

1 GOLNESA MONAZAMFAR., ESQ. *SBN# 290964
2 *Certified Family Law Specialist, State Bar of California*
3 LAW OFFICES OF GOLNESA MONAZAMFAR
4 1821 S. Bascom Ave., #427
5 Campbell, CA 95008
6 Tel: (408) 244-0424
7 Email: golnesa@gmfamilylawgroup.com

**Electronically filed
by Superior Court of CA,
County of Santa Clara,
on 3/1/2022 5:07 PM
Reviewed By: R. Fleming
Case #19FL001660
Env. #8404730**

8 Attorneys for Petitioner,
9 EKATERINA STRULYOV

10 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SANTA CLARA**

12 *In re. Marriage of:*) **CASE NO. 19FL001660**
13)
14 EKATERINA STRULYOV,) **PETITIONER’S TRIAL BRIEF**
15)
16 Petitioner,)
17 &)
18 EUGENE STRULYOV,)
19) **Trial: March 8, and 9, 2022**
20) **Dept: 74**
21 Respondent.) **Hon: Hon. Brooke A. Blecher**
22)
23 _____ /

24 Petitioner, EKATERINA STRULYOV, by and through her attorney of record, Golnesa
25 Monazamfar hereby submits her Trial Brief in advance of the Trial currently set to commence on
26 March 8, 2022.

27 **I. STATISTICAL INFORATION:**

28 Date of Marriage: October 29, 2010
Date of Separation: April 8, 2019
Length of Marriage: 8 years 6 months
Minor Children: [REDACTED]

Document received by the CA 6th District Court of Appeal.

1 **II. ISSUES TO BE RESOLVED AT TRIAL:**

2 (1) Respondent’s Breach of Fiduciary Duties (Failure to Disclosure/Divide
3 Community Property Google Shares of Stock; Failure to Disclose/Divide Vacation pay-out)

4 (2) Petitioner’s request for set aside of the stipulated judgment related to the
5 allocation of the party’s family residence in Tarzana, based upon Respondent exerting duress,
6 fraud, and undue influence on Petitioner

7 (3) Petitioner’s request for proper division of FCU account, community stock
8 accounts, and confirmation of beneficiary of Respondent’s life insurance policy.

9 (4) Respondent’s Request for Set Aside of the April 2020 Stipulation and set aside of
10 the spousal support section of the parties stipulated judgment.

11 (5) Petitioner’s Request for Attorney’s Fees, Costs and Sanctions based on California
12 Family Code §§ 271, 1101, 2100 et seq. and Code of Civil Procedure §§ 1008 (d), 128.7, 128.5,
13 and 3294.

14 **III. REQUEST FOR STATEMENT OF DECISION:**

15 Petitioner requests a Statement of Decision pursuant to Family Code Section 3022.3

16 **IV. SUMMARY OF CASE**

17 Petitioner/Mother, EKATERINA STRULYOV and Respondent/Father, EUGENE
18 STRULYOV were married on October 29, 2010 and separated on April 8, 2019, although they
19 agreed to June 1st being the date Petitioner and the minor child (Sofia: currently 8 years old)
20 moved out of the family residence.

21 During marriage, Respondent maintained sole control over the parties’ finances including
22 all of their stock and brokerage accounts. Respondent worked for various hi-tech companies
23 including Google and Apple where he obtained stock options and RSU’s which he bought and
24 sold without Petitioner’s knowledge or consent. Many of Respondent’s stock sales resulted in
25 large losses to the community assets, as many were sold when the values of these stocks were
26 substantially lower than had they been available for distribution during separation. In fact,
27 Respondent actions lead to a substantial loss in the community assets, as in 2018 he decided to
28

1 sell over \$130K worth of Apple stocks unilaterally without any consent or knowledge of
2 Petitioner. By now Apple stock has substantially grown which would have been worth well over
3 \$500,000.

4 Respondent did not just control the parties' finances, he also controlled Petitioner as well,
5 by exerting emotional stress, gaslighting, manipulation, and verbal abuse on a daily basis.
6 Respondent demeaned Petitioner by insulting her and cussing her amongst other things as well as
7 constantly telling her that she was useless and a mere dependent; that she should be very grateful
8 to him since he provides food in the fridge and a roof over her head because she cannot earn big
9 money. Whenever petitioner would ask a question on family finances, she would always get an
10 enraged pushback with Respondent pointing to her place being in the kitchen as "all she was
11 capable of doing was cooking and cleaning."

12 Respondent constantly informed Petitioner that everything was his as he worked as an
13 engineer, switched between jobs as he pleased, but as stated always working for well-known
14 companies mentioned above earning between \$200,000 to \$300,000 a year.

