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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 EIGHT

In re Marriage of PAUL and ALICJA Z. HERRIOTT	B233061 c/w B234240
PAUL BERRETT HERRIOTT, Respondent, v. ALICJA Z. HERRIOTT, Appellant.	(Los Angeles County Super. Ct. No. BD415787)

APPEAL from orders of the Superior Court of Los Angeles County. Christine Byrd, Judge. Reversed and remanded.

Alicja Z. Herriott, in pro. per., for Appellant.

Law Office of Braun & Charness, Dennis E. Braun and Leigh E. Charness for Respondent Paul Berrett Herriott.

Fesia Davenport, Chief Attorney, and Tammy Nakada, Legal Counsel, for Respondent County of Los Angeles Child Support Services Department.

Appellant Alicja Z. Herriott (wife) and respondent Paul Barrett Herriott (husband) were divorced in April 2005. By January 2011, only the youngest of their three children, son A.H., was still a minor. On January 24, 2011, the family court decreased child support for A.H. from $2,087 to $794 and spousal support from $3,000 to $1,000, both retroactive to July 15, 2010 (the January 2011 order). A few months later, on May 9, 2011, the family court found husband had overpaid child support between January 2005 and July 2010 and issued an order that allowed husband to reduce his future spousal support payments $100 each month until he recouped that overpayment (the May 2011 order). In case No. B234240, wife appeals from the January 2011 order and in case No. 233061, she appeals from the May 2011 order. We consolidated the appeals for purposes of argument and opinion. We reverse both orders and remand for the family court to recalculate whether husband has over or under paid his support obligations, and in what amount, and to make other appropriate orders once that determination has been made.

FACTUAL AND PROCEDURAL BACKGROUND

A. The April 22, 2005 Oral Marital Settlement Agreement

Husband and wife were married in 1987 and separated in November 2004. In addition to son A.H. (born December 1994), they had three daughters: R.H. (born July 1988), J.H. (born December 1989) and P.H. (born May 1992). At a hearing on April 22, 2005, the parties entered into a marital settlement agreement in open court as to custody, child and spousal support, and other matters. Pursuant to that agreement, wife was awarded monthly child support of $2,900 and spousal support of $950. In addition to support, it was agreed that wife and the minor children were to live in an apartment in a building owned by husband (the 24th Street property) until such time as husband converted another property from a duplex into a single family residence (the Silverstrand

property). After the conversion, husband was to have exclusive use of the 24th Street property and wife was to have exclusive use of the Silverstrand property for her life.[1]

B. The Written Marital Settlement Agreement, Judgment of Dissolution and Stipulation re Allocation of Child Support

It took 18 months for the oral agreement to be reduced to a written marital settlement agreement (the MSA), and several more months until the MSA was approved by the family court and became part of the Judgment of Dissolution. In addition to awarding child and spousal support of $2,900 and $950, respectively, the MSA reserved family court jurisdiction "regarding the amount of child support allocated to each individual child . . . . When the first child reaches the age of eighteen (18), this Order shall no longer be a guideline order, which constitutes an automatic change of circumstance allowing the parties to return to Court." The MSA also required husband to maintain health insurance for the minor children to pay "[a]s additional support, any reasonably necessary" medical expenses, including deductibles, copayments and uncovered expenses. In addition to support, the MSA gave husband, wife and the children each a one-third interest in the Silverstrand property (the children's interest to be held in trust until they turned 18), and elaborated on husband's obligation to convert the Silverstrand property from a duplex into a single family residence and wife's right to live in the converted Silverstrand property during her life.

Although the MSA expressly reserved the issue of allocation of child support to the family court, on July 2, 2007, around the time the MSA was signed, the parties also executed a Stipulation re Allocation of Child Support.

For unexplained reasons, the Stipulation re Allocation of Child Support was not filed until October 31, 2007, and the Judgment of Dissolution incorporating the MSA was not filed until almost a month later on November 28, 2007. Several years later, the delay

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[1] The court ordered modifications to the Silverstrand property were never completed and in May 2011, husband and wife still lived at the 24th Street property, in separate apartments.

and order of filing affected the chain of events that culminated in the orders now under review.

C. The August 12, 2010 Allocation Order

Sometime in 2009, wife sought assistance from the Department of Child Support Services (the department) to enforce her right to support. (See Fam. Code, § 17400.)[2] The department told wife that the $2,900 child support award was not allocated, meaning it was not affected by a child turning 18. In August 2009, the department notified husband he was $241,361.77 in arrears on his unallocated child support obligations. In November 2009, the department levied $41,000 from husband's bank account, which it distributed to wife as unpaid child support.

