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STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2021 CU 0477

JAIME YEPEZ

VERSUS

SLOANE SIGNAL YEPEZ

DATE OF JUDGMENT: DEC 22 2021

ON APPEAL FROM THE TWENTY-SECOND JUDICIAL DISTRICT COURT
NUMBER 2015-11637, DIVISION L, PARISH OF ST. TAMMANY
STATE OF LOUISIANA

HONORABLE DAWN AMACKER, JUDGE

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BEFORE: GUIDRY, HOLDRIDGE, AND CHUTZ, JJ.

Disposition: AFFIRMED.

GH
Holdridge J. concurs w/ reasons.
Guidry, P. concurs.

CHUTZ, J.

Defendant-appellant, Sloane Signal,¹ appeals the family court's judgment, awarding her joint custody of the child she shares with plaintiff-appellee, Jaime Yepez, with Yepez designated as the domiciliary parent. Additionally, the judgment orders Signal to provide to Yepez a full accounting of any moneys she has held in trust on behalf of the minor child. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

The parties married in 2012 and had one child, who was born in October 2012. In April 2015, Yepez filed a petition for divorce and the parties were divorced on September 14, 2016. Incidental to the divorce proceedings, the parties addressed, among other things, the issue of the custody of the child. They participated in a hearing officer conference (HOC) on July 15, 2015, after which the parties entered into a consent judgment in October 2015, wherein they were awarded joint custody with Signal designated as the domiciliary parent. Because Yepez had reconciled with his previous ex-wife, who had a history of sleeping pill addiction, and was living in her house along with two of his children from their earlier marriage, supervised visitation was imposed at Signal's request. Specifically, the additional restriction that the stepmother would not be permitted to be in the presence of the child at any time was ordered. The result was that, despite an award of joint custody, Yepez had no overnight physical custody of his child.

In April 2016, Yepez petitioned the family court for a modification of custody. The parties entered into a consent judgment, signed by the family court judge on May 11, 2016, maintaining joint custody with Signal as the domiciliary

¹ After litigation had been initiated, defendant discontinued use of her former married name. Although she identified herself as "Signal DeBose" in testimony, after having remarried, we refer to her by her original surname in conformity with her brief.

parent but modifying the restriction against the stepmother such that the child could be in the stepmother's presence but could not be left in her care and custody. The judgment expressly disallowed Yepez from having physical custody of the child overnight.

On December 2, 2019, Yepez filed another rule to modify custody. Yepez sought his designation as the child's domiciliary parent and the removal of any restriction against the stepmother's presence with the child, noting that the stepmother and the child shared a loving relationship and that the stepmother was no longer any danger to the child.

After a HOC on April 20, 2020, the hearing officer issued recommendations including that continuation of joint custody with Signal as the domiciliary parent remain in effect. The hearing officer also recommended the removal of all restrictions against the stepmother. An increase in Yepez's physical custody of the child, including periods for the child to stay overnight with her father, was also recommended by the hearing officer.

On April 28, 2020, Signal filed an objection to the HOC report, complaining of the propriety of the removal of the restriction that prohibited the stepmother's custody and care of the child as well as suggesting that no material change in circumstances existed to support the increase in Yepez's physical custody and that such an increase was not in the best interest of the child. The family court signed a judgment on May 7, 2020, directing that the hearing officer's recommendations were a temporary order of the court pending a hearing.

On October 26, 2020, the hearing was held before the family court judge at which documentary and testimonial evidence was adduced. Before the parties commenced their respective cases, they stipulated that: they would share joint custody; the earlier restrictions against the stepmother were removed; the holiday

plan set forth at the HOC would remain in effect; they were bound by the parenting guidelines; and vacation periods would be as specified. They further stipulated that they were in agreement that the only issues before the family court judge were the designation of a domiciliary parent and the physical custody plan including delineation of special occasions. At the conclusion of the hearing, the family court judge rendered oral reasons for judgment. In accordance with the family court's rulings, a judgment issued on December 8, 2020, designating Yepez as the domiciliary parent, awarding him equal shared custody on a "week/week" basis, and setting forth a schedule for special occasions. All of the parties' stipulations were also incorporated into the judgment. In addition, Signal was ordered to provide Yepez with a full accounting and history under oath of any funds she had that belonged to the child and to transfer to Yepez any amounts she had "to place in trust." Signal appeals.

