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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re Marriage of JOAN M. PRICE and
RICHARD TURKANIS.

B226221

JOAN M. PRICE,

(Los Angeles County
Super. Ct. No. BD 401600)

Appellant,

v.

RICHARD TURKANIS,

Respondent.

APPEAL from a judgment of the Superior Court of Los Angeles County, Maren E. Nelson, Judge. Affirmed.

Joan M. Price, in pro. per., for Appellant.

Buter, Buzard, Fishbein & Royce and Glenn S. Buzard for Respondent.

* * * * *

In this marital dissolution action, Joan M. Price appeals from the trial court's judgment after the second phase of a court trial. The purpose of the first phase of trial was to set the value of a closely held corporation formed by Price's former spouse, respondent Richard Turkanis (valuation trial). We considered Price's interlocutory appeal from the valuation order and affirmed it. The second phase of trial now at issue involved the allocation of assets between Price and Turkanis (allocation trial). Price contends that the judgment must be reversed because (1) the trial court abused its discretion in denying her a trial continuance, (2) the trial court's allocation of assets violated California law, and (3) the judgment was unsupported by evidence. We affirm.

FACTS AND PROCEDURAL HISTORY

1. Valuation Trial

In 2011, we filed an unpublished opinion affirming the order from the valuation trial. (*Price v. Turkanis* (May 11, 2011, B218753).) We quote pertinent facts from that opinion as follows:

"Price and Turkanis married on March 31, 1995. Turkanis petitioned for dissolution of their marriage on February 10, 2004.

"Prior to the marriage, Turkanis started a closely held business known as Radiology Management Systems, Inc. (Radman). As of the date of marriage, Turkanis held a 78.8 percent share of Radman. In 1998, Radman was acquired by a company called InfoCure, and Radman shareholders received InfoCure stock valued at \$9,450,000. The 78.8 percent share of Radman was exchanged for InfoCure stock having a value of \$7,446,085.

"Before [the valuation] trial, the parties stipulated that Radman was Turkanis's separate property at the date of marriage and that Radman increased in value after marriage. The parties also agreed to value the community's interest under the equitable allocation principles set forth in *Pereira v. Pereira* (1909) 156 Cal. 1 (*Pereira*).¹ Therefore, the only

¹ "Under *Pereira*, the community is entitled to receive the increase in profits of a spouse's *separate property* attributable to community endeavors, and the court must

issue tried before the court [during the valuation trial] concerned the valuation of Radman on the date of marriage.

“Also before trial, the parties stipulated pursuant to *Pereira* that Radman was sold during the marriage for \$9,450,000 of InfoCure stock. The parties also stipulated that if a value for Radman as of the date of marriage was established, Turkanis would be entitled to a rate of return of 7.19 percent in simple interest on that value from the date of marriage, and the remainder of the purchase price would belong to the community.” (*Price v. Turkanis, supra*, B218753.)

The valuation trial commenced on May 19, 2008. After reviewing all the evidence, on August 3, 2009, the court issued a written ruling concluding that the value of Radman as of the date of marriage was \$6,252,000. We affirmed the trial court’s valuation order on May 11, 2011.

2. Allocation Trial

a. Award of Attorney and Expert Fees

The allocation trial was scheduled from January 25 to 28, 2010. Price filed an order to show cause (OSC) on October 20, 2009, seeking orders staying trial and awarding her \$600,000 in attorney and expert fees, among other things. The expert’s declaration supporting her OSC sought fees for past work and for Price’s appeal from the valuation order. She sought attorney fees to bring her counsel current, but did not estimate the fees necessary to complete the allocation trial and bring the matter to judgment. The court estimated that with the four additional trial days scheduled, attorney fees would total approximately \$15,000.

