

APPENDIX A

CALIFORNIA APPELLATE RELOCATION DECISIONS April 15, 1996-April 1, 2003

	Pro-Relocation		Anti-Relocation		Split
	Permitted/Aff'd	Refused/Rev'd	Refused/Aff'd	Permitted/Rev'd	
Reported	7	2	1	2	1
Unreported	2 [10]	3 [15]	4 [20]	1 [5]	1 [5]
Total	9 [17]	5 [17]	5 [21]	3 [6]	2 [6]

The first line of this table states the 13 reported Court of Appeal decisions that were entered during the full 83 month period since Burgess in which a trial court's decision whether to authorize or deny a relocation was challenged.¹ The second line states the 11 unreported Court of Appeal decisions that have been made available during the past 18 months of that period.² For purposes of comparison with the reported decisions, in

¹ For simplicity, the 83½ month period between April 15, 1996 and April 1, 2003 has been rounded to 83. Three additional appeals (not included in this tally) involved other aspects of the trial court decision. *See In re Marriage of Vennewitz*, No. C037671, 2002 Cal. App. Unpub. Lexis 4437, (3d Dist. Jan. 29, 2002) (visitation schedule and travel costs); *In re Marriage of Lasich*, No. C040037, 2002 Cal. App. Unpub. Lexis 10479, (3d Dist. Nov. 14, 2002) (bond and []); *Peters v. Masdeo*, No.D039683, 2003 Cal App. Unpub. Lexis 782, (4th Dist, Jan. 24, 2003) (modification to joint legal custody).

² Effective October 1, 2001, unpublished opinions of the Courts of Appeal are posted for 60 days on the official Web site of the California courts. Judicial Council of California, Administrative Office of the Courts, News Release: California Supreme Court Posts Unpublished Opinions on Web Site (October 1, 2001). The cases nevertheless

brackets it provides the number of cases in each category that might have been expected if unreported cases had been available for the full 83 month period.³ The cases reflect the full range of possible results.

The 12 reported appellate opinions are pro-relocation twice as often as they are anti-relocation. They upheld trial court orders permitting relocation 7 times⁴ and reversed orders restraining relocation 2 times, for a total of 9 pro-relocation decisions.⁵ They also upheld orders that restrained relocation 1 time⁶ and reversed orders that permitted

remain available through commercial on-line legal research services. The cases tallied here were identified by a LEXIS Shepard's Citation Service search for cases citing *In re Marriage of Burgess*, 13 Cal. 4th 25, 51 Cal. Rptr. 2d 444, (1996).

³ The 18 month period between October 1, 2000 and April 1, 2003 comprises approximately 21% of the total 83 month period since Burgess was decided. To provide a rough overall estimate of decisions in the Courts of Appeal since Burgess was decided, the pattern of undecided decisions in the final 18 months has been multiplied by 5 to impute results that might have been expected over the total post-Burgess period.

⁴ See *In re Marriage of Whealon*, 53 Cal. App. 4th 132, 61 Cal. Rptr. 2d 559, (4th Dist. 1997), *In re Marriage of Condon*, 62 Cal. App. 4th 533, 73 Cal. Rptr. 2d 33 (2d Dist. 1998), *In re Marriage of Edlund & Hales*, 66 Cal.App.4th 1454, 78 Cal.Rptr. 2d 671 (1st Dist.1998), *In re Marriage of Bryant*, 91 Cal.App. 4th 789, 110 Cal.Rptr. 2d 791, (2d Dist. 2001), *In re Marriage of Lasich*, 99 Cal.App.4th 702, 121 Cal.Rptr. 2d 356, (3d. Dist. 2002), *In re Marriage of Abrams*, 105 Cal.App. 4th 979, 130 Cal. Rptr. 2d 16, (2d Dist. 2003) and *In re Marriage of Abargil*, 106 Cal.App.4th 1294, 131 Cal.Rptr. 2d 429, (2003).

