

**CERTIFIED FOR PUBLICATION**

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re the Marriage of  
SANDRA and EDWARD FOSSUM.

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SANDRA FOSSUM,  
Respondent,

v.

EDWARD FOSSUM.  
Appellant.

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B214824

(Los Angeles County  
Super. Ct. No. BD382683)

ORDER MODIFYING OPINION  
(Scott M. Gordon, Judge)

[NO CHANGE IN JUDGMENT]

THE COURT:

IT IS ORDERED that the Concurring and Dissenting opinion by Justice Rothschild, as Acting Presiding Justice, filed on January 28, 2011, be modified in the following particulars:

1. On page 2, last sentence of the first paragraph, delete the text “and irrespective of need and ability to pay” between the words “issue” and “is” so that the sentence now reads:

A mandatory award of attorney fees, imposed regardless of the value of the asset at issue, is a harsh remedy for a violation that is merely

technical and wholly innocent, as might often be the case, so it is unlikely the Legislature intended such a result.

2. On page 2, add a footnote 2 at the end of the last sentence of the first paragraph, ending with “result” and add the following text to the footnote:

<sup>2</sup> I note, however, that before imposing a mandatory attorney fees award under subdivision (g) of section 1101, the trial court must “determine that the party has or is reasonably likely to have the ability to pay.” (§ 270.)

This modification does not constitute a change in the judgment.

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ROTHSCHILD, Acting P. J.