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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

STEVEN E. JENSEN, Petitioner, v. THE SUPERIOR COURT OF LOS ANGELES COUNTY, Respondent; KRISTEN KERR JENSEN, Real Party in Interest.	B295875 (Los Angeles County Super. Ct. No. BD553016)

ORIGINAL PROCEEDING; petition for writ of mandate; Lynn H. Scaduto, Judge. Petition granted.

Krane & Smith, Jeremy D. Smith; Klapach & Klapach and Joseph S. Klapach for petitioner.

No appearance for respondent.

Law Office of Fritzie Galliani, Fritzie Galliani; Buchalter, Harry W.R. Chamberlain II and Robert M. Dato, for real party in interest.

Family Violence Appellate Project, Jennafer Dorfman Wagner, Cassandra Allison, Arati Vasan and Erin C. Smith; Crowell & Moring, Robert B. McNary, Mark T. Jansen, Yao Mou, and Gabrielle Trujillo for amici curiae on behalf of real party in interest.

I. INTRODUCTION

Petitioner Steven E. Jensen seeks review of a January 10, 2019 order of respondent court denying his request to modify a domestic violence restraining order (DVRO). The DVRO includes among its various terms a provision requiring Steven to stay at least 100 yards away from his ex-wife, real party in interest Kristen Kerr Jensen, subject to lesser distances in certain situations involving their children.[1] Steven sought modification of the DVRO to permit him to attend the deposition of Kristen in a civil proceeding in which Steven and Kristen are both parties. Respondent court declined to modify the DVRO, thereby effectively barring Steven from attending the deposition in person.

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[1] We refer to the parties by first name for clarity, not out of familiarity or disrespect. (See *In re Marriage of Schaffer* (1999) 69 Cal.App.4th 801, 803, fn. 2.).

We agree with Steven that a party is entitled to attend a deposition of an opposing party absent compelling circumstances necessitating such exclusion. Because the court declined to weigh whether restrictions could be imposed on Steven's attendance at the deposition short of his total exclusion from it, we grant Steven's writ petition. We remand with instructions for respondent court to modify the DVRO to permit Steven to attend Kristen's deposition in person, as well as to impose certain other conditions on Steven's attendance and participation.

II. BACKGROUND

A. The Dissolution Action

Steven, a talent manager, and Kristen, an actor, were married in 2005 and have two children. Kristen filed a marital dissolution action on October 13, 2011 (the Dissolution Action). The parties entered into a stipulated custody order on June 22, 2011. Following a trial in July 2015, judgment was entered in September 2015 on the remaining issues in the Dissolution Action. Steven pled guilty to three counts of contempt in September 2016 for violating the court's child custody order on three separate occasions. He was sentenced to two days in jail, with the execution of sentence suspended for a one-year probationary term.

B. The Civil Action

On August 26, 2015, after trial in the Dissolution Action, Steven filed a civil complaint against Kristen and several other defendants (the Civil Action). Steven alleged that Kristen and her boyfriend, assisted by others, hacked into Steven's personal and business e-mail accounts to obtain information to use in the Dissolution Action. Steven asserted that his personal, medical,

business, legal, and other information was provided to Kristen's attorney in the Dissolution Action, and alleges that Kristen admitted that she read, downloaded and shared with others his e-mails. Steven filed a Second Amended Complaint on June 1, 2016, alleging claims for unauthorized access to Steven's computers, computer systems, and data, invasion of privacy, intentional and negligent infliction of emotional distress, trespass, and a variety of additional causes of action.

On December 29, 2017, Kristen filed a cross-complaint in the Civil Action, alleging claims for breach of fiduciary duty, invasion of privacy, unauthorized access to her computers, and similar claims. Kristen alleged that Steven forged Kristen's signature on loan and lease documents and opened credit cards in her name (resulting in her eventual bankruptcy). Kristen also alleged Steven accessed her e-mails, cell phone and computer, copied explicit photographs, and then threatened to distribute them.

The respective claims between Steven and Kristen in the Civil Action remain pending, with discovery nearing conclusion. Trial is currently scheduled to begin in less than two months' time, on November 25, 2019.