On December 7, 2009, the court declined to stay the trial and granted Price’s requests for fees in part. The court ordered Turkanis to pay \$79,000 to Price for attorney fees and \$25,000 for expert fees, both within 20 days. Within five days of receipt of the order, Price’s counsel was to advise Turkanis’s counsel of the attorney to whom the payment

apportion profits derived from community effort to the community. (*Pereira, supra*, 156 Cal. at p. 7.)”

should be made. (Price had several attorneys representing her at that point.) It found the award appropriate given Turkanis's need to also pay his own counsel and experts for trial and the pending appeal. This brought the total amount of fees that Turkanis had paid to Price to approximately \$125,000, including an earlier award of fees in 2009. The court noted that Price had received approximately two-thirds of Turkanis's available cash and stocks.

Price filed substitutions of attorney replacing her two trial counsel with herself on or around November 23, 2009, and December 9, 2009. She thereafter proceeded in pro. per. in the trial court. Price has a law degree and has experience as a real property lawyer and real estate broker.

On January 5, 2010, Turkanis's counsel emailed Price inquiring to whom the attorney fee payment should be made. They had not yet heard from Price. She responded that the entire \$79,000 payment should be made to her appellate counsel for the appeal from the valuation order. Her appellate counsel required a \$75,000 retainer to pursue the appeal. With that payment to appellate counsel, Price did not have funds to pay her trial counsel's outstanding bill for over a year of work. This was apparently why she was proceeding in pro. per. in the trial court.

On January 7, 2010, Price's appellate counsel directed that the \$25,000 in expert fees also be paid to his firm's trust account.

b. Request for Continuance

Price made appearances in court for various hearings on January 8, 2010, and January 19, 2010. At the January 19 hearing, the court stated its intention to proceed with trial the following week, as scheduled.

On January 25, 2010, the first scheduled day of the allocation trial, Price's former counsel, Brian Kramer, made a limited scope appearance for the purpose of representing Price in her ex parte application for a trial continuance. The application had been filed that day and sought a 60-day continuance based on (1) Turkanis's failure to pay Price the \$25,000 in expert fees and (2) Price's hospitalization.

The sworn declaration of Katherine Watkins, M.D., was attached to the application. Dr. Watkins stated that she was Price's treating psychiatrist. She declared that Price was currently under her care, and she had recommended that Price admit herself for "in-patient psychiatric hospitalization at UCLA Hospital." She did not know when Price would be released from the hospital, though it was possible the hospitalization could span several weeks.

After hearing argument on the expert fees, the court ordered Turkanis to pay the \$25,000 in fees to the trust account of Price's appellate counsel "[f]orthwith," and the fees were to be "dispersed only for the use of experts in the trial matter."

After hearing argument on a continuance, the court recessed until the afternoon so that Kramer could confirm with Dr. Watkins whether Price had actually been admitted to the hospital. The court requested confirmation in writing from the UCLA hospital, though it did not require a formal declaration and indicated that a letter on the doctor's letterhead would suffice. The court received a faxed letter later that afternoon from Dr. Sonia Lohiya at the UCLA Neuropsychiatric Hospital. Dr. Lohiya stated that Price was hospitalized at "UCLA [and] receiving medical care." The letter did not state when Price was expected to be discharged. The court granted a continuance of the trial until February 10, 2010. If a further continuance was needed, the court ordered Price to provide a sworn declaration from the treating physician by January 27, 2010, stating the date of Price's admission to the hospital, the date of her expected discharge, and the "nature of the disability and the prognosis." Kramer indicated he would continue to be involved on a limited basis for the purpose of the continuance issue only. Turkanis served a notice of the continuance of trial on Price at her address.

On or around January 27, 2010, Kramer served the court and Turkanis with a declaration from another physician, Carl Fleisher, M.D. Kramer's cover letter stated: "I appreciate and acknowledge that this does not include some of the information that the Court ordered me to get from Ms. Price's treating physician (e.g., general description of Ms. Price's condition that resulted in her hospitalization and prognosis for length of hospitalization); however, the information requested could not be provided without

Ms. Price waiving her privacy rights and/or other privileges at law which she did not agree to do.” Dr. Fleisher’s declaration stated that he was Price’s treating physician at “UCLA’s Resnic[k] Neuropsychiatric Hospital” and that Price was admitted to the hospital on January 24, 2010. He stated that he was not authorized to provide additional information.