The department subsequently concluded that it had miscalculated husband's child support arrears because it had not taken into account the Stipulation re Allocation of Child Support. In a motion filed on February 25, 2010, the department sought judicial determination of the amount of husband's child support arrears. Husband's and wife's respective Declarations of Support Payment History were attached as exhibits to the department's motion. Also attached were two reports prepared by the department which calculated husband's combined child and spousal support obligation under the alternate scenarios advocated by husband (allocated child support) and wife (unallocated child support). It was undisputed that husband had paid $236,648.77 in combined child and spousal support from January 2005 through January 2010 (the month before the hearing). Under both scenarios, husband was in arrears on his child and spousal support obligation beginning in July 2007. By November 2009, husband was significantly in arrears on his support obligations under both scenarios, but the amounts differed: $6,368 in arrears under the allocated child support scenario and $30,747 in arrears under the unallocated child support scenario. By January 2010, under the unallocated scenario, husband should have paid a total of $237,880.69, including principal and interest, leaving a balance due

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2 All future undesignated code references are to the Family Code.

of $1,231.92 even after the $41,000 bank levy. But under the allocated scenario, husband should have paid a total of $210,353,36, including principal and interest by January 2010, and had thus overpaid by $26,295.41.

Commissioner Anthony Drewry presided over the June 24, 2010 hearing on the department's motion. (See § 4251.) Both husband and wife appeared in propria persona. All parties agreed that the sole issue for Commissioner Drewry to decide was whether child support was allocated, not the amount of any arrears. Commissioner Drewry found the Stipulation re Allocation of Child Support was the controlling document.[3] As a result, husband's child support obligation was automatically reduced when each child turned 18 and it was not necessary for husband to obtain a modification order. Commissioner Drewry made no finding as to the amount of husband's overpayment, if any.

The family court adopted Commissioner Drewry's findings and recommendations following a de novo hearing on August 12, 2010. (See § 4251, subd. (c).) Although the department's original motion was for determination of arrears, the family court expressly declined to make any finding as to the amount of husband's overpayment.

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[3] Wife took the position that the Stipulation re Allocation of Child Support was superseded by the later filed Judgment of Dissolution which had reserved the issue of allocation to the family court, thus requiring husband to apply for modification of child support when each child turned 18. Husband maintained the Stipulation re Allocation of Child Support was intended to supplement the Judgment of Dismissal and to automatically reduce husband's child support without requiring a modification order. The only witnesses to testify at the hearing were attorney Genoveva Talbott, who represented husband at the April 22, 2005 hearing, and attorney Larry Wasserman, who substituted in for Talbott and represented husband when the settlement agreement and Stipulation re Allocation of Child Support were executed. Talbott did not recall what occurred at the April 22 hearing. Wasserman testified that he prepared the Stipulation re Allocation based on his understanding that on April 22 the family court ordered the parties to allocate child support either in the judgment or by a separate written stipulation; Wasserman had not been present at the April 22 hearing and his understanding was based on his reading of the reporter's transcript. There was no hearsay objection to Wasserman's testimony recounting what he read in the reporter's transcript of that hearing.

D. The November 9, 2010 Modification Order

Meanwhile, on July 13, 2010, wife applied for an OSC for upward modification of child and spousal support. As changed circumstances, wife alleged she was no longer receiving child support for the three children who had become adults, she had lost her part-time job and had been unable to find another, and husband had not paid support since April 2010.[4] Judge Amy Pellman presided over the November 9, 2011 hearing. Relying on husband's January 2010 Income and Expense Declaration – he had not timely filed a more current declaration – Judge Pellman found husband's monthly income was $14,000.[5] Judge Pellman increased child support for A.H. to $2,087, until A.H. became 18 years old, and spousal support to $3,000, both retroactive to the date of the OSC application. Husband was ordered to pay child support arrears of $7,304, at the rate of $1,000 per month, commencing December 1, 2010, and spousal support arrears of $10,500, at the rate of $500 per month commencing February 1, 2011 (the November 2010 order).