15 Since 2010 when parties married, they created a joint bank account and all of the income
16 and expense transactions were going in and coming out from this account. This included rent
17 collected from the Tarzana property, HOA fees, taxes, maintenance and repair costs related to
18 this property.

19 In 2012 when the parties refinanced their real property, Respondent successfully deceived
20 Petitioner by adding her to the refinance loan and, thus getting a lower rate, but keeping his sole
21 name on the title to the property. Such manipulation allowed Respondent to gain unequal
22 financial advantage over Petitioner without her consent. She would have never agreed to be
23 added to the mortgage and yet be kept off the title. This simply does not make any logical sense
24 and only exposes her to a great financial liability.

25 In 2017 when the parties' estate attorney completing their living trust documents notified
26 the parties of this issue, Respondent claimed that he was not aware of this omission, and then
27 added Petitioner's name to the title. The parties have also signed the transmutation agreement,
28

1 specifically stating that the property is being converted to community assets.

2 However, during the parties' divorce, Respondent claimed that the property had always
3 been his, and Petitioner had no interest in "his house." He stated that the only financial debt he
4 owes her is \$65,000 (50% of the Apple stocks he sold to pay off the mortgage in 2018). He
5 submitted a Schedule of Assets and Debts indicating that the Tarzana property is his single
6 property and continued to manipulate the Petitioner during the divorce to intimidate her with
7 attorney costs and legal proceedings. Due to such harassment, lack of financial liberty to hire
8 experts and fear of court proceedings and attorney costs, she was left to believe she had no other
9 choice but to sign the deed back to him since she had no interest in this property.

10 Petitioner found a 1-bedroom apartment in San Jose, so she and her daughter could move
11 in. However, due to her low income she would not qualify even for this 1-bedroom place by
12 herself. Thus, Respondent signed as a co-lessee, and the apartment was set to be ready for move
13 in by June 1, 2019.

14 Shortly after the parties signed the MSA (May 28th) Petitioner was notified that this
15 apartment would not be ready by the agreed upon June 1, 2019 date. In addition, as soon as they
16 arrived home after the signing (there were still 2 days left in the same residence) Respondent
17 tried to tear up divorce papers, made unwelcomed sexual advances on her and wanted to rape
18 Petitioner. He continued with his berating of her as well; Petitioner realized that under no
19 circumstances could she and their daughter remain safe while residing with Respondent for an
20 additional time. The news about the apartment and his behavior resulted in Petitioner making a
21 decision the same night to move in with her then boyfriend (now husband) on June 1st. She
22 immediately informed Respondent of that intention, and both Petitioner and the minor child
23 moved as of June 1st. Respondent in fact was well aware of this and even helped to get the
24 movers and visited the apartment they moved to on June 1, 2019. Petitioner's name was added
25 to that lease and she started paying rent and contributing to the household expenses after the
26 move.

27 Respondent's intimidation tactics continued as they discussed and worked out the
28

1 division of the assets. Respondent claimed that what he offered Petitioner was all she would get,
2 and that if she argued, she would end up with nothing as he would drag her through court
3 instead, and she had no money to defend herself. He informed Petitioner that it was his hard
4 work that built the wealth they had while accusing Petitioner of spending all of his money, and
5 contributed nothing to the community. The insults and intimidation tactics were non-stop at this
6 point.

7 While they worked through the division of assets, Respondent failed to properly disclose
8 all of the community assets including the Google stocks and his vacation buyout. The division of
9 these assets was completely left off of the party's settlement agreement and to this date have not
10 been equitably divided.

11 Respondent also took other measures including quitting his Google employment, and
12 obtaining a position with a startup company earning one-half of his total prior compensations.
13 He later told Petitioner that he did this with a premeditated intent, as it was the only way to pay
14 her less support, since he did not want to pay her any spousal support.

15 Prior to filing for a divorce, the parties enrolled the child in a private school and prepaid
16 the enrollment fees and the 1st month tuition to secure her spot in this school. They even prepaid
17 the entire summer camp program at this school to get the child accustomed to the campus and
18 staff. The visitation schedule was based on the private school all-day program. After the parties
19 agreed to jointly share their minor daughter's educational costs as stated in their judgment,
20 Respondent refused to pay. Respondent continued to harass and intimidate Petitioner causing
21 unnecessary stress by trying to control her.