The court held a telephonic conference with Turkanis and Kramer on January 28, 2010. It ordered that if Price wanted a further continuance, she had to provide the additional information the court had requested by February 3, 2010.

On February 10, 2010, Price was not present for the first scheduled day of trial. The court indicated it had not received any further information from Price, and it commenced trial in her absence.

On the second day of trial, February 16, 2010, the court received correspondence mailed to the court on February 4, 2010. The clerk stamped it received on February 9, 2010, but through clerical inadvertence it was not brought to the court’s attention until February 16. The letter was from a fourth physician, David Callander, M.D. It was not under penalty of perjury and stated: “On February 1, 2010, Joan Price was admitted under my care to the Partial Hospitalization Program in the Department of Psychiatry and Behavioral Neurosciences at Cedars-Sinai Medical Center. This is an intensive daily treatment program, and she is expected to attend for approximately six weeks pending future evaluation.”

Turkanis argued that the trial should continue as scheduled because Dr. Callander’s letter did not comply with the court’s order regarding the information necessary for a further continuance. The court asked whether Turkanis had given Price notice of the court’s order on January 28 that she provide additional information by February 3 to warrant a continuance. Turkanis responded that Price’s counsel, Kramer, had participated in the January 28 conference call, and Price therefore had constructive notice, but that he had not separately served Price with notice. The court ruled that the letter from Dr. Callander was an ex parte communication, was not under penalty of perjury, and was not consistent with the court’s order. It directed the clerk to return the letter to the doctor. Trial proceeded again that day in Price’s absence.

On the fourth day of trial, February 19, 2010, the court received another letter “from a physician on behalf of Price,” dated February 16, 2010. The court described it as an ex parte communication not under penalty of perjury, and it said it had not reviewed it. Turkanis indicated that he had not received a copy. Again, the court instructed the clerk to return the letter. This letter was also from Dr. Callander, and like his previous letter, it stated that on February 1, 2010, Price was admitted to the Partial Hospitalization Program in the Department of Psychiatry and Behavioral Neurosciences at Cedars-Sinai Medical Center, and she was expected to attend for approximately six weeks. The program was an intensive daily treatment program. Dr. Callander also stated that she had been diagnosed with “Major Depressive Disorder,” which is characterized by severely depressed mood, loss of interest or pleasure, poor sleep, fatigue, and a diminished ability to concentrate. He opined that her depressive symptoms would “likely impair her ability” to prepare her case in the divorce proceedings.

Turkanis rested his case on February 19, 2010. The court set a hearing on its oral statement of decision for March 12, 2010. Turkanis served Price with notice of this hearing. On March 12, Turkanis appeared and Price was again absent. Turkanis told the court under oath that he and Price had appeared in dependency court the previous day for proceedings related to their daughter. At the hearing, the court noted it had received a declaration from Dr. Callander on March 9, 2010. Turkanis had also received it. Dr. Callander executed the declaration on February 26 and incorporated by reference his February 16, 2010 letter.

c. The Judgment

The court issued its oral statement of decision on March 12, 2010. Judgment was entered on June 1, 2010.

Using the previously determined value for Radman and the *Pereira* rate of return (7.19 percent in simple interest) for the 3.83 years from the date of marriage to the sale of Radman, the court determined that Turkanis’s total separate property interest in the proceeds from the sale of Radman was \$6,283,988. The community’s interest in the sale proceeds was \$1,162,097. Put another way, Turkanis’s separate property interest for his 78.8 percent share in Radman equaled 84.39 percent of 78.8 percent of the stock Radman received from

Infocure in the sale transaction. The community's interest equaled 15.61 percent of Turkanis's 78.8 percent share.