SUBJECT MATTER JURISDICTION

Signal first asserts that the family court lacked subject matter jurisdiction to modify the hearing officer's recommendation, which concluded that Signal should remain the domiciliary parent of the minor child.² She contends that because Yepez did not object to the hearing officer's recommendations, they became final as a matter of law and the only matters the family court was empowered to consider when the parties proceeded to a hearing on October 26, 2020 were the two matters set forth in the objection that she filed. Since it is undisputed that Yepez did not file a formal written objection to the hearing officer's recommendation suggesting

² Signal filed with this court a pleading captioned as an exception of lack of subject matter jurisdiction. Although a peremptory exception may be pled in this court, see La. C.C.P. art. 2163, there is no provision for the pleading of a declinatory exception in this court. See Aspen Indus., Inc. v. Williams, 378 So.2d 527, 528 n.1 (La. App. 4th Cir. 1979) (rejecting an exception raising the objection of lis pendens pled for the first time in the court of appeal). Since it is the substance of a pleading and not its caption which we must evaluate so as to do substantial justice, see Southeastern Louisiana Univ. v. Cook, 2012-0021 (La. App. 1st Cir. 9/21/12), 104 So.3d 124, 127-28, and because a lack of jurisdiction in the family court may affect our jurisdiction, see La. C.C.P. art. 2162, we find this issue, which was briefed by Signal on appeal, is properly before us.

that Signal remain as domiciliary parent, Signal maintains that the family court was without authority to modify the designation. We disagree.

La. R.S. 46:236.5C provides that an expedited process may be implemented for the establishment of paternity and the establishment and enforcement of support and other related family and domestic matters in district courts using hearing officers.³ Under La. R.S. 46:236.5C(3)(a), the hearing officer shall act as a finder of fact and shall make written recommendations to the court concerning any domestic and family matters as set forth by local court rule, including the modification of child custody and visitation. And according to La. R.S. 46:236.5C(6):

A copy of any written recommendations, orders, or uncontested judgments rendered by the hearing officer shall be provided to the parties and their counsel at the time of the hearing officer's ruling, if present. Any party who disagrees with a judgment or ruling of a hearing officer on [certain specified matters including the establishment and modification of child custody and visitation] may file a written objection to the findings of fact or law of the hearing officer within the time and manner established by court rule. The objection shall be heard by the judge of the [family] court to whom the case is assigned. Upon filing of the objection, the court shall schedule a contradictory hearing where the judge shall accept, reject, or modify in whole or in part the findings of the hearing officer. If the judge in [his or her] discretion determines that additional information is needed, [he or she] may receive evidence at the hearing or remand the proceeding to the hearing officer.

La. Dist. Ct. Rule 32.0 provides that pursuant to Title IV-D of the Federal Social Security Act, La. R.S. 46:236.5, applicable articles of the Civil Code, the Code of Civil Procedure, the Children's Code, and the Revised Statutes, and in furtherance of Title IV of the Louisiana District Court Rules, a district court with

³ Prior to 2003, domestic hearing officers were authorized by La. R.S. 46:236.5 to hear only paternity cases brought by the State of Louisiana, support, and support-related matters. La. Acts 2003, No. 964, § 1, broadened the scope of the use of domestic hearing officers to include all "domestic and family matters." See La. R.S. 46:236.5C(1); Bobby Marzine Harges, *Appropriate Dispute Resolution Inside the State Courts - A Closer Look at the Power, Duties, and Responsibilities of Court Commissioners and Hearing Officers in Domestic Cases*, 9 Loy. J. Pub. Int. L. 1, 29 n.142 (2007).

