

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
May 26, 2022
8:30 a.m./1:30 p.m.

16. ANTONI OLAEZ V. TANYA SARA VIA

PFL20150644

On April 11, 2022, Petitioner filed an ex parte request for emergency custody orders. Petitioner asserts Respondent provided a falsified drug test result to the court. On April 12, 2022, the court granted Petitioner's request for emergency custody orders in part. Petitioner was granted temporary sole physical custody of the minors. Respondent's visits were ordered to be professionally supervised visits twice a week for two hours each. Respondent was authorized to have phone contact with the minors on Sundays and Wednesdays at 6:00 p.m. The court reserved on the requests to appoint Minors' Counsel and to take judicial notice of the Probate Guardianship case.

On April 12, 2022 Petitioner filed a Request for Order (RFO) for a modification of child custody and parenting time. Parties were not referred back to Child Custody Recommending Counseling (CCRC). Respondent was served by mail on April 20, 2022. Petitioner is requesting the court grant him sole legal and physical custody of the minors. Petitioner is also requesting Elizabeth Bales be appointed as Minors' Counsel. Petitioner is requesting Respondent's phone contact with the minors be limited. Petitioner asserts Respondent has altered drug test results and provided the court with falsified drug tests. Further Respondent failed to appear at appointments for hair testing on March 8 and March 11, 2022. Petitioner asserts the minors have been in a pattern of chaos due to Respondent's substance abuse. Petitioner is requesting the court appoint Minors Counsel to allow the children an opportunity to have their voices hear. Petitioner is also requesting the court take judicial notice of the current guardianship case involving Respondent's other minor.

On May 10, 2022, Petitioner filed a Declaration. Respondent was served by mail on May 10, 2022. Petitioner requests the court hold Respondent accountable under Penal Code section 115 for filing an altered document with the court. Petitioner also requests the court find Respondent in contempt for not following the court's order regarding telephone contact with Anthony.

Respondent filed a Responsive Declaration and Declaration on May 13, 2022. Upon review of the court file, there is no Proof of Service showing those documents were served on Petitioner. As such, the court has not read or considered them.

The court appoints Elizabeth Bales as Minors Counsel. The court continues the matter to allow Minors' Counsel to meet with her clients and prepare a Minors' Counsel's Statement for the next hearing. The court reserves jurisdiction on the reallocation of costs for Minors' Counsel. Parties are ordered to file and served updated Income and Expense Declarations at least 10 days prior to the next hearing.

The court continues the remaining requests of Petitioner to the next hearing.

All prior orders remain in full force and effect. Petitioner shall prepare and file the findings and orders after hearing.

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TENTATIVE RULING #16: THE COURT APPOINTS ELIZABETH BALES AS MINORS' COUNSEL. THE MATTER IS CONTINUED TO JULY 7th, 2022 AT 1:30 PM FOR RECEIPT OF MINORS' COUNSEL'S STATEMENT. THE COURT RESERVES JURISDICTION ON THE REALLOCATION OF COSTS FOR MINORS' COUNSEL. PARTIES ARE ORDERED TO FILE AND SERVED UPDATED INCOME AND EXPENSE DECLARATIONS AT LEAST 10 DAYS PRIOR TO THE NEXT HEARING. THE COURT CONTINUES THE REMAINING REQUESTS OF PETITIONER TO THE NEXT HEARING. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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18. L.S. V. T.J.

22FL0148

On February 18, 2022, Petitioner filed a Petition to Establish a Parental Relationship. A Summons was issued the same day. On March 9, 2022, Petitioner filed a Proof of Service showing Respondent was personally served with the Summons on March 6, 2022.

On March 10, 2022, Petitioner filed an ex parte request for emergency child custody orders. Petitioner asserts Respondent was attempting to leave the state with the minors. They were stopped by law enforcement at Sacramento International Airport. On March 11, 2022, the court granted Petitioner's emergency request for temporary sole physical and legal custody of the minors. Petitioner filed a Request for Order on March 11, 2022 for child custody and parenting time orders. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on April 20, 2022 and a review hearing on June 2, 2022. Respondent was served by mail at his Fairfield address on April 13, 2022.

On March 21, 2022, Respondent filed a motion to quash the Petition to Establish a Parental Relationship. Respondent asserts there was a Petition to Establish a Parental Relationship filed in Solano County in 2019. Petitioner was served by mail on March 22, 2022.

Respondent filed a Declaration on March 21, 2022 which asserts Solano County is the proper jurisdiction as a Petition to Establish a Parental Relationship was filed there by Respondent on March 11, 2019. However, the Proof of Service Respondent attached is blank. Further, there is no indication Solano County ever made custody orders.

Petitioner has not filed a Responsive Declaration.

Parties are ordered to appear.

TENTATIVE RULING #18: PARTIES ARE ORDERED TO APPEAR.

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19. M.V.A. V. A.P.A.

22FL0138

On February 16, 2022, Petitioner filed a Petition to Establish a Parental Relationship and a Request for Order, requesting the court make orders as to child custody and parenting time. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on April 19, 2022 and a review hearing on May 26, 2022. Upon review of the court file, there is no proof of service of the summons on the Petition to Establish a Parental Relationship, the RFO, or the referral to CCRC.

