

*In re Marriage of Daly and Oyster*

It is not uncommon for parties to commence a divorce proceeding, not follow through, let the matter lapse, and later request a *nunc pro tunc* entry of judgment, often to protect a new marriage when the first union had not been legally terminated. Here, the parties mediated a Marital Settlement Agreement in proceeding No. 1, which was dismissed for lack of prosecution. Later, in proceeding No. 2, wife sought to have the signed MSA entered and enforced in the new proceeding. Husband tried to block admission of the settlement agreement under the mediation confidentiality provisions in *Evidence Code* section 1119. The Court of Appeal found that *Evidence Code* section 1123 did not preclude admission of a written settlement agreement reached in mediation, and that nothing in the settlement agreement precluded its admission in proceeding No. 2. With respect to the disclosure issue, the parties' failure to file Final Declarations of Disclosure was not fatal to the trial court's order enforcing the settlement agreement, because that order was not a final termination of marriage judgment; the trial court order contemplated further proceedings for entry of judgment, for which Final Declarations of Disclosure would be required.

This is not a particularly important case. At best, it can serve as a reminder that legal proceedings, once commenced, must be attended to with care, not left to lapse, only to cause later legal complications, expense and uncertainty.

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