family jurisdiction may adopt and implement an expedited process for the establishment, modification, and enforcement of paternity and support obligations and all other family proceedings as defined by La. R.S. 46:236.5 by authorizing and directing one or more court-appointed hearing officer(s) to hear family proceedings. As set forth in La. R.S. 46:236.5C(6), the Twenty-Second Judicial District local rules of court have provided for the time and manner by which a party may file a written objection disagreeing with a ruling of the hearing officer. According to Appendix 32 of the Louisiana District Rules of Court, “If both parties agree to some of the Hearing Officer’s recommendations and if time permits, a Consent Judgment will be prepared as to those stipulations, which will become a final judgment after signature by the District Judge.” And Appendix 35.5 expressly provides that in the Twenty-Second Judicial District, “Written objections to the recommendations of the Hearing Officer shall briefly state why the recommendations are objectionable. *All issues not stipulated to in the [HOC] will be heard on the rule date.*” (Emphasis added.) Therefore, “within the ... manner established by court rule,” as set forth in La. R.S. 46:236.5C(6), all issues that the parties did not stipulate to at the HOC were before the family court at the October 26, 2020 trial. See La. Dist. Ct. Rules, App. 32.0 and 35.5.

Although Signal urges that the local rules conflict with La. R.S. 46:236.5C, we do not agree. La. R.S. 46:236.5C(6) expressly directs the party who disagrees with a ruling of a hearing officer and chooses to file a written objection to do so “within the time and manner established by court rule.” Those court rules reserve to the family court judge “[a]ll issues not stipulated to” in the HOC. See La. Const. Art. V, § 15A (“[T]he legislature by law may establish new judgeships for district courts and establish the new divisions with limited or specialized jurisdiction within the territorial jurisdiction of the district court and subject matter jurisdiction

over family or juvenile matters as provided by law.”). See also La. R.S. 13:621.22 (creating within the Twenty-Second Judicial District new divisions with limited or specialized jurisdiction and subject matter jurisdiction over family and juvenile matters).

Because Signal and Yepez did not stipulate to the hearing officer’s recommendation that Signal remain as domiciliary parent, it was an issue before the Twenty-Second Judicial Court Family Court Judge on October 26, 2020 that the judge could accept, reject, or modify and for which additional evidence was admitted. As such, the family court had subject matter jurisdiction to consider Yepez’s request to modify the domiciliary parent designation.⁴

DOMICILIARY PARENT DESIGNATION MODIFICATION

Turning to the merits of Signal’s appeal, the paramount consideration in any determination of child custody is the best interest of the child. See La. C.C. art. 131; *Evans v. Lungrin*, 97-0541 (La. 2/6/98), 708 So.2d 731, 738. Furthermore, every child custody case must be viewed in light of its own particular set of facts and circumstances. *Gill v. Dufrene*, 97-0777 (La. App. 1st Cir. 12/29/97), 706 So.2d 518, 521. The family court is in the best position to ascertain the best interest of the child given each unique set of circumstances. Accordingly, a family court’s determination of custody is entitled to great weight and will not be reversed on appeal unless an abuse of discretion is clearly shown. *Major v. Major*, 2002-2131 (La. App. 1st Cir. 2/14/03), 849 So.2d 547, 550.

⁴ Although Signal suggests that she was denied due process because she did not prepare for a trial on all issues, particularly the modification of the designation of domiciliary parent, we find no merit in that assertion. The rules of the district courts clearly include the requisite procedure for disposition of family matters in the Twenty-Second Judicial District. Furthermore, the objection filed by Signal clearly states “MOVER PRAYS that this *Objection to Hearing Officer Conference Report* be deemed good and sufficient and that this matter proceed to hearing ... on all issues unresolved by Consent Judgment of the parties.” Thus, she had notice that “[a]ll issues not stipulated to in the [HOC]” were before the family court. Due process requires notice and an opportunity to be heard, see *Brown v. Bd. of Trustees-Mun. Police Employees’ Ret. Sys.*, 2017-0295 (La. App. 1st Cir. 12/18/17), 234 So.3d 260, 267, writ denied sub nom. *Brown v. Bd. of Trustees*, 2018-0102 (La. 3/2/18), 269 So.3d 711, which Signal has had.

Additionally, in most child custody cases, the family court's determination is based heavily on factual findings. It is well-settled that an appellate court cannot set aside the family court's findings of fact in the absence of manifest error or unless those findings are clearly wrong. See *Rosell v. ESCO*, 549 So.2d 840, 844 (La. 1989). If the findings are reasonable in light of the record reviewed in its entirety, an appellate court may not reverse those findings even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently. *Id.*

Where, as here, the underlying custody decree is a stipulated judgment, a party seeking a modification must prove that: (1) there has been a change in circumstances materially affecting the welfare of the children since the previous custody decree was entered; and (2) the proposed modification is in the best interest of the children. *Moore v. Moore*, 2018-1713 (La. App. 1st Cir. 5/1/19), 276 So.3d 1063, 1068. Thus, the burden of proof to change the consensual agreement fell on Yopez to show a material change of circumstances affecting the child's welfare since the May 11, 2016 custody decree was entered, and that the change in domiciliary parent designation was in the best interest of the child. See *Moore*, 276 So.3d at 1068.

In determining whether a proposed modification is in the best interest of a child, La. C.C. art. 134A enumerates except in cases involving a history of committing family violence or domestic abuse the following factors to be considered by the court:

- (1) The potential for the child to be abused, as defined by Children's Code Article 603, which shall be the primary consideration.
- (2) The love, affection, and other emotional ties between each party and the child.

(3) The capacity and disposition of each party to give the child love, affection, and spiritual guidance and to continue the education and rearing of the child.

(4) The capacity and disposition of each party to provide the child with food, clothing, medical care, and other material needs.

(5) The length of time the child has lived in a stable, adequate environment, and the desirability of maintaining continuity of that environment.

(6) The permanence, as a family unit, of the existing or proposed custodial home or homes.

(7) The moral fitness of each party, insofar as it affects the welfare of the child.

(8) The history of substance abuse, violence, or criminal activity of any party.

(9) The mental and physical health of each party. Evidence that an abused parent suffers from the effects of past abuse by the other parent shall not be grounds for denying that parent custody.

(10) The home, school, and community history of the child.

(11) The reasonable preference of the child, if the court deems the child to be of sufficient age to express a preference.

(12) The willingness and ability of each party to facilitate and encourage a close and continuing relationship between the child and the other party, except when objectively substantial evidence of specific abusive, reckless, or illegal conduct has caused one party to have reasonable concerns for the child's safety or well-being while in the care of the other party.

(13) The distance between the respective residences of the parties.

(14) The responsibility for the care and rearing of the child previously exercised by each party.

The list of factors set forth in La. C.C. art. 134A is non-exclusive, and the determinations as to the weight to be given each factor is left to the discretion of the trial court. La. C.C. art. 134, comment (b).

In asserting that the evidence is insufficient to support the family court's designation of Yepez as the domiciliary parent, Signal avers the record fails to

establish a change in circumstances materially affecting the welfare of the child or that the designation of Yepez as the domiciliary parent is in the best interest of the child. We disagree.

In its oral reasons for judgment, the family court focused on the willingness and ability of each party to facilitate and encourage a close and continuing relationship between the child and the other party and concluded that Yepez proved a material change in circumstances detrimentally affecting the child existed based on the “dysfunctional relationship” between the parties. In reaching its conclusion, the family court expressly found that Signal had exercised such control that she failed to facilitate Yepez’s relationship with the child. We review the evidence to determine whether reasonable factual bases exist to support the family court’s determinations.

