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REPLY TO:

June 13, 2016

Hon. Norman Epstein, Presiding Justice  
Hon. Thomas L. Wilhite, Jr., Associate Justice  
Hon. Nora M. Manella, Associate Justice  
Hon. Audrey B. Collins, Associate Justice  
California Court of Appeal  
Second Appellate District, Division Four  
Ronald Reagan State Building  
300 S. Spring Street  
2nd Floor, North Tower  
Los Angeles, CA 90013  
(via electronic transmission)

Re: Request for Publication  
In re Marriage of Clouser and Batarseh  
Case Number B 261277  
Superior Court Los Angeles County BD 478447

Dear Presiding Justice Epstein and Associate Justices Wilhite, Jr., Manella, and Collins:

The Association of Certified Family Law Specialists requests publication of the recent decision in *In re Marriage of Clouser and Batarseh* (B261277) under California Rules of Court, rule 8.1120. The decision would contribute materially to the body of law concerning the award of attorney's fees and sanction requests against parties and counsel in family law matters. This case involves a legal issue of continuing public interest as there are few cases applying Code of Civil Procedure section 128.7 in a family law context.

Generally counsel bring attorney's fees and sanction requests pursuant to Family Code section 271 for uncooperative conduct frustrating the policy of the law to promote settlement and reduce litigation costs. (Fam. Code, § 271; *In re Marriage of Davenport* (2011) 194 Cal. App. 4th 1507, 1524.) In those cases, the court takes into consideration all evidence concerning the parties, income, assets and liability and shall not impose a sanction that imposes an unreasonable financial burden on the party

against whom the sanction is imposed. Family Code section 271 sanctions are limited to requests against parties only.

This case seeks sanctions for violations of Code of Civil Procedure section 128.7. After notice and a reasonable opportunity to respond, trial courts are empowered to assess sanctions against parties, their attorneys or law firms who are responsible for violating the certification that (1) a document was not presented for an improper purpose to harass or cause unnecessary delay or needless increase in litigation cost; (2) the allegations/factual contentions are not lacking evidentiary support; and/or (3) the denials of factual contentions are warranted by the evidence.

The filing of a Code of Civil Procedure section 128.7 motion exposes the attorney in addition to the party to sanctions and fees for violation of its terms. This case provides a virtual checklist for handling the filing of the motion, the hearing, findings, and orders.

The Association of Certified Family Law Specialists (ACFLS) is a nonprofit, statewide bar association with approximately 632 members certified by the State Bar of California, Board of Legal Specialization, as family law specialists. Since its founding at the inception of the certification of family law specialists by the State Bar, ACFLS has played an active public policy role when the Appellate Courts, Legislature and Judicial Council consider matters of significance to family courts, family court populations or the family law bar. ACFLS has appeared as amicus in many family law appellate cases, including cases where the organization's participation was invited by the appellate court.

ACFLS has an active amicus committee that reviews cases and makes recommendations to the Executive Committee and Board of Directors regarding letters in support of publication or de-publication of opinions, letters supporting or opposing California Supreme Court review, and amicus briefs. ACFLS has successfully sought publication of important unpublished family law cases, including *In re Marriage of Metzger* (2014) 224 Cal. App. 4th 1441, *In re Marriage of Winternitz* (2015) 235 Cal. App. 4th 644, *Altafulla v. Ervin* (2015) 238 Cal. App. 4th 571, *In re Marriage of Honer* (2015) 236 Cal. App. 4th 687, *In re Marriage of Siegel* (2015) 239 Cal. App. 4th 94 and *In re Marriage of Brandes* (2015) 239 Cal. App. 4th 1461. ACFLS has also filed amicus briefs in several cases, including *In re Marriage of Margulis* (2011) 198 Cal. App. 4th 1252, and *In re Marriage of Green* (2013) 56 Cal. 4th 1130.

ACFLS's Board of Directors and Amicus committee have no direct ties to or interest in the litigants or their attorneys in this matter.

ACFLS requests the publication of this opinion because it: “(6) Involves a legal issue of continuing public interest” and “(8) Invokes a previously overlooked rule of law, or reaffirms a principle of law not applied in a recently reported decision.” (California Rules of Court, rule 8.1105(6) and (8).)