Turkanis's forensic accountant, David Blumenthal, traced how Turkanis's separate property proceeds from the sale of Radman were invested throughout the parties' marriage and prepared a tracing report. The judgment determined which assets were awarded to each party based in large part on the tracing report, the testimony of Blumenthal, and the testimony of Turkanis.

DISCUSSION

1. The Trial Court Did Not Abuse Its Discretion in Denying Price a Continuance

Price argues that the trial court erred because her illness and Turkanis's failure to pay her expert fees sufficiently in advance of trial required a continuance. We are not so persuaded.

"The decision to grant or deny a continuance is committed to the sound discretion of the trial court. [Citation.] The trial court's exercise of that discretion will be upheld if it is based on a reasoned judgment and complies with legal principles and policies appropriate to the case before the court. [Citation.] A reviewing court may not disturb the exercise of discretion by a trial court in the absence of a clear abuse thereof appearing in the record. [Citation.] The burden rests on the complaining party to demonstrate from the record that such an abuse has occurred." (*Forthmann v. Boyer* (2002) 97 Cal.App.4th 977, 984-985.)

Discretion is abused when the court exceeds the bounds of reason, considering all circumstances before it. (*In re Marriage of Laube* (1988) 204 Cal.App.3d 1222, 1225.)

All parties must generally regard the date set for trial as certain, and continuances of trials are disfavored. The trial court may grant a continuance only on an affirmative showing of good cause. (Cal. Rules of Court, rule 3.1332(a), (c).)² The party seeking a continuance must make the request by a noticed motion or an ex parte application with supporting declarations. (Rule 3.1332(b).)

² All further references to rules are to the California Rules of Court.

Among the circumstances that may indicate good cause is the unavailability of a party or trial counsel “because of death, illness, or other excusable circumstances.” (Rule 3.1332(c); see also *Hernandez v. Superior Court* (2004) 115 Cal.App.4th 1242, 1247-1248 [“The death or serious illness of a trial attorney or a party ‘should, under normal circumstances, be considered good cause for granting the continuance of a trial date’”].)

Here, we cannot conclude that the trial court abused its discretion in denying Price a second continuance after it had granted her a 16-day continuance. Price did not proffer competent evidence to demonstrate good cause for the continuance. The court initially granted Price a continuance of 16 days based on the declaration of Dr. Watkins, which stated it was possible Price’s hospitalization could span several weeks, and the letter from Dr. Lohiya at the UCLA Neuropsychiatric Hospital, confirming that Price had been hospitalized. When the court ordered that Price submit a declaration from her treating physician for a longer continuance, Kramer submitted the declaration of Dr. Fleisher, but this declaration stated only that she was admitted to the UCLA hospital on January 24, 2010, and did not state how long she would be in treatment. The court thus had no sense of how long a continuance was needed. The court could not very well continue the trial indefinitely, and it therefore ordered that Price provide further information by February 3.

The letter from Dr. Callander came next, which the court received on February 16, the second day of trial. This letter stated that Price was expected to be in treatment for six weeks. But it did not comply with the court’s order for a sworn declaration. Price was represented by Kramer at the hearing when the court ordered that a further continuance be supported by a declaration. She therefore had notice of what the court required. Furthermore, Dr. Callander’s letter did not comply with rule 3.1332, which requires that an application for a continuance be supported with declarations. A requirement that a request be supported by competent evidence does not exceed the bounds of reason. The court did not therefore err in requiring competent evidence of Price’s illness to support a good-cause continuance. Dr. Callander’s declaration came only after trial had concluded. A continuance at that point was moot.

We acknowledge that the trial court took what might appear to be an overly formalistic approach to its consideration of Price's continuance requests. After all, Price was in pro. per. and by all accounts was suffering from some mental illness related to depression. Her ability to communicate with the court was thus limited, and the problem was exacerbated by the failure of the clerk's office to timely deliver to the trial judge Dr. Callander's letter of February 4. These forces coalesced so that Price's access to justice, if not fully compromised, was at least made more difficult. As our Supreme Court has recently written, in family courts, where many litigants (like Price) represent themselves, "[t]hat a procedure is efficient and moves cases through the system is admirable, but even more important is for the courts to provide fair and accessible justice." (*Elkins v. Superior Court* (2007) 41 Cal.4th 1337, 1366.)

On the other hand, Price was represented by Kramer in conjunction with the continuance requests. Although he was special appearance counsel, he effectively represented her interests as best he could under the circumstances. Nor was there a showing that when Price was in the Cedars-Sinai outpatient program she was unable to make a brief appearance, with or without Kramer, to provide the court with the information that it had been requesting for some time. Under these circumstances, we cannot say that the trial court acted unreasonably.

Additionally, rule 3.1332 prescribes relevant factors for the court to consider regarding continuances, and several of these factors weighed against a continuance. The rule states that "the court must consider all the facts and circumstances that are relevant to the determination," including:

- "(1) The proximity of the trial date;
- "(2) Whether there was any previous continuance, extension of time, or delay of trial due to any party;
- "(3) The length of the continuance requested;
- "(4) The availability of alternative means to address the problem that gave rise to the motion or application for a continuance;
- "(5) The prejudice that parties or witnesses will suffer as a result of the continuance;

“(6) If the case is entitled to a preferential trial setting, the reasons for that status and whether the need for a continuance outweighs the need to avoid delay;

“(7) The court’s calendar and the impact of granting a continuance on other pending trials;

“(8) Whether trial counsel is engaged in another trial;

“(9) Whether all parties have stipulated to a continuance;

“(10) Whether the interests of justice are best served by a continuance, by the trial of the matter, or by imposing conditions on the continuance; and

“(11) Any other fact or circumstance relevant to the fair determination of the motion or application.” (Rule 3.1332(d).)³

First, Price’s request for a continuance came on the first day of trial, and Dr. Callander’s letter arrived at the court only a day before the rescheduled trial. Turkanis and the court effectively had no notice that their preparations for trial might have been for naught. Second, the court had already granted Price one continuance, based on information that she might be hospitalized for several weeks, when she sought another. Third, we note that Turkanis certainly did not agree to a continuance and, in fact, opposed it. Fourth, we cannot say that “alternative means” to address her need for a continuance were absolutely unavailable. Her predicament was at least partially of her own making. The marital estate had limited resources, and Turkanis had to pay his attorneys as well. Price received a total of \$125,000 for attorney fees over the course of this action. Approximately two-thirds of Turkanis’s available cash and stocks had been given over for fees. Price chose to prosecute an interlocutory appeal from the valuation order, to retain an appellate attorney who required a retainer fee of \$75,000 for that appeal, and to direct the entirety of the awarded

³ The record in this case provides little to no information regarding many of the foregoing factors, and unfortunately, the parties’ briefs do not address the factors specifically. For instance, we cannot say whether Turkanis’s counsel was engaged in other trials during the period, how the trial court’s calendar would have been impacted by granting a continuance, and whether there would have been any particular prejudice to Turkanis or his witnesses.

fees to her appellate counsel, rather than pay off her trial counsel or retain new trial counsel. Had she chosen differently, she could have had representation at trial, and a continuance might have been unnecessary.

Price argues that the court also erred because Turkanis failed to pay her expert fees in a timely manner, and it was critical to her trial preparation that she have the benefit of an accounting expert. Again, we disagree that the court abused its discretion here. The court awarded Price the expert fees on December 7, 2009. She was to advise Turkanis within five days regarding to whom payment should be made. There was no direction until January 7, 2010, 18 days before trial was scheduled to begin. On that date, Price's appellate counsel advised Turkanis to pay the fees to his firm's trust account. Turkanis had not done so by the time the parties appeared on January 25. Kramer advised the court of the failure, and the court ordered Turkanis to pay the fees "forthwith." Price does not contend that Turkanis failed to then pay the fees forthwith. As discussed, this was also when the court continued the trial for 16 days. In other words, she obtained the requested relief -- both the fees and a continuance.

