

# ACFLS FAMILY LAW SPECIALIST

JOURNAL OF THE CALIFORNIA ASSOCIATION OF CERTIFIED FAMILY LAW SPECIALISTS

## IS RETROACTIVITY STILL ON THE TABLE? SUPPORT ORDERS AFTER GRUEN, FREITAS, AND STOVER

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Retroactivity of support orders continues to be a hot-button issue in California. Over the past six years, the appellate courts have found several occasions to interpret the statutes and legal principles that impact the date to which child support and spousal support orders can be made retroactive. For many of us, it has been a frustrating journey, during which the courts have injected legal rigidity into an area where our clients may be best served by greater judicial discretion to create equitable outcomes. With two retroactivity cases published in 2017, now is a good time to revisit the law on retroactivity of support orders and to consider which arguments remain viable.

As a roadmap to our analysis, we begin with the statutory and decisional law on the retroactivity of child support, temporary spousal support, and permanent spousal support, for both original orders and modification of existing orders. Following a table summarizing these authorities, we then address some of the approaches taken

in recent cases and what they may mean in the future for our clients.

### Original Support Orders

**Child Support.** A common thread throughout the retroactivity analysis is that trial courts typically have the *discretion* to make an order retroactive to some date prior to the date of the court order. The questions that matter for our practice, therefore, are “how far back *can* the court go?” and “how far back *will* the court go?”<sup>1</sup>

An original child support order can be made “retroactive to the date of filing the petition, complaint, or other initial pleading,” or to the date of service if the payor was not served within ninety days.<sup>2</sup> Out of habit, some courts may go back only as far as the filing date of a notice of motion when ruling on a request for retroactive support. With initial support hearings often not heard for many months after filing, coupling lost retroactivity with a delay

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in receiving support can have a serious economic impact on our clients. In cases where retroactive child support is at issue, it is imperative for counsel to remind the court that the Legislature intended for the trial courts to have broad discretion in determining whether child support should be retroactive, and that the court should not be dismissive of exercising that discretion where appropriate.

Prior to the passage of the current version of Family Code section 4009 in 1999, the statute setting forth the law on child support retroactivity was more limited. It read, "An order for child support may be made retroactive to the date of filing the notice of motion or order to show cause, or to any subsequent date, except as provided by federal law."<sup>3</sup> In 1998, when the California Supreme Court heard *County of Santa Clara v. Perry*, it was tasked with resolving a split among the appellate courts as to how Family Code section 4009 applied to original child support orders.<sup>4</sup> The Supreme Court recognized the Legislature intended to give trial courts more discretion over retroactive child support orders, but the Court was not impressed with its efforts to effectuate that intent. It held original child support orders (under the then-current Family Code section 4009) could only be made retroactive to the filing of an order to show cause or notice of motion, and the initial pleadings in a dissolution of marriage action did not meet those procedural requisites. In response to this case, the legislature promptly amended Family Code section 4009 to ensure trial courts would have the discretion to make original child support orders retroactive to the initial pleadings.

#### **Temporary Spousal Support.**

Unlike child support, the retroactivity of original temporary spousal support orders is not clearly addressed in the Family Code. "During the pendency of any proceeding for dissolution of marriage or legal separation of the parties. . . the court may order . . . either spouse to pay any amount that is necessary for

the support of the other spouse. . . ."<sup>5</sup> Although Family Code section 3600 is clear that temporary spousal support can neither predate nor outlive the proceedings, the statute is silent on retroactivity of spousal support requests made during the pendency of dissolution of marriage proceedings. The courts first addressed this issue in 1993 in *In re Marriage of Dick*.<sup>6</sup>

In *Dick*, the trial court determined its jurisdiction over temporary spousal support existed from the date the wife petitioned for legal separation, approximately seventeen months before the wife filed an Order to Show Cause ("OSC") requesting temporary spousal support.<sup>7</sup> On appeal, the husband contended the wife was not entitled to spousal support prior to the filing of her OSC, arguing retroactivity was controlled by the predecessor statute of our current Family Code section 4333,<sup>8</sup> which provides for retroactive spousal support only back to the date of filing the notice of motion or OSC. In rejecting the husband's position, the Second District in *Dick* explained temporary spousal support is fundamentally different from permanent spousal support, serving a different purpose and governed by different procedures, and had the legislature intended to restrict retroactivity for temporary spousal support, it would have done so explicitly by statute, as it had for permanent spousal support.<sup>9</sup>

In August 2017, the new case of *Mendoza v. Cuellar*,<sup>10</sup> heavily relying on *Dick*, provided major clarification on spousal support retroactivity rules. In *Mendoza*, the wife petitioned for dissolution of marriage, but never made a request for temporary spousal support.<sup>11</sup> The parties settled the issue of permanent spousal support, and agreed to submit the issue of "retroactivity of spousal support" to the court.<sup>12</sup> The wife argued the court had jurisdiction to award spousal support retroactive to the time of filing her initial pleadings.<sup>13</sup> The trial court denied the wife's request for

retroactive spousal support on the basis that the wife never sought temporary spousal support.<sup>14</sup> The reviewing court affirmed on the same basis.<sup>15</sup>

Read in conjunction with Family Code section 3600 and *Dick, Mendoza* provides us with another piece of the retroactivity puzzle. We already knew from *Dick* that temporary spousal support could be awarded retroactive to the date of filing of a Petition for Dissolution. We now know a party must ask for temporary spousal support in order to receive it, or to get a retroactive temporary spousal support award. If there were ever any confusion on this point, we cannot now presume that unaddressed temporary spousal support will be resolved at trial.

**Spousal Support.** *Mendoza* is ultimately an unsatisfying opinion as it relates to the retroactivity of permanent spousal support. This is due as much to the legislative framework and the arguments set forth by the wife as to the opinion itself.

Family Code section 4330 provides, “In a judgment of dissolution of marriage or legal separation of the parties, the court may order a party to pay for the support of the other party. . . .”<sup>16</sup> Permanent spousal support, therefore, happens at the end of a case as part of a judgment, either after trial or a settlement. This is consistent with what we know from *In re Marriage of Burlini*, that spousal support is determined by financial circumstances *after* dissolution and *after* the division of community property.<sup>17</sup> There should be no retroactive support on an original spousal support order. Pre-judgment support is temporary spousal support, which has its own statutory basis to address its own unique public policy objectives. There is as little reason to have permanent spousal support reach backward into the temporary support period as for temporary support to continue post-judgment. In *Mendoza*, the wife was grasping at straws, trying to mitigate her inaction with respect to temporary spousal support.

The problem with *Mendoza* is not the court’s analysis, but that the analysis fails to reconcile its legal interpretation with the procedural reality of family law. The *Mendoza* court denied the wife’s request for a retroactive spousal support order, finding that Family Code section 4333 controls.<sup>18</sup> Section 4333 states: “An order for spousal support in a proceeding for dissolution of marriage or for legal separation of the parties may be made retroactive to the date of filing the notice of motion or order to show cause, or to any subsequent date.”<sup>19</sup> *Mendoza* held, “Section 4333 controls the permissible date on which a permanent spousal support order may begin,” and if the legislature intended for retroactivity to go back to anything other than a notice of motion or order to show cause, it would have said so.<sup>20</sup> But this misses a key point: permanent spousal support starts, or is sought, without a motion or OSC all the time. If *Mendoza* were correct on this point, then spousal support would rarely start or be sought, because few requests for spousal support come through motion practice; they come up as an issue for trial or by agreement at the end of the case. Put another

way, a strict reading of *Mendoza* would allow a party to argue that the court is legally barred from ever ordering any permanent spousal support until such time as the party seeking it files a formal motion (typically costing the support recipient quite a few months before that party fixes the omission).

## Modification of Support Orders

Original support orders are analyzed differently from a modification order because although the authorities for original orders are unique, the statutory and decisional authorities for modifications are not. In fact, for modifications or terminations of support orders, the applicable statutes use the term “support orders” to encompass child, family, and spousal support orders.<sup>21</sup>

A support order may be modified at any time “as the court determines to be necessary,”<sup>22</sup> but, “[a]n order modifying or terminating a support order may be made retroactive to the date of the filing of the notice of motion or order to show cause to modify or terminate, or to any subsequent date. . . .”<sup>23</sup> So, unlike an initial child support or temporary spousal support order, modifications can only be retroactive to the filing of the request to make the change. But what happens when the existing support order authorizes a retroactive modification?

Courts have confronted this issue three times in the past six years, beginning in 2011 with *In re Marriage of Gruen*.<sup>24</sup> In *Gruen*, the trial court specifically ruled it was issuing an interim order pending receipt of a joint forensic accountant’s report on husband’s income.<sup>25</sup> At the time, this made sense. The wife was certainly entitled to temporary support, but the husband’s income was still being determined by the accountant. So, the court made an order to address the wife’s immediate need for support, while preserving the ability to correct the order in the future once accurate information was received. The court’s intentions were unequivocal: the support order “was a temporary order without prejudice pending the results of [the accountant’s] evaluation, income analysis. The court reserved jurisdiction to retroactively modify that order. . . .” The trial court was taking appropriate steps to ensure the parties were paying and receiving the correct amount of support, right? According to *Gruen*, no.

The wife in *Gruen* argued any modification to the temporary support order could only go back as far as a new motion or OSC, and the husband had not filed one. The trial court rejected her claim, determining it had never lost jurisdiction over temporary support because it was clear everyone was simply waiting for the forensic accountant’s report.<sup>26</sup> The court of appeal reversed. Why? The trial court’s retroactive modification of the support order exceeded its jurisdiction because the modification was not based on a pending motion or OSC.<sup>27</sup> The *Gruen* court’s rationale was that temporary support orders are final and directly appealable, and they are not subject to collateral attack.<sup>28</sup> Why was there no pending motion or OSC? Because the husband had asked the court to

take the OSC off calendar pending the completion of the forensic accountant's report.

As a collective groan over *Gruen* echoed through the Family Law community, we asked a lot of questions: How do we fight this?<sup>29</sup> If we can't figure out the payor's income in time for the hearing, is the support recipient doomed to suffer the consequences of a spouse's complicated income—or, as in *Gruen*, the payor's recalcitrance in disclosing this information? Do support recipients have to decide between inadequate temporary support orders and getting no support for some period of months? How can we craft orders to circumvent the holding in *Gruen*? Can the parties just agree to a retroactive order?

We were not the only ones struggling with this. The year after *Gruen* was published, *In re Marriage of Freitas*, also from the Fourth District, focused on this same issue.<sup>30</sup> But this time, the result was different. The facts in *Freitas* appeared strikingly similar to *Gruen*. The court ordered the husband to pay temporary spousal support to the wife, and the wife to pay child support to the husband. Due to questions about the wife's income, the court reserved jurisdiction to amend the support order until after the husband had an opportunity to conduct discovery on her income. The court gave the husband ninety days to submit new evidence. Before it could rule, however, *Gruen* was published, and the trial court in *Freitas* determined it lacked jurisdiction to reassess the wife's income and retroactively modify support.<sup>31</sup>

In reversing the trial court, the court of appeal in *Freitas* found that *Gruen* rested on two principles that were not present in *Freitas*: (1) *Gruen* was a final order, and (2) there was no pending OSC in *Gruen*. The first point is dubious. *Freitas* interpreted the original support order in *Gruen* to be final, but “[i]n contrast, in this case, the trial court expressly reserved jurisdiction to amend its original support awards . . . based on further consideration of evidence pertaining to [the wife's] income.” Did the trial court in *Gruen* make any less a clear statement of its intent to reserve jurisdiction to amend the temporary order? Moreover, both trial courts made that determination for the same reason, to allow more time for the determination of one party's income—in *Freitas*, through discovery; in *Gruen*, through the joint forensic accountant. The court continued: “Thus, unlike in *Gruen*, in the present case, the parties' clear expectation was that the original support awards *were not* final as to these months.” The court failed to explain how the parties in these two cases would have had differing expectations of finality when both trial courts reserved the ability to retroactively change the support order upon receipt of additional income information.

The second principle noted in *Freitas* is true, but a little unfair. In *Gruen*, the husband had his OSC for support taken off calendar, but he did so only because the trial court had reserved jurisdiction to retroactively amend the support order after receiving the accountant's

report. But still, there are differences in how this matter was approached in each case: In *Freitas*, the court gave a specific date for the husband to produce additional evidence and indicated that the support might change based on that evidence; in *Gruen*, it was a less specific statement that “[a]ny order . . . is going to be an interim order, and pending final settlement at time of trial.” While it sounds like the *Gruen* trial court held the matter over to trial, the appellate court made no comment on this.

Despite genuine questions as to the differences between *Gruen* and *Freitas*, we were nonetheless left with some relief from *Gruen*. If a court specifically reserves jurisdiction in a way that does not create an expectation of finality, and if a motion or OSC remains on calendar, then the court *maybe* able to retroactively modify a support order. If the distinction between the two cases does not give you a high level of confidence when advising clients, you are not alone. But, at least we can take the court out of the equation and stipulate to a retroactive modification order. Right? On its face, *Stover v. Bruntz* says no.<sup>32</sup>

In *Stover*, a case published in May 2017, the parties entered into a stipulated order for child support that allowed the father, the child support payor, to receive a credit for child care expenses that the mother could not prove. Pursuant to that stipulated order, the trial court ordered four years' worth of “child care credits” to the father. On appeal, the court found that the effect of this provision was a retroactive reduction of support. It is important to note that the question before the court was not the exercise of the court's discretion to allow a retroactive credit, but whether the court had the jurisdiction to make a retroactive order at all. And despite a stipulation by the parties granting that authority, the appellate court said the stipulation exceeded the trial court's jurisdiction to modify support any earlier than the date of filing a notice of motion or an order to show cause.<sup>33</sup>

But this was based on an agreement. The retroactivity provision was not a judge's creation as in *Freitas* and *Gruen*. How could the mother challenge the court's ability to implement a stipulated order? Shouldn't she be estopped from raising the retroactivity issue? Again, *Stover* says no. “There are circumstances where principles of estoppel should not be applied,” and child support is one of those times.<sup>34</sup> Courts may be allowed to act in excess of jurisdiction if consented to by the parties, but these acts are subject to being voided “when the irregularity was too great or when the act violated a comprehensive statutory scheme or offended public policy.”<sup>35</sup> *Stover* found that several “venerable” public policies protecting children came into play here, so the mother was not estopped from challenging the retroactive support provision of the stipulated support order.<sup>36</sup>

## SUPPORT TABLE

The following table summarizes the authority for retroactive support orders:

	Child Support	Temporary Spousal Support	Spousal Support
Original Order	<p>FC 4001: available during any proceeding where child in need of support at issue</p> <p>FC 4009: retroactive to date of filing initial pleadings</p>	<p>FC 3600: available during dissolution/legal separation proceeding</p> <p><i>Dick</i>: retroactive to date of filing Petition</p> <p><i>Mendoza</i>: temporary support must be requested</p>	<p>FC 4330: available in a judgment of dissolution or legal separation</p> <p>FC 4333: retroactive to date of filing motion or OSC (<i>Mendoza</i>)</p> <p><i>Mendoza</i>: Petition is not notice of motion for FC 4333</p> <p><i>Burlini</i>: determined by financial circumstances <i>after</i> dissolution and division of community property</p>
Modification	<p>FC 3603: no modification as to amount accrued pre-motion or OSC</p> <p>FC 3653: retroactive to date of filing motion or OSC</p> <p><i>Gruen</i>: no retroactive modification before filing motion or OSC despite court order providing for retroactive modification</p> <p><i>Freitas</i>: retroactive order available if jurisdiction to modify retroactively is specifically reserved as to a non-final order and OSC remains on-calendar</p> <p><i>Stover</i>: no retroactive modification despite stipulated retroactivity provision</p> <p><i>Leonard</i>: no abuse of discretion in declining to make modification order retroactive where good cause exists</p>	<p>FC 3603: no modification as to amount accrued pre-motion or OSC (orders)</p> <p>FC 3653: retroactive to date of filing motion or OSC</p> <p>FC 3591: no modification to amount accrued pre-motion or OSC (agreements)</p> <p><i>Gruen</i>: no retroactive modification before filing motion or OSC despite court order providing for retroactive modification</p> <p><i>Freitas</i>: retroactive order available if jurisdiction to modify retroactively is specifically reserved as to a non-final order and OSC remains on-calendar</p> <p><i>Economou</i>: properly “modified” retroactively where original order based on fraud</p>	<p>FC 4333: retroactive to date of filing motion or OSC</p>

### Approaches to Retroactivity Issues

**Waiver.** One of the arguments rejected in *Gruen* was that the wife had waived her objection to “the court’s procedure” by neither objecting to nor appealing the court’s order to reserve jurisdiction to retroactively modify the support order. Although this argument failed, it did so only because the facts of that case did not suggest waiver.<sup>37</sup>

As a legal theory, waiver is the relinquishment of a known right, occurring by intentional relinquishment or by an act “so inconsistent with an intent to enforce the right as to induce a reasonable belief that such right has been relinquished.”<sup>38</sup> *Gruen* held although the parties

acknowledged that support might change after the completion of the accountant’s report, the facts did not suggest the wife agreed to retroactive modification in violation of Family Code section 3603, or to suspend the Family Code section 3653 requirement of having a modification based on a motion or OSC.<sup>39</sup>

Although waiver was not established in *Gruen*, that does not mean it will not apply in your next case. It would appear prudent to establish such facts in a stipulated support order to bolster a potential claim in the future, should a retroactivity provision become part of your order.

**Estoppel.** In *Stover*, the unsuccessful effort to estop the mother from challenging the retroactive support order

is only part of the story. Although the court did not apply estoppel, the underlying rationale used by the court may, in fact, make it easier to use this defense on future retroactivity issues.

Before we get to that point, we should go back to *In re Marriage of Murray*, a 2002 retroactivity case where estoppel was also claimed.<sup>40</sup> In *Murray*, the husband/support payor successfully modified his spousal support obligation in 1992, suspending his obligation to pay support altogether. The court, however, reserved the right to reinstate the support order retroactively.<sup>41</sup> Shortly thereafter support was suspended. Later, a bankruptcy court determined that husband had defrauded his creditors by concealing assets. In 1999, the trial court similarly found that he had been defrauding his wife, and that he had the ability to pay the original spousal support during the entire seven-year period that support was suspended. The court retroactively reinstated spousal support.<sup>42</sup> The *Murray* court denied the husband's challenge to the retroactive modification, finding that he was estopped from attacking the retroactive order because he failed to timely challenge the retroactivity condition in the 1992 order; he did not appeal, so he could not collaterally attack the order now.<sup>43</sup> Unlike in *Stover*, the *Murray* court found no overwhelming policy concerns that warranted negating the availability of an estoppel defense.

Summarizing the estoppel claims in these cases may be helpful. In *Murray*, the husband was estopped from challenging the retroactive support order; in *Stover*, the mother was not estopped from challenging the retroactive support agreement. In *Murray*, the husband was avoiding paying support; in *Stover*, the father was trying to take money back from the support recipient.

This is a common theme in retroactivity cases. The courts seem far more inclined to rule in favor of a party who received support, or who did not receive the support they should have been due. The reason for this is not simply that the court is finding a reason to rule in favor of the support recipient. If the court determines it has the jurisdiction to make a retroactive order, and the party entitled to retroactivity is a bad actor, or reimbursement of overpaid support would potentially destabilize a child's home life, the court has the discretion under Family Code section 3653, subd. (d) to order repayment or not, or on terms that the court finds equitable.<sup>44</sup> These cases are less likely to be appealed because jurisdiction is only the first hurdle, and the second is so discretionary that a finding of error on appeal is unlikely.

In light of the above, how can estoppel be used favorably in a retroactivity argument? Recall the circumstances that might void acts in excess of the court's jurisdiction, such as those that allowed the mother in *Stover* to argue against her own stipulation. These include great irregularities from judicial norms, an act that violates a comprehensive statutory scheme, or one that offends public policy.

As a hypothetical, imagine a situation where the parties stipulated to child support based on the payor's income of \$10,000 per month, but with a provision in the stipulated

support order that allowed the court to retroactively modify child support after the payor's income was determined by a joint accountant, as in *Gruen*. It takes a year to determine the payor's income, and the accountant concludes child support should have been based on \$100,000 in monthly income. The support recipient responds by asking the court to retroactively modify support back to the time of the original order. The payor now challenges the retroactivity provision, citing Family Code section 3653; the support recipient argues that the payor should be estopped from challenging the stipulation. This is simply flipping the facts of *Stover*.

If we look to the estoppel cases, one would expect the payor to be estopped from challenging the retroactivity provision for all of the same reasons that the mother in *Stover* was not estopped (payor would otherwise defeat a litany of venerable public policies and comprehensive statutory schemes intended to protect children). It is the same issue as in *Stover*, but we would almost certainly get a different outcome. The point of this hypothetical is merely to demonstrate that in support retroactivity cases, estoppel is probably a one-way street. If a party is trying to use estoppel to avoid paying child support, they will likely lose; if a party is trying to use estoppel to obtain proper child support, they will likely win. If you want to win this argument, just be on the right side.

Despite the higher priority the state places on the welfare of children, it is not reasonable to expect a different outcome in the area of retroactive spousal support.<sup>45</sup> It would be a weak argument to contend that the Family Code does not have a "comprehensive statutory scheme" for spousal support. Likewise, the state places a high priority on ensuring that former spouses receive adequate support. That the *Murray* court was not impressed by these factors when it analyzed estoppel is more likely due to the husband's conduct than it is a comment on public policy.

Not yet addressed by these cases is the widespread practice of stipulating, at the outset of a case, to reserve the court's jurisdiction to make an original child or temporary spousal support order retroactive to an agreed upon date (e.g. the date of separation, the date the Petition was filed), without the need to file a motion. Such an agreement could authorize the court to make orders in excess of its jurisdiction, but it is unlikely that such an act would be voided given the public policy in favor of adequate support for children and spouses.

**Setting Aside the Original Order.** Although every effort should be made to avoid the problems with retroactive orders, the dynamic case law over the years has made that difficult. We may have inherited a bad order from a new client, or had one thrust upon us by the courts. If we were unable to protect our clients from retroactivity issues in their support orders, we may still be able to extricate them from that dilemma. It is likely that if an issue with a retroactive support award is material, it is probably the result of non-disclosure, or mistake of fact, or fraud, or some other fixable defect in the process. We still have all of

the statutory tools available to us to attack these problems. We can file motions under Code of Civil Procedure section 473, subd. (b) (mistake, surprise, excusable neglect), Family Code section 3691 (fraud, perjury, notice), and Family Code section 2122 (fraud, perjury, duress, mental incapacity, mistake, disclosure). We can also appeal. Of course, all of these different approaches have inflexible timelines, so attention must be paid to this issue as early as possible.

As you can see, the issue of retroactivity of support orders can be challenging for both the courts and family law practitioners, and the somewhat counterintuitive case law on the subject may result in difficult scenarios, in which a practitioner may have to think creatively in order to avoid a devastating financial result to his or her client.

