

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 3, 2021

8:30 a.m./1:30 p.m.

1. AHMED EL SAKA V. DAYANA ANCHIETTA

PFL20200567

On October 12, 2021, Respondent filed a Request for Order (RFO) requesting child support orders and an order for sanctions. An Income and Expense Declaration and Declaration of Respondent's counsel were filed concurrently with the RFO, all of which were served by mail on Petitioner on October 14, 2021.

In the RFO, Respondent explains that the last court order for child support for \$630 per month was made at the May 20, 2021 hearing at which only Respondent appeared. Respondent declares that the RFO was properly served on Petitioner's counsel at the time, but after service the Petitioner received a Substitution of Attorney form substituting Petitioner's counsel out of the case which was filed prior to the service of the RFO. After the May 20, 2021 hearing, Respondent alleges that her counsel communicated with Petitioner's new counsel (who substituted back into the case) to request an updated Income and Expense Declaration and to discuss a modification to the court-ordered support amount if appropriate.

Since then, Petitioner has retained new counsel, but at the same firm, and Respondent's counsel has made the same communications to try to resolve any issues with the Petitioner's support obligation. Respondent claims that Petitioner has not been responsive and has not provided the income information.

To ensure no issues with enforceability of the support order, Respondent filed the current RFO requesting the same amount of support (\$630) as well as \$5,000 in sanctions under Family Code 271 for needing to file the motion.

On October 22, 2021, Petitioner filed an Income and Expense Declaration, served on Respondent electronically and by mail the day prior.

On November 17, 2021, Petitioner filed his own RFO requesting a modification of child support and orders regarding reunification therapy with a hearing set for February 3, 2022. On November 23, 2021, Respondent was served by mail with the RFO. Petitioner contends that Respondent has not disclosed her earnings working as a model and selling art. Petitioner requests that the court change the reunification therapist to one of the providers specified in his RFO and that Respondent be ordered to pay the costs of the therapy.

On January 4, 2022, Respondent filed a Supplemental Declaration and an Income and Expense Declaration, served on Petitioner electronically and by mail that same day. Respondent requested to advance Petitioner's RFO to the January 6, 2022 date to avoid what she claims are unnecessary attorney's fees. Respondent further disputes Petitioner's contentions regarding Respondent's income, claiming that she is not currently working, and also raises issues regarding the actual service date of Petitioner's RFO.

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At the January 6, 2022 hearing, the court adopted the tentative ruling, which found that Petitioner had made no challenge to the enforceability of the order made on May 20, 2021, to the extent that there is a valid challenge, and therefore confirmed the order as the order of the court. The court continued Respondent's RFO, including the request for sanctions under Family Code 271, to the February 3, 2022 hearing date. The court ordered both parties to file and serve on one another updated Income and Expense Declarations at least 10 days in advance of the next hearing date. The court reserved jurisdiction to modify child support back to October 12, 2021.

On January 21, 2022, Respondent filed an RFO to modify the custody and visitation orders. A CCRC session was scheduled on February 24, 2022 with a hearing on the RFO on April 14, 2022.

Having reviewed the filing of the parties, the court finds that the CCRC session may assist the parties in resolving the issues regarding reunification therapy and therefore the court finds good cause to continue Petitioner's requests regarding reunification therapy to the April 14, 2022 hearing date. All prior orders regarding custody, visitation, and therapy remain in full force and effect, pending this hearing date.

Regarding child support, the court uses the parties' respective Income and Expense Declarations to determine the guideline child support amount. Per Petitioner's Income and Expense Declaration, he receives about \$2,667 from worker's compensation, which the court reasonably infers is nontaxable income, and has no deductions. Per Respondent's Income and Expense Declaration, she currently earns no income. While Petitioner claims that Respondent is working, he has provided no credible information to support this claim nor has he provided sufficient information for the court impute income to Respondent. Given Petitioner is not spending time with the minor currently, the court finds that even if Respondent were receiving income this amount will have little to no effect on the calculation of support itself given Petitioner's minimal timeshare.

Using the above figures, a 0% timeshare, which the court finds to be the timeshare in practice, a married filing jointly status for Petitioner with 4 exemptions, and a married filing jointly status for Respondent with 3 exemptions, the court finds that guideline child support is \$667. Petitioner is ordered to pay Respondent \$667 per month as and for child support, commencing on November 1, 2021, payable on the 1st of the month, until further order of the court or termination by operation of law. See attached DissoMaster Report.

The court affirms the court's prior order for Petitioner to pay \$100 per month towards the child support arrears until the balance is paid in full. As an order is already in place for Petitioner to pay the arrears balance through monthly payments, the court denies Respondent's request to order Petitioner to make full payment of the outstanding arrears

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forthwith. The court orders the parties to share equally the uncovered health care costs of the minor.

Regarding the request for attorney's fees under Family Code 271, the court finds that Petitioner's refusal to provide information about his income after repeated reasonable requests by Respondent through her attorney frustrated the policy of the law to promote settlement. The court therefore orders Petitioner to pay Respondent attorney's fees as a sanction. However, the court finds that the filing of an RFO to reaffirm an order whose enforceability has not been challenged in court was not necessary, and, as such, the court declines to grant Respondent's sanctions request in full, instead limiting the award to an amount the court deems appropriate to deter Petitioner from failing to respond to reasonable requests from Petitioner in the future. Under Family Code 271, the court orders Petitioner to pay Respondent \$250 in attorney's fees as a sanction, payable directly to Respondent by March 31, 2022. The court admonishes Petitioner that it is inclined to increase the amount of any future sanctions awards if appropriate if this conduct continues.

Respondent is ordered to prepare and file the Findings and Order After Hearing.

TENTATIVE RULING #1: THE COURT CONTINUES PETITIONER'S REQUESTS REGARDING REUNIFICATION THERAPY TO THE APRIL 14, 2022 HEARING DATE. ALL PRIOR ORDERS REGARDING CUSTODY, VISITATION, AND THERAPY REMAIN IN FULL FORCE AND EFFECT, PENDING THIS HEARING DATE. PETITIONER IS ORDERED TO PAY RESPONDENT \$667 PER MONTH AS AND FOR CHILD SUPPORT, COMMENCING ON NOVEMBER 1, 2021, PAYABLE ON THE 1ST OF THE MONTH, UNTIL FURTHER ORDER OF THE COURT OR TERMINATION BY OPERATION OF LAW. SEE ATTACHED DISSOMASTER REPORT. THE COURT AFFIRMS THE COURT'S PRIOR ORDER FOR PETITIONER TO PAY \$100 PER MONTH TOWARDS THE CHILD SUPPORT ARREARS UNTIL THE BALANCE IS PAID IN FULL. THE COURT DENIES RESPONDENT'S REQUEST TO ORDER PETITIONER TO MAKE FULL PAYMENT OF THE OUTSTANDING ARREARS FORTHWITH. THE COURT ORDERS THE PARTIES TO SHARE EQUALLY THE UNCOVERED HEALTH CARE COSTS OF THE MINOR. UNDER FAMILY CODE 271, THE COURT ORDERS PETITIONER TO PAY RESPONDENT \$250 IN ATTORNEY'S FEES AS A SANCTION, PAYABLE DIRECTLY TO RESPONDENT BY MARCH 31, 2022. RESPONDENT IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

ATTORNEY (NAME AND ADDRESS): EDC Court California ATTORNEY FOR: Father	TELEPHONE NO:	Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
DISSOMASTER REPORT 2022, Monthly		CASE NUMBER: PFL 20200567

