

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

April 7, 2022

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

**17. DCSS V. JEREMY MASON (OTHER PARTY: MEGAN RIOS)**

**PFS20200185**

On February 1, 2022, Other Party filed a Request For Order (RFO) requesting child custody and parenting time orders. Upon review of the court's file, there is no Proof of Service showing Respondent was served with the RFO, and as such the court cannot consider the request. Therefore, the RFO is denied without prejudice. All prior orders remain in full force and effect.

**TENTATIVE RULING #17: THE REQUEST FOR ORDER IS DENIED WITHOUT PREJUDICE. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT.**

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**18. ERIC STONER V. JESSICA STONER**

**PFL20210279**

On March 15, 2022 Petitioner filed a Request for Order (RFO) along with an Order Shortening Time (OST). Respondent was noticed of the request for an OST on March 11, 2021. On March 15, 2022 the court granted the OST and set the RFO on April 7, 2022. Respondent was noticed of the RFO on March 17, 2022.

Petitioner is requesting court authorization to sell the community business and the proceeds divided between the parties. Petitioner asserts this is the only significant community asset left to divide. Petitioner states he is suffering from several severe health issues which prevent him from continuing to operate the business and necessitates selling the business as soon as possible.

Respondent filed a Responsive Declaration on April 1, 2022. Petitioner was served electronically the same day. Respondent states Petitioner has already sold a portion of the business in violation of the ATROS. Respondent asserts there has been a violation of Family Code Section 1101(a) and 721(B) by Petitioner in that he has breached his fiduciary duty by failing to disclose necessary information about the business and has already sold a portion of it without Respondent's consent. Respondent does not believe it would be reasonable for her to run one-half of the pool business given her homeschooling the minors. Respondent requests Petitioner not have unilateral decision making to sell the business. Respondent is in agreement for Petitioner to buy out her half interest, however, requests a business valuation first and that the sale not be rushed. Respondent requests the court order Family Code 2030 fees as well as Family Code section 271 sanctions.

On April 1, 2022 Petitioner filed a substitution of attorney along with four declarations. The Respondent was served by mail on March 31, 2022. The Declarations do not pertain to the RFO currently before the court.

**TENTATIVE RULING #18: PARTIES ARE ORDERED TO APPEAR.**

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**19. JAYSON RAVENS V. SHAUNTINA RAVENS**

**22FL0145**

Petitioner filed a Request for Order (RFO) on February 25, 2022 request the court grant him the temporary use, possession and control of the property at 1840 Mary Court Placerville, CA. Respondent was personally served with the RFO on March 17, 2022.

Petitioner asserts the Mary Court address is his separate property as he owned it prior to the marriage and has made and continues to make all mortgage, property tax, and utility payments for the residence. Petitioner also asserts Respondent has been destroying the property including punching holes in walls.

Respondent has not filed a responsive declaration.

The court finds good cause to grant Petitioner's request for property control of the former marital residence. The court finds that Petitioner has demonstrated that the residence is Petitioner's separate property as he owned the home prior to the marriage and is paying the associated expenses.

**TENTATIVE RULING #19: PETITIONER'S REQUEST FOR EXCLUSIVE CONTROL OF THE PROPERTY LOCATED AT 1840 MARY COURT IN PLACERVILLE, CA IS GRANTED.**

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**20. JESSICA BELIZ V. JUAN BELIZ**

**PFL20150768**

On September 3, 2021, Respondent filed a Request for Order (RFO) requesting that the court modify the custody, visitation, and spousal support orders and to determine whether there is a spousal support overpayment by Respondent and, if so, order reimbursement. A CCRC session was set on October 8, 2021 with a hearing on the RFO set for November 4, 2021.

On September 21, 2021 and again on September 23, 2021, Petitioner was personally served with the RFO and referral to CCRC.

On October 22, 2021, Petitioner filed a Responsive Declaration, Income and Expense Declaration, and Memorandum of Points and Authorities, served on Respondent by mail the day prior.

On October 28, 2021, Petitioner filed a Supplemental Declaration, served on Respondent by mail that same day.

Both parties participated in the CCRC session but came to no agreements. A CCRC report was issued on October 18, 2021 with copies mailed to the parties on October 19, 2021.

The report recommends that both the minor attend individual therapy and that Respondent participate in an intake to determine his need for therapy. The report further recommends that Respondent complete the previously ordered co-parenting, parenting, and anger management classes. Finally, Respondent have supervised visits with the child and the child's therapist.

