

NOTICE: NOT FOR OFFICIAL PUBLICATION.  
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION ONE

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In re the Marriage of:

JARED ROBERT GEORGE GROW, *Petitioner/Appellee*,

*v.*

JENNIFER MARIE GROW, *Respondent/Appellant*.

No. 1 CA-CV 16-0625 FC  
FILED 1-4-2018

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Appeal from the Superior Court in Maricopa County  
No. FC2009-071164

The Honorable Todd F. Lang, Judge  
The Honorable Jacki Ireland, Commissioner

**AFFIRMED AS MODIFIED**

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COUNSEL

Jennifer Marie Grow, *In propria persona*, Litchfield Park  
*Respondent/Appellant*

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**MEMORANDUM DECISION**

Judge Jon W. Thompson delivered the decision of the Court, in which Presiding Judge Kenton D. Jones and Judge Samuel A. Thumma joined.

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**T H O M P S O N**, Judge:

**¶1** The trial court dismissed Jared Robert Grow (father)'s petition to enforce court-ordered child care but denied Jennifer Marie Grow (mother)'s request for sanctions. For the following reasons, we affirm the dismissal of father's petition but impose a sanction against father and his attorney.

**FACTUAL AND PROCEDURAL HISTORY**

**¶2** Mother and father were divorced in 2010. They have two minor children together. The consent decree provided that "[t]he parties shall share the cost of unreimbursed . . . child care . . . in proportion to his/her respective income as indicated on the child support worksheet."

**¶3** In 2015, the court recalculated father's child support obligation and filed a child support worksheet and order. The court ordered each party to pay their respective share of child care directly to the provider. Under the 2015 worksheet, father's share was seventy percent and mother's share was thirty percent.<sup>1</sup>

**¶4** In April 2016, father filed a petition to enforce court-ordered child care/request for clarification asking the court to order mother to pay fifty percent of the children's child care expenses because "[c]hild care is used equally by both parties during their parenting time . . ." Mother filed a motion to dismiss the petition and request for sanctions seeking an award of her costs and document preparation fees. Father filed a response. He subsequently filed a motion to withdraw his petition with prejudice, stating that he did not wish to proceed with his petition. On the same day father filed his motion to withdraw, the trial court granted mother's motion to dismiss without awarding sanctions. The court found that there was "nothing vague" about the court's 2015 order that the parties would pay

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<sup>1</sup> The court also previously ordered the parties to pay their pro rata shares for daycare in 2012 and 2015.

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their respective share of childcare based on the 2015 child support worksheet wherein father's share was seventy percent and mother's share was thirty.

¶5 After the court dismissed father's petition, mother filed a motion for judgment on her request for sanctions seeking \$3145.50. The trial court denied the motion. Mother timely appealed from the portion of the judgment that denied her request for sanctions.

**DISCUSSION**

¶6 Mother argues that the trial court abused its discretion by denying her request for sanctions. We review all aspects of a court's decision related to sanctions under Arizona Rule of Family Law Procedure 31 for an abuse of discretion. *See James, Cooke & Hobson, Inc. v. Lake Havasu Plumbing & Fire Prot.*, 177 Ariz. 316, 319 (App. 1993) (considering Arizona Rule of Civil Procedure 11, on which Rule 31 is predicated, as stated in Ariz. R. Fam. LP. 31, Committee Comment). Mother argues that Arizona Rule of Family Law Procedure 31(A), Arizona Rule of Civil Procedure 11, and Arizona Revised Statutes (A.R.S.) § 25-324 (2017) required the court to award sanctions in this case, in light of the court's finding that there was nothing vague about the court's order that father was to pay seventy percent of childcare costs and mother was to pay thirty percent.

¶7 Section 25-324(B)(2) directs, among other things, that if a court determines that a party filed a petition "not grounded in fact or based on law," "the court shall award reasonable costs and attorney fees to the other party." Similarly, Arizona Rule of Family Law Procedure 31 is violated when a party or attorney files a pleading or paper and knows or should have known after reasonable inquiry that the claim or defense is legally or factually groundless or when the paper filed is intended to cause delay, harassment, or some other improper purpose.

¶8 Father has failed to file an answering brief in this matter. "[A] failure to file an answering brief is equivalent to a confession of error by appellee." *Welch v. United Mut. Benefit Ass'n*, 48 Ariz. 173 (1936) (citations omitted). Because the trial court did not award sanctions, we affirm the dismissal of father's petition but modify the trial court's order to impose a sanction against father and his attorney in the amount of \$1000.

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**CONCLUSION**

¶9 For the foregoing reasons, we affirm but modify the trial court's order.



AMY M. WOOD • Clerk of the Court  
FILED: AA