To the extent Price contends the court should have granted a longer continuance to prepare her accounting expert, this argument is not well taken. "A party's excused inability to obtain essential testimony, documents, or other material evidence *despite diligent efforts*" may constitute good cause for a continuance. (Rule 3.1332(c)(6), italics added.) Assuming that an accounting expert was essential to Price's trial preparations, she did not use diligent efforts. If retaining and preparing an expert was essential, one might have expected Price to have advised Turkanis of the payee for the fees more than a mere 18 days before trial. The court did not abuse its discretion in failing to give her a longer continuance on this basis.

2. The Trial Court's Allocation of Assets Did Not Violate California Law

Price contends that we should reverse the judgment because the trial court's allocation of assets violated California law in several ways. Again, we are not persuaded.

First, Price contends that the trial court erred because it improperly reimbursed Turkanis \$1,233,293 for use of his separate property funds during marriage that were actually a gift to the community and were used for community living expenses. The court

did not, in fact, do as Price complains. It stated in its statement of decision: “The tracing showed that during the marriage, \$1,233,293 of husband’s separate property was used to support the community. This is shown in tab 16 of exhibit 58. *The court grants no right of reimbursement for this. Under current law, this is a gift to the community.*” (Italics added.) Moreover, the section of the judgment setting forth reimbursements to the parties does not show any reimbursements to Turkanis for this amount. His only reimbursements consisted of \$13,623, Price’s share of child expenses paid by Turkanis, and \$24,469, which went to “pay [for] liabilities previously ordered paid by Price.”

Second, Price contends that the method of allocating assets used by Turkanis’s expert -- and adopted by the trial court -- violates California law, and she refers us to *See v. See* (1966) 64 Cal.2d 778 (*See*). She argues that, under the law, investments acquired during marriage are deemed made with community funds unless Turkanis established that community funds were then insufficient to pay for the investment, and he did not do so. Price’s argument reflects confusion about the method of tracing assets used by Turkanis’s expert, Blumenthal.

“The presumption that all property acquired by either spouse during the marriage is community property may be overcome.” (*In re Marriage of Mix* (1975) 14 Cal.3d 604, 611.) Such postmarital property can be established as separate property by two independent methods of tracing. (*Id.* at p. 612.) The first method uses direct tracing. “[S]eparate funds do not lose their character as such when commingled with community funds in a bank account so long as the amount thereof can be ascertained. Whether separate funds so deposited continue to be on deposit when a withdrawal is made from such a bank account for the purpose of purchasing specific property, and whether the intention of the drawer is to withdraw such funds therefrom, are questions of fact for determination by the trial court.” (*Ibid.*) “A determination of these issues is part of the process of tracing the source of funds used in making the purchase under review. If the source of such funds is traced to separate property, even though the process of tracing involves a withdrawal from a bank account consisting of commingled separate and community funds, the property acquired is separate property.” (*Hicks v. Hicks* (1962) 211 Cal.App.2d 144, 157.)

The second method involves a consideration of family expenses and is described in *See. (See, supra, Cal.2d at p. 783; In re Marriage of Mix, supra, 14 Cal.3d at p. 612.)* “It is based upon the presumption that family expenses are paid from community funds. [Citations.] If at the time of the acquisition of the property in dispute, it can be shown that all community income in the commingled account has been exhausted by family expenses, then all funds remaining in the account at the time the property was purchased were necessarily separate funds.” (*In re Marriage of Mix, supra, at p. 612.*)

Price’s argument is that Blumenthal did not properly apply the second method of tracing, “the exhaustion of family expenses” method. This may be the case, but that is only because Blumenthal applied the first method of tracing, the direct method. Blumenthal’s tracing report was based on bank, brokerage, and Quicken records maintained by Turkanis and directly traced how Turkanis’s separate property proceeds from the sale of Radman were invested. This was also a proper method of tracing under California law.