- 1 Although not the focus of this article, the court's exercise of discretion not to make a retroactive award is broad and covers many common situations, such as informal support payments, sharing income and expenses, and continued cohabitation. *See, e.g.*, Fam. C., § 3653; *In re Marriage of Dandona & Araluce*, 91 Cal. App. 4th 1120 (2001); *In re Marriage of Leonard*, 119 Cal. App. 4th 546 (2004).
- 2 Fam. C., § 4009.
- 3 Fam. C., § 4009 (1994) [The 1994 version of the statute cited 42 U.S.C. Sec. 666(a)(9), which has been renumbered].
- 4 *Cty. of Santa Clara v. Perry*, 18 Cal. 4th 435 (1998).
- 5 Fam. C., § 3600.
- 6 *In re Marriage of Dick*, 15 Cal. App. 4th 144 (1993).
- 7 *In re Marriage of Dick*, *supra*, 15 Cal. App. 4th at 165.
- 8 Civ. C., 4801, subd. (a)(10).
- 9 *Id.* at 166
- 10 *In re Marriage of Mendoza & Cuellar*, 14 Cal. App. 4th 939 (2017).
- 11 *Id.* at 941-942.
- 12 *Id.* at 942.
- 13 *Id.*
- 14 *Id.*
- 15 *Id.* at 943.
- 16 Fam. C., § 4330.
- 17 *In re Marriage of Burlini*, 143 Cal. App. 3d 65 (1983).
- 18 *Mendoza, supra*, 14 Cal. App. 4th at 943.
- 19 Fam. C., § 4333.
- 20 *Mendoza, supra*, 14 Cal. App. 4th at 943.
- 21 Fam. C., § 3650 "Support order" means a child, family, or spousal support order.
- 22 Fam. C., § 3651(a).
- 23 Fam. C., §§ 3653; 3651, subd. (c)(1); 3603; 4333.
- 24 *In re Marriage of Gruen*, 191 Cal. App. 4th 627 (2011).
- 25 *Id.* at 639-640 (citing *Hogoboom & King, Cal. Practice Guide: Family Law* (The Rutter Group 2010) ch.5, Scope Note, p. 5-1) (the terms "interim order" and "pendente lite order" are used interchangeably, and they both refer to temporary support orders).
- 26 *Id.* at 635.
- 27 *Marriage of Gruen, supra*, 191 Cal. App. 4th at 639.
- 28 *Id.* at 637-638.

- 29 We didn't.
- 30 *In re Marriage of Freitas*, 209 Cal. App. 4th 1059 (2012).
- 31 *Marriage of Freitas, supra*, 209 Cal. App. 4th at 1065.
- 32 *Stover v. Bruntz*, 12 Cal. App. 5th 19 (2017).
- 33 *Stover, supra*, 12 Cal. App. 5th at 22.
- 34 *Id.* at 29; *In re Marriage of Murray*, 101 Cal. App. 4th 581 (2002).
- 35 *Stover, supra*, 12 Cal. App. 5th at 29; *In re Marriage of Jackson*, 136 Cal. App. 4th 980 (2006); *In re Marriage of Goodarzirad*, 185 Cal. App. 3d 1020 (1986).
- 36 *Stover, supra*, 12 Cal. App. 5th at 29-30.
- 37 *Marriage of Gruen*, 191 Cal. App. 4th at 641.
- 38 *Id.*, citing *Nordstrom Com. Cases*, 186 Cal. App. 4th 576, 583 (2010).
- 39 *Id.* at 641.
- 40 *In re Marriage of Murray, supra*, 101 Cal. App. 4th 581.
- 41 *Id.* at 584-585.
- 42 *Id.* at 585.
- 43 *Id.* at 599.
- 44 Fam. C., § 3653; *Stover, supra*, 12 Cal. App. 5th at 30.
- 45 *See In re Marriage of Czapar*, 232 Cal. App. 3d 1308, 1317 (1991) (allowing retroactive modification of temporary spousal support pursuant to a stipulated order without reference to former Civ. C. § 4700 or discussion of estoppel, finding that the husband "essentially agree[d] to just such an action by the court.").



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