On April 19, 2022, no parties appeared at the CCRC appointment. A No appearance report was filed on February 4, 2022. Therefore, the matter is dropped from the court's calendar.

TENTATIVE RULING #19: MATTER DROPPED FROM COURT'S CALENDAR DUE TO NONAPPEARANCE AT CCRC BY BOTH PARTIES.

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

20. MARIA VARGAS-COOK V. REILLY COOK

PFL20180521

On March 21, 2022, Respondent file a Request for Order (RFO) requesting the court bifurcate the case and grant a status-only judgment to dissolve the marital status. Petitioner was served electronically on April 19, 2022.

Respondent contends the prior defects of not having the retirement plans joined has been cured. Respondent is requesting the court proceed with the status only judgment as the matter has been pending for nearly four years.

On May 13, 2022, Petitioner field a Responsive Declaration. Respondent was not served. Petitioner requests the court deny the request for bifurcation as the matter is currently set for trial on May 31, 2022 and June 1, 2022 for child custody issues and property division.

The court continues the issue of the status only judgement to the trial already set on May 31, 2022 at 8:30 in Department 5.

TENTATIVE RULING #20: THE COURT CONTINUES THE ISSUE OF THE STATUS ONLY JUDGEMENT TO THE TRIAL ALREADY SET ON MAY 31, 2022 AT 8:30 IN DEPARTMENT 5.

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

21. 21A. AND 21B. THE MATTER OF FRERE

PA20210019-0021

On April 13, 2022, Respondent filed a Request for Order (RFO) requesting the court set aside the order terminating her parental rights. Upon review of the court file, there is no Proof of Service indicating the RFO has been served on Petitioners or other Parent. As such, the matter is dropped from the court's calendar.

TENTATIVE RULING #21, 21A., AND 21B.: THE MATTER IS DROPPED FROM THE COURT'S CALENDAR.

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22. MIGUEL RUVALCABA V. BERTHA RUVALCABA

PFL20190616

On February 22, 2022, Respondent filed a Request for Order (RFO) requesting a change in parenting time. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on April 8, 2022 and a review hearing on May 26, 2022. Petitioner was personally served on March 21, 2022.

Respondent is requesting the court modify the parenting time order as she has changed employment and has different days off. Currently the parties utilize a week on/week off schedule. However, Petitioner picks up the minors from school every school day until Respondent is off work. Respondent is requesting a 3-3-4-4 schedule that will allow more time with the minors on her current days off.

Parties attended CCRC on April 12, 2022, but were unable to reach an agreement. Petitioner would like the current arrangement to remain in place. The CCRC counselor made a recommendation in the report. A copy of the report was mailed to the parties on April 25, 2022. The recommendation is for the parties to share physical custody with a 3-3-4-4 schedule. Additionally, the recommendation is for the exchanges to take place in El Dorado Hills at the Sheriff's station and that the parties utilize the talkingparents.com application for communication about the minors. The parties shall be able to utilize childcare of their choice when the minors are in their respective care.

Petitioner has not filed a Responsive Declaration to this RFO.

The court has read and considered the CCRC report and finds the recommendations to be in the best interests of the minors. The recommendations are adopted as the court's orders. All prior orders not in conflict with the modification remain in full force and effect.

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

TENTATIVE RULING #22: THE COURT ADOPTS THE RECOMMENDATIONS CONTAINED IN THE CCRC REPORT. THE PARTIES SHALL CONTINUE TO SHARE PHYSICAL CUSTODY. THE PARENTING PLAN IS MODIFIED TO A 3-3-4-4- SCHEDULE AS OUTLINED IN THE CCRC REPORT. THE EXCHANGES SHALL TAKE PLACE IN EL DORADO HILLS AT THE SHERIFF'S STATION. PARTIES SHALL UTILIZE THE TALKINGPARENTS.COM APPLICATION FOR COMMUNICATION ABOUT THE MINORS. PARTIES SHALL BE ABLE TO UTILIZE CHILDCARE OF THEIR CHOICE WHEN THE MINORS ARE IN THEIR RESPECTIVE CARE. ALL PRIOR ORDERS NOT IN CONFLICT WITH THE MODIFICATION REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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DEPARTMENT 5

May 26, 2022

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

23. JENNIFER HARVEY V. WILLIAM HARVEY

PFL20120342

On May 18, 2022, Petitioner filed a Request for Order Shortening (OST) time and a Request for Order (RFO). The court granted the OST and set the RFO for a hearing on May 26, 2022. Petitioner was ordered to serve Respondent with the RFO on or before May 19, 2022. Respondent was personally served with the RFO on May 18, 2022.

Petitioner is requesting modification to the current parenting time order. The minor has been residing full time with Petitioner in Tennessee. The minor is scheduled to begin seven weeks of parenting time with Respondent at the end of the school year. However, Petitioner asserts the minor is enrolled in summer school from June 6, 2022 to June 30, 2022. Further, Petitioner asserts the minor wishes to remain in Tennessee for the summer as he has a girlfriend and would like to obtain a summer job. Petitioner proposes the minor visit with Respondent from May 26, 2022 until June 5, 2022.

Parties are ordered to appear for the hearing on May 26, 2022.

TENTATIVE RULING #23: PARTIES ARE ORDERED TO APPEAR.