C. The DVRO Proceeding

In 2017, Kristen filed a request with the family law court presiding over the Dissolution Action for a DVRO against Steven, alleging that he engaged in a pattern of harassing behavior toward her. Following an evidentiary hearing, the court issued a three-year DVRO restraining Steven and protecting Kristen. The judicial officer that presided over the hearing found Kristen met her burden of establishing past acts of domestic abuse in the form

of harassment and disturbing the peace, including the malicious dissemination of explicit photos of Kristen that Steven obtained from an old phone belonging to Kristen. The court further indicated its order was based on evidence of destruction of personal property (breaking a picture), and "a plethora of harassing, sarcastic and insulting communications" from Steven to Kristen, her attorneys, and one of Kristen's friends. The court did not make any finding that Steven had engaged in any violence or threats of violence towards Kristen.

The DVRO contains personal conduct orders prohibiting Steven from, inter alia, harassing, threatening, and disturbing the peace of Kristen. It further contains a stay away order prohibiting Steven from coming within 100 yards of Kristen, with exceptions for parent/teacher conferences, back to school nights, "and any other event that parents are invited to attend, in which case [Steven] must stay at least 20 yards from [Kristen] where possible; if the room/space is not large enough, then [Steven] must stay 5 yards away from [Kristen]." The DVRO also contains an exception for brief and peaceful contact between Steven and Kristen as required for court-ordered visitation with their children. A custody and visitation order (Judicial Council form DV-140) was attached to the DVRO, and among other things prohibited Steven from attending the children's extracurricular activities or field trips during Kristen's custodial time without her express written permission.

There is nothing in the record before us indicating Steven has violated the personal conduct or stay away orders in the DVRO since its issuance. Steven, however, did violate the child custody and visitation provisions of the DVRO in February 2018 by attending a school field trip during Kristen's custodial time

without obtaining her written consent. He was found in contempt of court for that offense and sentenced to five days in jail and 120 hours of community service.

D. The Deposition and Request to Modify the DVRO

In November 2018, Steven's counsel was preparing to depose Kristen in the Civil Action. On November 7, 2018, Kristen's counsel informed Steven's counsel that Kristen did not "waive her right to be protected against [Steven] by requiring him to stay 100 yards from her and there are no exceptions mentioned in the restraining order that apply." Steven filed an ex parte application in the Civil Action asserting that he had the right to participate in Kristen's deposition notwithstanding the DVRO and alleged that Kristen refused to appear at her deposition if Steven was present.

On November 9, 2018, the judge in the Civil Action denied the ex parte application, stating that Steven "may seek relief in Family Law court." On November 19, 2018, Steven filed a request for order in the Dissolution Action, seeking to modify the DVRO to permit him to attend Kristen's deposition in the Civil Action. After a hearing on January 10, 2019, the family court judge denied Steven's request to modify the DVRO. The court described the question presented as "not whether to prohibit [Steven] from attending the deposition. It is not whether or not or, you now, what sort of protective order to fashion. Those are not for me to decide. What's for me to decide is whether to, you know, make another hole in the restraining order." Noting prior efforts by Steven to modify the DVRO for unrelated reasons, the court concluded modification to permit Steven to attend the

deposition would not be a "wise exception to make to this restraining order," and declined to modify the DVRO.

This petition followed on February 26, 2019. We issued an alternative writ on June 25, 2019, requiring respondent court to vacate its January 10, 2019 order and permit Steven to attend the deposition in the presence of a court-appointed monitor along with any other necessary protections, or to show cause why a preemptory writ of mandate should not issue requiring it to do so. After respondent court declined to vacate its order pursuant to the alternative writ, we issued an order to show cause on July 2, 2019.

III. DISCUSSION

A. Standard of Review

"A domestic violence restraining order is a type of injunction, as it is an 'order requiring a person to refrain from a particular act.' " (*Loeffler v. Medina* (2009) 174 Cal.App.4th 1495, 1503—1504 [citing Code Civ. Proc., § 525].) There are three independent bases on which modification of an injunction such as a DVRO may be predicated—a change in the facts, a change in the law, or the ends of justice. (*Id.* at p. 1504.) We review an order denying an application to modify a DVRO for abuse of discretion. (*Id.* at p. 1505.) "To the extent that we are called upon to review the trial court's factual findings, we apply a substantial evidence standard of review." (*Ibid.*)

B. The Relevant Statutory Regimes

There are two competing rights at issue in this petition: the right of a victim of domestic abuse to protection under a restraining order issued pursuant to the Domestic Violence

Prevention Act, Family Code section 6200 et. seq., and the right of a party to litigation to attend depositions of the other parties and witnesses. Before we explain how these competing interests should be reconciled in this case, we briefly summarize the pertinent statutory regimes.

1. Domestic Violence Prevention Act

The Domestic Violence Prevention Act (DVPA) authorizes a trial court to issue a DVRO "to restrain any person for the purpose specified in [Family Code] Section 6220, if an affidavit or testimony and any additional information provided to the court . . . shows, to the satisfaction of the court, reasonable proof of a past act or acts of abuse." (Fam. Code, § 6300, subd. (a).) Permitted purposes for issuance of a DVRO include "to prevent acts of domestic violence, abuse, and sexual abuse and to provide for a separation of the persons involved in the domestic violence for a period sufficient to enable these persons to seek a resolution of the causes of the violence." (Fam. Code, § 6220.) "Abuse," as defined in the DVPA, is defined broadly and "is not limited to the actual infliction of physical injury or assault." (Fam. Code, § 6203, subd. (b).)

As pertinent here, a restraining order issued pursuant to the DVPA may enjoin "specific acts of abuse" as described in Family Code section 6320. (Fam. Code, § 6218.) As relevant here, acts of abuse that may be enjoined under section 6320 include "molesting, attacking, striking, stalking, threatening, . . . harassing, . . . contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the other party . . . ." (Fam. Code, § 6320, subd. (a).) A court may also enjoin a party from specified behavior necessary

to effectuate an order under section 6320. (Fam. Code, §§ 6218, subd. (c); 6322.) A court may also impose an order requiring the restrained party to stay a specified distance away from the protected party and other individuals and locations. (*Ibid.*; Fam. Code, § 6226; Judicial Council Form DV-130.)

2. Civil Discovery Act

California law provides that a party to a civil action has a right to be present at each of the depositions scheduled in the matter. (*Lowy Development Corp. v. Superior Court* (1987) 190 Cal.App.3d 317, 321 (*Lowy*).) Code of Civil Procedure section 2025.420, which governs protective orders, provides that the court "for good cause shown, may make any order that justice requires to protect any party, deponent, or other natural person or organization from unwarranted annoyance, embarrassment, or oppression, or undue burden and expense. This protective order may include, but is not limited to, one or more of the following directions: [¶] . . . [¶] (12) That designated persons, *other than the parties to the action and their officers and counsel, be excluded from attending the deposition*." (Code Civ. Proc., § 2025.420, subd. (b)(12), italics added.)

At least one court has held the language of the statute authorizing exclusion of persons other than the parties "expressly precludes an order excluding the parties." (*Willoughby v. Superior Court* (1985) 172 Cal.App.3d 890, 892 (*Willoughby*).)[2] In

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[2] At the time of *Lowy* and *Willoughby*, the statute governing protective orders for depositions was codified at Code of Civil Procedure section 2019, subdivision (b)(1). (Stats. 1986, ch. 1334, § 1.) It was subsequently reorganized and placed in section

Willoughby, an employee filed suit against her employer and some of her supervisors, alleging harassment including physical and verbal abuse, threats, and false accusations. When the plaintiff's deposition was noticed, she filed a motion for a protective order seeking to preclude the attendance of the supervisor defendants at her deposition. Plaintiff indicated having to be in the same room would cause her fear, uneasiness, and otherwise disturb her peace. (*Id*. at p. 891.) The Court of Appeal held the supervisor defendants could not be excluded from the plaintiff's deposition, because in enacting the Code of Civil Procedure, the Legislature "chose language expressly precluding the exclusion of parties from depositions in their own case." (*Id*. at p. 892.)

A later case acknowledged this right of attendance is not without limits. In *Lowy*, the plaintiff sued a closely held corporation. (190 Cal.App.3d at pp. 318—319.) At the plaintiff's deposition, six corporate officers showed up as party representatives, and the trial court declined to issue a protective order limiting the number of officers who could be present. Acknowledging the statutory language that a court may issue a protective order excluding persons from a deposition other than " 'the parties to the action and their officers,' " the *Lowy* court held the corporate defendant had the right to be " 'present' " at each of the scheduled depositions, and could not be deprived of that right by an order excluding all of its officers. (*Id*. at pp. 319—321.) The *Lowy* court nevertheless held "an order permitting [the corporate defendant] to have present at each deposition, in addition to the deponent, only one officer, or an

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2025.420. (Stats. 2004, ch. 182, §23.) For ease of reference, we use the current statutory citation throughout.

employee authorized to act for the corporation, would be an appropriate exercise of the court's discretion." (*Id*. at p. 321.)