⁵ See *Ruisi v Theriot*, 53 Cal. App. 4th 1197, 62 Cal. Rptr. 2d 766 (1st Dist. 1997), *In re Marriage of Biallas*, 65 Cal. App.4th 755, 76 Cal. Rptr. 2d 717(4th Dist. 1998).

⁶ See *Casady v. Signorelli*, 49 Cal. App. 4th 55, 56 Cal. Rptr. 2d 545 (1st Dist. 1996).

relocation 2 times,⁷ for a total of 3 anti-relocation decisions. Finally they also reversed 1 decision in which relocation had been authorized as to two children but denied as to their two siblings.⁸

In contrast, the 11 unpublished appellate relocation opinions that are now available reveal equal numbers of pro-relocation and anti-relocation decisions. The Courts of Appeal affirmed relocation authorizations 2 times⁹ and reversed 3 denials (including this case),¹⁰ for a total of 5 pro-relocation decisions. It also affirmed 4 relocation denials¹¹ and reversed 1 authorization,¹² for a total of 5 anti-relocation decisions. Finally, 1 case involved a split disposition -- relocation was authorized by the trial court and upheld as to

⁷ See *Brody v Kroll*, 45 Cal. App.4th 1732, 53 Cal. Rptr.2d 280, (4th Dist. 1996), *Rose v. Richardson*, 102 Cal. App. 4th 941, 126 Cal. Rptr. 2d 45, (2d Dist. 2002).

⁸ See *In re Marriage of Williams*, 88 Cal. App. 4th 808, 105 Cal. Rptr. 2d 923, (2d Dist. 2001).

⁹ See *In re Marriage of Mildred*, No. A094724, 2002 Cal. App. Unpub. Lexis 8226 (1st Dist. Aug. 29, 2002), *In re Marriage of Wiest*, No. B162058, 2003 Cal. App. Unpub. Lexis 2020 (2nd Dist. Feb. 28, 2003).

¹⁰ See *In re Marriage of Hawwa*, No. A093979, 2001 Cal. App. Unpub. Lexis 2186, (2nd Dist. Oct. 30, 2001), *LaGuardia v. Dayle Tamura*, No. D037615, 2002 Cal. App. Unpub. Lexis 317, (4th Dist. Apr. 24, 2002), *In re Marriage of LaMusga*, No. A096012, 2002 Cal. App. Unpub. Lexis 1027, (1st Dist. May 10, 2002).

¹¹ See *In re Marriage of Forrest*, No. D037933, 2002 Cal App Unpub. Lexis 4620 (4th Dist. Jan. 24, 2002), *Rice v. Reiland*, No. B143955, 2001 Cal. App. Unpub. Lexis 1535 (2d Dist. Nov. 19, 2001), *In re Marriage of Postma and Hasson (I)*, No. A096713, 2002 Cal. App. Unpub. Lexis 9317 (1st Dist. Oct. 4, 2002), *In re Marriage of Postma and Hasson (II)*, No. A098969, 2003 Cal. App. Unpub. Lexis 43 (1st Dist. Jan. 6, 2003).

¹² See *Thacker v Superior Court of Placer County*, Nos. C041644 & C041816, 2002 Cal. App. Unpub. Lexis 11105 (3rd Dist. Nov. 26, 2002).

two children but reversed as to the third.¹³

In contrast to the 12 published opinions, the 11 unpublished opinions represent only the last 18 month period. As the bracketed numbers in Table 1 reveal, if the same pattern of grants and denials in the unpublished cases holds true during the full post-Burgess period, the Courts of Appeal probably entered roughly 25 unreported pro-relocation and 25 unreported anti-relocation decisions.

In summary, the aggregate of reported and unreported appellate decisions since Burgess totals approximately 34 pro-relocation decisions and 28 anti-relocation decisions.

¹³ See *In re Marriage of Leitke*, No. G027471, 2001 Cal. App. Unpub. Lexis 459, (4th Dist, Dec. 24, 2001)