Petitioner in her filings opposes Respondent having any visits with the minor, arguing that an abrupt reintroduction of Respondent into the minor's life would be detrimental to his well-being, and states that she is seeking having Respondent's parental rights terminated.

At the initial hearing on the RFO on November 4, 2022, the court resolved the spousal support issues. The minute order is unclear as to whether or not the recommendations contained within the CCRC report were adopted. To the extent they were not, the court finds that the recommendations contained within the CCRC report are in the best interest of the minor and adopts them as the orders of the court as modified below. The provision in the parenting time section is stricken. The minor's therapist shall determine if and when it is appropriate for Respondent to begin having contact with the minor in a therapeutic setting. The court declines to appoint a Court Appointed Special Advocate at this time and strikes the provision from its orders. Petitioner is ordered to sign any and all consents to allow the minor's therapist to submit a letter to the court regarding the child's well-being and the appropriateness of him having contact with Respondent.

At the November 4, 2022 hearing, the court set a review hearing to receive an update on Respondent's completion of the parenting course, co-parenting course, and anger management course, as noted above. The review hearing also was set to receive an update on the selection of a therapist for the minor.

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On February 3, 2022 the court issued a tentative ruling ordering parties to appear to provide an update to the court regarding Respondent's status of completion as well as selection of a therapist for the minor. Respondent was ordered to provide proof of completion of anger management. Parties were ordered to select a counselor and provide the information to the court no later than 10 days prior to the next hearing. The court stayed the remainder of the tentative ruling. The court set a further review hearing for April 7, 2022.

Respondent filed a Declaration on March 16, 2022 with attachment showing completion of a parenting class, co-parenting class, and a letter from Veterans Affairs documenting Respondent's participation in anger management groups. Upon review of the court file, there is no Proof of Service showing Petitioner was served with the Declaration and therefore the court cannot consider it.

Neither party has filed documentation showing the parties have selected a therapist for the minor.

Parties are ordered to appear.

**TENTATIVE RULING #20: PARTIES ARE ORDERED TO APPEAR.**

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**21. JUSTIN REEDY V. KAYLA MCKINNEY**

**PFL20180289**

On December 21, 2021, Respondent filed a Request for Order (RFO) requesting a change in child custody orders. Parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on January 19, 2022 and a review hearing on February 17, 2022. Petitioner was noticed by mail on December 29, 2022.

Respondent request the court modify the custody order to allow her to have the minor Monday through Thursday every week with Petitioner to have the minor from Friday after school until Monday morning school drop off. Respondent would have every fifth weekend. Respondent requests the exchanges take place at the Rancho Cordova Police Department until the minor is enrolled in kindergarten. Respondent requests she be designated the primary parent for school purposes and that there be a designated school district. Respondent also requests parties alternate tax years and the minor be called by her legal name. Last, Respondent requests she select a co-parenting counselor who is willing to write reports for the court if needed.

The court notes Respondent's attached Declaration exceeds the 10-page limit and the court has not considered the Declaration after page 10. Further there are 129 pages of attachments. The court finds this to be excessive.

On January 12, 2022, Petitioner filed a Responsive Declaration. Upon review of the court file the court was unable to locate a Proof of Service for this document and therefore has not considered it. The court also notes Petitioner's declaration exceeds the 10-page limit and has 33 pages of attachments. The court has not considered the declaration after page 10.

Parties attended CCRC on January 19, 2022. Parties were able to reach several agreements. The counselor made recommendations as well. A copy of the report was mailed to the parties on February 4, 2022.

Petitioner filed a Declaration on January 19, 2022 regarding his Grade Point Average from Los Rios Community College.

On February 1, 2022 Petitioner filed an Amended Responsive Declaration as well as a Declaration Re Respondent's Petitioner for Dismissal for Criminal Record.

Respondent filed a Response to Petitioner on February 1, 2022. Upon review of the court file, the court is unable to locate a proof of service of the Declaration on Petitioner, and therefore the court has not considered this document.

On February 9, 2022 the court granted Petitioner's request to continue the February 17, 2022 hearing to April 7, 2022.

On February 22, 2022 Petitioner filed a Supplemental Declaration Re Mediation report.

On March 1, 2022 Petitioner filed a Declaration regarding Social Services.

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There is a March 10, 2022 field Proof of Service showing Respondent was served all the above filings of Petitioner by mail on March 8, 2022.