We agree with *Lowy* that a party's right to attend a deposition is not absolute. When countervailing court orders or statutes exist, such as the restraining order in this case issued under the DVPA, the right to attend a deposition in person may be infringed. To take an example of an individual whose actions are more restricted than a restrained party subject to a DVRO, a prisoner in custody who is a party to litigation does not have an absolute right to have the terms of his sentence of incarceration modified to attend a deposition. (Cf. *In Re Jesusa V*. (32 Cal.4th 588, 601 [prisoner does not have "right to be *personally present* at every type of hearing"].) To take an example of an individual not subject to a restraining order, a party accused of theft of trade secrets does not have an absolute right to attend depositions in a lawsuit about the alleged theft, as courts are required to preserve the secrecy of alleged trade secrets (Civ. Code, § 3426.5), which can include issuing protective orders to exclude parties from depositions where trade secret information is discussed. (Code Civ. Proc., § 2025.420, subd. (b)(13).)[3]

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[3] Amici makes much of the fact that the Code of Civil Procedure permits attendance "by telephone or other electronic means" (Code Civ. Proc., § 2025.310, subd. (a)), to suggest remote attendance satisfies California law. Section 2025.310, subdivision (a), says a "person *may* take, and any person other than the deponent *may* attend, a deposition by telephone or other remote electronic means." (*Ibid*. [italics added].) This subdivision permits counsel or a party the option to attend remotely. It does not state a rule that remote attendance is sufficient such that an opposing party could insist counsel take a

C. Balancing These Two Statutory Mandates

1. Who Bore the Burden for Modification of the DVRO

Steven takes the position that Code of Civil Procedure section 2025.420 takes precedence over the DVPA and gives him the right to attend Kristen's deposition. He claims Kristen, as the party opposing his attendance, therefore has the burden to seek a protective order, and to demonstrate compelling circumstances exist before his right of attendance can be infringed. Kristen, along with amici, takes the position that a duly authorized DVRO takes precedence over Code of Civil Procedure section 2025.420, and that Steven therefore had the burden to seek modification of the DVRO to attend her deposition.

We need not address this dispute, as the matter comes before us following Steven having sought a modification of the DVRO—first before the court overseeing the Civil Action, and then before the family law court that issued the DVRO. When Steven initially sought relief in the Civil Action, he did not claim the burden was on Kristen to seek a protective order. Instead, he argued he had shown good cause for the issuance of an order allowing him to attend Kristen's deposition. Nor did Steven assert in his request for order directed to the family law court that the burden was on Kristen to seek a protective order, instead of being on Steven to seek modification of the DVRO.

Because Steven failed to raise before the trial court the argument that Kristen bore the burden to move for a protective

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deposition remotely, or that its party-opponent only attend remotely.

order, and instead proceeded as though he was required to seek modification of the DVRO, Steven has waived that argument for purposes of this appeal. (*Doers v. Golden Gate Bridge, Highway & Transp. Dist.* (1979) 23 Cal.3d 180, 184-185, fn. 1.) We accordingly presume, without deciding the issue, that Steven was required to seek modification of the DVRO through a stipulation and proposed order between counsel, or failing that by way of a contested motion.[4]

2. The Ends of Justice Required Steven Be Permitted to Attend the Deposition Under the Least Restrictive Means Necessary to Protect Kristen

One ground for modifying an existing DVRO is the ends of justice. (*Loeffler v. Medina*, *supra*, 174 Cal.App.4th at pp. 1503—1504.) Here, both parties made claims for damages against the other in the Civil Action. Neither party directs us to anything in the record suggesting the claims of either party in the Civil Action were brought in bad faith or were otherwise abusive. In such a circumstance, the ends of justice support the potential modification of a DVRO to include in-person attendance at depositions in litigation to which the restrained individual is a party.

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[4] Neither party argues the judicial officer presiding over the Civil Action should have addressed the DVRO restrictions for purposes of Steven's participation in Kristen's deposition, instead of deferring that issue to the family law court. We accordingly express no opinion on whether the judicial officer in the Civil Action had authority to modify the DVRO in connection with the depositions taking place in the Civil Action.

