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ELECTRONICALLY
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Superior Court of California, County of San Francisco

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Deputy Clerk

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO — UNIFIED FAMILY COURT

LAURA OWENS,
Petitioner and Appellant,

v.

MICHAEL MARRACCINI,
Respondent.

Case No. FDV-18-813693
(Court of Appeal No. A175236, First Appellate District — appeal pending)

NOTICE OF MOTION AND MOTION TO CORRECT AND AUGMENT THE RECORD ON APPEAL; REQUEST FOR EXPEDITED CONSIDERATION ON THE PAPERS; MEMORANDUM OF POINTS AND AUTHORITIES

[Code Civ. Proc., §§ 128, 1005(b); Cal. Rules of Court, rules 8.122, 8.155, 8.340, 3.1300(b), 2.956; Gov. Code, § 68086]

Hearing: None requested. Petitioner respectfully requests that this motion be decided on the papers, on an expedited basis, because her opening brief in the pending appeal (Court of Appeal No. A175236) is due imminently.

PLEASE TAKE NOTICE that Petitioner Laura Owens hereby moves this Court for an order correcting and augmenting the record relating to the November 5, 2025 dismissal of her request to renew a domestic violence restraining order. The dismissal is on appeal (Court of Appeal, First Appellate District, No. A175236), and this motion is brought in this Court because the documents at issue must be filed or lodged here before they can become part of the record on appeal. Petitioner requests that the motion be decided on the papers, without a hearing, and on an expedited basis.

The motion is made on the following grounds. Written communications that were before this Court on November 4 and 5, 2025—including Petitioner's medical-emergency notifications, which Court staff acknowledged in writing before the hearing—were transmitted by email, were never filed, and therefore will not appear in the record on appeal. The reporter's transcript and the minute order contain no reference to those acknowledged notifications, and no final order was ever prepared. Unless the record is corrected and augmented, the Court of Appeal will be presented with what appears to be an unexplained failure to appear.

The motion is made pursuant to Code of Civil Procedure section 128, subdivision (a), California Rules of Court, rules 8.122, 8.155, and 8.340, and this Court's inherent authority over its own records. The request for expedited consideration is made pursuant to Code of Civil Procedure section 1005, subdivision (b), and California Rules of Court, rule 3.1300(b). The motion is based on this Notice of Motion, the attached Memorandum of Points and Authorities, the concurrently filed Declaration of Laura Owens and Exhibits A–E thereto, the records and files in this action, and any further matters the Court may consider.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

On the morning of November 5, 2025, Petitioner Laura Owens was in a hospital bed at HonorHealth Scottsdale Shea in Scottsdale, Arizona, being treated for gastrointestinal bleeding after a night of vomiting blood. At 5:37 a.m., hours before the hearing on her request to renew her domestic violence restraining order, she emailed this Court and counsel for Respondent Michael Marraccini to explain that she had been admitted and could not appear, and she offered HIPAA releases so the Court and opposing counsel could verify her condition directly with the hospital. Court staff confirmed receipt in writing—twice. At 9:26 a.m., the Court dismissed the renewal request because Petitioner was "not present" and dissolved the temporary order protecting her. She remained hospitalized overnight and underwent surgery the next day.

A reviewing court will find none of this in the record. The reporter's transcript of the hearing runs five pages and contains no mention of the emergency, the emails, or the Court's acknowledgments. The minute order is equally silent, and no final order was ever prepared—the minute entry itself states, "No Order is prepared for today's hearing." The explanation for Petitioner's absence exists, but it exists in emails this Court sent, received, and answered, and in hospital records—materials that sit outside the case file because they were transmitted by email rather than filed. Respondent's lead counsel, Omar Serrato, has publicly described the consequence: thirteen days after the dismissal, he said on camera that, "[l]uckily," because no record was made, Petitioner's "options for appeal are severely limited." (Owens Decl. ¶ 28, Ex. E.)

Petitioner asks the Court to place into its file, and into the record on appeal, the documents showing what the Court knew and acknowledged before it dismissed. Because her opening brief in the pending appeal is due imminently, she asks that this motion be decided promptly, on the papers.

