with evaluator, providing evaluator with documents and other material needed for evaluation	3.0	SS	300
1/4/19	Meet and confer re exhibits, draft stip with opc	1.0	SS	300
1/9/19	File stip re exhibits	.30	SS	300
Jan/Feb	MSC brief and hearing	6.0	DWP	650
Jan/Feb	TSC	4.0	SS/DWP	300/650
Jan	Exhibit list, witness list, trial brief	2.0	SS	300
Jan	Motions in limine	2.0	SS	300
Jan	Assembling and copying exhibit books for trial	6.0	SS	300
Jan/Feb	Reviewing evaluator report	1.0	SS/DWP	300/650
Jan/Feb	Preparing direct exam questions and client	4.0	SS/DWP	300/650

	for trial testimony/reviewing file			
Jan/Feb	Preparing cross exam questions of Petitioner for trial/reviewing file	4.0	SS/DWP	300/650
Jan/Feb	Preparing cross exam questions for nanny/reviewing file	3.0	SS/DWP	300/650
Jan/Feb	Preparing questions for evaluator	2.5	SS/DWP	300/650
Jan/Feb	Preparing questions for percipient witnesses – social workers, therapists, police officers	4.0	SS/DWP	300/650
Feb/March	7-10 days of trial (assuming full days)	12 x 10 days	SS/DWP	300/650
TOTAL		272.30 hours		
		240.30	SS	$72,090
		152.00	DWP	$98,800
	TOTAL			$170,890.00