Respondent filed a Responsive Declaration to the CCRC report on March 23, 2022. Respondent also filed a Supplemental Declaration on March 23, 2022. Respondent also filed a Response to Petitioner's Amended Responsive Declaration filed on 2/1/2022 on March 23, 2022. Petitioner was served via mail with all three declarations on March 24, 2022.

On March 30, 2022, Petitioner filed a Response to Respondent's Response. It is unclear if Respondent was served with the Declaration. The Proof of Service indicates service of a document filed on February 1, 2022 that does not appear to comport with any of the Declarations filed that day.

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

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**22. KYLE GYORGY V, TIFFANY TONSO**

**PFL20160776**

On October 29, 2021, Petitioner filed a Request for Order (RFO) requesting a modification of the custody and visitation orders. A CCRC session was scheduled on December 6, 2021 with the hearing on the RFO scheduled for January 20, 2022.

On December 2, 2021, Respondent filed an RFO requesting permission to relocate with the minor out of state. Due to allegations of domestic violence perpetrated by Petitioner on Respondent, which resulted in the issuance of a Domestic Violence Restraining Order on May 26, 2017, Respondent has not disclosed where she would like to relocate with the minor but has stated that a friend has offered her to stay at her and her husband's home free of charge in another state. Respondent declares that she intended to move out of state and file this motion prior to receiving Petitioner's RFO. That same day, Petitioner's was served by mail with Respondent's RFO. A Declaration Regarding Address Verification along with the Proof of Service was filed the following day.

On December 3, 2021, Respondent filed a Responsive Declaration, served on Petitioner by mail that same day.

On January 10, 2022, Petitioner filed a Proof of Service indicating service of his RFO and the Referral to CCRC on Respondent on November 25, 2021.

On January 10, 2022, Petitioner filed a Responsive Declaration and a letter from the Probation Department. Upon review of the file, the court finds that there is no proof of service indicating service of either of these filings on Respondent.

However, on January 12, 2022, Respondent filed a Declaration of her attorney, served on Petitioner by mail the day prior, in which Respondent's attorney acknowledges receiving a file-endorsed copy of the Responsive Declaration via mail on January 11, 2022. Respondent objected to the court's consideration of this filing, as it was filed and served late under Code of Civil Procedure 1005(b) and did not give her adequate time to file a Reply Declaration.

Both parties participated in the CCRC session but reached no agreements. A CCRC report was issued on January 5, 2022 with copies mailed to the parties on January 10, 2022.

The January 5, 2022 report recommends that Respondent be granted the right to move out of state with the minor, noting that it has been over 4 years since Petitioner has last seen the minor. The report further recommends reunification therapy between Petitioner and the minor. The report notes that based on the statements of Petitioner it appears that he was not aware of Respondent's request to relocate at the time of the CCRC session.

On January 20, 2022 Respondent appeared for the hearing. Petitioner did not appear. The parties were re-referred to CCRC to address the move-away issue more fully. The court ordered no contact between the minor and Petitioner pending the next court date. The court set a further review hearing for April 7, 2022.



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On February 24, 2022 parties participated separately in the CCRC appointment. No agreements were reached. Therefore, the March 7, 2022 CCRC report contains the recommendations of the counselor. A copy of the report was mailed to the parties on March 30, 2022.

The court has read and considered the above filings and makes the following findings and orders:

The court denies Petitioner's request for joint legal custody and unsupervised visitation with the minor as the requested modification is not in the minor's best interest. Further, the court finds Petitioner has failed to overcome the presumptions of Family Code 3044. Petitioner has failed to complete a batterer's treatment program as ordered by the court. Further Petitioner has not provided any documentation of completion substance abuse treatment or a parenting class. Petitioner has elected to not have contact with the minor since August of 2017, a period of over four and a half years.

The recommendations contained within the CCRC report are in the minor's best interest and are adopted at the court order with the following modifications: Respondent will continue to have sole legal and physical custody of the minor. Petitioner is to submit to a hair follicle drug test and provide the court and Respondent's attorney with the results. Petitioner shall complete the Batterer's Intervention Class at the Center for Violence Free Relationship. The minor shall continue in individual therapy at the frequency and duration as directed by the counselor. Petitioner shall continue to have no contact with the minor. Petitioner shall participate in reunification therapy with the minor when deemed appropriate by minor's therapist. The court does not authorize Respondent to move-away pending a trial on the matter.

The parties are ordered to appear to select dates for a Mandatory Settlement Conference and Trail on the move-away request.

All prior orders not in conflict remain in full force and effect. Respondent to prepare and file the findings and orders after hearing.