II. STATEMENT OF FACTS

A. The parties, the renewal proceeding, and the order to appear in person.

Petitioner obtained a domestic violence restraining order against Respondent Michael Marraccini in 2018. The order was renewed in 2020, following a contested hearing, for an additional five years; neither the original order nor the renewal was ever vacated or reversed. In July 2025, Petitioner timely sought a further renewal under Family Code section 6345. Respondent retained attorney Omar Serrato of The Eagle Law Firm to oppose the renewal; attorney Rachel E. Juarez associated in as co-counsel on October 31, 2025. (Owens Decl. ¶ 3.)

After prior continuances, the renewal hearing was set for November 5, 2025, in Department 405A before the Honorable Carolyn Gold, with Petitioner ordered to appear in person. Petitioner resides in Scottsdale, Arizona; her earlier requests to proceed without live testimony on documented medical grounds had been denied, so her in-person appearance remained required. Following the dismissal described below, Petitioner filed a notice of

appeal on December 4, 2025; the appeal is pending as Court of Appeal No. A175236. (Owens Decl. ¶ 3.)

B. November 4: the Court's reporter email, and Petitioner's non-waiver and reliance.

On the morning of November 4, 2025, Department 405A emailed the parties (Owens Decl. ¶ 4, Ex. A):

> *"We are informed by the court reporter's department that there is a high chance there will be no court reporter coverage tomorrow. Since this is a DVRO trial, the court needs to continue the trial if any party doesn't waive the court reporter. In the alternative, any party could also hire a private reporter. ... Please check your email through the day up to early tomorrow for updates for court location and reporter status."*

Petitioner promptly responded that she would not waive her right to an official court reporter and was not comfortable proceeding with a privately arranged reporter. She received no response. Understanding from the Court's email that the matter would likely be continued absent her waiver, she canceled her planned drive to San Francisco and documented her reliance in writing the same morning. (Owens Decl. ¶¶ 5–6, Ex. A.)

C. Petitioner was excluded from the reporter communications until after a private reporter had been secured.

Meanwhile, Mr. Serrato and Court staff exchanged emails about securing a private reporter without including Petitioner. At 10:10 a.m., Mr. Serrato asked, "May we have a remote court reporter if we cant find someone to be there in person?" At 3:32 p.m., Deputy Clerk Geraldine Anderson asked him, "Is this reporter certified??" At 3:42 p.m., he confirmed that "we have successfully secured a court reporter for the proceedings scheduled for tomorrow, November 5th." Petitioner saw none of these messages until she was added to the chain late that afternoon, after the reporter had been secured. She then objected in writing to the appointment of the privately retained reporter and reiterated her non-waiver. (Owens Decl. ¶¶ 7–12, Ex. A.)

D. At 4:49 p.m., the Court confirmed the matter remained on calendar; Petitioner booked a flight that evening.

At 4:49 p.m. on November 4, Court Manager Frances Yokota emailed all parties: "For clarification, this matter remains on calendar for tomorrow ... @ 9am before judge Gold, as the court has not continued this matter. Parties are to appear as previously court ordered." That evening—within hours, and despite significant financial hardship—Petitioner's family purchased a ticket for her on United flight UA1557, departing Phoenix at 6:25 a.m. the next morning; the eTicket issued at 7:20 p.m. Petitioner sent the confirmation to the Court. (Owens Decl. ¶¶ 14–15, Exs. A, B.)

E. November 5: Petitioner was hospitalized before the hearing, notified the Court twice, and offered HIPAA releases; Court staff acknowledged both notices in writing.

Late that night and into the early morning of November 5, Petitioner experienced repeated episodes of vomiting blood—a recurrence of prior gastrointestinal bleeding that her physicians had warned required immediate emergency care. She canceled her morning flight, went directly to the HonorHealth emergency department, and was admitted at approximately 5:37 a.m. (Owens Decl. ¶¶ 16–17.) Before the 9:00 a.m. hearing, she emailed the Court, Mr. Serrato, Ms. Juarez, and Respondent (Owens Decl. ¶ 18, Ex. A):

> *"I am writing to inform the Court that I am unable to appear for today's DVRO trial due to a sudden and serious medical emergency. ... I experienced multiple severe medical episodes involving vomiting blood. ... I had no choice but to cancel my morning flight and go directly to the emergency room. I am currently at HonorHealth Hospital, where I am receiving IV fluids and where they are determining treatment for gastrointestinal bleeding. ... I can provide medical documentation confirming this as soon as it becomes available and am more than willing to execute HIPAA releases as well for the Court and opposing counsel regarding my visit to the hospital. These circumstances clearly establish good cause for a continuance ... "*