22 He even refused to follow up on Roth IRA account division (he was the only one who
23 had control and access to it) telling Petitioner to do it herself and contact the broker. At this point
24 Petitioner was then forced to hire an attorney in an attempt to enforce the agreement. Even after
25 the parties entered into a new Stipulation in April 2020, Respondent quickly changed his mind
26 claiming that Petitioner defrauded him because in essence he had "buyers' remorse" after signing
27 the agreement.

28

1 The Stipulation specified that Respondent agreed he would pay 50% of Minor Child's
2 educational expenses; something that was also already stated in the prior stipulated judgment. At
3 no point in time the obligation to pay for child's educational costs was not tied to either parties'
4 income. There was no duty for Petitioner to volunteer financial information in connection with
5 this agreement to Respondent and no other obligation was outstanding. Respondent's attorney
6 then prepared the Dissomaster, never requesting a paystub from Petitioner and there was no true
7 up obligation. Respondent was motivated to engage in this Stipulation as apparently his options
8 at a startup were vesting shortly after, and he would then have had to share 18% of that package
9 with Petitioner. He failed to disclose this important detail during the negotiations that included
10 spousal support termination.

11 In addition, Petitioner saw that many numbers (including Respondent's rental income)
12 were incorrect on the submitted Dissomaster, and for settlement purposes only, Petitioner settled
13 for the submitted Dissomaster and proposed numbers, thus, lowering the child support.

14 Further, Petitioner was very clear on her settlement position which was reflected in the
15 April Stipulation by adding the following verbiage in Section 3: "**The DissoMaster is based on**
16 **the settlement of the parties and none of the entries including visitation times has been**
17 **verified or accounted for by either party.**" Both, Respondent and his attorney were aware of
18 this revision and did not raise any concern during the verbiage reviews/revisions. At no point of
19 time during the settlement negotiations did the Respondent bring up a concern about parties'
20 income being correlated to the school tuition. Had this been so important for the Respondent, he
21 should have/would have brought it up, just like he brought up many points for inclusion/revision
22 during the settlement discussions.

23 Shortly after Respondent found out that Petitioner was engaged to be married and asked
24 for the stipulation to be set aside. He did this in retaliation to her making more money, getting
25 up from her knees, finding a person who fell in love with her, and was able to offer her a stable
26 and caring life. Respondent realized that his chances of continuing to control Petitioner's life had
27 now decreased substantially. In fact, in his deposition Respondent admits that Petitioner's then
28

1 boyfriend/now husband should pay for the child's care, education, and insurance entirely.

2 Respondent also fails to admit his own failure to request and verify information, and
3 wants to simply shift the blame to Petitioner as he has always done throughout their marriage.
4 It is status quo to expect that Respondent would have most likely reneged on the agreement or
5 asked for the stipulation to be set aside at some point as he did with the most recent attempt to
6 resolve these issues in the MSC hearing.

7 Respondent's actions in manipulation, name calling and physically assaulting Petitioner
8 even continued after the parties physically separated. Without any remorse, Respondent admitted
9 to calling Petitioner a "b...h" in front of the minor child in his moving papers. Both the custody
10 evaluator and the family therapist stated, that Respondent continued this behavior even during
11 their sessions while the minor child was present. Respondent's harassing, coercing, verbally
12 threatening and intimidating Petitioner still continues to this day.

13 The parties attended the MSC hearing scheduled in December, and agreed to specific
14 terms to settle all of their existing claims. Less than 10 minutes after the conclusion of the
15 hearing, Respondent changed his mind and told his attorney to communicate that he was
16 withdrawing his offer to settle, and then again started harassing Petitioner with various one-sided
17 and very unreasonable settlement offers. The sample of these bad faith offers are listed in his
18 own MSC Statement filed with the court as recently as February 8, 2022.

19 His controlling behavior did not stop there. When Petitioner asked for a continuance of
20 trial due to her father's recent passing away, Respondent first said no, that Petitioner can either
21 agree to his now new one-sided unreasonable demand, or file a motion with the court.

22 Then after Petitioner's motion was filed, his counsel stated that if Respondent's 2 new
23 conditions are met, he would now agree to a continuance. Once again Respondent's behavior
24 makes it clear that he wants to always be in control of all aspects of Petitioner's life.

25 V. PETITIONER'S LEGAL ARGUMENTS

26 1. Respondent Omitted his Assets:

27 Adjudication of the Omitted Assets in favor of Petitioner is warranted under the family
28

1 code.

2 In a proceeding for dissolution of marriage, for nullity of marriage, or for legal separation
3 of the parties, the court has continuing jurisdiction to award community estate assets or
4 community estate liabilities to the parties that have not been previously adjudicated by a
5 judgment in the proceeding.” Cal Fam Code §2556.

6 The post judgment partition of the unadjudicated community estate claims is properly
7 entertained by the family law court even absent an express reservation of jurisdiction in its prior
8 judgment. See *Marriage of Moore & Ferrie* (1993) 14 Cal.App.4th 1472, 1483 fn. 91.

9 **Vacation Payout:**

10 Respondent was employed by Google through the date the parties were married. Just
11 after separation Respondent voluntarily quit his job with Google to start working for a small
12 startup making ½ of what he had been making. After he left Google, he received over \$7,000
13 payout for his unused vacations that he earned during marriage, which is clearly community
14 property and subject to an equitable division between the parties.

15 Respondent knew or should have known that he earns vacations as it is clearly stated in
16 the paycheck stubs he received bi-weekly. Respondent failed to disclose this, and even refused
17 to attach a copy of his paystub to the Income and Expense Declaration he provided to Petitioner
18 during mediation.

19 Respondent also failed to pay Petitioner her share of these funds when he received it from
20 Google. Any payment received, not disclosed and divided should be considered as an omitted
21 asset, and divided by the Court.

22 **Google Stocks:**

23 As stated above Respondent was the only person in charge of the parties’ finances.
24 Petitioner had no access to even view the parties’ stock portfolio, or brokerage accounts. The
25 Google stocks received by Respondent’s while married were similarly community property and
26 not divided per the stipulated judgment. “Family Code provisions impose on a managing spouse
27 affirmative, wide-ranging duties to **disclose and account for the existence, valuation, and**
28

1 **disposition** of all community assets from the date of separation through final division. See *In re*
2 *Marriage of Prentis-Margulis & Margulis* (2011) 198 Cal.App.4th 1252 at 1270-1271 (emphasis
3 added).

4 Additionally, the duty to account is enforced “by placing the burden of proof to account for
5 missing assets on the managing spouse.” (*Id.* at 1273)

6 An argument that he added two accounts together, and that Petitioner received monetary
7 equivalent of other community properties will also not negate the fact that an asset was not
8 properly listed, or divided as specifically stated. The Courts in many cases have discussed and
9 reprimanded the party that has failed to disclose, and appropriately divide community assets such
10 as the recent case stating “the financial success of one undisclosed investment does not erase the
11 harm to the community estate [...] by a separate undisclosed transaction. See *In re Marriage of*
12 *DeSouza* (2020) 54 Cal.App.5th 25 at 36.

13 There is no place on the Stipulated Judgment that lists the Google Stock account, and
14 specifies that Petitioner will be receiving the community portion of this account.

15 Therefore, Respondent failed his duty to properly list and disclose the Google stock on his
16 schedule of assets and debts, and failed his duty to have this community property divided equally.

17 Petitioner should receive the community share in this Google stock account.

18 2. Respondent Committed Fraud, Duress, and exerted Undue influence on Petitioner.

19 The award of the Tarzana Property to Respondent should be set aside based on duress,
20 fraud, and undue influence exerted on Petitioner.

21 A party can seek set aside relief based on fraud, duress, and undue influence as
22 established in Family Code §§2122(a); and 2122(c) with undue influence being clarified per Cal.
23 Civ. Code § 1575.

24 • Duress:

25 As stated above throughout the marriage Respondent controlled every aspect of Petitioner’s
26 life, by manipulating and intimidating Petitioner to the extent possible. This behavior did not stop
27 when he got Petitioner to sign what he wanted, it has continued through this date and throughout
28 these proceedings.

1 Respondent exerted duress by constantly insulting Petitioner, name calling her daily
2 including calling her a “f*** gold digging b***” when she merely asked that Respondent pay his
3 50% of the shared educational costs for their child and that “I am the one making all the money
4 while you only spend it.” Similar to the cases of *Marriage of Balcof* (2006) 141 Cal. App. 4th
5 1509, 1523; and *Marriage of Gonzalez*, 57 Cal. App. 3d 736, 743-44 (1976) contracts are voidable
6 on ground of “duress” to the extent a party’s “threats or coercion operated to prevent the other
7 party from exercising free will.

8 Respondent’s misrepresentations as to the Tarzana property is similar to the
9 misrepresentations made to the wife in *Marriage of Baltins* (1989) 212 Cal. App. 3rd 66, 87, when
10 husband told the wife that they were not equal partners in the marriage because she never worked,
11 and therefore his medical practice was all his.