Input Data	Father	Mother	Guideline (2022)	Cash Flow Analysis	Father	Mother
Number of children	0	1	Nets (adjusted)	Guideline		
% time with Secondary Parent	0%	0%	Father	2,667 Payment (cost)/benefit	(667)	667
Filing status	<-MFJ	MFJ->	Mother	0 Net spendable income	2,000	667
# Federal exemptions	4	3	Total	2,667 % combined spendable	75%	25%
Wages + salary	0	0	Support	Total taxes	0	0
401(k) employee contrib	0	0	CS Payor	Father # WHA	0	0
Self-employment income	0	0	Presumed	667 Net wage paycheck/mo	0	0
Other taxable income	0	0	Basic CS	667 Comb. net spendable	2,667	
Other nontaxable income	2,667	0	Add-ons	0 Proposed		
New-spouse income	0	0	Presumed Per Kid	Payment (cost)/benefit	(667)	667
Wages + salary	0	0	Child 1	667 Net spendable income	2,000	667
Self-employment income	0	0	Spousal support	blocked NSI change from gdl	0	0
Misc ordinary tax. inc.	0	0	Total	667 % combined spendable	75%	25%
SS paid other marriage	0	0	Proposed, tactic 9	% of saving over gdl	0%	0%
Retirement contrib if ATI	0	0	CS Payor	Father Total taxes	0	0
Required union dues	0	0	Presumed	667 # WHA	0	0
Nec job-related exp.	0	0	Basic CS	667 Net wage paycheck/mo	0	0
Adj. to income (ATI)	0	0	Add-ons	0 Comb. net spendable	2,667	
SS paid other marriage	0	0	Presumed Per Kid	Percent change	0.0%	
Partner support paid other partnerships	0	0	Child 1	667 Default Case Settings		
CS paid other relationship	0	0	Spousal support	blocked		
Qual. Bus. Inc. Ded.	0	0	Total	667		
Health insurance	0	0	Savings	0		
Itemized deductions	0	0	No releases			
Other medical expenses	0	0				
Property tax expenses	0	0				
Ded. interest expense	0	0				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
Required union dues	0	0				
Mandatory retirement	0	0				
Hardship deduction	0*	0*				
Other gdl. deductions	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	0				



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2. CAROL BLOSS V. CHARLES BLOSS

PFL20210467

On January 19, 2022, Counsel for Respondent filed a Declaration in support of Attorney Fees and Costs pursuant to Family Code section 2030. The attached Proof of Service indicates Petitioner was served by mail on January 18, 2022. Respondent was the prevailing party in a request for a Domestic Violence Restraining Order (DVRO). Respondent is requesting Petitioner pay \$5,690 in attorney fees that were a result of the two-day trial on the DVRO. Respondent requests the court to consider Family Code section 271 sanctions in the alternative. Respondent filed an updated Income and Expense Declaration on January 19, 2022, with the same Proof of Service identified above.

The court has received no response from Petitioner. The court notes that it does have an Income and Expense Declaration filed by Petitioner on October 8, 2021.

Based on Respondent's Income and Expense Declaration, Respondent has an average monthly income of \$5,041, with last month's average being slightly lower at \$3,830, including social security and pension income. Respondent pays \$24 a month in union dues and \$409 for medical premiums. Respondent has approximately \$534,000 cash in assets listed in item 11(a) of the Income and Expense declaration.

Based on Petitioner's October filed Income and Expense Declaration, Petitioner has an average monthly income of \$2,970, including pension, social security, and separate property rental income. Petitioner pays \$172 in medical premiums. Petitioner has approximately \$25,000 cash in assets listed in item 11(a).

The court may order attorney fees to a prevailing party pursuant to Family Code Section 6344(a). The court must consider the respective incomes and needs and any factors affecting respective abilities to pay. Both parties are retired and on fixed incomes. Both parties have access to separate property income. Respondent has access to a sizable amount of assets, thereby lowering his need. Petitioner is not in the same position.

The court denies Respondent's request for attorney fees under Family Code section 6344(a), as the court finds Respondent has sufficient assets to pay attorney fees and Petitioner has a lesser ability to pay. The court also denies Respondent's request for attorney fees in the form of 271 sanctions. The court does not find Petitioner's request to have been a meritless motion, nor was it an unreasonable position. The court does not find Petitioner acted in bad faith or utilized delaying tactics.

TENTATIVE RULING #2: THE COURT DENIES RESPONDENT'S REQUEST FOR ATTORNEY FEES UNDER FAMILY CODE SECTION 6344(A). THE COURT DENIES RESPONDENT'S REQUEST FOR ATTORNEY FEES UNDER FAMILY CODE SECTION 271.

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3. CINDY CANCLINI V. RANDALL CANCLINI

PD1785

On November 19, 2021, Respondent filed a Request for Order (RFO) requesting a Gilmore election regarding his community property interest in Petitioner's pension. Upon review of the file, the court finds that there is no proof of service indicating service of the RFO on Petitioner. As such, the matter is dropped from the court's calendar.

TENTATIVE RULING #3: MATTER DROPPED FROM COURT'S CALENDAR

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4. COUNTY V. ROBERT CONGER (OTHER PARENT: YOLANDA TORRES)

PF930178

On November 19, 2021, Respondent filed a Request for Order (RFO) requesting an out-of-state clearance from California to lift the hold on Respondent's driver's license in Colorado. Upon review of the file, the court finds that there is no proof of service indicating service of the RFO on the Other Parent. As such, the matter is dropped from the court's calendar.

