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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 FOUR

In re Marriage of LAURA R. BORYS and DAVID A. BORYS.	B280833
LAURA R. BORYS, Appellant, v. DAVID A. BORYS, Respondent.	(Los Angeles County Super. Ct. No. BD560885)

APPEAL from a judgment of the Superior Court of Los Angeles County, Bruce G. Iwasaki, Judge. Affirmed as modified.

Law Offices of Michael Labrum and Michael Labrum for Appellant.

Law Offices of Michael J. Rand and Michael J. Rand for Respondent.

INTRODUCTION

Several years after entry of the December 18, 2012 bifurcated judgment dissolving their marriage, former spouses Laura R. Borys and David A. Borys[1] stipulated to shared legal and equal physical custody of their minor daughter and proceeded to trial on reserved issues. After a three-day trial, posttrial briefing, and closing arguments, the trial court ordered David to pay child and spousal support arrearages and permanent child and spousal support, denied Laura's request for attorney fees pursuant to Family Code section 2030,[2] denied both parties' requests for attorney fees as section 271 sanctions, and determined debt incurred by David's consulting business, incorporated shortly before the parties' marriage, was a community obligation for which wife was fifty percent responsible.

Laura challenges each of these rulings.[3] She also asserts the trial court erred in granting David's request to exclude testimony by her vocational expert and argues the appearance of bias by the trial court compels reversal and remand for a retrial by a different judicial officer. Laura forfeited most of her claims, however, by failing to provide appropriate record and case

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[1] We will adhere to the convention in family law cases and refer to the parties by their first names, consistent with the parties' briefs.

[2] All undesignated statutory references are to the Family Code.

[3] The trial court made additional rulings not challenged by either party on appeal. As they do not impact the issues Laura raises here, we will not discuss them in this opinion.

citations. As to the balance, the express and implied findings of fact in the trial court's statement of decision are supported by substantial evidence and we find no abuse of discretion. David concedes a mathematical error in the calculation of the community debt. Accordingly, we modify the judgment to provide that Laura's share of the community debt is $45,161, not the $58,835 reflected in the judgment, and affirm.

FACTUAL AND PROCEDURAL OVERVIEW

Laura and David separated in February 2012, after an 11-year, three-month marriage. Their only child was born in 2006.

The parties primarily relied on David's income during the marriage. He entered the marriage as a computer consultant, installing and maintaining local area networks for small businesses. He incorporated his company, Business Technology Consultants, Inc. (BTC), several months before the parties married. The recession took a toll on David's business; and by 2011, he accepted a job utilizing his computer skills with an Australian company. The new position required the family to move to Florida. Before the job began—but after David told his clients he was closing his business—David's prospective employer went bankrupt. David's income dropped in 2012. While his business was still operating at the time of trial, it no longer provided a significant source of income.[4]

Laura suffered a work injury before the marriage. She is "79 percent permanently partially disabled" and received monthly workers compensation and social security disability

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[4] Laura's expert, H. Les Kornblatt, agreed "[r]evenues and pre-tax profits of [David's] company have declined, materially, since 2011."

payments throughout the marriage. Those payments were ongoing at the time of trial, and she also was receiving a monthly food stamp payment. Additionally, their child received a derivative disability payment of $739 per month.

The trial court found the household income at the end of 2011 was approximately $12,000 per month and the parties' "station in life . . . was comfortably middle class."

Between the February 2012 date of separation and the July 2016 trial on reserved issues, Laura borrowed more than $300,000 from her father. The funds went for living expenses and Laura's attorney fees. Laura was current on her attorney's invoices as of the time of trial.

Laura's father testified the funds were loans, not gifts. When asked if the loans were "actually an advance on money" Laura would inherit from her parents, her father testified, "No." But in response to the next question ("so if [Laura] were never able to repay this money, would she receive less money from your trust?"), Laura's father answered, "At this time, yes." There were no follow-up questions on this point.

David's father died in January 2014. David and his sister were equal beneficiaries of their parents' trust; David was the trustee. The primary asset of the trust was an apartment building. David's monthly distribution from the rents became David's primary source of his income. After the death of David's father, David, as trustee, purchased a home for approximately $800,000 in cash and then gifted it to himself.

David used trust funds and almost depleted a joint IRA account to pay his attorney fees. He was not current on his attorneys' bills at the time of trial.

After the parties presented their evidence, the trial court issued a tentative ruling addressing the reserved issues. Counsel were given an opportunity to present, along with their posttrial briefs, additional evidence concerning Laura's request for attorney fees pursuant to section 2030 and both parties' requests for attorney fees as section 271 sanctions. David submitted additional evidence addressing the requests under both sections; Laura submitted declarations concerning only her section 2030 request. Laura also filed a request for a statement of decision.

The parties presented closing arguments after they filed the posttrial briefs. The trial court issued a written tentative decision, advising it was the proposed statement of decision. (Cal. Rules of Court, rule 3.1590(c).) Fifteen days later, Laura filed a second request for a statement of decision. This request neither referred to the trial court's proposed statement of decision nor made any objections to it; instead, it largely reiterated the issues included in the first request and asked the court to explain the "methodology" for six rulings, the "methodology, analysis, and calculation" for three others, and the "reasoning" that supported one evidentiary ruling.

The trial court's statement of decision referred to David's objections, but made no reference to Laura's submissions. The judgment signed by the trial court was prepared by Laura's counsel and "approved as to form and content" by David's attorney.

Laura timely appealed. At her request, we augmented the record to include additional trial court minutes.

DISCUSSION

I. Motion in Limine to Exclude Laura's Vocational Expert

David's counsel initiated a demand to exchange expert witness designations and to produce the experts' reports and writings. (Code Civ. Proc., §§ 2034.260, 2034.270.) The deadline was extended once at the request of Laura's counsel; the new deadline was one month before the scheduled trial date. David complied with the demand. Laura designated a vocational expert on the new due date, but did not include any of the expert's reports. David's counsel, who had known Laura's designated vocational expert "for about 40 years," actually telephoned the expert for an update and to determine if he needed to depose her. The expert told him she would send the report within a week. When the report failed to arrive two weeks after the deadline, David filed a motion in limine (MIL) to exclude the expert's testimony.

The expert delivered a portion of her report after the MIL was filed and the remainder a week later. Laura did not file written opposition to the MIL. The MIL was heard on the first day of trial. At the hearing, Laura's counsel argued he "substantially complied with the statute because [he] made [the expert] available for deposition." He advised the designated expert was busy with other matters and did not produce the report in a timely manner. David's counsel conceded his client "probably" would not be prejudiced if the trial court permitted him to depose Laura's designated vocational expert before she testified at trial. David's counsel agreed that if the testimony of Laura's vocational expert were excluded, he would not offer any

testimony on the subject by a competing expert. The trial court found Laura failed to comply with the statute and excluded the vocational expert's testimony. (Code Civ. Proc., § 2034.300.)

With exceptions not pertinent here, Code of Civil Procedure section 2034.300 provides, "on objection of any party who has made a complete and timely compliance with Section 2034.260, the trial court shall exclude from evidence the expert opinion of any witness that is offered by any party who has unreasonably failed" to produce the expert's reports and writings. (Code Civ. Proc., § 2024.300.) As one Court of Appeal has recognized, the "[f]ailure to comply with these requirements can have drastic consequences." (*Staub v. Kiley* (2014) 226 Cal.App.4th 1437, 1445.) For this reason, a party must be in "'complete and timely compliance'" with the statute before he is entitled to seek the mandatory exclusion of another party's expert testimony. (*Id.* at p. 1446.) A party not in full compliance may still seek exclusion of the other party's expert, but that request is addressed to a trial court's inherent authority to sanction a party for discovery abuses. (*Cottini v. Enloe Medical Center* (2014) 226 Cal.App.4th 401, 425.)

We review an order pursuant to Code of Civil Procedure section 2034.300 for abuse of discretion.[5] (*Boston v. Penny Lane Centers, Inc.* (2009) 170 Cal.App.4th 936, 950.) As David was in

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[5] Laura asserts a trial court's "exclusion of evidence based on interpretation of Code of Civil Procedure section 2034.270 [presents] a question of law reviewed de novo." The authority she relies on, *Monterroso v. Moran* (2006) 135 Cal.App.4th 732, 736 (*Monterroso*), did not involve Code of Civil Procedure section 2034.270 or the exclusion of evidence. In *Monterroso,* the trial court issued mutual restraining orders against spouses without making the factual findings required by section 6305. (*Ibid.*)

compliance with the expert witness exchange requirements, he was entitled to invoke the mandatory sanctions provisions in Code of Civil Procedure section 2034.300, even without a showing of prejudice. The trial court found Laura's explanation that the press of other business prevented her expert from timely complying with the statute was not reasonable. On this record, we cannot find an abuse of discretion.