12 Respondent blatantly disregarded that the Tarzana property was transmuted into
13 community property, calling it and labeling it as his separate property. **Then coercing Petitioner**
14 **to sign the stipulated judgment stating that she is receiving \$65,000 in funds for the house, all**
15 **while he was just returning the community portion of the stocks he had sold without her**
16 **consent or knowledge.**

17 Respondent played the game very well, when Petitioner was at her weakest and trying to
18 leave a long-term abusive relationship.

19 • **Fraud:**

20 Respondent also participated in activities that amount to be fraud as established in
21 *Rubenstein v. Rubenstein* (2000) 81 Cal. App. 4th 1131, 167 which specifies that a spouse who
22 conceals the existence of community assets, is depriving the other spouse of the opportunity to
23 fully present his or her case in a dissolution proceeding.

24 As established above there are no doubts that the Tarzana property was community
25 property, a fact that Respondent fraudulently concealed, and similarly to the marriage of *Grissom*,
26 he misleads Petitioner regarding the nature of the real property. See *In re Marriage of Grissom*
27 (1994) 30 Cal. App. 4th 40.

1 Once again, Respondent listed the Tarzana property as his separate property in his schedule
2 of Assets and Debts, he continued telling Petitioner that even though they had signed the title of
3 the house into trust, she had no interest in the property, and it all belongs to him. That if there is
4 any interest owed to her it will be “minimal” and if she drags anything out, she will not get any
5 money at all. He told Petitioner that she is getting \$65,000 and that she should be happy that she is
6 even getting anything, as a person that did not contribute financially to the marriage, she should
7 get nothing.

8 The fraud did not stop here, as Respondent labeled the payment of the cash related to the
9 unilateral sale of the community assets as an “exchange for receiving all right, title, and interest in
10 the residence.” Paying Petitioner for her share of the community funds was Respondent’s
11 obligation in the first place.

12 • **Undue Influence:**

13 Petitioner and Respondent were married, which dictates a presumption of undue
14 influence as they had a “confidential relationship,” and Respondent obtained an advantage over
15 Petitioner in an economic transaction; see Cal. Fam. Code § 721(b); *and according to Marriage*
16 *of Bonds* (2000) 24 Cal. 4th 1, 27; *Marriage of Burkle* (2006) 139 Cal. App. 4th 712; *Marriage*
17 *of Balcof* (2006) 141 Cal. App. 4th 1509 and *Marriage of Mathews* (2005) 133 Cal. App. 4th
18 624, 628-29.

19 Respondent was the only person aware of Petitioner’s financial abilities, and knowingly so
20 well he put her in a financial bind to get her to agree to what he wanted.

21 Petitioner was trying to leave an abusive marriage with little to no access to funds, earning
22 only \$25 an hour while Respondent earned between \$200-300,000, and being physically,
23 emotionally, and mentally responsible for the party’s minor child as Respondent had left the
24 country for a long European vacation.

25 Respondent knew that Petitioner was in a vulnerable state, and he could get her to do
26 anything he wanted as he had done throughout the marriage by getting her to sign an agreement,
27 clearing any interest she has in an over \$350,000 community property real-estate asset with no
28

1 payment to her.

2 There is clear abuse and use of undue influence.

3 • **Condo is Community Property:**

4 There is no doubt that the Tarzana Condo was community property. It is correct that the
5 property was purchased by Respondent about two years prior to marriage. Right after the parties
6 married, Respondent started paying for all property related expenses from the joint checking
7 account, including mortgage and taxes. Two years after marriage the property was refinanced and
8 Petitioner's name was added to the mortgage obligation. However, her name was left off of the
9 title despite of what Respondent ensured her originally, and despite the agreement they had.
10 Respondent violated his duty under Family Code §721, which imposes a "duty of the highest good
11 faith and fair dealing on each spouse, and that neither shall take any unfair advantage of the other."
12 The advantage must specifically be an *unfair* advantage as specified *In re Marriage of Burkle*
13 (2006) 139 Cal.App.4th 712, 734 as well. Here, Respondent clearly received the advantage of
14 refinancing what was at the time his separate property (getting a lower interest rate, adding another
15 person responsible for mortgage obligation, etc.), while Petitioner received nothing, despite the
16 expectation that she would be placed on title to the property in return.

17 Further "whenever [spouses] enter into an agreement in which one party gains an
18 advantage, the advantaged party bears the burden of demonstrating that the agreement was not
19 obtained through undue influence." (*Id.* at 729.) When a presumption of undue influence applies to
20 a transaction, the advantaged spouse must establish that the disadvantaged spouse's action was
21 made freely and voluntarily, with full knowledge of the facts, and with a complete understanding
22 of the effect of the transaction. (*Id.* at 738-39.) The presumption cannot be overcome here, because
23 Petitioner did not know all the facts and did not know the transaction would only put her on the
24 mortgage rather than transmuting the property to community property.