Yepez testified that when he contacted Signal requesting additional time to engage in video telephone visits with the child, it was by email. Often times, Signal simply did not respond to his emails. Yepez specifically recalled that for about a week, Signal failed to reply to his email asking that the child accompany him to a father/daughter dance at the child’s school and that once Signal did answer, she did not allow the child to attend. Yepez also recounted the instance where Signal did not agree to permit the child to attend an anniversary celebration for his parents, who had been married for over fifty years. Copies of emails, dated between June 25, 2017 and November 30, 2019, supporting his testimony were introduced into evidence.

Insofar as the restriction prohibiting the child’s stepmother from having any contact with the child, which was subsequently replaced with a stipulation that “the

child shall not be left in the care and custody of [the stepmother] at any time”⁵ the record shows the following. According to Yepez, the prohibition set in place in May 2016 meant that the child could not be left solely in the stepmother’s custody. Signal’s stated reason for refusing overnight visits at Yepez’s home was that the child might wake up while Yepez was sleeping and then he would be unavailable to protect the child. According to Signal, instead of overnight physical custody, she offered other non-sleeping opportunities for the child and father to be together. But despite the undisputed evidence demonstrating that at least two other children were residing in the house in May 2016, and that by December of 2018 the stepmother had successfully addressed and resolved her addiction issues through a stringent process, Signal continued to refuse to allow Yepez to have any overnight custody of the child.

Signal admitted that she did not like the stepmother present when the child was going from one household to the other. And both Yepez and the stepmother testified that Signal spoke derogatorily about the stepmother in the child’s presence and that the child knew Signal does not like the stepmother. Yepez testified that he has never been given the opportunity to arrange summer activities for the child. And he has been unable to take the child on any vacations, apparently due to the inability to have overnight custody of the child.

Although Signal points to her testimony indicating that when she did not respond to Yepez’s emails requesting more video telephone time with the child she

⁵ The stepmother, who is a registered nurse, testified that she had been addicted to sleeping pills and was suspended from practice by the Louisiana State Board of Nursing. After two years of negative drug screenings, the board deemed that the stepmother was no health or safety risk to herself or others. She was reinstated as a registered nurse on December 1, 2018 and works without restrictions at a healthcare facility in New Orleans. In rendering its decision, the family court stated that it was “impressed by [the stepmother] who ... quite readily admits she’s had issues. ... She presents today in a humbled fashion telling the Court that she’s had issues, and she’s not the only one. Most people have had issues in their [lives], and she takes full responsibility. And [the Court is] convinced [that] as a nurse [the stepmother] would be an asset to have in any family at this point in time.”

usually initiated Facetime calls between the father and daughter in response, as trier of fact, the family court was free to reject Signal's version of the facts. Thus, a finding that Yepez's requests for more video telephonic visits with his daughter were largely ignored by the domiciliary parent is not manifestly erroneous. This along with Signal's refusal to adjust Yepez's physical custody of his daughter to allow for overnight stays with the resolution of the stepmother's issues demonstrates Signal's control over the child such that as the domiciliary parent she has failed to facilitate the relationship between Yepez and the child. Signal's control over the child, including her unwillingness to permit overnight visits, resulting in a denial of vacation opportunities for father and daughter, has deprived the child of a meaningful relationship with her father and his side of her family and has detrimentally affected the child. The family court was not manifestly erroneous or clearly wrong in finding a material change of circumstances detrimentally affecting the child existed.

In designating Yepez as the child's domiciliary parent, the evidence supports the family court's conclusion that his appointment was in the best interest of the child, in part, because it determined Signal was financially irresponsible in a manner that affected the child. At the time of the hearing, Signal was under investigation by a federal grand jury in connection with allegations of the misuse of moneys from the Department of Veterans Affairs that had been provided to her paternal uncle, Ronald Signal. Additionally, Signal's sister had accused Signal of and sued her for misappropriation of moneys belonging to their mother through Signal's misuse of a power of attorney. Premitting a discussion of whether the family court could have correctly utilized such allegations against Signal since, at the time of the hearing, she had not been convicted of any crimes, the record nevertheless supports the factual finding that Signal has shown fiscal

irresponsibility relative to the child implicating Signal's moral fitness in a way that affects the child.

Signal acknowledged that upon the death of her father, Otis Signal, she obtained a will from an attorney that Otis had been working with in which Otis left all of his estate to all of his grandchildren. The only grandchild Otis had when he died was the child Signal shares with Yopez. Signal submitted the will for probate and was appointed as executrix for Otis's succession, assuming control of the child's finances as the domiciliary parent. Signal testified that the will stipulated that the child's finances were to be placed in trust.

As executrix, Signal sold two properties but did not deposit the funds from the sales into a trust for the child. Instead, she used the proceeds "to support the home where the child live[d]." Signal testified that she chose to "reinvest" the child's moneys for future growth. Because the home appreciated in value – having "doubled" according to Signal's testimony – Signal believed that the investment was beneficial to the child. Signal admitted that the house was the one in which she was residing on the date of the hearing. The will was subsequently invalidated based on a finding that it had not been signed by Otis, Signal was removed as executrix, and the court appointed a new party to administer the succession. Due to the will's invalidation, Signal stated that, ultimately, the moneys she "reinvest[ed]" into her family home were not the child's.

On appeal, Signal maintains that since there were no moneys due to the child from Otis's succession, the family court was "completely wrong" in its conclusion that she was fiscally irresponsible such that she demonstrated a lack of moral fitness affecting the child. We disagree.

The judgment declaring Otis's will invalid, which was submitted into evidence, was not a final judgment. Thus, at the time of the custody hearing, it

remained subject to modification. But more importantly, by her own testimony, Signal demonstrated that when she was tasked with a responsibility of managing the child's finances, she did so in a manner that was self-serving, lacking in transparency, and without regard to her fiduciary responsibilities to either the child or the succession. Signal did not comply with either her responsibilities as a parent charged with administering her child's independent patrimony or the terms of the instrument establishing the child's right to receive moneys since she failed to set up a trust in the child's name. Irrespective of the will having been invalidated, the record establishes that when the opportunity arose, Signal conceded that she failed to look out for her child's interests independent of her own interests. Thus, a reasonable factual basis exists to support the family court's finding that Signal showed fiscal irresponsibility relative to the child demonstrating a lack of moral fitness that affected the child.

Signal suggests that the family court's designation of Yepez as the domiciliary parent was also erroneous because the record failed to show that he is qualified to serve in that capacity. Insofar as the dysfunctional relationship of the parties, which was the major concern of the family court, Yepez testified that he regularly communicated with Signal about the child's health and welfare by email, and that he was willing to encourage a relationship between the child and Signal while the child was in his care. Both Signal's sister and the stepmother testified about the loving relationship the child has with Yepez and the stepmother and explained that, particularly since the temporary order after the April 20, 2020 HOC permitting overnight stays, the child is "so excited," "thrilled," and "loves" the time she is with her father and stepmother.

Reasonable factual bases exist for the family court's findings that, in this joint custody matter, Signal, as domiciliary parent, failed to facilitate and

encourage the child's relationship with her father; Signal showed fiscal irresponsibility relative to the child; and Yepez was committed to facilitating the relationship between the child and her mother. Thus, the evidence supports the conclusions that material changes in circumstances detrimentally affecting the welfare of the child had occurred since May 11, 2016, and the designation of Yepez as the domiciliary parent is in the child's best interest. Accordingly, the family court did not abuse its vast discretion.

ORDER OF ACCOUNTING OF CHILD'S MONEYS

On appeal, Signal complains about the propriety of the family court's order requiring her to provide to Yepez a full accounting of any funds allegedly held in "trust" on behalf of the minor child from the date of acquisition. In so contending, Signal fails to challenge the trial court's related orders, directing her to provide to Yepez the history of those moneys and to transfer all such funds to Yepez. Similarly, she raises no complaints about the family court's jurisdiction to render such an order.⁶ Rather, the gist of Signal's complaint is that since Otis's will that purported to leave his estate to the child was invalidated, she is "incapable" of providing such an accounting.

As we have already noted, the judgment entered into evidence, which annulled a will of Otis's probated on June 21, 2018, was not a final judgment and,

⁶ See *Allen v. Allen*, 2013-2778 (La. 5/7/14), 145 So.3d 341, 346-347 (holding that La. R.S. 13:621.22, which creates two divisions of the Twenty-Second Judicial District with limited jurisdiction over "family and juvenile matters as provided by law," statutorily does not define the scope of that limited jurisdiction; presuming that the legislature intended the same scope of jurisdiction in enacting La. R.S. 13:621.22 as that of all other family courts in Louisiana; and looking to La. R.S. 13:1138(C)(1), which addresses the jurisdiction of the "domestic relations divisions" of the Orleans Parish Civil District Court and expressly includes, "[a]ctions for divorce ... custody by habeas corpus or otherwise, visitation rights, and all matters incidental to any of the foregoing proceedings," to determine the scope of jurisdiction of one division of the Twenty-Second Judicial District Family Court). Because the order directing Signal to provide an accounting of the child's moneys in conjunction with the family court's determination changing the domiciliary parent designation from Signal to Yepez is a matter incidental to child custody, it falls within the family court's jurisdiction.

therefore, is subject to modification on appellate review. As such, Signal failed to establish as a matter of law that Otis's will purporting to leave moneys to the child was invalid.⁷ Accordingly, we find no error with the family court's order directly Signal to provide to Yepez a full accounting of all funds belonging to the child.

DECREE

For these reasons, the family court's judgment is affirmed. Appeal costs are assessed against defendant-appellant, Sloane Signal.

AFFIRMED.

⁷ To the extent that the finding has subsequently become final in Otis's succession proceeding, to comply with the family court's order, Signal simply need conform to that finding in providing the accounting to Yepez.

JAIME YEPEZ

NO. 2021 CU 0477

VERSUS

COURT OF APPEAL

SLOANE SIGNAL YEPEZ

FIRST CIRCUIT

STATE OF LOUISIANA

 **HOLDRIDGE, J., concurring.**

I respectfully concur with the result in this case. It appears that the appellant failed to object or seek a stay on the district court's consideration of issues beyond the recommendations of the hearing officer to which she objected. Therefore, she waived any claims that she may have had to the district court hearing and ruling on evidence outside of the objections made by a party. I write, however, about my concerns that the Family Court rule of the Twenty-Second Judicial District Court is in conflict with La. R.S. 46:236.5(C)(6). The purpose of allowing judicial district courts to employ hearing officers is to have "[a]n expedited process for ... family and domestic matters in district courts using hearing officers...." La. R.S. 46:236.5(C). In this case, the parties' claims were heard by a hearing officer who made various recommendations. The only written objections were made by the appellant to the lifting of the prohibition against Dahomeyan Yopez and the modification of the physical custody schedule. Under the clear language of La. R.S. 46:236.5(C)(6), "The objection shall be heard by the judge of the district court.... [T]he court shall schedule a contradictory hearing [on the objection] where the judge shall accept, reject, or modify in whole or in part the findings of the hearing officer [as to that objection]." The local rule of the Twenty-Second Judicial District Court which apparently allows the court to hear other issues not raised by an objection is in conflict with the Revised Statutes. Any local rule which is in conflict with legislation is null and not enforceable. See Rodrigue v. Rodrigue, 591 So.2d 1171, 1171 (La. 1992); Landry v. Landry, 53,921 (La. App. 2 Cir. 6/9/21), 323 So.3d 456, 459. The entire reason for a hearing officer is

defeated by the local rule which requires a litigant to try all issues before both the hearing officer and the district court judge if one party makes a minor objection to the hearing officer's recommendations. If the district court must conduct a hearing on all issues if an objection is made, the efficiency and savings to the courts and litigants from the use of the hearing officer is defeated. A better rule would be to allow the opposing party a brief period after a written objection is made to file additional objections.