Depositions are an essential part of a civil lawsuit. As the *Willoughby* court observed, excluding a party from a deposition—including by requiring the party virtually attend via telephone or other electronic means—adversely impacts the assistance of counsel: "[t]o prevent a client's presence during the cross-examination of the opposing party at deposition would significantly and unreasonably impair trial counsel's ability to effectively represent his client. In many cases it is critical for counsel to be able to confer with his client at his side concerning responses being received during the course of a deposition. To preclude this type of attorney-client conferring and to alternatively require the attorney to leave the deposition room to confer with his client outside or make contact by phone would disrupt the discovery processes and would constitute a wide departure from the existing rights of discovery." (172 Cal.App.3d at p. 892.)

Depositions are used for multiple purposes in litigation, including at trial in lieu of live testimony.[5] When a party is physically excluded from a deposition, he or she therefore is excluded from an essential part of a lawsuit. DVRO's are not interpreted to preclude parties from attending court proceedings, nor does either party suggest the DVRO required Steven be physically absent from court proceedings concerning the DVRO, postjudgment requests for order in the Dissolution Action, or the Civil Action. While we hold the stay away provision of the DVRO here applied to a deposition being taken outside of court, the

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[5] Kristen currently lives in North Carolina, so the use of Kristen's deposition as her trial testimony is more than a theoretical possibility.

deposition nevertheless implicated important due process interests. Beyond her own deposition, Kristen could attend all other depositions in the Civil Action. To the extent Kristen attended, Steven could not unless the DVRO was modified. In addition to impairing Steven's ability to assist his counsel, permitting one party to attend all the depositions in a civil action while excluding the other party raises meaningful due process concerns. (Cal. Const. art. I, § 7; see, e.g., *People ex rel. Harris v. Sarpas* (2014) 225 Cal.App.4th 1539, 1568 ["In civil actions, the right to confront and cross-examine witnesses is found in the due process clause rather than the confrontation clause."]); *Linlor v. Chase BankCard Services, Inc.* (S.D. Cal., May 9, 2018, No. 17CV5-WQH(KSC)) [2018 WL 2182298, at *3] [" 'a party's right to attend a deposition has a constitutional dimension and is therefore entitled to special protection,' [such that] a party may only be excluded from a deposition under 'extraordinary circumstances.' "]

Although a party has a statutory right to participate in a deposition, and the deprivation of the ability of a party to participate in depositions can raise due process concerns, as discussed previously, the right to attend a deposition is not absolute. Because of the important interests at stake, "[m]ost courts have granted protective orders to bar parties from attending depositions only in very limited circumstances." (*Kerschbaumer v. Bell* (D.D.C. 1986) 112 F.R.D. 426.)[6] For example, in *Federal Trade Commission v. Roca Labs, Inc.* (M.D.

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[6] We find *Kerschbaumer* instructive, as section 2025.420 derives from former rule 30(b) of the Federal Rules of Civil Procedure. (*Lowy*, *supra*, 190 Cal.App.3d at p. 320; see also *Kerschbaumer v. Bell*, *supra*, 112 F.R.D. at p. 426.)

Fla. Sept. 7, 2016, No. 8:15-CV-2231-T-35TBM) [2016 WL 115223492], the defendant was subject to a temporary restraining order prohibiting contact with a witness because of fears the witness expressed about her safety. Noting the general right of parties to attend depositions, the court rejected a proposal that the defendant listen in by telephone and modified the temporary restraining order to permit attendance at the deposition. (*Id*. at *1; see also *Mugrage v. Mugrage* (N.J. Super. Ct. Ch. Div. 2000) 335 N.J.Super. 653, 655—565 [ordering that a deposition of one spouse "should be conducted in the presence of [the other] spouse against whom a restraining order has been entered under the least restrictive conditions possible, unless 'exceptional circumstances' exist."].)