Third, and finally, Price quotes five statutes relating to the allocation of assets and debts and to spousal support, and then, without explaining how these statutes relate to the facts of the case, asserts that the court abused its discretion in not awarding spousal support. This section consisted of no further argument on the matter and no citations to evidence in the record to show how the court’s order regarding spousal support was unsupported. We are entitled to deem the support issue abandoned because this is insufficient to warrant our consideration of the issue. (*Landry v. Berryessa Union School Dist.* (1995) 39 Cal.App.4th 691, 699-700 [plaintiffs “cit[ed] only general principles governing such motions without applying those principles to the circumstances before the court. When an issue is unsupported by pertinent or cognizable legal argument it may be deemed abandoned and discussion by the reviewing court is unnecessary”]; *Guthrey v. State of California* (1998) 63 Cal.App.4th 1108, 1115 [“As a general rule, ‘[t]he reviewing court is not required to make an independent, unassisted study of the record in search of error or grounds to support the judgment’”]; *Dills v. Redwoods Associates, Ltd.* (1994) 28 Cal.App.4th 888, 891 [“We will not develop the appellants’ arguments for them, and therefore decline to reach the issues . . .”].)

Even were we to exercise our discretion to consider the issue, we would find no cause to reverse. The court did not award spousal support to either party and terminated its jurisdiction to award spousal support to both. The court's stated reasons for denying support to Price were that the marriage was short-term and Price had a law degree and was a real property lawyer with additional expertise as a real estate broker. The court further found that it had ordered her to participate in a vocational examination, but she did not do so and took the position that because the evaluator did not call her within 30 days of the order, she was not required to comply with it. The court found that was not a fair reading of the order. Price does not contest any of these findings in her briefs. The duration of the marriage and earning capacity, including the marketable skills of the parties, are circumstances the court is bound to consider in determining whether to order spousal support. (Fam. Code, § 4320, subds. (a), (f); *In re Marriage of Rosan* (1972) 24 Cal.App.3d 885, 892 ["[T]he court is to ignore marital fault and is to base its determination solely on the circumstances of the parties, including the duration of their marriage and the ability of the supported spouse to engage in gainful employment"].) The court's order was thus supported by consideration of relevant factors.

3. Price's Argument That We Should Reverse the Judgment for Lack of Competent Evidence Fails

Price contends that the judgment was not supported by competent evidence. Her statement of the case identifies numerous things she refers to as "fatal flaws" in the tracing report and asserts that the judgment must be reversed because of them. But the legal argument section of her brief does not return to these alleged flaws or apply the law to show how they warrant reversal. Moreover, while Price contended that the report was flawed in so many ways, she did not include a copy of the report in her appendix, and left it to Turkanis to include it in the record. Her record citations in this section consist of citations to Blumenthal's testimony -- which are often block quotes with little accompanying explanation or commentary to put them in context -- but no citations to the tracing report.

Price's contention is essentially that the judgment is not supported by substantial evidence. She fails to carry her burden on appeal. "Perhaps the most fundamental rule of

appellate law is that the judgment challenged on appeal is presumed correct, and it is the appellant's burden to affirmatively demonstrate error.” (*People v. Sanghera* (2006) 139 Cal.App.4th 1567, 1573; see also *In re Marriage of Arceneaux* (1990) 51 Cal.3d 1130, 1133.) To prevail on a sufficiency of the evidence argument, Price had to affirmatively show that there was no substantial evidence in the record to support the court's findings, and she could not carry that burden by simply pointing to perceived flaws in the expert's methodology. (*California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 626.) Rather, she needed to set forth all of the evidence in the record material to the court's findings in the judgment, then persuade us that all that evidence could not reasonably support the findings. (*Ibid.*) This she did not do.

DISPOSITION

The judgment is affirmed. Respondent to recover costs on appeal.

FLIER, J.

WE CONCUR:

RUBIN, Acting P. J.

GRIMES, J.