Court Manager Yokota replied in writing: "Email received. Thanks." Petitioner sent a second update reporting that she was being admitted, would require an under-anesthesia procedure, and was not expected to be released until the following day. The Court acknowledged again, in writing, before the hearing: "Good morning Ms. Owens. Email received. Thanks." (Owens Decl. ¶¶ 19–21, Ex. A.) Petitioner remained hospitalized

overnight and underwent the procedure under anesthesia on November 6. Her hospital records are attached to her declaration as Exhibits C and D. (Owens Decl. ¶ 22.) Neither the Court nor either of Respondent's attorneys requested the offered verification before the dismissal. (Owens Decl. ¶ 23.)

F. The hearing: dismissal at 9:26 a.m., with no mention of the acknowledged emergency, and no order ever prepared.

The reporter's transcript shows that when the matter was called, the Court noted that "Petitioner is not present," appointed the privately retained reporter, observed that "this matter was set for 9:00 a.m., and it's 9:26," and stated, "So at this time, the Court will be dismissing this matter. The petitioner is not present." (RT 3:10–3:26.) Mr. Serrato and Ms. Juarez, both present in the courtroom and both copied on Petitioner's emergency emails that morning, said nothing about the emergency; Mr. Serrato instead reserved a motion for attorney's fees and costs. (RT 3:28–4:4; Owens Decl. ¶¶ 24–25.) Days later, in a recorded interview on November 9, 2025, Mr. Serrato acknowledged receiving Petitioner's emergency communications and explained: "We did not respond … I didn't want to give her a chance to give her anything to respond to." (Owens Decl. ¶ 25, Ex. E.)

The minute order records the dismissal and the dissolution of the temporary restraining order "[b]ecause of the non-appearance of Petitioner," makes no reference to the emergency notifications, and closes: "No Order is prepared for today's hearing." No final order was ever prepared or entered; the minute entry is the only memorialization of the dismissal. None of the November 4–5 email communications described above appears in the court file. (Owens Decl. ¶ 26.)

G. Post-dismissal events: counsel's recorded statements, the withdrawn $109,633.98 fee motion, and the media appearances.

On November 18, 2025, in a publicly posted interview, Mr. Serrato said of this appeal (Owens Decl. ¶ 28, Ex. E):

> *"I'm not worried about her appeal. Let her appeal. Luckily because the judge didn't make us make a record, her options for appeal are severely limited. An uphill battle for her."*

On April 29, 2026, Respondent filed a motion under Family Code section 6344 seeking $109,633.98 in attorney's fees and costs arising from the dismissed renewal proceeding, set for hearing on July 20, 2026. On May 6, 2026, Petitioner served a written objection documenting defects in the motion—including that the supporting billing statement, submitted under oath, contained entries describing events that had not yet occurred on the dates billed (an August 6, 2025 entry billing for review of a criminal indictment under a case number not assigned until November 5, 2025; an August 19, 2025 entry billing for research concerning a bankruptcy adversary proceeding not filed until January 9, 2026; and an August 14, 2025 entry billing a conference with co-counsel, although Ms. Juarez did not associate into the case until October 31, 2025), and that the sole witness declaration supporting the motion's theory that Petitioner had feigned her incapacity (the Declaration of Kristin Hardin, Exhibit 11 to the fee motion) described observations at a Scottsdale equestrian venue on October 21 and 22, 2025 that official USEF competition records and contemporaneous transport records establish could not have occurred on those dates. The next day, May 7, 2026, Respondent withdrew the motion without prejudice and filed a "Procedural Posture Correction" acknowledging a misstatement in the motion. No correction of the Hardin declaration has ever been filed. (Owens Decl. ¶ 27.)

Respondent's attorneys also appeared in public interviews and media segments characterizing the procedural dismissal as a decision on the merits and suggesting the 2018 and 2020 orders had been undone—although those orders were never vacated—and Respondent himself appeared in a segment on Inside Edition. These appearances were followed by a wave of harassing messages directed at Petitioner. (Owens Decl. ¶ 29.)

