

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

April 21, 2022

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

17. A.L. V. G.C.

22FL0123

On January 24, 2022, Petitioner filed a Petition to establish paternity and Request for Order (RFO) requesting the court make orders as to custody and parenting time. Parties were referred to Child Custody Recommending Counselling (CCRC) with an appointment on March 17, 2022 and a review hearing set on April 21, 2022. Upon review of the court file, the court was unable to locate a Proof of Service showing Respondent had been served with the RFO, Income and Expense Declaration, and referral to CCRC.

Neither party appeared at the CCRC appointment scheduled on March 17, 2022. Therefore, the matter is dropped from the court's calendar.

TENTATIVE RULING #17: MATTER DROPPED FROM COURT'S CALENDAR DUE TO NONAPPEARANCE AT CCRC BY BOTH PARTIES.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

April 21, 2022

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

18. AMANDA YOUNG V. CHRISTOPHER YOUNG

PFL20190149

Petitioner filed a Request for Order (RFO) on February 8, 2022 requesting the court modify the September 23, 2021 custody and parenting time orders as well as order child support. Petitioner filed and Income and Expense Declaration concurrently with the RFO. Respondent was served by first class mail on February 24, 2022.

Petitioner asserts that since the court order of September 23, 2021, respondent has failed to exercise his parenting time with the minors. Petitioner is seeking sole legal and physical custody of the minors. Petitioner is also seeking guideline child support based on her 100% timeshare.

Respondent filed a request to continue the hearing on March 15, 2022 due to late service of the RFO. The court granted the request on March 16, 2022 and continued the matter to April 21, 2022. Respondent was ordered to file and serve his Income and Expense Declaration at least 10 days prior to the next hearing.

Respondent filed a Responsive Declaration on March 15, 2022 objecting to the requested order as to custody and parenting time as well as an order for child support. Upon review of the court file, there is no proof of service showing Petitioner was served with the Response. Therefore, the court has not considered it.

Respondent filed an Income and Expense Declaration on April 12, 2022. There is no proof of service showing this document was served on Petitioner.

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

The court denies Petitioner's request for sole legal and physical custody without prejudice. The court orders Respondent to call Petitioner to confirm parenting time 24 hours prior to the scheduled start. If Respondent fails to confirm his parenting time at least 24 hours prior, that parenting time will be cancelled.

Based on Petitioner's Income and Expense Declaration her average monthly income is \$1,250. She has no deductions and pays \$214 per month for childcare cost. Petitioner asserts she has the minors in her care full time, with Respondent only having day visits one day a week, which he has failed to utilize. Petitioner is filing as head of household with three exemptions.

Respondent's average monthly income is \$2,200. Respondent has no deductions. Respondent did not include in his declaration the percentage of time he spends with the minors. Respondent's tax filings status is single.

Utilizing the above figures and Petitioner having a 100% timeshare of the minors, the court finds that guideline child support is \$753. The childcare add-on brings the total to \$860. See attached DissoMaster Report. Beginning March 1, 2022, Respondent shall pay Petitioner \$860 per month as and for child support, payable on the 1st of the month, until further order of the court or termination by operation of law. This order results in an arrearage of \$1720. The court orders Respondent to pay

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

April 21, 2022

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

Petitioner \$215 per month on the 15th of each month until paid in full (approximate 8 months). Failure to pay will result in the balance being due in full with legal interest.

TENTATIVE RULING #18: THE COURT DENIES THE REQUEST TO MODIFY CUSTODY WITHOUT PREJUDICE. THE COURT ORDERS RESPONDENT TO CALL PETITIONER TO CONFIRM PARENTING TIME 24 HOURS PRIOR TO THE SCHEDULED START. IF RESPONDENT FAILS TO CONFIRM HIS PARENTING TIME AT LEAST 24 HOURS PRIOR, THAT PARENTING TIME WILL BE CANCELLED. RESPONDENT IS ORDERED TO PAY CHILD SUPPORT AS OUTLINED ABOVE.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

April 21, 2022

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

19. BATYA COPLEY V. CALEB COPLEY

22FL0078

On February 18, 2022, petitioner filed a Request for Order, requesting the court order the sale of the marital residence. Petitioner contemporaneously filed and Income and Expense Declaration.

