

2026 Cal. Fam. L. First Alert 2212

California Family Law Report First Alert | January 9, 2026

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First Alert

PATEL: In affirmance, CA-4 holds T/CT did not err by dismissing W’s petition for legal separation, where H filed a motion to dismiss the petition per Fam C § 2345 [court may not render a judgment of legal separation without the consent of both parties]

In re Marriage of Patel <https://www.courts.ca.gov/opinions/documents/G064218.PDF> (11/20/25, ordered published 12/19/25) 4 Civ G064218, Div 3 (Sanchez) [2025 WL 3687995](#). W and H were married in 8/02. They have two Cs together, both of whom were born in Georgia. The family moved to California where they lived from 12/19 to 6/23. In 7/23, the family returned to Georgia and the Cs enrolled in school there. Meanwhile, W began searching for a larger home in the Atlanta area.

In 12/23, W took Cs to California to visit her family. They planned to return to Georgia in 1/24. H joined them in California in early 2024. On 1/8/24, H and C1 returned to Georgia while W and C2 stayed in California. H argued that W and her family kidnapped C2 and refused to allow him to return to Georgia with him. W, meanwhile, argued that H ““abruptly changed our original plans to stay in California”” and took C1 back to Georgia.

In 1/24, W filed a DVRO request in California T/CT. W’s request included a request for custody of Cs. On 2/1/24, W filed for legal separation in California T/CT in which W also requested custody of Cs.

On 2/20/24, H filed a disso action against W in Georgia. H also moved to dismiss W’s request for custody in the DVRO action on the ground that California lacked subject matter jurisdiction over Cs under the UCCJEA. On 3/6/24, H filed a separate motion to dismiss W’s petition for legal separation on the ground that [Fam C § 2345](#) [court may not render a judgment of legal separation without the consent of both parties], noting that he would not consent to legal separation.

On 5/10/24, California T/CT heard H’s motion to dismiss W’s petition for legal separation. California T/CT (Orange County’s Waltz) granted the motion and on 5/14/24, an order was entered dismissing W’s petition for legal separation without prejudice to W filing a disso petition. W appealed, but CA-4 AFFIRMS.

Shortly after W filed her appeal, California T/CT issued a statement of decision granting F's motion to dismiss W's request for child custody in the DVRO action. California T/CT found that on 4/19/24 the judges in both California and Georgia actions discussed the jurisdiction controversy as required by UCCJEA and decided that Georgia is the home state of Cs and, as such, Georgia has continuing exclusive jurisdiction over Cs.

CA-4 finds that (1) unlike divorce, legal separation is entirely voluntary; (2) per [Fam C § 2345](#), a court may not render judgment of legal separation without the consent of both parties unless one party has not made a general appearance; (3) H did not consent to a judgment of legal separation; (4) [Fam C § 2345](#) does not expressly authorize a motion to dismiss a petition for legal separation; (5) however, the statute impliedly authorizes such action if the condition rendering a judgment of legal separation cannot be met; (6) unlike a disso action, there is no residence requirement for a petition for legal separation and spouses who do not meet the residency requirement for a disso action may later amend a petition for legal separation once the residence requirements have been met; (7) although W argued that she filed the petition for legal separation with the intent to later amend it to allege disso, no evidence supports her claim; and (8) California T/CT did not err by dismissing W's petition for legal separation. Accordingly, CA-4 affirms California T/CT's order dismissing W's petition for legal separation. For W (Appellant): Michele Antoinette Dobson. For H (Respondent): Christopher Charles Melcher, Steven K. Yoda, and Peter Michael Walzer. CFLP § H.1.15.

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