III. THIS COURT HAS AUTHORITY TO COMPLETE AND CORRECT ITS RECORD, AND IS THE RIGHT COURT TO DO IT

Every court has power to amend and control its process and records so that they conform to the truth. (Code Civ. Proc., § 128, subd. (a).) The clerk's transcript on appeal is built from the documents filed or lodged in the superior court (Cal. Rules of Court, rule 8.122), and the Court of Appeal may augment the record only with documents "filed or lodged in the case in superior court." (Cal. Rules of Court, rules 8.155(a)(1), 8.340.) The

relief therefore must begin here: materials that were before this Court by email but never filed must first be ordered filed or lodged in this Court before the Court of Appeal can consider them part of the record. The reviewing court retains parallel authority to order corrections and to direct this Court to settle disputes about omissions (Cal. Rules of Court, rule 8.155(c)), but the efficient first step is in this Court.

The completeness of the trial court record is not a technicality. The Supreme Court has called it "crucial" to a litigant's ability to obtain meaningful appellate review. (*Jameson v. Desta* (2018) 5 Cal.5th 594, 599, 608–609.) A reviewing court that cannot see what the trial court knew cannot decide whether the trial court acted within its discretion.

IV. ARGUMENT

A. The November 4–5 communications and supporting documents should be ordered filed or lodged and included in the record.

The materials described in sections II.B through II.E above are the contemporaneous written communications of November 4 and 5, 2025—messages this Court itself sent, received, and answered—together with the flight confirmation and the hospital records substantiating the emergency. (Owens Decl. ¶¶ 4–23, Exs. A–D.) They are not new evidence assembled for appeal; they are what was actually before the Court when it ruled. They go directly to the questions the dismissal presents on appeal: what the Court knew when it dismissed, whether Petitioner's absence was willful or excused, and whether a brief continuance—rather than dismissal and dissolution of the protective order—was the appropriate response. The illness of a party is recognized good cause for a continuance. (Cal. Rules of Court, rule 3.1332(c).)

Because rule 8.155(a)(1) limits augmentation to documents filed or lodged in the superior court, Petitioner asks this Court to order the identified materials filed or lodged nunc pro tunc as of the dates they were received, and to direct the clerk to include them in the clerk's transcript. (Code Civ. Proc., § 128, subd. (a); Cal. Rules of Court, rules 8.122, 8.155.)

B. The November 5 minute order—the only memorialization of the dismissal—should be corrected to reflect the notifications the Court had received and acknowledged.

Because no final order was ever prepared, the minute entry is the entire official account of the disposition, which makes its accuracy a matter of real consequence. As written, it records the effect—"non-appearance"—while omitting the cause the Court had already acknowledged in writing: a hospitalization, then in progress, communicated to the Court twice before the hearing. Petitioner asks that the minute order be corrected or supplemented to reflect (1) the Court's pre-hearing receipt and written acknowledgment of her medical-emergency notifications, and (2) her written objection and non-waiver regarding the court reporter. The correction does not change the disposition; it conforms the record to the truth, which is what section 128 empowers this Court to do and what procedural fairness—particularly for a self-represented litigant in a family law matter—requires. (*Elkins v. Superior Court* (2007) 41 Cal.4th 1337, 1357–1358, 1368.)

C. Completing the record is essential to meaningful appellate review—a prejudice Respondent's own counsel has described on camera.

The prejudice from the incomplete record is not speculative; the party who benefits from it has described it publicly. Mr. Serrato's November 18 statement that, "[l]uckily," the absence of a record leaves Petitioner's appellate options "severely limited," and his November 9 acknowledgment that counsel deliberately chose not to respond to the emergency communications, together confirm that the record as it stands conceals rather than presents the facts a reviewing court would need. (Owens Decl. ¶¶ 25, 28, Ex. E.) The Court of Appeal should not be asked to review the dismissal on a record its beneficiary has celebrated as inadequate.

