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December 13, 2024

Hon. Truc T. Do, Associate Justice  
Hon. Richard D. Huffman, Acting Presiding Justice  
Hon. Julia C. Keley, Associate Justice

California Court of Appeal, Fourth District, Division One  
750 B. Street, Suite 300  
San Diego, CA 92101

RE: *Jason Goldwater v. Superior Court of California*  
Court of Appeal Case No. D085139

**REQUEST FOR PUBLICATION OF DECISION**

To the Honorable Justice Do, Acting Presiding Justice Huffman, and Justice Keley:

I write on behalf of the Association of Certified Family Law Specialists (ACFLS) to request that this Court forward this request to publish this Court's opinion in *Goldwater v. Superior Court of California* to the California Supreme Court, pursuant to California Rules of Court, rule 8.1120, subdivision (b), so that Court can act on this request for publication. As detailed below, this case meets the legal standards for publication set forth in California Rules of Court, rule 8.1105, subdivision (c).

The opinion in *Goldwater v. Superior Court of California* meets the standards for publication because publication would make it citable as authority for two principles important to both trial judges and litigants, and especially to survivors of domestic abuse: first, it establishes that the ability to gain the temporary – and potentially life-saving – protection of a temporary restraining order (TRO) does not depend on being the party to win a race to the courthouse; and second, it establishes that where an ex parte request for a TRO is denied, writ review is available pending an evidentiary hearing. Both points are important to trial judges and litigants throughout the state.



ACFLS is an independent non-profit bar association, comprised of more than 600 California certified family law specialists, and dedicated to promoting the high-quality practice of family law. ACFLS members routinely appear in family courts throughout the State of California, including handling many domestic violence matters. ACFLS also has an active amicus committee which reviews cases and makes recommendations to the Board of Directors when we believe an opinion should be published or depublished, as well as writing letters supporting or opposing Supreme Court review and filing amicus briefs. The ACFLS amicus committee includes every known California attorney holding dual certification as both a certified family law specialist and a certified appellate law specialist.

Many of our members have had cases where both parties to a divorce, parentage action, or child custody proceeding file a request for a domestic violence restraining order. Typically, one party's request for a restraining order and its associated TRO is received by the court before the other party's request. Too often, the trial court issues the first TRO and denies the second TRO request, even if the second TRO request is facially righteous, as happened in *Goldwater*. While the trial court eventually will have to sort out the parties' competing requests for restraining orders, the second party in the "race to the courthouse" is entitled to be protected by a TRO until the trial court holds its evidentiary hearing.

In our experience, it is not uncommon for the primary aggressor in a domestic dispute to be the first to make it to the courthouse. Our Legislature has recently directed our courts to pay greater attention to the dynamics of coercive control within abusive domestic relationships, including recognizing that coercive control can include "controlling, regulating, or monitoring the other party's movements, communications, daily behavior, finances, economic resources, or access to services." (Fam. Code, section 6320, subd. (c)(3).) For victims of coercive domestic abuse, it may take time to summon the emotional and financial resources to obtain the assistance necessary to seek a TRO. During this time, the abusive party often will have already sought protection from the court.

Given this dynamic, it is critical to the protection of survivors of domestic abuse that the ability to obtain a TRO not depend on whose ex parte petition is considered first. By making clear that it is an abuse of discretion for a court to deny a TRO simply because the other party in a conflict already has obtained temporary protective orders, *Goldwater* provides important guidance to our trial courts not currently existing in any other published decision. This case therefore meets the criteria for publication set forth in California Rules of Court, rule 8.1105, subdivisions (c)(2) and (c)(4).

Given public concern over domestic abuse, *Goldwater* also is a case of continuing public interest.

Finally, we are aware of no published decision that explicitly holds that writ relief is available when a trial court denies a TRO pending an evidentiary hearing. Because obtaining protection pending hearing can be critical to the safety of survivors of domestic abuse, this too makes *Goldwater* an appropriate case for publication pursuant to California Rules of Court, rule 8.1105, subdivisions (c)(2) and (c)(4).

For these reasons, ACFLS requests publication of the decision in *Goldwater v. Superior Court of California*.

Respectfully submitted,



Deborah H. Wald  
ACFLS Amicus Committee