Upon review of the file, there is no Proof of Service showing Petitioner was served with notice of the RFO. As such, that matter is dropped from the court's calendar.

TENTATIVE RULING #19: PETITIONER'S RFO IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

April 21, 2022

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

20. CHANTALLE KING V. JANOAH KING

PFL20180294

On March 8, 2022, Petitioner filed a Request for Order, requesting the court make orders as to the minor's school and to transfer venue to Amador County. Respondent was served by mail on March 28, 2022, with Proof of Service filed on the same day.

Petitioner asserts parties has previously agreed for the minor to attend Sutter Creek Elementary school in Amador County. However, when Petitioner began the enrollment process in February of 2022, Respondent no longer agreed to Sutter Creek. Petitioner states Respondent has proposed Marble Valley Academy, a private school in El Dorado Hills. Neither party currently reside in El Dorado County, and have not for a significant period of time. Petitioner notes the cost of Marble Valley is approximate \$1,100 per month, a cost she cannot afford. Sutter Creek Elementary is a public school. Further, Petitioner asserts the minor has significant ties and contacts to the community in Jackson, where she would be attending school. The distance from Respondent's home to either school is approximately the same. Petitioner works one block from Sutter Creek but would need to commute approximately 45 minutes each direction to Marble Valley Academy. Petitioner request the court make an order for the minor to attend school at Sutter Creek Elementary.

Petitioner is also requesting the case to transferred to Amador County, as that would be a more convenient forum for the parties. Petitioner asserts that she has not resided in El Dorado County since 2018, shortly after the case was initiated. Petitioner further asserts Respondent is a resident of Sacramento County. Petitioner has provided attachments which show the minor's pediatrician and dentist are in Amador County. Further, minor's current school is in Amador County as well as her extracurricular actives. Petitioner asserts in her declaration she has resided and worked in Amador County since 2018.

Respondent has not filed a responsive declaration.

The court finds it is in the best interest of the minor to attend Sutter Elementary school. The minor has established ties to the Amador County region. Conversely, neither she or the parties have ties to the El Dorado Hills community where Marble Academy is located. Further, attendance at Marble Academy would require the minor to spend an hour and a half traveling to school on the days she is in Petitioner's care.

The court has considered Petitioner's filing and finds that, although no legal grounds provided, Petitioner's motion appears to be made pursuant to Code of Civil Procedure ("CCP") sections 397, subdivision (b) or 397.5. The court grants Petitioner's request to change venue to Amador County per CCP § 397.5 as the pending issues before the court are resolved by this order and as neither party resides in El Dorado County. The court finds that Petitioner resides in Amador County and the minor child will continue to go to school in Amador County. Therefore, the court finds the convenience of the parties and the interest of justice are served by transferring the matter to that county. Further, Respondent has not opposed the motion.

Petitioner is ordered to prepare and file the findings and orders after hearing.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

April 21, 2022

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

TENTATIVE RULING #20: THE COURT GRANTS PETITIONER'S REQUEST TO DESIGNATE SUTTER CREEK ELEMENTARY SCHOOL AS THE MINOR'S SCHOOL. THE COURT GRANTS PETITIONER'S REQUEST TO TRANSFER THE MATTER TO AMADOR COUNTY. PETITIONER IS ORDERED TO PAY THE FEES OR OBTAIN A FEE WAIVER TO EFFECTUATE THE TRANSFER TO AMADOR COUNTY.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

April 21, 2022

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

22. JAMMIE HICKS V. MATTHEW HICKS

PFL20170682

On January 28, 2022, Petitioner filed an ex parte request for order requesting the court order the minor not be allowed in the presence of Respondent's girlfriend. Respondent was properly noticed of the ex parte request. On January 31, 2022, Judge Ashworth granted the ex parte request and ordered Respondent not to allow the minor to have contact with or be left in the presence of his significant other. Parties were referred to Child Custody Recommending Counseling (CCRC) and return to court for a review hearing. Petitioner was ordered to provide Respondent with notice of the motion on or before February 10, 2022.