II. Laura Forfeited the Challenge to the Child and Spousal Support Orders

A. Child Support

A child support order made pursuant to the statutory guidelines is presumed to be correct. To rebut the presumption, the challenging party must produce evidence to demonstrate the guideline's application is unfair or inappropriate based on the family's particular circumstances and the principles set forth in section 4053. (*In re Marriage of de Guigne* (2002) 97 Cal.App.4th 1353, 1359.) One such principle is that "[c]hildren should share in the standard of living of both parents. Child support may therefore appropriately improve the standard of living of the custodial household to improve the lives of the children." (§ 4053, subd. (f).)

We review child support orders for abuse of discretion, recognizing that child support is "a highly regulated area of the law [where the trial court's discretion is limited by] statute or rule." (*Y.R. v. A.F.* (2017) 9 Cal.App.5th 974, 983, internal quotation marks omitted.) Additionally, as our colleagues in Division Eight have held, the abuse of discretion standard "still [has] a substantial evidence component. We defer to the trial court's factual findings so long as they are supported by

substantial evidence, and determine whether, under those facts, the court abused its discretion. If there is no evidence to support the court's findings, then an abuse of discretion has occurred." (*Tire Distributors, Inc. v. Cobrae* (2005) 132 Cal.App.4th 538, 544.)

Factual findings may be express or implied. (*Ermoian v. Desert Hospital* (2007) 152 Cal.App.4th 475, 501.) A statement of decision typically includes the trial court's express findings of fact. (Code Civ. Proc., § 632.) Where controverted issues are overlooked or findings are ambiguous, a party may bring the deficiencies to the trial court's attention. (Code Civ. Proc., § 634; Cal. Rules of Court, rule 3.1590(g).) A party who fails to do so "waives the right to claim on appeal that the statement was deficient in these regards, and . . . the appellate court will imply findings to support the judgment." (*In re Marriage of Arceneaux* (1990) 51 Cal.3d 1130, 1134.) Under this doctrine, we "will infer the trial court made every implied factual finding necessary to uphold its decision, even on issues not addressed in the statement of decision. The question then becomes whether substantial evidence supports the implied factual findings." (*Fladeboe v. American Isuzu Motors Inc.* (2007) 150 Cal.App.4th 42, 48.)

The trial court calculated child support due from the date of separation to the time of trial and also made an order for ongoing child support. It is not clear from Laura's brief whether she is challenging the past or the permanent child support orders, or both. She does not contend the trial court deviated from the child support guideline, so we must presume the trial court adhered to it. To the extent Laura contends the trial court should have deviated from the guideline, but did not, she fails to support this

argument with citations to the record or to relevant authorities and therefore forfeits the issue. (Cal. Rules of Court, rule 8.204(a)(1)(C); *Allen v. City of Sacramento* (2015) 234 Cal.App.4th 41, 52 (*Allen*) ["When legal argument with citation to authority is not furnished on a particular point, we may treat the point as forfeited and pass it without consideration"].)

In any event, we reject the challenge on the merits. As mentioned, Laura did not file any objections to the trial court's statement of decision. Accordingly, we imply the trial court made the necessary findings to support its order. The trial court expressly accepted the opinion of Laura's expert as to David's monthly income available for all the child support calculations. That testimony provided substantial evidence to support the trial court's ruling.

The trial court rejected Laura's reliance on *County of Kern v. Castle* (1999) 75 Cal.App.4th 1442, 1455 (*Castle*). Unlike the circumstances in *Castle,* this trial court clearly knew it had discretion to consider a parent's lump-sum cash inheritance as income. The trial court noted Laura's "own expert did not treat the trust distribution as income, but opined that a reasonable rate of return could be between 2 percent and 5 percent." The trial court added "a reasonable rate of return to funds [David] received" from the trust that were not spent to acquire his current home. We find no abuse of discretion.

B. Spousal Support

Laura combined her arguments concerning spousal support with those attacking the child support orders. Here, too, she included no citations to the record specific to spousal support, including a request that David be ordered to maintain life

insurance as security for the spousal support obligation. She forfeits spousal support issues as well. (*Allen, supra,* 234 Cal.App.4th at p. 52.)

Laura also ignores the statement of decision, where the trial court listed all the factors set forth in Family Code section 4320 and acknowledged its responsibility to consider every one. (*In re Marriage of Schulze* (1997) 60 Cal.App.4th 519, 526 (*Schulze*) ["Section 4320 requires an independent evaluation of *all* of a variety of specifically enumerated factors"].)[6] The statement of decision identified each statutory factor and recited the evidence supporting the trial court's conclusions as to each one. The statement of decision did omit express findings concerning David's "earning capacity, earned and unearned income, assets, and standard of living." (§ 4320, subd. (c).) Laura did not bring this omission to the attention of the trial court, however, and we must infer the trial court made all findings that support the judgment.

III. Section 2030 Attorney Fees

Laura next contends the trial court abused its discretion in refusing to order David to pay her attorney fees and costs—which exceeded $200,000—based on "a disparity in access to funds" and David's ability to pay for attorneys for both of them. (§ 2030, subd. (a)(2).) The evidence was undisputed that Laura's father paid her attorney fees, and she sought the award to reimburse him.

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[6] Citing *Schulze, supra,* 60 Cal.App.4th at pages 524-527, the trial court appropriately rejected Laura's proposal to use DissoMaster figures to calculate permanent spousal support.

Relying on *In re Marriage of Smith* (2015) 242 Cal.App.4th 529 (*Smith*), the trial court denied the request, finding the commitment by Laura's father to pay his daughter's attorney fees meant there was no disparity between the parties in terms of access to counsel. We agree *Smith's* analysis is apt here: "It was well within the trial court's discretion to consider such regular, substantial infusions of cash as part of its determination of the relative circumstances of the respective parties and their ability to maintain or defend the proceedings. . . . [T]he funds paid on [the wife's] behalf by her father were properly [considered] for purposes of the section 2030 analysis. [¶] Indeed, to conclude the trial court was required to exclude those funds from consideration would vitiate one of the primary purposes of section 2030 and section 2032, to prevent one party from being able to 'litigate[ ] [the opposing party] out of the case,' by taking advantage of their disparate financial circumstances. [Citation.] Here, the trial court appropriately looked to the economic reality of the situation." (*Id.* at p. 534.) *Smith* also rejected the notion that "money 'borrowed' against an expected inheritance, with no expectation of any substantial repayment during the parent's lifetime, if ever, must be treated as the equivalent of money borrowed from a credit card company, for purposes of determining the relative economic circumstances of parties for purposes of section 2030." (*Ibid.*)

Laura's father paid her attorney's bills. His ambiguous testimony concerning whether these payments constituted an advance on Laura's inheritance notwithstanding, Laura was not disadvantaged vis-à-vis David in terms of being able to secure legal representation. The trial court did not include these payments as income to Laura, but found they were properly

considered in analyzing her ability to retain the services of an attorney. The trial court did not abuse its discretion in denying Laura's request for attorney fees pursuant to section 2030.

IV. Section 271 Attorney Fees as Sanctions

Section 271, subdivision (a) authorizes a trial court to award attorney fees and costs against a party as sanctions based on conduct by the party or his or her attorney that "frustrates the policy of the law to promote settlement [and reduce costs] of litigation." Section 271 sanctions may be imposed only after notice and an opportunity to be heard and only if they do not inflict "an unreasonable financial burden on the party against whom the sanction is imposed." (§ 271, subds. (a)-(b).)

Each party sought section 271 sanctions against the other. The trial court denied both requests. It found David failed to demonstrate Laura had the ability to pay and Laura presented no evidence of the type of conduct by David or his counsel that would support a sanctions award in her favor.

Laura first asserts her due process rights were violated because she did not have proper notice or an opportunity to be heard and the trial court considered the sanctions issue during the trial on reserved issues instead of scheduling a separate hearing. Second, she argues substantial evidence supported an award of sanctions in her favor.

A. Due Process

Although section 271 sanctions were not assessed against Laura, she nonetheless concludes that testimony by David's counsel concerning conduct by her and her previous attorneys "likely tainted the decision on the primary issues in the

dissolution matter." Laura does not specify what rulings were tainted and points to nothing in the record to support the claim. She cites no applicable authorities to support her claim. The issue is forfeited. (*Allen, supra,* 234 Cal.App.4th at p. 52.)

In any event, the record does not support Laura's contention that she did not have proper notice or an opportunity to be heard concerning section 271 sanctions. Laura identified the sanctions request as one of the issues to be determined in the bifurcated trial. She did not object when one of David's attorneys, Benjamin Swartzman, testified concerning conduct by her and her previous attorneys. She did not ask for more time to prepare before cross-examining Swartzman.