E. The January 2011 order

The following month, on December 6, 2010, an OSC was issued on husband's request for modification of the support orders, visitation, and to stay the November 2010 order. The Honorable Christine Byrd presided over the hearing on husband's OSC. Judge Byrd did not find any change of circumstances warranting modification of the November 2010 order. Instead, she stated that "the court, on its own motion, reconsidered the November 2010 order on child support and also on spousal support in

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[4] The settlement agreement states: "When the first child reaches the age of eighteen (18), this Order shall no longer be a guideline order, which constitutes an automatic change of circumstances allowing the parties to return to Court."

[5] In January 2010, husband declared that he had monthly income of $14,569, comprised of social security benefits of $1,152 and rental property income of $13,417; his monthly expenses were $15,320. Husband declared assets of more than $4 million.

order to correct for the errors in information provided to the prior judicial officer, and those errors were [wife's] social security payments, [wife's] rent situation, and [wife] being one-third owner of two properties on Silver Strand in Hermosa Beach." Judge Byrd decreased child support for A.H. from $2,087 to $794 and spousal support from $3,000 to $1,000, both retroactive to July 15, 2010, the date of wife's earlier OSC but five months before the date husband filed his OSC application. The matter was continued to May 9, 2011, for the department to recalculate whether husband had underpaid or overpaid support through July 15, 2010.

F. The May 2011 Order re Arrearages

Judge Byrd presided over the May 9, 2011 hearing at which the department submitted a calculation showing that as of July 15, 2010, husband had overpaid child support in the amount of $22,472.23, based on the allocation set forth in the Stipulation re Allocation of Child Support. Because husband had paid reduced support from January 2010 through July 2010, the amount of overpayment was $4,000 less than the $26,295.41 calculated as of January 2010. Wife maintained that husband had not made any support payments over the prior year, but the department explained that it could not calculate how much of the overpayment husband had recouped since July 2010 because husband had not submitted a Declaration of Support Payment History. Instead, husband had delivered voluminous financial records to the department, which the department was unable to decipher. The department estimated that since July 2010, husband's overpayment had been reduced at least another $10,000.

Without considering how much of his overpayment husband had recouped by his alleged failure to pay support since July 2010, the family court found husband had overpaid child support in the amount of $22,472.23 and ordered that he recoup this overpayment by reducing his future spousal support payments by $100 each month (the May 2011 order). The minute order states that "commencing June 1, 2011, [husband] may offset the $100 per month spousal support payment to [wife] against the overages paid by [husband], said offset to continue until the overages are paid in full." The Order

After Hearing filed on May 27, 2011, states: "Court finds that [husband] has overpaid on his child and spousal support obligations by $22,472.23 effective [July 14, 2010], WITH PREJUDICE. Since [July 15, 2010], the child support obligation has been $794 per month and the spousal support obligation has been $1,000 per month as was ordered on [January 24, 2011]. [Husband] is to continue paying his child support obligation while the child is still a minor but [husband] may *stop paying his spousal support obligation commencing* [*June 1, 2011*,] *so that the unpaid spousal support obligation can setoff the overpayment balance on this case*. [Husband] can pursue [wife's] other assets independently for the support overpayment." (Italics added.)

Wife timely appealed from the January 2011 and May 2011 orders.

DISCUSSION

A. Case No. B234240

The January 2011 Order Decreasing Child and Spousal Support Was An Abuse of Discretion

In case No. B234230, wife challenges the January 2011 order decreasing child and spousal support. As we understand her argument, it is that Judge Byrd improperly "corrected" Judge Pellman's November 2010 order increasing support without any showing of the requisite change of circumstances. We agree.

Modification of support orders, both child and spousal, are reviewed for abuse of discretion. (*In re Marriage of Butler & Gill* (1997) 53 Cal.App.4th 462, 465.) But the only discretion a trial court has in determining child support is that provided by statute or rule. (*Ibid*.) Generally, a support order may be modified at any time (§ 3651, subd. (a)), but only if there has been a material change of circumstances since the last order. (*In re Marriage of Khera and Sameer* (2012) 206 Cal.App.4th 1467, 1479.) It is error to modify a support order absent evidence of a material change of circumstance. (*Id*. at p. 1480.) To obtain a downward modification of child support, the supporting spouse has

the burden of proof to establish changed circumstances warranting the modification. (*In re Marriage of Leonard* (2004) 119 Cal.App.4th 546, 556.)