25 Respondent's argument that Petitioner in fact wanted to be on the mortgage, but not on the
26 title also falls flat, as no reasonable person would take on a large financial obligation without any
27 benefit.

1 Also, during this time the community earned an interest in this property as it was paying
2 down the separate property obligations.

3 When community property is used to reduce the principal balance of a mortgage on one
4 spouse's separate property, the community acquires a pro tanto interest in the property." (*In re*
5 *Marriage of Moore* (1980) 28 Cal.3d 366, 371-72; *In re Marriage of Marsden* (1982) 130
6 Cal.App.3d 426, 436-40.) The community property acquires the pro tanto interest in capital
7 appreciation of the property to the extent the community payments increased the separate
8 property's value. (*In re Marriage of Moore* (1980) 28 Cal.3d 366, 373-74.).

9 Later on in 2017, Petitioner and Respondent entered into a Transmutation Agreement,
10 clearly changing the character of the property into community property.

11 This transmutation meets the requirements of Family Code § 852, and it is in writing, it is
12 signed by both parties, it clearly says that this is presently occurring, and it states that it is going
13 from separate property to community property. See Fam. Code § 852; *Estate of Bibb*, 87
14 Cal.App.4th 461, 468 (2001)

15 Therefore this property was clearly community property at the time of the parties
16 separation.

17 3. Respondent Committed fraud and breached his fiduciary duties to Petitioner by
18 disposing community stocks without her consent and knowledge.

19 Respondent additionally breached his fiduciary duties by selling well over \$130,000 of
20 community stocks without Petitioner's knowledge or consent. This was done in violation of
21 Family code §721 which imposes a "duty of the highest good faith and fair dealing on each spouse,
22 specifying that neither shall take any unfair advantage of the other." *In re Marriage of Burkle*
23 (2006) 139 Cal.App.4th 712, 734.

24 At no point prior to the sale of valuable community stocks did Respondent discuss or
25 inform Petitioner of his intent to sell, and payoff what he claimed to be a separate property asset.
26 Nor did Respondent discuss that he is selling valuable Apple stocks based on his prediction that
27 they will lose value, and other stocks are better investments. The Apple stocks are now worth over
28

1 \$500,000.

2 Respondent controlled everything, and believed that he earned the money, so he gets to do
3 what pleases him. “That as long as Petitioner has money to spend, she will not care.” Even if she
4 does care, “she belongs in the kitchen.”

5 Respondent did not stop here, he sold additional \$20,000 community stocks later on “to
6 have cash stashed for emergency use during divorce.” He disclosed this transaction to Petitioner in
7 his divorce settlement email, and he told her he will give her \$10,000 of the liquid funds he sold as
8 her 50% share. It was not until discovery was completed after judgment that Petitioner learned
9 that Respondent had in fact sold an additional \$10,000 in community stocks to give to Petitioner
10 again without her consent or knowledge. Meaning that Respondent once again breached his
11 fiduciary duty to Petitioner, and while doing so never paid Petitioner her share of the \$20,000
12 community stocks.

13 4. Respondent’s fraudulently misrepresented nature of assets and division of the
14 community accounts.

15 **FCU Account:**

16 As mentioned above, Respondent sold \$20,000 of the community stocks right before
17 separation without informing Petitioner. These funds were deposited into the FCU checking
18 account that was under his sole and separate name. When he informed Petitioner of this sale later
19 on, he claimed that he will give her half of these funds. Based on this representation, the FCU
20 account containing over \$20,000 was awarded to Respondent.

21 It was not until discovery was completed post-judgment that Petitioner learned of
22 Respondent’s yet another fraudulent action. As instead of dividing the account, Respondent had in
23 fact sold an additional \$10,000 in community stocks to give to Petitioner. The sale of the \$10,000
24 additional stock was done of course without her knowledge or consent.

25 It was also discovered that the same FCU account contained other community assets as
26 Respondent was transferring \$100 of his income per month directly into this account. Since he was
27 employed at Apple for 2 years this amounts to be approximately \$2,400 of community funds.

28

1 Respondent again never disclosed this information or reimbursed the community for it.

2 Respondent's fraudulent actions and misrepresentation caused harm to the community,
3 which is a clear breach of his fiduciary duties.

4 **Stock Accounts:**

5 It has by now been well established that Respondent has exclusive control over the parties'
6 finances throughout marriage. Petitioner was never allowed to question what stocks if any does the
7 community have, or to even see simple brokerage account statement. If a question was asked from
8 Respondent his comments like "you belong in the kitchen" and other derogatory and harassing
9 statements would follow.