Before the parties prepared posttrial briefs, the trial court issued a detailed minute order setting forth its tentative decision denying section 271 sanctions and permitting the parties to augment the record with additional evidence. David took advantage of the opportunity; Laura did not. When Laura's counsel realized he could have briefed both the sections 271 and 2030 attorney fees requests, he did not ask to reopen or to strike David's additional evidence. Laura's counsel merely stated he "would have liked a bite at the apple." Nor did Laura serve and file objections to the trial court's proposed statement of decision that explained why no attorney fee sanctions against either party were assessed. (Cal. Rules of Court, rule 3.1590(g).)

Although the Court of Appeal has held, "based on the statutory language and the express purpose of section 271, a trial court may impose sanctions under section 271 before the end of the lawsuit" (*In re Marriage of Feldman* (2007) 153 Cal.App.4th 1470, 1495), Laura also complains the trial court failed to defer

the issue of section 271 sanctions to a separate proceeding. The contention comes too late. She does not provide a record citation where such a request was made: "A party on appeal cannot successfully complain because the trial court failed to do something which it was not asked to do." (*In re Cheryl E.* (1984) 161 Cal.App.3d 587, 603.)

B. Substantial Evidence

Citing *In re Marriage of Tharp* (2010) 188 Cal.App.4th 1295, 1316, Laura acknowledges the trial court's denial of her request for section 271 sanctions against David is reviewed for abuse of discretion. Despite this acknowledgement, Laura asks us to reverse the trial court's ruling because substantial evidence would have supported the imposition of section 271 sanctions against David. The question for us, however, is not whether the trial court could have assessed section 271 sanctions, but whether "considering all of the evidence viewed most favorably in . . . support [of the trial court's ruling] and indulging all reasonable inferences in its favor, no judge could reasonably make the order" that was made here. (*In re Marriage of Corona* (2009) 172 Cal.App.4th 1205, 1225–1226.) The trial court did not abuse its discretion in declining to award Laura section 271 attorney fees as sanctions.

As the trial court noted, although Laura made various arguments concerning David's failure to cooperate and reduce litigation costs, she offered virtually no evidence to support assessing attorney fees as sanctions against David. Laura relies primarily on language in an email from David to her, where David wrote he was "more than willing to have [the dissolution proceeding] last years." The words were David's, but the context

was he was "tired of [the dissolution proceedings] being dragged out by [Laura's] side and [was] going to push to keep the process moving forward." David espoused "50% custody, 50% of the assets, 50% of all the debt, and support based upon the DissoMaster formula. [¶] . . . I want to get everything resolved as soon as possible but am more than willing to have this last years to receive the amicable result described in the previous paragraph." The trial court acted well within its discretion.

V. Community Debt

Section 910, subdivision (a) provides, "Except as otherwise expressly provided by statute, the community estate is liable for a debt incurred by either spouse before or during marriage, regardless of which spouse has the management and control of the property and regardless of whether one or both spouses are parties to the debt or to a judgment for the debt." The community's liability for debt is not limited to debts "incurred for the benefit of the community, but extends to debts incurred by one spouse alone exclusively for his or her own personal benefit." (*Lezine v. Security Pacific Fin. Services, Inc.* (1996) 14 Cal.4th 56, 64.) The party who claims the community is responsible for a debt has the burden to produce substantiating evidence. (*In re Marriage of Warren* (1972) 28 Cal.App.3d 777, 784.)

The judgment states David "submitted undisputed evidence that at the time of separation, the community debt was [$90,322]."[7] This conclusion is based on exhibit 313, which

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[7] The sentence quoted above actually contains a different number, but the parties agree $90,322 is the number the trial court intended to use. David also concedes that if this aspect of

included approximately 150 pages of credit card statements, several federal tax documents, and summaries prepared by David that referenced BTC, as well as his unrebutted testimony that he reviewed the entries and removed those that were his obligation alone.[8] The principal balance on the credit card debt was $66,170.99, which ballooned to $90,322.87 when late charges, interest, and penalties were added. More than half of the principal due was attributable to charges on credit cards in both David's and BTC's names.

Exhibit 313 was received into evidence over an objection by Laura's counsel that it had not been disclosed during discovery. The trial court, finding the statements themselves had been provided to Laura and that she did not object on hearsay grounds, overruled the objection. Laura has not contended any of the challenged debt was incurred post-separation. She objected in the trial court and argues here the debts were incurred by David's business, a corporate entity, and the community cannot be liable for corporate debt.