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

Nevertheless, both parties appeared at the CCRC appointment and fully discussed the issues set forth in the RFO. Therefore, the court finds Respondent has actual notice of the RFO. Parties were not able to reach an agreement at CCRC and a report with the counselor's recommendations was filed. A copy of the report was mailed to the parties on April 11, 2022.

The CCRC report recommends the court appoint either a CASA or minor's counsel to the case to investigate and provide the court with more information about Respondent's girlfriend's criminal matter, her ability to have contact with the minor, and the minor's safety in the house. Parties to continue to share joint legal custody. Pending the report from CASA or minor's counsel, the current ex parte order shall remain in full force and effect. Pending a report from CASA or Minor's Counsel, Petitioner shall have primary physical custody and Respondent shall have parenting time on alternating Friday mornings to Tuesday Mornings and from Friday morning to Monday evening on the opposing weeks. Respondent's girlfriend shall not be in his home during his parenting time and if he cannot ensure this, then he shall forfeit that week's parenting time with the minor. Parties are to participate in co-parenting counseling. Petitioner shall provide Respondent the names of three potential therapists no later than May 13, 2022. Respondent shall select a therapist no later than May 27, 2022. The parties shall provide CASA or Minor's Counsel the name of the therapist and the date of the first appointment. The parties shall use talkingparents.com to discuss the minor's physical health, education, and general welfare.

Respondent has not filed a responsive declaration.

The court adopts the recommendations contain in the CCRC report with the following modifications: the court appoints CASA to the case. The CASA shall investigate and provide the court a report with more information about the Respondent's girlfriend's criminal case in Merced County. CASA shall also report on whether Respondent's girlfriend should have the ability to have contact with the Minor and the minor's safety in Respondent's home if girlfriend is present. The court adopts the remainder of the CCRC report without modification.

The court finds good cause to continue the matter for receipt of the CASA report. The matter is continued to July 21st, 2022 at 1:30PM for further hearing on Petitioner's RFO and for the CASA report.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

April 21, 2022

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

All prior orders not in conflict with this order remain in full force and effect. Petitioner shall prepare and file the findings and orders after hearing.

TENTATIVE RULING #22: THE COURT ADOPTS THE CCRC REPORT AS MODIFIED ABOVE. THE CURRENT EX PARTE ORDERS REMAIN IN FULL FORCE AND EFFECT. CASA IS APPOINTED. CASA SHALL INVESTIGATE AND PROVIDE THE COURT A REPORT WITH MORE INFORMATION ABOUT THE RESPONDENT'S GIRLFRIEND'S CRIMINAL CASE IN MERCED COUNTY. CASA SHALL ALSO REPORT ON WHETHER RESPONDENT'S GIRLFRIEND SHOULD HAVE THE ABILITY TO HAVE CONTACT WITH THE MINOR AND THE MINOR'S SAFETY IN RESPONDENT'S HOME IF GIRLFRIEND IS PRESENT. THE COURT CONTINUES THE MATTER TO JULY 21ST, 2022 AT 1:30PM. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

April 21, 2022

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

23. KATHLEEN WALSHAW V. SCOTT WALSHAW

PFL20200226

On February 16, 2022, Petitioner filed a Request for Order (RFO) requesting modification of the spousal support order. Respondent was personally served with the RFO on February 16, 2022.

Petitioner asserts in her declaration there has been a change in circumstances. Petitioner was notified her position at her second job at Marin Health is being outsourced and she will be laid off effective April 9, 2022. Further, Respondent was not working at the time of the support order and has since found gainful employment.

Judgment was entered on February 17, 2021, which includes the spousal support order at issue and contemplates modification/termination of the order.

Respondent has not filed a responsive declaration.

The court must set an evidentiary hearing to receive evidence on the Family Code section 4320 factors, which it must weigh prior to making a post judgment modification of spousal support. The court orders the parties to appear for purposes of selecting a trial date.

TENTATIVE RULING #23: PARTIES ARE ORDERED TO APPEAR TO SELECT MANDATORY SETTLEMENT CONFERENCE AND TRIAL DATES.