In this case, there was no evidence of any changed circumstances between Judge Pellman's November 2010 order increasing support and Judge Byrd's January 2011 order decreasing support. In fact, Judge Byrd found no changed circumstances. On the contrary, Judge Byrd expressly stated that she had "reconsidered" the November 9 order on the court's own motion, and found it "incorrect." But it is well settled that one trial court judge may not reconsider and overrule a ruling made by another trial court judge, unless the first judge is unavailable. (*Davcon, Inc. v. Roberts & Morgan* (2003) 110 Cal.App.4th 1355, 1361 (*Davcon*); *International Ins. Co. v. Superior Court* (1998) 62 Cal.App.4th 784, 786, fn. 2 (*International*).) Nothing in the record suggests that Judge Pellman was legally unavailable. Under these circumstances, it was an abuse of discretion for Judge Byrd to purport to "correct" Judge Pellman's prior order.

Husband's reliance on *Le Francois v. Goel* (2005) 35 Cal.4th 1094 (*Le Francois*) and *In re Marriage of Barthold* (2008) 158 Cal.App.4th 1301 (*Barthold*), for a contrary result is misplaced. In *Le Francois*, our Supreme Court held that Code of Civil Procedure sections 437c and 1008 did not limit the trial court's inherent authority to reconsider, on its own motion, its prior interim order denying summary judgment even in the absence of new facts or circumstances. Although the *Le Francois* court suggested that the rule might not apply to *final* orders (*id*. at p. 1105, fn. 4), the appellate court in *Barthold* held that the rule applied equally to final orders. In *Barthold*, the trial court reversed its prior order denying the wife's post-judgment motion to enforce an agreement that she get a "bonus" if she listed the marital home for sale by a certain date because, the trial court explained, it had misunderstood the disputed issue.[6] The appellate court

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[6] In *Barthold*, the husband and wife agreed that the wife would receive a bonus from the sale of the family home if "the property is listed in the MLS [multiple listing service] by March 15th, unless that listing is delayed at the suggestion of the broker. In that case, either party may apply to the Court for an Order requiring the listing." (*Id.* at p. 1304.) After the house was sold, the husband maintained the wife was not entitled to the listing bonus because she did not get court permission to delay the listing. The family

affirmed, reasoning that the trial court's second order was not based on the wife's procedurally defective section 1008 motion, but on the trial court's realization that its original ruling was erroneous. (*Id*. at p. 1308.) *Barthold* is inapposite for several reasons. First, although *Barthold* was a family law case, it did not involve modification of a support order, which must be based on a change in circumstances. Second, *Barthold* did not involve one judge purporting to "correct" a ruling made by another judge, as is the case here. Third, the *Barthold* trial court's change of mind was based on its realization that it had misunderstood the disputed issue, it was not based on the wife's procedurally defective section 1008 motion, whereas in this case, Judge Byrd's reconsideration was expressly based on additional information provided by husband, which Judge Byrd characterized as "errors in information provided to the prior judicial officer . . . ." Under these circumstances, this case falls under the rubric of *Davcon* and *International*, not *Barthold* and *Le Francois*.

Because we reverse the January 2011 order reducing husband's child and spousal support obligations, the November 2010 order increasing child support for A.H. to $2,087, until A.H. became 18 years old, and spousal support to $3,000, is the operative support order retroactive to July 15, 2010, the date of wife's OSC. To the extent there have been changed circumstances since July 15, 2010, or after the January 2011 order which might warrant another support modification, the remedy for either party is to file for a new OSC.

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court denied the wife's motion to enforce the agreement, finding that a court order was not required, but that the wife's declaration did not unambiguously state that the broker had recommended the delay. In support of a section 1008 motion for reconsideration, wife submitted the broker's declaration stating she had recommended the delay. Invoking its inherent authority to correct a prior ruling before it becomes final, the family court granted wife's motion to enforce the bonus agreement, explaining that when it first ruled, it did not grasp that the parties' dispute was over the need for a court order and not whether the broker had recommended the delay. (*Id*. at pp. 1305-1306.)

B. Case No. B233061

1. It Was an Abuse of Discretion to Not Consider Whether Wife Was Entitled to an Offset For Husband's Subsequent Failure to Pay Support

In case No. B233061, wife contends the family court abused its discretion in finding husband had overpaid child support in the amount of $22,472.23 from November 2009 through July 15, 2010, without considering whether the amount should be reduced by husband's failure to pay support after July 2010.[7] We agree.