Given the numbers of parties and counsel appearing in our family courts seeking sanctions and fees awards, it would be very helpful for trial courts, as well as attorneys, to have the benefit of this opinion.

Sincerely,

A handwritten signature in black ink, appearing to read "Debra S. Frank". The signature is fluid and cursive, with a large initial "D" and "S".

Debra S. Frank, CFLS  
Member, ACFLS Amicus Committee

(See accompanying Proof of Service by Mail)

<b>PROOF OF SERVICE (Court of Appeal)</b> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Personal Service	FOR COURT USE ONLY
<b>Notice: This form may be used to provide proof that a document has been served in a proceeding in the Court of Appeal. Please read <i>Information Sheet for Proof of Service (Court of Appeal)</i> (form APP-009-INFO) before completing this form.</b>	
Case Name: In Re Marriage of Leo Clouser and Lisa Batarseh Court of Appeal Case Number: B 261277 Superior Court Case Number: BD 478447	

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My  residence  business address is (*specify*):  
1875 Century Park East, Suite 700, Los Angeles, CA 90067
3. I mailed or personally delivered a copy of the following document as indicated below (*fill in the name of the document you mailed or delivered and complete either a or b*): Letter Requesting Publication of Opinion
  - a.  **Mail.** I mailed a copy of the document identified above as follows:
    - (1) I enclosed a copy of the document identified above in an envelope or envelopes **and**
      - (a)  **deposited** the sealed envelope(s) with the U.S. Postal Service, with the postage fully prepaid.
      - (b)  **placed** the envelope(s) for collection and mailing on the date and at the place shown in items below, following our ordinary business practices. I am readily familiar with this business's practice of collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the U.S. Postal Service, in a sealed envelope(s) with postage fully prepaid.
    - (2) Date mailed: June 13, 2016
    - (3) The envelope was or envelopes were addressed as follows:
      - (a) Person served:
        - (i) Name: David Friedman and Gail S. Green, Attorneys for Appellant Leo Clouser
        - (ii) Address:  
9454 Wilshire Blvd #313  
Beverly Hills, CA 90212-2904
      - (b) Person served:
        - (i) Name: Jonathan Pakravan, Attorney for Appellant Leo Clouser
        - (ii) Address:  
280 S Beverly Dr., Ste 205  
Beverly Hills, CA 90212
      - (c) Person served:
        - (i) Name: Marjorie G. Fuller, Attorney for Respondent Lisa Batarseh
        - (ii) Address:  
110 E Wilshire Ave Ste 501  
Fullerton, CA 92832
    - Additional persons served are listed on the attached page (*write "APP-009, Item 3a" at the top of the page*).
  - (4) I am a resident of or employed in the county where the mailing occurred. The document was mailed from (*city and state*): Los Angeles, CA

APP-009, ITEM 3a

Additional Persons Served:

- (d) Robert M. Cohen and Yvonne T. Simon, Attorneys for Respondent Lisa Batarseh  
301 N Canon Dr. Suite 300  
Beverly Hills, CA 90210
  
- (e) Los Angeles Superior Court, Central District  
Attn. Superior Court Clerk  
111 North Hill Street,  
Los Angeles, CA 90012  
for delivery to LASC, Department 22,  
Judge Tamara Hall

Re:

In re Marriage of Leo Clouser v. Lisa Batarseh  
LASC Case no. BD 478447  
Court of Appeal Case no. B261277  
Letter Requesting Publication of Opinion

CASE NAME: In Re Marriage of Leo Clouser and Lisa Batarseh

CASE NUMBER: B 261277

3. b.  **Personal delivery.** I personally delivered a copy of the document identified above as follows:

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(c) Date delivered:

(d) Time delivered:

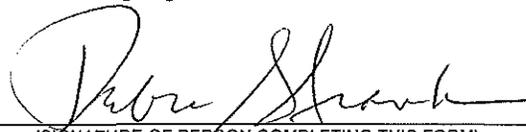
Names and addresses of additional persons served and delivery dates and times are listed on the attached page (*write "APP-009, Item 3b" at the top of the page*).

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

Date: 6/13/16

Debra S. Frank

(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)

▶   
(SIGNATURE OF PERSON COMPLETING THIS FORM)