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Lisa R. McCall
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August 26, 2016

To: The Honorable Lee Smalley Edmon
Chief Justice, Division Three
California Court of Appeal
Second Appellate District, Division Three
300 S. Spring Street, 2d floor, North Tower
Los Angeles, CA 90013

Re: M.G. v. O.G.
2d Civil No. B254358
Filed August 9, 2016

Dear Justice Edmon and Associate Justices:

The Association of Certified Family Law Specialists requests publication of the recent decision in M.G. v. O.G. (2d Civil No. B254358) under California Rules of Court, rule 8.1120. Publication is appropriate under California Rule of Court, rule 8.1105(6) in that the Opinion involves an issue of continuing public interest. The decision contributes to the law on two distinct issues – first, the interpretation of confidentiality agreements and incentive payments to reduce future litigation and second, the application of Family Code section 271 regarding awards of attorney's fees based on a party's refusal to stipulate to facts that should not be disputed and forcing unnecessary discovery.

Confidentiality provisions are relatively common in both premarital agreements and marital settlement agreements in the family law field, as well as in the settlement of civil disputes, as was involved in this case. However, there is a relative paucity of decisions interpreting and enforcing confidentiality provisions. Even more uniquely, here, the confidentiality provisions included a provision (periodic payment of money) designed to reduce future litigation. The Opinion can provide guidance to counsel in other matters when addressing either confidentiality agreements or ways to reduce the need for future litigation.

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Second, and equally important, Family Code section 271 awards of fees provide a financial penalty for conduct that frustrates the public policy of promoting settlement and encouraging cooperation among litigants. Each new published opinion that addresses the appropriateness of such sanctions assists litigants, counsel, and trial courts in promoting this important public policy. Publishing opinions that affirm 271 sanctions can literally help change the culture of litigation toward a more reasonable approach. In this case, the conduct that invoked the sanctions and the direct relationship of the order to the specific conduct provides helpful guidance to practitioners in the field and to trial judges who are requested to issue such 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 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 litigants and the family law bar. ACFLS has appeared as amicus in many family law appellate cases, including cases in which 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, originally unpublished family law decisions, 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 Valli* (2014) 58 Cal.4th 1396, *In re Marriage of Margulis* (2011) 198 Cal.App.4th 1252 and *In re Marriage of Green* (2013) 56 Cal.4th 1130.

ACFLS has no direct ties to or interest in the litigants of *M.G. v. O.G.* The interests of ACFLS are to promote the highest level of professional practice in the California Family Courts.

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Given the importance to contracting parties, litigants, and the Family Courts of the issues in this case, we believe it would be of significant benefit to have this decision published.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa R. McCall". The signature is fluid and cursive, with the first name "Lisa" and last name "McCall" clearly distinguishable.

Lisa R. McCall
Member, Amicus Committee
ACFLS

(see accompanying proof of service by mail)

Please print these pages and report any problems or comments to Lisa R. McCall:
lmccall@drfamilylaw.com

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Los Angeles, CA 90048
 - (b) Person served:
 - (i) Name: Fahimeh Takesh Hallin
 - (ii) Address: Harris-Ginsberg LLP
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Los Angeles, CA 90048
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APP-009, Item 3a

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