Our analysis begins with the standard of review. Whether to reimburse a spouse for an involuntary overpayment of child support lies in the discretion of the family court. (*In re Marriage of Starr* (2010) 189 Cal.App.4th 277, 290; § 290.) The deference called for in the abuse of discretion standard varies according to the aspect of a family court's ruling under review and when an exercise of discretion is based on a finding of fact, we review the finding of fact for substantial evidence. (*In re Marriage of Walker* (2012) 203 Cal.App.4th 137, 146.) Here, the trial court's finding that husband had overpaid child support in the amount of $22,472.23 from November 2009 through July 15, 2010, was a finding of fact which we review for substantial evidence. We review for abuse of discretion the order that husband recoup that amount by reducing his spousal support payments $100 each month without considering whether wife had already satisfied that obligation.

2. Substantial Evidence Supports the Finding That Wife Received Excessive Child Support of $22,472.23 on July 15 2010

Where a parent has involuntarily made child support payments beyond those ordered, the court may credit the surplus to arrears. (*In re Marriage of Tavares* (2007)

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[7] To the extent wife challenges the August 12, 2010 order finding that child support was allocated, her appeal is not timely because it was filed more than 180 days after that order was filed. (Cal. Rules of Court, rule 8.104.)

151 Cal.App.4th 620, 626 (*Tavares*).) Here, wife did not dispute the accuracy of the department's audit of allocated child support payments from January 2005 through July 2010. Under these circumstances, the family court's finding that husband had overpaid child support in the amount of $22,472.33 between January 2005 and July 2010 is supported by substantial evidence. But that does not end our inquiry. This is because, implicit in the May 2011 order that husband reduce his future spousal support payments until he recouped his overpayment, is a finding that wife was still in arrears at the time of the May 2011 hearing. That finding is based on the trial court's refusal to offset wife's excessive support against husband's failure to pay support after July 15, 2010. As we shall explain, it was an abuse of discretion for the trial court to refuse to consider whether wife was entitled to an equitable setoff.

3. Failure to Consider Whether Husband's $22,472.23 Overpayment Was Offset By His Subsequent Failure to Pay Support Was an Abuse of Discretion

Support arrearages "are treated like a money judgment, each payment having become due under an extant judgment or order. [Citation.]" (*In re Marriage of Everett* (1990) 220 Cal.App.3d 846, 854.) The family court may ensure judgments, including support orders, are properly enforced by any "order as the court in its discretion determines from time to time to be necessary." (§ 290.) Although accrued child support arrearages may not be adjusted up or down (*In re Marriage of LaMoure* (2011) 198 Cal.App.4th 807, 825 (*LaMoure*); *Tavares, supra*, 151 Cal.App.4th at p. 626; see also §§ 3651, subd. (c)(1); 3653, subd. (a); 4009), use of enforcement judgment remedies, including equitable setoff, does not amount to an impermissible modification of past child support orders. (*Keith G. v. Suzanne H.* (1998) 62 Cal.App.4th 853, 858-860 (*Keith G.*); *In re Marriage of Trainotti* (1989) 212 Cal.App.3d 1072, 1075-1076 (*Trainotti*); see 10 Witkin, Summary of Cal. Law (9th ed. 1990) "Parent and Child," § 428.) A setoff is a means by which a debtor "may satisfy in whole or in part a judgment or claim held against [her] out of a judgment or claim which [she] has

subsequently acquired against [her] judgment creditor" (in this case father). (*Keith G., supra,* at pp. 860-861.) "Setoffs are routinely allowed in actions to enforce a money judgment. [Citations.] Indeed, '[t]he offset of judgment against judgment is a matter of right absent the existence of facts establishing competing equities or an equitable defense precluding the offset.' [Citation.]" (*Id*. at p. 859.) Failure to consider whether a debtor spouse has satisfied his or her obligation is an abuse of discretion. (*Trainotti, supra*, at p. 1075.) The actual amount of any setoff is a factual matter. (*LaMoure, supra*, at p. 825; see also *In re Marriage of Peet* (1978) 84 Cal.App.3d 974, 976 (*Peet*) ["[W]hether the paying spouse is entitled to a setoff lies in the sound discretion of the trial court to be determined from the facts and circumstances of each case."].)