The stakes extend to the merits Petitioner never got to present. Renewal of a DVRO turns on the protected party's reasonable apprehension of future abuse, and conduct short of physical violence can strongly support renewal. (*Lister v. Bowen* (2013) 215 Cal.App.4th 319, 332–335; Fam. Code, §§ 6320, 6345.) That inquiry was never reached: the request was dismissed, and the protective order dissolved, twenty-six minutes into the morning calendar, while the protected party was in a hospital bed the Court knew about. A record that hides

those facts converts a procedural dismissal into an effectively unreviewable merits outcome. California law does not let gaps in the record—created through no fault of the appellant—extinguish appellate rights that way. (Cf. *In re Marriage of Carlsson* (2008) 163 Cal.App.4th 281, 290–293 [due process violated where the manner in which proceedings ended made prejudice impossible to assess].)

D. The post-dismissal materials belong in the record as well.

The fee-motion packet—Respondent's April 29, 2026 motion, its supporting exhibits (including the billing statement and the Hardin declaration described in section II.G), the May 7, 2026 withdrawal papers, and the "Procedural Posture Correction"—was filed in this action, so no lodging order is needed; Petitioner asks only that the clerk be directed to include it in the clerk's transcript, or that her designation be deemed amended to add it. The packet bears on the consequences still flowing from the dismissal: the motion was withdrawn without prejudice, the Court is holding July 20, 2026 for its refiling, and its documented defects remain unadjudicated. Petitioner does not ask this Court to rule on those defects here; she asks only that the papers evidencing them travel with the record. (Owens Decl. ¶ 27.)

Petitioner further requests inclusion, to the extent the Court deems them part of a complete record, of the post-dismissal public statements identified in her declaration (Owens Decl. ¶¶ 25, 28–29, Ex. E)—counsel's two recorded admissions and the media characterizations of the procedural dismissal as a merits determination—which bear on the candor owed to this Court when the matter was called (see Cal. Rules of Prof. Conduct, rule 3.3) and on the ongoing disturbance-of-the-peace inquiry that governs renewal. (Fam. Code, §§ 6320, 6345.)

E. Expedited consideration on the papers is warranted.

This motion raises documentary questions only: whether identified written materials were before the Court and should be made part of the record. No testimony or argument is needed. Expedition is warranted because Petitioner's opening brief in the pending appeal is due imminently and cannot fairly be written until the contents of the record are settled. Good cause exists to shorten time. (Code Civ. Proc., § 1005, subd. (b); Cal. Rules of Court, rule 3.1300(b).) Respondent's counsel have been served and may respond in writing; prompt

resolution prejudices no one, while delay forces Petitioner to brief her appeal on a record that omits the dispositive facts.

V. CONCLUSION

Petitioner respectfully requests that the Court issue an order:

1. Deeming filed or lodged, nunc pro tunc as of the dates received, the November 4–5, 2025 written communications identified in this motion and authenticated in the Declaration of Laura Owens—including the Court's November 4 reporter email; Petitioner's non-waiver, objection, and reliance emails; the reporter-related communications between Court staff and Respondent's counsel; the Court's 4:49 p.m. November 4 confirmation that the matter remained on calendar; the flight confirmation; Petitioner's two medical-emergency notifications, including her offer of HIPAA releases to the Court and opposing counsel; and Court staff's two written acknowledgments—together with Petitioner's hospital records (Exhibits A–D);

2. Directing the clerk to include all such materials—together with Respondent's April 29, 2026 attorney's fee motion and supporting exhibits, the papers reflecting its May 7, 2026 withdrawal without prejudice, and the related "Procedural Posture Correction"—in the clerk's transcript in Court of Appeal No. A175236, and to transmit them by supplemental clerk's transcript if the record has already been certified (Cal. Rules of Court, rules 8.122, 8.155);

3. Correcting or supplementing the November 5, 2025 minute order—the only memorialization of the dismissal—to reflect (a) the Court's pre-hearing receipt and written acknowledgment of Petitioner's medical-emergency notifications and hospitalization, and (b) Petitioner's written objection and non-waiver of her statutory right to an official court reporter;

4. Including, to the extent the Court deems them part of a complete record, the post-dismissal public statements identified herein (Exhibit E);

5. Deciding this motion on the papers, on shortened time, in light of the pending appellate briefing deadline; and

6. Granting such other and further relief as the Court deems just and proper.

Dated: June 7, 2026

/s/ Laura Michelle Owens
Laura Michelle Owens
Petitioner, In Pro Per