TENTATIVE RULING #4: MATTER DROPPED FROM COURT'S CALENDAR

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5. JAMES BOWLS V. PAMELA BOWLS

PFL20060624

On October 4, 2021, Respondent filed an Order to Show Cause and Affidavit for Contempt against Petitioner alleging one count of contempt. On November 8, 2021, Petitioner filed a Proof of Personal Service showing service upon Petitioner on November 2, 2021. On November 18, 2021, Petitioner was arraigned on the Contempt Complaint and appointed the Public Defender. The matter was continued to February 3, 2022, and Petitioner was ordered to appear.

On November 15, 2021, Respondent filed an Order to Show Cause and Affidavit for Contempt against Petitioner alleging an additional count of contempt. Upon review of the file, the court finds that there is no proof of service indicating service of the second Contempt Complaint on Petitioner. As such, the court dismisses this Contempt Complaint without prejudice.

TENTATIVE RULING #5: PETITIONER IS ORDERED TO APPEAR AT THE FEBRUARY 3, 2022 HEARING REGARDING THE OCTOBER 4, 2021 CONTEMPT COMPLAINT. THE NOVEMBER 15, 2021 CONTEMPT COMPLAINT IS DISMISSED WITHOUT PREJUDICE DUE TO LACK OF SERVICE.

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7. JENNIFER WIDAU V. TOM SANDOVAL

PFL20210301

On May 26, 2021, Petitioner filed a Request for Order (RFO) requesting the court to make custody and visitations orders, child support orders, and attorney's fees orders and to order Respondent to complete a program for PTSD and alcohol. A CCRC session was scheduled for June 28, 2021 with a hearing on the RFO set for August 12, 2021.

On July 22, 2021, the Department of Child Support Services (DCSS) filed a Notice Regarding Payment of Support, intervening into the family law case.

On August 3, 2021, Petitioner filed an Affidavit of Unsuccessful Service, listing six unsuccessful attempts to serve the RFO and accompanying paperwork on Respondent. That same day, Petitioner filed a Request to Reschedule Hearing and an Application for Order for Posting, both of which were granted by the court on August 10, 2021. The hearing was continued to October 28, 2021.

On September 20, 2021, Petitioner filed a Proof of Service of Summons, indicating personal service of the Summons, Petition, Income and Expense Declaration, RFO, and Order on Request to Schedule Hearing. However, upon review of the file, the court finds that Petitioner did not file an Income and Expense Declaration with the court.

On October 21, 2021, Petitioner filed a Declaration. Upon review of the file, the court finds that there is no proof of service indicating service of this Declaration on Respondent. As such, the court cannot review or consider it.

Only Petitioner appeared at the CCRC session on June 28, 2021. A CCRC report was issued on June 30, 2021 with copies mailed to the parties on July 9, 2021.

On October 28, 2021 the court found that, as to the request for child support, under Family Code 4251 the issue should be addressed by the Child Support Commissioner as DCSS is a party to the case. The court continued the child support issue to the DCSS calendar. Additionally, on October 28, 2021, the court denied Petitioner's request for attorney's fees without prejudice. The court referred the parties back to CCRC and continued the issues of custody and visitation only to the instant hearing date. The court admonished the parties that should either party fail to attend the CCRC session, the court will consider sanctions against that party under Local Rule 8.10.02.

The parties both appeared for the CCRC appointment and a CCRC report was issued on December 22, 2021. Copies of the report were mailed to the parties on December 23, 2021. The CCRC report reflects that the parties reached a full agreement regarding the issues pending before the court.

On December 17, 2021 Petitioner filed a Declaration with an attached order from Placer County case number S-DR-0060415 entered on November 4, 2021 involving the parties and

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child presently before the court. The Placer County order contains an agreement by the parties to transfer the Placer County Case to El Dorado County, as well as custody and visitation orders. Petitioner's Declaration asserts that Placer County has not yet transferred the case to El Dorado County.

On January 4, 2022 Petitioner filed an additional Declaration objecting to Respondent's Responsive Declaration as untimely per CCP section 1005(b). However, the court finds that after a review of the file, Respondent has not yet filed a Responsive Declaration with the court as of the writing of this order.