Peet, *Trainotti* and *Keith G.* are instructive. In *Peet*, the issue was whether voluntary child support overpayments may be credited against future support obligations. In that case, the father overpaid child support in the total amount of $1,205 from 1959 until 1969; but during that time, he did not always pay monthly support. In 1969, the mother obtained a writ of execution for $1,485 of unpaid child support. On the father's motion to quash the writ, the trial court credited him for the $1,205 overpayment, thus reducing the arrears to $280. (*Peet, supra,* 84 Cal.App.3d at pp. 976-977.) The appellate court affirmed, holding that whether a paying spouse is entitled to a credit is a matter for the sound discretion of the trial court, to be determined from the facts and circumstances of the case. (*Id*. at pp. 976, 980-981.)

In *Trainotti,* the mother was awarded custody of the child and the father was ordered to pay monthly child support of $450. Three years later, the child began living with the father. Although the mother refused to stipulate to entry of an order relieving the father of the child support obligation, the father stopped making support payments. The mother sought support arrearages of $4,500. Believing that it could not offset the accrued payments for the time the child lived exclusively with the father, the family court awarded the mother the full amount of the arrearages. The appellate court reversed, holding that the family court has discretion to offset child support arrearages during the period when the debtor parent had sole physical custody of the child. (*Trainotti, supra,*

212 Cal.App.3d at pp. 1074-1075.) The court held that in fashioning a remedy for enforcing a child support order, the family court should consider whether the debtor (in that case the father, in this case wife) has satisfied or otherwise discharged the obligation imposed by the original order. (*Id.* at p. 1075.)

In *Keith G.*, the California court awarded the mother sole custody of the child and ordered the father to pay monthly child support of $253. He did not do so for eight years, resulting in $25,000 of child support arrearages owed to the mother. After the child began living with the father in Missouri, the Missouri court ordered the mother to pay $277 in monthly child support. The father sought to enforce the Missouri order in California. The California trial court found the mother was entitled to offset her future obligation to pay support under the Missouri order against the $25,000 in arrearages owed by the father. The appellate court affirmed. (*Keith G., supra,* 62 Cal.App.4th at p. 856.)

Here, at the May 2011 hearing, the family court relied upon the department's audit that covered the period from January 2005 to July 2010 to arrive at the $22,472.23 overpayment figure. According to the audit, husband underpaid combined child and spousal support by $600 in May 2010; in June 2010, he paid no child or spousal support at all; and in July 2010, he paid just $110 in combined child and spousal support. From this, it is clear that husband was engaging in his own form of self-help even before the family court made its overpayment order. Prior to the May 2011 hearing, husband had failed to provide the department with a statement of how much child and spousal support he had paid since July 2010. Even so, the department estimated that by reducing (or not paying) child and spousal support for the several months before the May 2011 hearing, husband had already recouped about $10,000 of his overpayment. The department's estimate was of necessity based on the January 2011 order, which purported to "correct" the November 2010 order. If the support amounts in the November 2010 order are used in the calculation, husband may have recouped substantially more of his overpayment, and may even have been in arrears by the May 9, 2011 hearing. Thus, by the time of the May 9th hearing, the amount of child support husband had overpaid was, to say the least,

uncertain. It was an abuse of discretion to allow husband to stop paying spousal support on June 1, 2011, "until the overages are paid in full," without a finding based on substantial evidence of whether there even was any overage as of the date of the hearing. Accordingly, we reverse the May 2011 order and remand with directions to calculate husband's arrearages and wife's setoff, if any, including interest. (See *In re Marriage of Hubner* (2004) 124 Cal.App.4th 1082, 1089.)[8]

DISPOSITION

The January 2011 order is reversed with directions to reinstate the November 2010 order increasing child support to $2,087 per month, until A.H. became 18 years old, and increasing spousal support to $3,000 per month, both retroactive to July 15, 2010. The May 2011 order is reversed and the matter is remanded to the superior court with directions to hold a hearing at which the parties may introduce evidence to establish whether husband has overpaid (or underpaid) support, taking into account the increased child and spousal support beginning on July 15, 2010, and support payments he has made (or not made) through the date of the hearing, and for other appropriate orders once that determination has been made. Mother shall recover her costs on appeal.

RUBIN, ACTING P. J.

WE CONCUR:

FLIER, J.

GRIMES, J.

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[8] Other than general references in the briefs, mother does not elaborate on the point or support her argument that the trial court was biased against her with record references. Accordingly, the issue is waived. (*Sporn v. Home Depot USA, Inc.* (2005) 126 Cal.App.4th 1294, 1303.)