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Hon. Allison M. Danner  
Hon. Patricia Bammatre-Manoukian  
Hon. Daniel H. Bromberg

Sixth District Court of Appeal  
333 W. Santa Clara Street, Suite 1060  
San Jose, CA 95113

**Re: *E.G. v. M.L.***  
**Sixth District Court of Appeal Case No. H051526**

## **REQUEST FOR PARTIAL PUBLICATION**

Dear Justices:

The Association of Certified Family Law Specialists (ACFLS) requests the Court of Appeal partially publish its opinion in *E.G. v. M.L.* Specifically, ACFLS requests the Court of Appeal publish section II(a)(4). This would mean these parts of the opinion would be published:

- a. Opening section;
- b. Section I (Facts and Procedural Background);
- c. Section II (Discussion) first paragraph; and
- d. Section II(a)(4) (likely to recur and age-based termination date).

Publication is appropriate under California Rules of Court 8.1105(c)(1), (2), and (6).

In *E.G. v. M.L.*, the Sixth District Court of Appeal analyzed a challenged civil harassment restraining order (CHRO). In the opinion, the Court of Appeal analyzed whether a future date or event should be considered when determining the length of a restraining order. The reviewing court concluded abuse was unlikely to recur after the restrained party turned 18 years old and sua sponte changed the restraining order's expiration date. The reviewing court concluded after turning 18 years old, the restrained party would no longer have reason to harass the protected party. The original abuse occurred due to the restrained party's unhappiness with a custody ruling. Yet, that custody decision and unhappiness would no longer exist once the court lost jurisdiction when the restrained party turned 18-years old.

The important ruling for publication is a future event or date is a factor for trial courts to consider when setting the length of a restraining order, as opposed to an arbitrary length of time.

ACFLS knows no other opinion where a court set a restraining order's end date based on a future event (here, the restrained party reaching the age of majority).

While the *E.G. v. M.L.* opinion involved a civil harassment restraining order, the Court of Appeal's analysis and decision applies to all restraining order cases, including cases brought under the Domestic Violence Protection Act (DVPA).

This panel's holding a court can set a restraining order termination date upon a future date or event is important. The opinion should be published because the family law and civil harassment litigation bench and bar will gain a useful "tool" to determine a restraining order's end date. This "tool" will allow parties and counsel to settle their cases knowing one can set a termination date upon a future date or event instead of a generic, boilerplate period.



Setting a restraining order end date based on a minor party reaching the age of majority may be an infrequent event; still, there are scenarios where a future date or event termination may apply to adults. A restrained party may commit abuse to stop an act or event from occurring or to interfere with that act or event. However, once the act or event occurs, no expectation of further abuse may exist. For example, protecting a party from abuse at a protected party's wedding to their new partner, the graduation of a child from high school, termination of marital status, or a religious celebration may support a termination date based on a future event rather than a generic period (e.g., three-years).

Judicial officers may issue a restraining order for any period, up to five years. However, the family law bar has seen three-years as a "standard" or arbitrary order. The reason a restrained party is commits abuse may warrant tailoring the restraining order's end date to when the reason for the abusive conduct ends as opposed to an arbitrary length. The *E.G. v. M.L.* opinion gives trial courts the option for this more nuanced approach.

One concern with restraining orders is they can infringe upon a restrained party's First Amendment rights on social media or in public comment. Allowing trial courts to tailor the restraining order's length provides better protection and recognition of free speech rights while effectively ensuring the protected party is safe from abuse.

Rule of Court 8.1105(c)(1) supports publication as the opinion establishes a new rule of law by allowing an end-date to a restraining order be based on a specific future event or a person's age.

Rule of Court 8.1105(c)(2) supports publication because the opinion applies an existing rule of law about restraining orders to a set of facts significantly different from other published opinions. ACFLS is not aware of a case where a minor child restrained party had a restraining order end based on the restrained party turning 18-years old.

Rule of Court 8.1105(c)(6) supports publication because the opinion addresses a legal issue of continuing public interest. Properly balancing one's First Amendment right of free speech with the right and need to protect against abuse is an important public policy issue. In addition, having the "tool" of a more nuanced end-date to a restraining order helps parties and counsel settle cases short of trial, which helps the parties and saves judicial resources.

ACFLS recognizes its members, and all attorneys handling restraining order cases, need more published opinion providing facts and examples that help trial courts, parties, and counsel best handle restraining order cases, especially when there are unusual fact patterns that give guidance in restraining order cases.

## **ABOUT ACFLS**

ACFLS is an independent non-profit bar association, composed of nearly 600 California certified family law specialists, and dedicated to promoting and preserving the practice of family law since 1980. ACFLS members actively practice family law in California family courts and appellate courts. Our members also serve as court-appointed minors' counsel, mediators, private judges, judges pro tempore, and expert witnesses in child custody proceedings.

Since its founding at the inception of the certification of family law specialists by the State Bar, ACFLS has played an active public policy role when the Appellate Courts, Legislature and Judicial Council consider matters of significance to family courts, family court populations or the family law bar. ACFLS has appeared as amicus in many family law appellate cases, including cases where the organization's participation was invited by the appellate court.

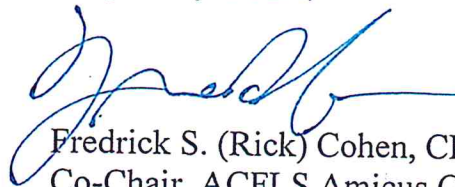
ACFLS has an active all-volunteer amicus committee who reviews cases, and makes recommendations to the Board of Directors regarding letters supporting publication or depublishing of opinions, letters supporting or opposing California Supreme Court review, and amicus briefs.



ACFLS's active, all-volunteer, amicus committee includes every known California lawyer that holds dual certification as a certified family law specialist and as a certified appellate law specialist. Other committee members include highly respected leaders in the family law community including Hon. Thomas Trent Lewis (ret.) and Garrett C. Dailey.

ACFLS's board of directors and amicus committee have no direct ties to or interest in the litigants or their attorneys – ACFLS is solely concerned with the development of the law for children and families in California. Committee members take turns reviewing the unpublished decisions on the California Courts website. One member, Leslie Ellen Shear, had a conflict of interest and did not participate in the analysis, voting, or review of this letter.

Very Truly Yours,



Fredrick S. (Rick) Cohen, CFLS  
Co-Chair, ACFLS Amicus Committee

**STATE OF CALIFORNIA**  
California Court of Appeal, Sixth Appellate  
District

***PROOF OF SERVICE***

**STATE OF CALIFORNIA**  
California Court of Appeal, Sixth Appellate  
District

Case Name: **E.G. v.  
M.L.**

Case Number: **H051526**

Lower Court Case Number: **23CV01723**

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My email address used to e-serve: **nicole@familylawlitigators.com**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

Filing Type	Document Title
REQUEST - REQUEST TO PUBLISH OPINION	Letter

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9/27/2024

Date

/s/Fredrick S. (Rick) Cohen

Signature

Cohen, Fredrick S. (Rick) (143407)

Last Name, First Name (PNum)