To reconcile the dictates of the DVPA, the Civil Discovery Act, and constitutional due process, we distill from the relevant authorities the following underlying principle: a party subject to a DVRO should be excluded from attending deposition in a matter to which he or she is a party only under compelling circumstances, and otherwise permitted to attend under the least restrictive conditions necessary to effectuate continued protection under the DVRO. Here, the family law court declined to consider protective steps that could be taken if Steven was to attend in person—indeed, it noted that it did not believe that question was properly before it.[7] The trial court instead declined to make any

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[7] We recognize the difficult situation in which the family law court found itself. The Civil Action was pending before a different judicial officer than the family law judicial officer overseeing the DVRO and the Dissolution Action. The family law court was understandably circumspect in issuing what would

modifications to the DVRO, meaning Steven was prohibited from attending the deposition in person under any circumstances.

" ' "A trial court abuses its direction when it applies the wrong legal standards to the issue at hand." ' " (*Zurich American Ins. Co. v. Superior Court* (2007) 155 Cal.App.4th 1485, 1493.) To find the compelling circumstances necessary to bar a party from attending a deposition, there must first be consideration of potential steps short of that severe remedy. Because the court did not weigh the potential efficacy of any such protective steps—including considering, for example, the use of a court appointed monitor at the deposition as set forth in the alternative writ issued here—and explain why conditions short of total exclusion were insufficient, it lacked a proper basis to decline modification of the DVRO and thereby bar Steven from attending the deposition altogether.

3. Protective Steps Applicable to this Case

Kristen concedes that conditions can be imposed on Steven's attendance at her deposition short of his physical exclusion, and there is largely agreement between the parties on what those conditions should be. Both parties agree the deposition should take place in the presence of a monitor appointed by the court with authority to control Steven's conduct at the deposition, including excluding him should he act in a way during the deposition justifying such exclusion. Both parties agree the ingress and egress of Steven and Kristin from the deposition should be staggered to avoid any contact outside of the deposition. Both parties agree the deposition should take place

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amount to a protective order regarding conduct at a deposition in a matter pending before another judicial officer.

in a neutral location— this is, in a conference room not at the offices of the lawyers for Steven or Kristen. We agree these are reasonable conditions balancing Kristen's right of protection with Steven's ability to assist his counsel.

The parties disagree only over two additional restrictions requested by Kristen—that Steven not speak out loud in her presence (meaning he could not communicate with his counsel in the deposition room, even by whispering in his or her ear), and that Steven sit outside Kristen's field of vision. Steven does not object to a prohibition on speaking to persons other than his own legal team, but does object to an order preventing him from speaking with his counsel. The objected-to conditions, if imposed, would defeat the purpose of Steven's attendance at the deposition. Steven cannot effectively assist his counsel if he cannot sit near his counsel while that attorney questions Kristen, or if he cannot communicate appropriately with that counsel during questioning (including responding to questions counsel may have).

If Kristen was being questioned in court, the present record does not contain facts sufficient to support requiring Steven to sit sufficiently far away from his attorney that Kristen could not see him while testifying, or to prohibit Steven from communicating appropriately with his counsel during the Kristen's examination. Indeed, Kristen does not contend either the judicial officer in the Civil Action, or any of the judicial officers in the Dissolution and DVRO Actions, has ever found it necessary to impose such restrictions on Steven during proceedings in which Kristen has testified. Given the uses to which deposition testimony is subject at trial, there is no current basis for a different result here.

That is not to say that Steven can, in the guise of purporting to communicate with his counsel, engage in harassment or threats directed at Kristen. Nor can he make threatening physical gestures while in Kristen's line of sight. If he were to do things of this nature, the court appointed monitor can take appropriate protective steps to address such misconduct and prevent its recurrence.

We further note that nothing in this opinion is intended to circumscribe any authority of the judge presiding over the Civil Action to make any other orders, pursuant to the Civil Discovery Act or otherwise, regarding the conduct of discovery in the matter before it, including Kristen's deposition.

IV. DISPOSITION

The petition for writ of mandate is granted. Let a peremptory writ of mandate issue, directing respondent court to vacate its January 10, 2019 order denying petitioner's request for modification of the DVRO to permit his participation in depositions in the Civil Action. The matter is remanded to respondent court to modify the DVRO to permit Steven's attendance at Kristen's deposition under the conditions set forth in this opinion, including appointment of the court appointed monitor, allocation of the cost of that monitor, and the establishment of guidance for the duties of the court-appointed monitor. The parties are to bear their own costs on appeal.

NOT TO BE PUBLISHED

WEINGART, J.*

We concur:

ROTHSCHILD, P.J.

CHANEY, J.

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