The trial court and the parties avoided any express characterization of David's business. The sum total of the evidence–as opposed to argument–was that David formed BTC several months before the parties married and it was the parties' primary source of income during the marriage. Laura's counsel stated he was not sure how the business should be characterized,

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the judgment is affirmed, Laura's share of the debt is $45,161, not the $58,835 reflected in the judgment.

[8] Exhibit 313 included approximately another 200 pages of credit card statements Laura did not dispute.

but described it as a "personal services corporation."[9] David's counsel would not characterize the corporation, either, and essentially took the position the corporate structure should be ignored, arguing, "[a]ll [the business] is is a pass-through for the money that [David] receives. [David] . . . [is] paid as a business. It goes to the business account and then flows through to the parties. That's what they lived off of." David's counsel also represented to the trial court that David personally guaranteed all the business debts; but offered no evidence of a personal guaranties. The trial court and counsel had several discussions on the record concerning BTC, and at one point the judge remarked he "didn't think we were dividing up the business at all."

Laura's brief discusses general corporate principles, but does not apply them to the evidence in this case. She does not address, for example, the reasonable inference from the evidence that the disputed credit cards were in David's name, suggesting that even though the cards were used for business purposes, the

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[9] The Internal Revenue Code defines a "personal service corporation" as "a corporation the principal activity of which is the performance of personal services and such services are substantially performed by employee-owners." (26 U.S.C.A. § 269A.) A personal services corporation is distinguished from a professional services corporation, where the services "may be lawfully rendered only pursuant to a license, certification, or registration authorized by [statute]" (Corp. Code, § 13401, subd. (b)). The Rutter Group suggests personal service corporations are "*formed primarily for tax avoidance* by securing tax benefits for the owner-employees that would otherwise not be available (e.g., retirement plans or other fringe benefits)." (Friedman et al., Cal. Practice Guide: Corporations (The Rutter Group 2018) ¶ 2:230, p. 2-139.)

credit had been extended to him. "[C]iting cases without any discussion of their application to the present case results in forfeiture. [Citation.] We are not required to examine undeveloped claims or to supply arguments for the litigants." (*Allen, supra,* 234 Cal.App.4th at p. 52.) Laura has not met her burden on appeal as to this issue.

VI. Laura Forfeited Her Contentions Concerning Trial Court Bias

Finally, Laura contends "[t]he trial court's conduct, words, and decisions during and after trial appear to show bias." In addition to asserting this claim as a basis for reversal, she asks that we remand the matter to the trial court for further proceedings before a different judicial officer. She has forfeited the issue, however.

Laura's brief does not include any record references or citations to relevant authority in support of the claim.[10] (Cal. Rules of Court, rule 8.204(a)(1)(B)-(C); see also *Allen, supra,* 234 Cal.App.4th at p. 52.) Laura prevailed on many trial issues, but

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[10] Laura cites two appellate decisions in support of the bias argument. The first, *In re Marriage of Carlsson* (2008) 163 Cal.App.4th 281, involved a trial judge who, in the middle of a witness's examination, abruptly announced the trial was over and left the courtroom. (*Id.* at p. 289.) The Court of Appeal reversed based on a constitutional due process violation. (*Id.* at p. 290.) Laura has not attempted to explain how this authority is relevant here.

The "appearance of bias" language in the second decision Laura relies on, *In re Marriage of Iverson* (1992) 11 Cal.App.4th 1495, was expressly disapproved by the Supreme Court in *People v. Freeman* (2010) 47 Cal.4th 993, 1006, footnote 4 (*Freeman*).

even adverse, erroneous rulings "'do not establish a charge of judicial bias, especially when they are subject to review.'" (*People v. Farley* (2009) 46 Cal.4th 1053, 1110.)

Moreover, Laura complains only of the appearance of bias and a lack of impartiality. The Supreme Court held in *Freeman, supra,* 47 Cal.4th at page 996, that "the mere appearance of bias [is not sufficient to justify reversal]. Instead, based on an objective assessment of the circumstances in the particular case, there must exist "'the probability of actual bias on the part of the judge . . . [that] is too high to be constitutionally tolerable.'"'

In any event, the claim is without merit. We thoroughly reviewed the transcripts of the reported proceedings, as well as the trial court's written orders. Our objective assessment did not reveal a probability of actual bias. (*Freeman, supra,* 47 Cal.4th at p. 996.)

DISPOSITION

That judgment is affirmed as modified to provide that Laura's share of the community debt is $45,161.

DUNNING, J.*

We concur:

MANELLA, P. J.

COLLINS, J.

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