The court further finds that Respondent filed a motion on October 20, 2021, requesting the court quash the El Dorado County action in favor of the Placer County matter, which was filed prior to the El Dorado County case. That issue was continued to today's date.

On January 18, 2022, counsel for the Petitioner filed a declaration stating Respondent's counsel would be completing the necessary filing and fee payment to have the matter transferred to El Dorado County on January 14, 2022.

The court ordered the parties to contact Placer County to obtain the status of the pending transfer to El Dorado County. The parties shall provide that information to the court no later than February 1, 2022.

The court has reviewed its file and finds that the Placer County matter has not yet been transferred to El Dorado County. As Placer County has issued custody and visitation orders, the court is not inclined to disturb those orders pending receipt of the Placer County matter. The court continues this hearing to February 17, 2022 at 8:30 am and orders the parties to contact Placer County to obtain the status of the pending transfer to El Dorado County. The parties shall provide that information to the court no later than February 1, 2022.

TENTATIVE RULING #7: THE COURT CONTINUES THE HEARING TO FEBRUARY 17, 2022 AND ORDERS THE PARTIES TO PROVIDE A STATUS TO THE COURT BY FEBRUARY 15, 2022 REGARDING THE TRANSFER OF THE PLACER COUNTY CASE TO EL DORADO COUNTY.

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8. JESSICA CHOW V. CHRIS WANG

PFL20210060

On November 18, 2021, Respondent filed a motion for joinder, requesting Andrew Wang be joined to the matter as a necessary party. Respondent asserts Andrew Wang is a necessary party as he is on both the deed and the mortgage of the marital property located at 576 Powers Drive, El Dorado Hills. Petitioner was served my mail on December 3, 2021, with a Proof of Service filed on December 6, 2021.

On January 24, 2022, Petitioner filed a responsive declaration to the request for joinder. Respondent was served electronically on January 21, 2022, with a Proof of Service filed on January 24, 2022. Petitioner does not oppose the request for joinder and concurs that Andrew Wang is on the deed and mortgage of the marital property.

Based on the above filings, the court orders Andrew Wang joined into the case only for purposes of addressing and dividing the interest at 576 Powers Drive, El Dorado Hills. This court has jurisdiction over the division of the property at issue to make such orders as are necessary to effectuate a judgment between the parties and divide the community property asset equally. (*IRMO Kinckerbocker* (1974) 43 Cal.App.3d 1039, 1045.) Joining Andrew Wang will not result in the delay of the disposition of the case and is necessary to effectuate an effective judgement in this case. (Cal. Rules of Court 5.24(e)(2).)

Respondent is to issue a summons on *Summons (Joinder)* (form FL-375) and serve Andrew Wang a copy of *Notice of Motion and Declaration for Joinder* (form FL-371), the pleading attached thereto, the order of joinder, and the summons. Respondent is to serve Andrew Wang on or before March 3, 2022.

Respondent is to file the Findings and Orders After Hearing. All prior orders remain in full force and effect.

TENTATIVE RULING #8: THE COURT GRANTS RESPONDENT'S MOTION TO JOIN ANDREW WANG. RESPONDENT IS TO ISSUE A SUMMONS ON SUMMONS (JOINDER) (FORM FL-375) AND ANDREW WANG BE SERVED WITH A COPY OF NOTICE OF MOTION AND DECLARATION FOR JOINDER (FORM FL-371), THE PLEADING ATTACHED THERETO, THE ORDER OF JOINDER, AND THE SUMMONS. RESPONDENT IS TO FILE THE FINDINGS AND ORDERS AFTER HEARING. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT.

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9. NADINE DILLMAN V. GALEN DILLMAN

PFL20210295

On November 17, 2021, Petitioner filed a Request for Order (RFO) and Declaration requesting the court order the sale of the marital residence. Following a review of the file, the court finds no Proof of Service has been filed showing that Respondent was served with the RFO or the Declaration and attachments as required by law. As such, the court cannot consider the filings.

Petitioner's RFO is denied without prejudice.

TENTATIVE RULING #9: PETITIONER'S RFO IS DENIED WITHOUT PREJUDICE.

