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Hon. Shama H. Mesiwala  
Hon. Peter A. Krause  
Hon. Stacy E. Boulware Eurie

Third District Court of Appeal  
914 Capitol Mall  
Sacramento, CA 95814

**Re: *J.R. v. J.F.* – Case No. C096659  
Request for Publication**

Dear Justices:

**REQUEST FOR PUBLICATION**

The Association of Certified Family Law Specialists (ACFLS) requests the Court of Appeal publish its opinion in *J.R. v. J.F.*

Publication is appropriate under Rule of Court 8.1105(c) (1), (3), (4), and (6).

In *J.R. v. J.F.*, this court affirmed the trial judge's ruling denying an exception to the firearms relinquishment requirement imposed on a restrained party who was a peace officer. The peace officer provided the court with a favorable psychologist's report under Code of Civil Procedure section 527.9(f). The peace officer argued the favorable report meant the peace officer had the right to an exception to the firearms relinquishment requirement so the peace officer could keep his job. The trial court gave little weight to the psychologist's report, given the psychologist was not made aware of the peace officer's violation of the temporary restraining order by failing to timely and accurately report and relinquish firearms. This omission undermined the utility of the psychologist's evaluation.

After considering all the evidence, including the peace officer's harassment and threats against the protected party and his family over several years by misuse of firearms, the peace officer's failure to timely and accurately relinquish his firearms, and the psychologist's report, the trial court denied the peace officer's request for an exception to the firearms relinquishment requirement. The peace officer appealed and this court affirmed the trial court's ruling.

In *J.R. v. J.F.*, this court interpreted and explained the application of the rule in Code of Civil Procedure section 527.9(f) regarding an exception to the firearm relinquishment requirement for a peace officer subject to a restraining order after hearing. This court held a favorable report from a psychologist does not automatically trigger a right to the exception but, rather, is evidence for the trial judge to consider and weigh along with all other admissible evidence.

This interpretation seems to be an issue of first impression. ACFLS has found no case previously interpreting the Code of Civil Procedure section 527.9(f) exception to the firearm relinquishment requirement.

Given this ruling is one of first impression, publication is appropriate because the opinion establishes a new rule of law (Rule 8.1105(c)(1)), explains an existing rule of law (Rule 8.1105(c)(3)), and advances a new interpretation or clarification of a statute (Rule 8.1105(c)(4)).

This opinion also involves a legal issue of continuing public interest (Rule 8.1105(c)(6)) because the opinion explains how the firearm exception rule applies to peace officers and clarifies a favorable psychological report is the start, and not the end, of the inquiry.

This opinion also indirectly suggests firearm related misconduct and the failure to timely and accurately report and turn in firearms after service of a temporary restraining order, as occurred in the underlying case, is likely to result in the trial court being less likely to permit an exception to the firearm relinquishment rule than with other types of abuse.

Family law attorneys represent peace officers (deputy sheriffs, police officers, highway patrol officers, and others) in domestic violence and civil harassment restraining order cases. Restraining orders involving peace officers have the sensitivity not applicable to most parties to a restraining order case in that peace officers usually will lose their job if they may not own or possess firearms.

The court, family law attorneys, and the parties will benefit from understanding the rule that a psychologist's report is a piece of evidence the trial court considers when deciding whether to order an exception to the firearm relinquishment rule and not an automatic "free pass."



If published, *J.R. v. J.F.* would give guidance on what evidence needs to be provided and confirm the trial court needs to apply its discretion whether to grant the firearms relinquishment exception based on all the evidence and not just “rubber stamp” a favorable psychologist’s report.

## **ABOUT ACFLS**

ACFLS is an independent non-profit bar association, composed of nearly 700 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.

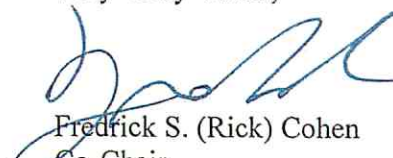
Since its founding at the inception of the certification of family law specialists by the State Bar, ACFLS has played an active public policy role when the Appellate Courts, Legislature and Judicial Council consider matters of significance to family courts, family court populations or the family law 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 with 21 members who review cases, and makes recommendations to the Executive Committee and 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 all eight California lawyers who hold dual certification as family law and appellate specialists, and other 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 in this matter – 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.

Very Truly Yours,



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

CA 3rd District Court of Appeal Court Name	<b>PROOF OF SERVICE</b>	C096659 Case Number
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1. At the time of service, I was at least 18 years of age.
2. My email address used to e-serve: **nicole@familylawlitigators.com**
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Title(s) of documents served:

**REQUEST - REQUEST TO PUBLISH OPINION:** Request for Publication

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I declare under penalty of perjury that the foregoing is true and correct.

08-18-2023

Date

/s/Fredrick S. (Rick) Cohen

Signature

Cohen, Fredrick S. (Rick) (143407)

Last Name, First Name (Attorney Number)

Law Offices of Fredrick S. Cohen

Firm Name