

On January 4, 2022 Respondent filed an ex parte request for custody, requesting sole physical and legal custody of the minor. The ex parte request was denied on January 5, 2022. Respondent filed Request for Order (RFO) on January 5, 2022 requesting sole physical and legal custody of the minor. Parties were referred to Child Custody Recommending Counselling (CCRC) with an appointment on February 3, 2022 and a review hearing set for March 10, 2022.

Upon review of the file, the court finds that there is no proof of service indicating the Petitioner was served with the RFO or Referral to CCRC.

Nevertheless, Petitioner appeared at the CCRC appointment. However, Respondent failed to appear. As such, a single parent report that contains no agreements or recommendations was issued. A copy of the report was mailed to the parties on February 17, 2022.

As Petitioner was not properly served and Respondent failed to attend the CCRC appointment, the RFO is denied. All prior orders remain in full force and effect.

TENTATIVE RULING #17: THE REQUEST FOR ORDER IS DENIED. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT.

18. C.M. V. N.W.

21FL0210

TENTATIVE RULING #18: PARTIES ARE ORDERED TO APPEAR

On October 14, 2021, the court adopted the parties' agreements, appointed Minors' Counsel, and set a hearing on January 27, 2022 regarding Minors' Counsel's input and the custody and visitation orders.

On January 20, 2022, Petitioner filed a Supplemental Declaration outlining the reunification process to date. Petitioner requests the step-up plan be expedited, as the initial meeting with the minors went well, and there were no concerns noted. Respondent was served a copy of the Supplemental Declaration by mail on January 20, 2022 with Proof of Service filed the same day.

Parties appeared at the January 27, 2022 hearing, however, Respondent objected to the matter being heard by a temporary judge. Parties agreed to have Dennis Brimer appointed as Minors' Counsel.

On March 4, 2022 Petitioner filed a Supplemental Declaration. Respondent and Minors' Counsel were served by mail on March 4, 2022, with Proof of Service Filed the same day. Petitioner requests the court move forward with the step-up plan as agreed to by the parties and adopted by the court in October last year. Petitioner includes as exhibits communication from the reunification therapist. Exhibit A outlines that visitation is going well and the minors appear to have a positive relationship with the Petitioner. Exhibit B is a statement from the reunification therapist that she is unable to make recommendations as to custody, as it is beyond the scope of her practice. She can provide the court with information about the visits, which she has done.

The court has not received any responsive declarations from Respondent or Minors' Counsel.

Based on the therapist's report of the positive nature of supervised visits and no noted concerns about Petitioner's appropriateness with the minors, the court orders parenting time shall progress to Step 2. Petitioner shall have parenting time on the 1st, 3rd, and 5th Saturday from 10:00 A.M. to 6:00 P.M. and one weekday on the 2nd and 4th week from 5:00 P.M. to 7:00 P.M. Additionally, Petitioner is authorized to have phone calls with the minors on Tuesday and Thursday at 6:30 P.M. Step 2 shall begin March 19, 2022, as it is the 3rd Saturday of the month. Step 2 shall be in effect for 30 days. The parenting plan shall proceed as outlined in the September 1, 2021 CCRC report as adopted by the court.

Petitioner to prepare and file the Findings and Orders After Hearing.

TENTATIVE RULING #19: PARENTING TIME SHALL PROGRESS TO STEP 2. PETITIONED SHALL HAVE PARENTING TIME ON THE 1ST, 3RD, AND 5TH SATURDAY FROM 10:00 A.M. TO 6:00 P.M. AND ONE WEEKDAY ON THE 2ND AND 4TH WEEK FROM 5:00 P.M. TO 7:00 P.M. ADDITIONALLY, PETITIONER IS AUTHORIZED TO HAVE PHONE CALLS WITH THE MINORS ON TUESDAY AND THURSDAY AT 6:30 P.M. STEP 2 SHALL BEGIN MARCH 19, 2022, AS IT IS THE 3RD SATURDAY OF THE MONTH. STEP 2 SHALL BE IN EFFECT FOR 30 DAYS. THE PARENTING PLAN SHALL PROCEED AS OUTLINED IN THE SEPTEMBER 1, 2021 CCRC REPORT AS ADOPTED BY THE COURT. PETITIONER TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

21. J.M. V. Z.N.

21FL0051

TENTATIVE RULING #21: THE PARTIES ARE ORDERED TO APPEAR.

On February 1, 2022, Respondent filed a Request for Order (RFO) requesting the court set aside Petitioner's request for a default judgment and allow Respondent to file a response. Petitioner was served with the RFO by mail on February 3, 2022, with Proof of Service filed on February 7, 2022.

Respondent requests the court set aside the request for default judgement pursuant to Code of Civil Procedure section 473. Respondent states in her Declaration that she was unable to file a response due to her mistake, inadvertence, surprise, and excusable neglect. Respondent asserts that she mistakenly believed she had already appeared in the case and because she was unrepresented, she was unaware she was required to file a response to the Petition for Dissolution. Respondent also asserts that from April of 2021 until July 2021 she believed the parties were working on their marriage and not yet proceeding with the divorce. Respondent also claims surprise and excusable neglect. Respondent states in her declaration that she was not aware of Petitioner's request to enter default until she retained counsel. Respondent states she was never served with the request to enter default as Petitioner served her at a former address in the state of Texas. Respondent asserts that she has been a full-time resident of California since April of 2021 and that Petitioner was aware of her address in California. Parties have been exercising their parenting time in California. Respondent believed that parties were working towards an amicable resolution. Respondent also requests the court find that her mistaken belief that there were no documents that needed to be filed in response to the Petition for Divorce prior to obtaining counsel constitutes excusable neglect. Respondent concludes the set aside is necessary to ensure a fair and equitable resolution of the issues in the case.

