

B262549

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT, DIVISION P

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**ROXANA KAIMAN**

**Appellant**

**vs.**

**JEFFREY ALAN KAIMAN**

**Respondent**

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Appeal from an Order of the Superior Court of Los Angeles  
No. BD 590733

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**Motion for Involuntary Dismissal of Appeal**

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## MOTION TO DISMISS

### I.

#### INTRODUCTION

Dismissal is required because the order in question is not appealable.

### II.

#### STATEMENT OF FACTS

The Notice of Appeal states that the appeal is from a pre-trial order finding that “there was no breach of fiduciary duty regarding the AZG asset or the O'Brien v. Trump lawsuit, nor failure to disclose regarding the AZG asset . . .” (Notice of Appeal, p.1.) The Civil Case Information Sheet states that this order is appealable because it is a final order on a collateral matter. (Civil Case Information Sheet, p.1, ¶A.1.) No final judgment has been entered. The appellant has not yet designated the record on appeal.

### III.

#### ARGUMENT

Pre-trial orders are not appealable except in limited circumstances; this is not one of those circumstances. The order is not appealable because there has been no final determination of the rights of the parties. “[T]he policies underlying the final judgment rule [are as follows:] avoiding

piecemeal dispositions and multiple appeals, reducing uncertainty or delay in the trial court, and obtaining a single complete and final resolution of the issues presented." (*Marriage of Corona* (2009) 172 Cal.App.4th 1205, 1219.)

In determining whether a particular decree is essentially interlocutory and nonappealable, or whether it is final and appealable . . . [i]t is not the form of the decree but the substance and effect of the adjudication which is determinative. As a general test, which must be adapted to the particular circumstances of the individual case, it may be said that where no issue is left for future consideration except the fact of compliance or noncompliance with the terms of the first decree, that decree is final, but where anything further in the nature of judicial action on the part of the court is essential to a final determination of the rights of the parties, the decree is interlocutory.

(*Id.* at p. 1216, internal quotes omitted.)

The issues relating to the AZG asset and the *O'Brien v. Trump* lawsuit will be not be resolved until a final judgment is entered. The trial court order was only a preliminary finding in the case. At trial, the trial court will make a determination regarding a division of the entire community estate, taking into consideration its findings in the appealed order, and what effect they have on the overall division of the entire

community estate. It is premature to take an appeal now. Accordingly, there is no jurisdiction to entertain the appeal.

IV.

CONCLUSION

Respondent requests that the appeal be dismissed because the order in question is not appealable. A proposed order is attached.

Dated: May 18, 2015

Respectfully submitted,

/s/

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WALZER & MELCHER LLP  
Christopher C. Melcher, Esq.

**STATEMENT AS TO LENGTH OF BRIEF**

This brief contains 497 words according to the program used to create this document.

Dated: May 18, 2015

/s/

Christopher C. Melcher

**PROPOSED ORDER**

Good cause appearing, it is hereby ordered that the appeal filed March 11, 2015, shall be dismissed because the order in question is not appealable.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Presiding Justice



**PROOF OF SERVICE (Court of Appeal)**  
**Mail, Electronic Service or Personal Service**

Case Name: **Roxana Kaiman v. Jeffrey Alan Kaiman**  
 Court of Appeal Case Number: **B262549**  
 Superior Court Case Number: **BD590733**

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My  residence  business address is (specify): **5941 Variel Avenue, Woodland Hills, CA 91367**

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3. I mailed, electronically served or personally delivered a copy of the **Motion for Involuntary Dismissal of Appeal** as indicated below (complete either a, b or c):
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Date mailed, electronically served or personally served: **May 18, 2015**

- (1) Name of Person served: **Burton Mark Senkfor, Esq.**

On behalf of (name or names of parties represented, if person served is an attorney):

**Roxana Kaiman**

(a) Address:

**8484 Wilshire Blvd., Suite 660, Beverly Hills, CA 90211**

(b) E-Mail Address:

- (2) Name of Person served: **Elyse R. Margolin, Esq.**

On behalf of (name or names of parties represented, if person served is an attorney):

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- (3) Name of Person served: **Scott M. Klopert, Esq.**

On behalf of (name or names of parties represented, if person served is an attorney):

**Jeffrey Alan Kaiman**

(a) Address:

**16133 Ventura Blvd., Suite 1280, Encino, CA 91436**

(b) E-Mail Address:

4. I am a resident of or employed in the county where the mailing occurred. The document was served from (city and state): **Woodland Hills, CA**

Additional persons served are listed on the attached page (See page 3).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: **May 18, 2015**

**Annais Alba**

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Case Name:	<b>Roxana Kaiman v. Jeffrey Alan Kaiman</b>
Court of Appeal Case Number:	<b>B262549</b>
Superior Court Case Number:	<b>BD590733</b>

(4) Name of Person served:

On behalf of *(name or names of parties represented, if person served is an attorney)*:

(a) Address:

(b) E-Mail Address:

(5) Name of Person served:

On behalf of *(name or names of parties represented, if person served is an attorney)*:

(a) Address:

(b) E-Mail Address:

(6) Name of Person served:

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(a) Address:

(b) E-Mail Address: