

Jolie and Pitt's lawyers face off over her bid to dump their private judge in divorce case

By Maria Puente

USA TODAY

Published 7:24PM ET July 9, 2021 | Updated 8:16 PM ET July 9, 2021

The long-delayed [celebrity divorce](#) of Angelina Jolie and Brad Pitt entered a new stage of complications Friday when their big-name legal teams went before a [California appellate court](#) to argue about Jolie's bid to dump their private judge and start over on their nearly five-year-old [custody battle](#).

There was no immediate decision from the three-justice panel following more than an hour of back-and-forth between power lawyers Robert Olson for Jolie and Ted Boutros for Pitt.

Jolie's lawyer said Judge John Ouderkirk, the judge who married Jolie and Pitt in 2014, who was picked by both stars to preside as a paid private judge over their 2016 [divorce](#), should now be dismissed because he failed to fully disclose in a timely manner professional links to one of Pitt's lawyers.

"If you're going to play the role of a paid private judge you have to play by the rules and the rules are very clear, they require full transparency," Olson said. "Matters that should have been disclosed were not disclosed....If rules have no consequences they are empty."

Pitt's lawyer argued that Jolie is engaging in a stalling tactic because she doesn't like Ouderkirk's earlier decisions in the case, including awarding temporary joint custody of their children to Pitt.

If Ouderkirk is dismissed, his previous rulings in the case could be voided, a new judge would be appointed and the case would be slowed down even further, thus allowing more of the couple's six children to reach adulthood (son Maddox is 19), at which point they can make their own choices about a relationship with their father.

Their other children are Pax, 17, Zahara, 16, Shiloh, 15, and twins Vivienne and Knox, 12.



Brad Pitt and Angelina Jolie have been in family court since 2016. Matt Styles, AP

"This is the kind of game-playing that the courts condemn," said Boutrous, a First Amendment lawyer who recently persuaded a New York judge to allow a tea-spilling book about former President Donald Trump by his niece to be published over his objections.

Boutrous insisted that Jolie, "a sophisticated person with sophisticated lawyers," has known all along about matters requiring disclosure by Ouderkirk but did not raise objections until she began losing in his court.

"These kids are aging, some are already adults, others are reaching adulthood, and to allow this delaying tactic is extremely unjust and extremely unfair" to them and to Pitt, Boutrous said.

The lawyers and the justices engaged in dense legal arguments about precedents and earlier decisions on similar cases, and occasionally wandered into questions about whether California should even allow private judges to be compensated.

Jolie sought Ouderkirk's dismissal in August 2020, alleging he was not impartial due to professional links between him and Pitt's lawyers. She lost that bid in Superior Court in November. The hearing Friday was to hear her appeal of that decision.

Ordinarily, an appellate court decision could be expected in about a month. As the hearing closed, Olson pleaded for the court's decision to be made public.

Divorce cases in California, especially celebrity cases and those conducted under the aegis of a private judge, often take place behind closed doors and are not accessible online, even before the COVID-19 pandemic closed courthouses. Much of the Jolie/Pitt divorce has been closed to the public.



Angelina Jolie poses with her kids Shiloh and Zahara during the Rome premiere of Maleficent: Mistress of Evil in October 2019. Ettore Ferrari, AP

The appellate proceeding before the Second District Court of Appeal in Los Angeles was regarding the judge, not the divorce, so it was live-streamed.

[Christopher Melcher](#), a Los Angeles [top family law attorney](#) not involved in the Jolie/Pitt case, who watched the entire proceeding, told USA TODAY that disqualifying a judge is rarely successful.

"It's viewed as a last-ditch measure," he said. "Questioning a judge's integrity is a serious accusation, which carries the risk of alienating the person who will decide custody and other issues. Angelina must have decided that was a risk worth taking."

He says it's significant that Jolie repeatedly agreed to the reappointment of Ouderkirk each time his assignment was coming to end, and it was only after he criticized her in court that she cried foul.

Olson said Friday that Jolie approved the last reappointment of the judge without full knowledge of Ouderkirk's disclosure of his latest business links to Pitt's legal team. Olson also asked for a stay so that Ouderkirk does not issue a final custody ruling before the appellate panel issues its own ruling.



Brad Pitt attends the Unbroken premiere in 2014 with kids Pax Jolie-Pitt, Shiloh Jolie-Pitt and Maddox Jolie-Pitt as well as his Mother Jane Pitt and Father William Pitt. Gregg DeGuire/Wireimage

Jolie's lawyer's brief in the case declared that even if she loses at the appellate level, she will keep fighting Pitt and the custody order.

The brief filed by Jolie's lawyers ahead of Friday's hearing claimed "prejudicial legal error" on Ouderkirk's part, including the judge's refusal to hear testimony from the younger children about their views on custody. Jolie's team also argued the actress was denied "a

fair trial" because the judge improperly excluded hearing "evidence relevant to the children's health, safety, and welfare."

Reproduced with permission. Published July 9, 2021. Copyright 2021 USA TODAY. For further use, please visit <https://cm.usatoday.com/terms/>