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10. PETER THORNE V. TATJANA THORNE

PFL20180772

On November 19, 2021, Petitioner filed a Request for Order (RFO) requesting the resolution of a factual dispute in the parties' settlement agreement signed on June 11, 2021 as well as attorney's fees under Family Code 271. On November 29, 2021, Petitioner filed two proof of service forms indicating service of the RFO on Respondent electronically and by mail on November 22, 2021 and November 23, 2021, respectively.

On January 21, 2022, Respondent filed a Responsive Declaration and an Income and Expense Declaration, served by mail on Petitioner that same day. Respondent makes his own request for attorney's fees under Family Code 271.

On January 27, 2022, Petitioner filed a Reply Declaration, served on Respondent by mail that same day.

In sum, the dispute concerns the characterization and identification in the judgment and the attached CFLR Propertizer of the separate property portion of the roughly \$193,000 of Thrivent Mutual Funds transferred from Petitioner to Respondent per their agreement. Prior to the filing of the RFO, counsel for both parties agreed to modify the original judgment language to reflect the correct separate property portion. Nonetheless, the parties cannot agree on whether the Propertizer should be amended as well. Both parties, however, acknowledge that regardless of any changes, if so ordered by the court, neither side shall be entitled to an equalization payment. The court further finds that Respondent consents in concept to granting of the request of Petitioner regarding the resolution of this factual dispute; yet, Respondent's position is that it should be resolved by the signing of the latest iteration of the proposed judgment prepared by Respondent, to which Petitioner objects.

The court finds per its review of the RFO that the main practical implication of the issues before the court is how the value of value of assets received by each party will impact the attorney's fees and sanctions issues set for trial on February 8, 2022. As such, the court continues the issues raised in the RFO as well as both parties' requests for sanctions under Family Code 271 to the trial date.

Petitioner is ordered to prepare and file the Findings and Order After Hearing.

TENTATIVE RULING #10: THE COURT CONTINUES THE ISSUES RAISED IN THE RFO AS WELL AS BOTH PARTIES' REQUESTS FOR SANCTIONS UNDER FAMILY CODE 271 TO THE TRIAL DATE ON FEBRUARY 8, 2022. PETITIONER IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

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11. RAYCHEL MISTER V. JASON MIRANDA

PFL20170432

On November 10, 2021, Respondent filed a Request for Order (RFO) requesting a change in child custody and visitation. The court referred the parties to a Child Custody Recommending Counseling (CCRC) session scheduled for December 17, 2021.

Only Respondent appeared at the CCRC session on December 17, 2021, and as such a single participant report was issued, with no recommendations.

Upon review of the file, there is no Proof of Service showing Petitioner was served with notice of the RFO or of the referral to CCRC.

All prior custody and visitation orders remain in full force and effect. The court re-refers the parties to a CCRC session and resets a review hearing.

Respondent is ordered to prepare and file the Findings and Order After Hearing.

Tentative Ruling #11: THE CURRENT CUSTODY AND VISITATION ORDERS REMAIN IN FULL FORCE AND EFFECT. THE COURT RE-REFERS THE PARTIES TO A CCRC SESSION ON FEBRUARY 25TH, 2022 AT 1:00PM WITH REBECCA NELSON AND CONTINUES THE CUSTODY AND VISITATION ISSUES TO APRIL 14TH, 2022 AT 8:30 A.M. IN DEPARTMENT 5. RESPONDENT IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

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12. RICHARD FRIEND V. MELISSA COSENS

PFL20180670

On November 19, 2021 Petitioner filed a Request for Order (RFO) requesting a change in child custody and visitation and a request to attend Child Custody Recommending Counseling (CCRC).

Upon review of the file, the court finds that there is no proof of service indicating service of the RFO on Respondent.

Nonetheless, both parties participated in the CCRC session, and per the report the court finds that Respondent has notice of the requests contained within the RFO. The parties were unable to reach an agreement. A copy of the report was mailed to parties on January 26, 2022. The recommendation is for parents to share parenting time utilizing a 3-3-4-4 parenting rotation. Petitioner would initially have parenting time Wednesday, Thursday, and Friday. Respondent would have Saturday, Sunday, Monday, and Tuesday. Petitioner would then have Wednesday, Thursday, Friday, and Saturday. Respondent would next have Sunday, Monday, and Tuesday. The rotation would then repeat.