10 This is how Respondent was able to defraud Petitioner in the division of the stocks. Not
11 only did he not divide the community Google stocks, he did not equally divide the community
12 stock portfolio in general. As stated in the *Marriage of DeSouza* the managing spouse does not get
13 to offset a community account, with another account.

14 What Respondent basically did is to unilaterally pick and chose what he wanted to keep,
15 and just transferred the rest to Petitioner. Therefore, leaving the division improper and committing
16 yet another fraudulent act during his management of the accounts. As the *Marriage of DeSouza*
17 establishes, this can only be remedied by Respondent transferring the proper number of stocks to
18 Petitioner.

19 **Life Insurance:**

20 Per Section 3.D of the parties' Stipulated judgment, Respondent is responsible for
21 maintaining life insurance as security payment in the amount of \$500,000 naming Petitioner as
22 the sole beneficiary.

23 Despite multiple formal requests, Respondent failed to provide appropriate
24 documentation reflecting that he has in fact obtained and is maintaining such insurance.

25 Respondent misrepresented that such insurance has been obtained, but the documents he
26 provided have no such confirmation.

27 5. Petitioner had no duty to disclose her living situation to Respondent.

28

1 First, Respondent has listed a Family Code section 4801.5; we are unaware of the existence
2 of such code section. Respondent has provided no other case authority that specifies Petitioner had
3 a duty to disclose where she would be living after the parties separated. Despite this, and more
4 importantly, Petitioner had every intent to move into an apartment she had obtained. It was short of
5 a miracle that the news broke right after they signed the MSA that the apartment was not ready by
6 Petitioner's move out date, and prolonged for a week.

7 As stated above, once Petitioner learned and informed Respondent that the apartment is not
8 ready, he pushed himself onto her and wanted to sexually take advantage of Petitioner. Petitioner
9 then decided to move in with her then boyfriend to be in a safe environment.

10 Once the decision was made Petitioner informed Respondent and he visited the apartment
11 the same day as Petitioner's moved in on June 1, 2019.

12 Therefore, Respondent clearly knew as of June 1, 2019 that Petitioner was living with her
13 boyfriend. He also testified in his deposition that he was aware of the law of cohabitation but
14 decided not to pursue it.

15 Even if we follow Respondent's own logic, it means that he is asking to now be reimbursed
16 retroactively because he failed to bring an action or make a claim when he had every opportunity
17 to do so. The law is clear on retroactivity claims for spousal support. Basically, Respondent is
18 now yet again trying to control Petitioner's life by requesting a set aside of support payments he
19 was obligated to make.

20 Additionally, Respondent yet again fails to recognize that long-term support is based on the
21 specific factors described in California Family Code §4320, and not based on the computer-
22 generated formula.

23 One of these factors is the party's marital standard of living. Considering Respondent's
24 high income during marriage support will undoubtedly be much higher than what the parties
25 stipulated to. The agreement was per a Dissomaster which only considering Respondent's
26 minimal earnings from the startup.

27 Let's also not forget Respondent's purposefully and voluntarily quitting a high paying job
28

1 at Google to earn an overall lower income for the sole purpose of paying less support.

2 Moreover, Respondent fails to state that cohabitation does not automatically terminate
3 spousal support.

4 Even if cohabitation is found, it will not automatically mean that support will be set to zero,
5 or a refund given to the payor. At that point the Court will have to first consider what support
6 would have been under the 4320 factors, then consider if Petitioner's alleged cohabitation reduced
7 her living needs by any amount.

8 As specified in Family Code §4323 if it is determined that circumstances have changed, the
9 court **may modify** or **terminate** the spousal support. (Emphasis added)

10 Respondent will not automatically be awarded the support he paid due to his own failure to
11 bring a motion.

12 6. Petitioner had no duty to disclose her income to Respondent.

13 Based on Family Code §2102 (c) the parties continuing duty to disclose their true income,
14 assets and liabilities terminates upon and enforceable, and binding resolution of all issues. See also
15 Marriage of Sorge (2012) 202 Cal.App.4th 626.

16 This is specifically the reason why the law mandates the parties to exchange declarations
17 during the proceeding. Something Respondent failed to do as we stated above.

18 Respondent has not provided any case authority showing that this duty continues after entry
19 of judgment because none exists.

20 The court in Marriage of Sorge clarified that this section means that a "final judicial child
21 support determination, whether obtained pursuant to agreement of the parties or after litigation of
22 the matter before the court." (*Id.* at 658). And that section c of Family Code 2102 "*does*
23 *not* impose on divorced parties a continuing fiduciary duty to disclose all material facts regarding a
24 party's income after a final custody and support order has been entered." (*Id.* at 656)

25 Clearly showing that a duty to update and inform the other side of your income ends when
26 a final judgment is entered.

27 The court in this case even went a step forward and clarified the legislative intent that a
28

1 “party subject to a child support order, whether it is the party ordered to pay the support or the
2 party entitled to receive the support, has a right to make an annual request for a declaration of
3 income and expenses from the other party. The fact that the Legislature enacted section 3664
4 makes it clear that the Legislature did not intend for divorced parties to continue to owe each other
5 the same fiduciary duty to disclose all material changes in income as married persons or those in
6 domestic partnerships do, simply because the parties share a child together and an order for the
7 support and maintenance of that child remains in effect.” (*Id.* at 773 -774)

8 Respondent is now shifting the burden of his own failure to properly ask for a disclosure
9 pursuant to Family Code §3664 on Petitioner. Respondent’s argument that the April stipulation
10 should be set aside because of Petitioner’s “actual fraud” also falls flat on its face.

11 Respondent asks for relief based on Family Code §2122(a), and conveniently leaves out the
12 facts that he was never kept in ignorance. That in fact it was actually his “own lack of care” and
13 his own failure which resulted in him not obtaining information about Petitioner’s income prior to
14 signing of the April Stipulation.

15 Prior to even discussing this Stipulation, Petitioner served Respondent with the FL-396
16 form which asks for a party’s income information and tax returns. At that point even if
17 Respondent had no attorney, he could have easily sent the same request back to Petitioner.
18 Petitioner did not hold him back or prohibit him from asking for the same information.

19 The same continued even after Respondent obtained counsel; neither him nor his attorney
20 asked for income information before they prepared and sent an update Dissomaster to Petitioner.

21 In fact, due to the many inaccuracies listed in the support calculations, Petitioner
22 specifically requested that language be added that none of the entries were verified or accounted
23 for; and the Dissomaster was accepted for settlement purposes only. Respondent is yet again trying
24 to undo an agreement he signed when he had competent counsel. If he failed to ask for income
25 information prior to making an agreement, it is clearly on him, and no one else.

26 Respondent should now not be awarded for his failure to properly exercise due diligence
27 while he was represented by counsel, and now has buyer’s remorse.

28

1 7. Respondent should Pay Petitioner's Attorney's fees and sanctions.

2 Petitioner's Request Respondent to pay \$110,000 for her Attorney's Fees, Costs and be
3 Sanctioned an additional \$100,000 based on California Family Code §§ 271, 1101, 2100 et seq.
4 and Code of Civil Procedure §§ 1008 (d), 128.7, 128.5, and 3294.

5 The specific requests will be updated and detailed in the Attorney's fees declaration
6 submitted separately to Court.

7 The parties have agreed to submit their full attorney's fees declaration by March 23,
8 2022, and any replies to be filed by April 6, 2022.

9 **I. CONCLUSION**

10 Based on the foregoing reasons Petitioner respectfully requests the Court to find and
11 order the following:

12 Respondent breached his fiduciary duties by omitting community Google stocks, and
13 Google vacation pay. Therefore, the community portion of the omitted assets be paid to
14 Petitioner.

15 Respondent exerted duress, fraud, and undue influence on Petitioner. Therefore, the
16 award of the Tarzana property to him is set aside, and the property be divided equally between
17 the parties.

18 Respondent fraudulently obtained ownership of the community FCU and stock accounts.
19 Therefore, these accounts must be properly divided.

20 Respondent must list Petitioner as beneficiary on his life insurance account, as ordered
21 per section 3.D of the parties Stipulated Judgment.

22 Petitioner did not commit fraud, and had no duty to inform Respondent of her updated
23 income, or cohabitation with her then boyfriend. Therefore, his request for set aside the April
24 Stipulation and spousal support provision in the stipulated judgment should be denied.

25 Due to Respondent's actions Petitioner was forced to incur unnecessary attorney's fees,
26 including defending baseless motions, and taking unreasonable positions in settlement
27 negotiations. Therefore, Petitioner should be awarded \$110,000 in attorney's fees and costs, and
28

1 Respondent shall be additionally sanctioned \$100,000 for his conduct.

2
3 DATED: March 1, 2022

4 *Golnesa Monazamfar*

5
6

Golnesa Monazamfar, Attorney for Petitioner,
EKATERINA STRULYOV

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
Document received by the CA 6th District Court of Appeal.