**TENTATIVE RULING #22: THE COURT ADOPTS THE RECOMMENDATIONS IN THE MARCH 7, 2022 CCRC REPORT AS OUTLINED ABOVE. THE COURT DENIES PETITIONER'S REQUEST FOR JOINT LEGAL CUSTODY. THE PARTIES ARE ORDERED TO APPEAR TO SELECT DATES FOR A MANDATORY SETTLEMENT CONFERENCE AND TRAIL ON THE MOVE-AWAY REQUEST. ALL PRIOR ORDERS NOT IN CONFLICT REMAIN IN FULL FORCE AND EFFECT. RESPONDENT TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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**23. LINDSEY LEWIN V. DANIEL LEWIN**

**PFL20140266**

On January 14, 2022, Respondent filed a Request for Order requesting the court modify child support orders. Respondent filed an Income and Expense Declaration concurrently with the RFO. Petitioner was personally served on February 1, 2022. Respondent request the court modify the current order of child support as he is currently unemployed.

Petitioner has not filed an Income and Expense Declaration as required by the Local Rules and California Rules of Court. Petitioner has not filed a responsive declaration.

The court continues the matter to June 23<sup>rd</sup>, 2022 at 1:30PM allow the Petitioner to file and serve an Income and Expense Declaration no later than 10 days prior to the next court date. Respondent is to file and serve an updated Income and Expense Declaration no later than 10 days prior to the next court date as well. The court reserves jurisdiction to modify the child support order to the date of the filing of Respondent's RFO. All prior orders remain in full force and effect.

Respondent shall prepare the findings and orders after hearing.

**TENTATIVE RULING #23: THE MATTER IS CONTINUED TO JUNE 23RD, 2022 AT 1:30PM. PARTIES ARE ORDERED TO FILE AND SERVE INCOME AND EXPENSE DECLARATIONS NO LATER THAN 10 DAYS PRIOR TO THE NEXT COURT DATE. THE COURT RESERVES JURISDICTION TO MODIFY THE CHILD SUPPORT ORDER TO THE DATE OF THE FILING OF RESPONDENT'S RFO. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE THE FINDINGS AND ORDERS AFTER HEARING.**

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**25. RAYMOND BROWN V. SHAUNA BROWN**

**PFL20120160**

Petitioner filed a Request For Order (RFO) on January 13, 2022 requesting the court modify child custody, parenting time, and allow him to assume the full tax credit for the minor children. Parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on February 17, 2022 and a review hearing set for April 7, 2022. Respondent was Personally served with the RFO and referral to CCRC on January 26, 2022.

Petitioner request the court grant him sole legal and physical custody as the Respondent has relocated to Hawaii. Petitioner requests Respondent's parenting time be reasonable visitation with 14 day advance notice when in California and if in Hawaii that it not be longer than 14 consecutive days with 30 days notice. Petitioner also requests the tax credit be assigned to him as he has been maintaining the minors in his care on a full time basis since November of 2021.

Parties attended the CCRC appointment on February 17, 2022 and were able to reach an agreement. A copy of the CCRC report was mailed to the parties on March 30, 2022.

On March 21, 2022 Respondent filed a Responsive Declaration. Petitioner was served by mail on March 21, 2022. Respondent requests the court maintain the current orders for joint legal and physical custody, the court adopt the agreements of the parties reached at CCRC, and the court order attorney fees. Respondent does not state on which grounds the court should award attorney fees, the court reasonably infers the request is made under Family Code section 271.

The court has read and considered the filings as outlined above and makes the following findings and orders:

The agreement contained within the CCRC report is in the best interest of the minor and is adopted as the court order. The court adopts the further provisions contained within the CCRC report as well.

The court grants Petitioner's request to receive the tax credit for the minors, as they have been in his care more than 50% of the year.

The court denies Respondent's request for Family Code section 271 attorney fees as it does not find Petitioner acted in bad faith nor misused the family law process.

Petitioner shall prepare and file the findings and orders after hearing.

**TENTATIVE RULING #25: THE COURT ADOPTS THE AGREEMENT CONTAINED WITHIN THE FEBRUARY 22, 2022 CCRC REPORT. THE COURT GRANTS PETITIONER'S REQUEST TO RECEIVE THE CHILD TAX CREDIT FOR THE MINORS. THE COURT DENIES RESPONDENT'S REQUEST FOR FAMILY CODE SECTION 271 ATTORNEY FEES AS IT DOES NOT FIND PETITIONER ACTED IN BAD FAITH NOR MISUSED THE FAMILY LAW PROCESS. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**