On January 21, 2022, Respondent filed a Responsive declaration to the RFO. Petitioner was served by mail on January 22, 2022, with a Proof of Service filed on January 25, 2022. Respondent filed an Amended Responsive Declaration on January 27, 2022 with an attached Proof of Service indicating service of the Petitioner by mail. Respondent opposes the requested changes and requests the current orders remain in place, with a reduction in parenting time, by eliminating the midweek visit. Respondent asserts Petitioner is not utilizing the mid-week parenting time. Respondent raises concerns about the need for conjoint therapy between the minor and Petitioner. Respondent also raises concerns about Petitioner's anger and drinking. Respondent requests the court order conjoint counseling between Petitioner and the minor.

Petitioner filed a Reply Declaration on January 27, 2022. Respondent was served electronically and by mail on January 27, 2022 with a Proof of Service filed the same day. Petitioner asserts he has never missed the mid-week except for when the parties agreed to it or when both the minor and Petitioner were ill. Petitioner asserts he completed the conjoint therapy as well as all other required classes, which resulted in the step-up parenting plan which is currently being utilized. Petitioner has no objection to the minor being enrolled in general counseling. Petitioner also believes co-parenting counseling would benefit the parties.

The parties currently share joint legal and joint physical custody of the minor. The court adopts the recommendations as set forth in the CCRC report as they are in the best interest of the minor. The parties shall utilize the 3-3-4-4 parenting schedule as outlined above. The Petitioner is not to consume alcoholic beverages, narcotics, or restricted dangerous drugs (except was lawfully prescribed by a licensed physician or dentist) within 24 hours before or during his parenting time. The parties shall abide by the respect guidelines as outlined in the

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CCRC report. The court orders the minor to be assessed for counseling needs regarding the issues raised in the CCRC report by a licensed counselor and to engage in counseling at a frequency and duration as directed by the counselor. Parties are to share the cost of counseling, split 50/50, if it is not covered by insurance. Parties are ordered to complete a co-parenting class within 90 days.

All other orders remain in full force and effect. Petitioner is to prepare and file the Findings and Orders After hearing.

TENTATIVE RULING #12: THE COURT ADOPTS THE RECOMMENDATIONS AS OUTLINED IN THE CCRC REPORT. PARTIES WILL HAVE A 3-3-4-4 PARENTING SCHEDULE. THE MINOR IS TO BE ASSESSED FOR COUNSELING AND TO ENGAGE IN COUNSELING AT A FREQUENCY AND DURATION AS DIRECTED BY THE COUNSELOR. PARTIES TO COMPLETE CO-PARENTING CLASS WITHIN 90 DAYS. THE COURT ADOPTS THE REMAINING ORDERS AS OUTLINED ABOVE. PETITIONER IS ORDER TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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13. SEAN MOORE V. LORRIE MOORE

PFL20150762

On November 9, 2021 Respondent filed an Order to Show Cause and Affidavit Contempt against Petitioner. That same day, the Contempt Complaint was served by mail on Petitioner's Counsel. However, "[s]ervice of an order to show cause to bring a party into contempt is insufficient if made by mail on the party's attorney of record." (*Koehler v. Superior Court* (2010) 181 Cal.App.4th 1153, 1169.)

Upon review of the file, the court find that there is no proof of service indicating personal service of the Contempt Complaint on the Petitioner.

On January 18, 2022, Petitioner filed an Objection, served on Respondent by mail that same day.

The court dismisses the Order to Show Cause without prejudice for lack of service.

TENTATIVE RULING #13: THE COURT DISMISSES THE ORDER TO SHOW CAUSE WITHOUT PREJUDICE FOR LACK OF SERVICE.

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February 3, 2021

8:30 a.m./1:30 p.m.

14. TRISTA MARTINEZ V. CHRISANTO MARTINEZ

PFL20130688

On November 9, 2021, Petitioner filed an ex parte application and supporting declaration to temporarily suspend Respondent's parenting time, grant Petitioner sole legal and physical custody, and refer the parties to CCRC. On November 10, 2021, the court denied the ex parte requests and set the underlying Request for Order (RFO) for hearing on February 3, 2022 with a CCRC session set on December 15, 2021.

Upon review of the file, the court finds that there is no proof of service indicating service of the RFO on Respondent.

Nonetheless, both parties participated in the CCRC session, and per the report the court finds that Respondent has notice of the requests contained within the RFO. The parties reached an agreement to maintain joint legal custody but came to no other agreements. A CCRC report was issued on January 12, 2022 with copies mailed to the parties on January 25, 2022.

The CCRC report details the concerns raised by Petitioner regarding Respondent's recent arrest in Stanislaus County. The report recommends that Respondent continue to have parenting time on the 1st, 2nd, and 4th weekends of the month, but only during the day with the minors spending Saturday nights at the Paternal Grandparents' house pending the outcome of Respondent's criminal case. The report also recommends that Respondent and the minors participate in therapy and that the parties communicate via *talkingparents.com*.

Having reviewed the filings of the parties and the CCRC report, the court finds that the agreements and recommendations contained within the CCRC report are in the best interest of the minors and adopts them as the orders of the court.

Petitioner is ordered to prepare and file the Findings and Order After Hearing.

TENTATIVE RULING #14: THE AGREEMENTS AND RECOMMENDATIONS CONTAINED WITHIN THE CCRC ARE ADOPTED AS THE ORDERS OF THE COURT. PETITIONER IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 3, 2021

8:30 a.m./1:30 p.m.

15. VITO MIRABILE V. JESSICA MIRABILE

PFL20200461

On January 5, 2022, Respondent filed a request for an Order Shortening Time (OST) for her Request for Order (RFO) for attorney's fees (which the court reasonably infers are requested under Family Code 271) and an order directing Jackson National Life Insurance Company to release the hold on Respondent's IRA account and to resume monthly distributions to Respondent. That same day, the court granted the OST setting the RFO on February 3, 2022 with a service deadline for the RFO of January 12, 2022.

Attached to the RFO is a letter from Petitioner's attorney notifying the insurance company of Petitioner's adverse interest in the account and advising the company that no further distributions should be made until a QDRO is submitted.

On January 5, 2022, Petitioner was served electronically with the RFO and OST.

On January 26, 2022, Petitioner filed a Responsive Declaration, served by mail on Respondent that same day. Per the Responsive Declaration, Petitioner alleges that Respondent has three retirement accounts with significant funds as of the date of separation. Petitioner contends that Respondent has made routine withdrawals from these accounts, and Petitioner states that his rights to his community interest in the Jackson National Life Insurance IRA should be preserved but not allowing further withdrawals from the account until a QDRO is executed to determine the parties' respective community interest including any equalization payments to which Petitioner is entitled for Respondent's withdrawals from the accounts.

Having reviewed the filings of the parties, the court finds that Respondent has not met her burden of showing that the community home is at risk of being lost and that it is necessary to address the IRA account prior to the time of trial. As such, the court denies Respondent's request to order Petitioner to release the hold on the Jackson National Life Insurance IRA.

Regarding the request for attorney's fees under Family Code 271, the court finds that Respondent has not provided a sufficient basis for an award of fees at this time and defers the request to the time of trial.

Respondent is ordered to prepare and file the Findings and Order After Hearing.

TENTATIVE RULING #15: THE COURT DENIES RESPONDENT'S REQUEST TO ORDER PETITIONER TO RELEASE THE HOLD ON THE JACKSON NATIONAL LIFE INSURANCE IRA. THE COURT DEFERS THE REQUEST FOR ATTORNEY'S FEES UNDER FAMILY CODE 271 TO THE TIME OF TRIAL. RESPONDENT IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 3, 2021

8:30 a.m./1:30 p.m.

16. YVONNE PARKIN V. DAVID PARKIN

PFL20100911

On November 12, 2021, Respondent filed a Request for Order (RFO) requesting a post judgement modification of permanent spousal support. Respondent filed an Income and Expense Declaration simultaneously. Petitioner was personally served on November 27, 2021, with Proof of Service filed on December 6, 2021.

Respondent's employment was ended on November 3, 2021, when his position was eliminated. Respondent requests the court modify the spousal support order to reflect his current situation.

On January 25, 2022, Petitioner filed a Responsive Declaration. Petitioner is objecting to any change in the permanent spousal support order. Petitioner filed an Income and Expense Declaration on January 20, 2022. Respondent was served by mail on January 19, 2022, with Proof of Service filed on January 20, 2022.

Parties are ordered to appear to select Mandatory Settlement Conference and Trial dates.

TENTATIVE RULING #16: PARTIES ARE ORDERED TO APPEAR TO SELECT MANDATORY SETTLEMENT CONFERENCE AND TRIAL DATES.