Petitioner filed a Responsive Declaration to the RFO on February 25, 2022. Respondent was served by mail on February 25, 2022 with Proof of Service filed the same day. Petitioner requests the court deny Respondent's request to set aside the default judgement. Petitioner asserts Respondent has no legitimate basis to set aside the Request to Enter Default, as Respondent was aware of the proceedings from July 2021 on and chose not to participate in the legal process.

Respondent has complied with the requirements set forth in Code of Civil Procedure 473(b) in the Respondent has filed the Response to the Request for Dissolution and the Preliminary Declaration of Disclosure, and the Declaration under the UCCJEA. The Respondent's request to set aside the Request Default was timely filed. Although Petitioner opposes the request, the court finds the notice to Respondent was deficient, as it was sent to an address Petitioner reasonably knew Respondent no longer resided at. The court finds the Respondent's inaction which resulted in the Request to Enter Default being filed against her was due to her mistake, inadvertence, surprise, and excusable neglect. Therefore, the court is granting Respondent's motion to set aside the default and orders her response filed.

TENTATIVE RULING #22: THE COURT GRANTS RESPONDENT'S REQUEST TO SET ASIDE THE DEFAULT JUDGEMENT AND ORDERS HER RESPONSE TO BE FILED.

23. K.C. V. R.E.

22FL0005

TENTATIVE RULING #23: PARTIES ARE ORDERED TO APPEAR.

On January 20, 2022, the court ordered that Respondent temporarily have supervised visitation three times a week for three hours each. The court set a further review hearing to determine what parenting schedule will be in the best interest of the children.

Prior to the January 20, 2022 order, the parents had been exercising a 2-2-3 schedule. However, there was high levels of conflict between Respondent and the minors, including the minors frequently running away from Respondent's home. Supervised visitation was ordered to obtain input from a non-partial third party as well as to ensure the minors' safety.

On March 1, 2022, Minors' Counsel filed a Statement Re: Custody and Visitation and Request for Disposition. Parties were served with the Statement by mail on March 1, 2022, with Proof of Service filed the same day. Minors' Counsel report that there were significant delays in arranging the supervised visitation between Respondent and the minors and that three has further deterioration in their relationship. Unfortunately, only one supervised visit took place. Petitioner has since terminated the services of the visitation supervisor.

Further the family therapist, Jessica Wharton reports to Minors' Counsel that no progress has been made regarding repairing the relationship between the minors and Respondent. Currently the minors are refusing to engage with Respondent in any way. Minors' Counsel believes this is due to the parties' conflict with each other and the minors are caught in the middle. Minors' Counsel also states the minors have been "given permission from dad to behave poorly with mother." Minors' Counsel does not believe the relationship between the minors and parents can be repaired until the parties de-escalate and work to repair the relationship.

Minors' Counsel makes several recommendations including: joint legal and physical custody; reinstatement of the prior parenting plan, utilizing a 2-2-3 schedule; the family to engage in a 730 evaluation including psychological evaluations for the parties and minors; the parties to continue to engage in family therapy with the minors at the frequency and direction of the family therapist; parties to engage in high conflict co-parent counseling, parties to meet and confer through counsel to choose a co-parent counselor, Minors' Counsel suggests Stephanie Stille; the court order family therapist Jessica Wharton has authorization to communicate with the co-parent counselor and vice versa; and that the court set a review hearing in 30 days.

The court finds the recommendations from Minors' Counsel to be in the best interest of the minors and adopts them as the order of the court.

TENTATIVE RULING #25: PARTIES WILL HAVE JOINT LEGAL AND PHYSICAL CUSTODY; REINSTATEMENT OF THE PRIOR PARENTING PLAN, UTILIZING A 2-2-3 SCHEDULE; THE FAMILY TO ENGAGE IN A 730 EVALUATION INCLUDING PSYCHOLOGICAL EVALUATIONS FOR THE PARTIES AND MINORS; THE PARTIES TO CONTINUE TO ENGAGE IN FAMILY THERAPY WITH THE MINORS AT THE FREQUENCY AND DIRECTION OF THE FAMILY THERAPIST; PARTIES TO ENGAGE IN HIGH CONFLICT CO-PARENT COUNSELING, PARTIES TO MEET AND CONFER THROUGH COUNSEL TO CHOOSE A CO-PARENT COUNSELOR; THE COURT ORDERS FAMILY THERAPIST JESSICA WHARTON IS AUTHORIZED TO COMMUNICATE WITH THE CO-PARENT COUNSELOR; THE CO-PARENTING COUNSELOR IS AUTHORIZED

TO COMMUNICATE WITH THE FAMILY THERAPIST JESSICA WHARTON. THE MATTER IS SET FOR A FURTHER REVIEW HEARING APRIL 21, 2022.

26. SAMANTHA KOPP V. JUSTIN MOAR

PFL20180187

On January 4, 2022, Petitioner filed a Request for Order (RFO) requesting a modification of the parenting time for Respondent. Parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on January 31, 2022 and a review hearing on March 10, 2022. Petitioner requests the court order visits with Respondent be suspended pending proof of negative Covid-19 tests and that Respondent participate in random drug testing.

Upon review of the file, the court finds that there is no proof of service indicating the Respondent was served with the RFO or referral to CCRC. As such the court cannot consider it.

On January 31, 2022, only Petitioner appeared at the CCRC appointment. Therefore, the CCRC report is a single parent report which contains no agreements or recommendations.

The court denies Petitioner's RFO is denied. All prior orders remain in full force and effect.

TENTATIVE RULING #26: PETITIONER'S REQUEST FOR ORDER IS DENIED. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT.