

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
June 9, 2022
8:30 a.m./1:30 p.m.

1. ANETA HONOROF V. DARIN HONOROF

SFL20100058

On April 1, 2022, Respondent filed an ex parte application for emergency temporary orders, requesting sole physical custody with Petitioner to have parenting time Monday at 11:30 am to Wednesday at 11:30 am. Respondent also requested the court order Petitioner and the minor to participate in counseling, Petitioner to remove herself as the primary parent contact at Lake Tahoe Unified School District, orders regarding the use of the talkingparents.com application, Petitioner to stay away from Respondent and his home, and Respondent to be permitted to bring a support person to CCRC. On April 4, 2022, the court denied the ex parte request. The parties were referred to CCRC for an appointment on April 26, 2022 and a review hearing on June 16, 2022.

Respondent filed a Request for Order on April 4, 2022. Petitioner was served by mail on April 13, 2022. Respondent request the court make a variety of orders including those outlined above as well as order Petitioner is not to travel outside of the United States with the minor without prior approval from the court. Respondent request Petitioner be ordered to surrender any polish passport or identity card for the minor as well as any European Union Citizenship card. Respondent requests Petitioner provide an explanation as to why there is no entry or exit stamp in the minor's United States passport for the country of Greece. Respondent requests the court order Petitioner be required to notify the United States Embassy and State Department of any out of country travel with the minor including an itinerary. Respondent is also requesting legal fees for filing this request.

Both parties and the minor appeared for the CCRC appointment on April 26, 2022. The parties were unable to reach any agreements. A report with recommendations was filed on June 6, 2022. A copy of the report was mailed to the parties on June 6, 2022.

On June 3, 2022, Petitioner filed a Responsive Declaration. Respondent was served electronically on June 1, 2022. Petitioner objects to Respondent's Declaration on three grounds: the declaration is not signed under penalty of perjury, it does not comply with California Rules of Court Rule 5.111(b)(2), and it exceeds the page limit under California Rules of Court Rule 2.108(1) and 5.111(a). Petitioner requests the court also find respondent's request for attorney fees to be procedurally defective as he did not check box 6 on the FL-300 and did not submit an income and expense declaration, and he did not submit a supporting declaration for attorney fees and costs, Form FL-158. Petitioner objects to all of Respondent's requested orders, except the request to modify the primary parent at the minor's school and the request for the minor to attend individual therapy, though not on the terms requested by Respondent. Petitioner asserts both parents have been designated as the primary parent and therefore, the request is now moot. Further, Petitioner concurs with the request for the minor to participate in individual therapy, however, requests it be focused on the minor's overall well-being. Petitioner also requests the court grant her attorney fees.

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

The court adopts the recommendations as set forth in the June 6, 2022 CCRC report, with the following modifications. The minor shall participate in individual counseling with a licensed therapist that is able to address the issues surrounding parent/teen conflict. When deemed appropriate by the therapist, Petitioner shall participate in conjoint counseling with the minor. Respondent shall select three licensed therapists who are currently accepting new patients and provide the names to Petitioner on or before June 30, 2022. Petitioner shall select one of the three therapists, on or before July 7, 2022. If the costs of therapy are not covered by the minor's health insurance, parties are to share in the costs equally, subject to reallocation. The minor shall attend therapy at a frequency and duration as directed by the therapist. The parties are to abide by the treatment plan set by the therapist. Each party is entitled to three weeks (21 days) of vacation each year. The party taking vacation must provide at least 30 days' notice to the other party. Either party may take their three weeks of vacation at any time, except a time that would overlap the other parent's vacation or holiday parenting time. Vacation time shall not be used to augment a parent's normal parenting time. Vacation must be taken in a minimum of three-day (72 hour) blocks. Vacation time is limited to two consecutive weeks at a time unless international travel is involved. If international travel is involved a complete itinerary shall be provided to the other party at least 30 days in advance. The itinerary shall include the dates of travel, the locations being traveled to, flight information, and lodging information. Parenting time missed due to the other parent exercising their vacation time will not be made up. The court adopts the respect guidelines as set forth in the CCRC report. All prior orders as to custody and parenting time not in conflict with these orders remain in full force and effect.

The court grants Respondent's request for the minor to participate in therapy as set forth above. The court also grants the request for Respondent to be named as a primary contact parent at the minor's school, as the court finds this has already been accomplished. Petitioner has no objection to either of these requests. Regarding the remaining requests, the court finds Respondent's declaration is not properly plead, and therefore, the requests are denied. However, even if properly plead, the court denies the requested orders. The court finds Respondent has failed to establish a factual basis for the requested orders. The court finds there is no evidence to support Petitioner has a Polish passport, Polish identity card, or European Union citizenship card for the minor. Respondent's assertions that Petitioner somehow acted in a nefarious manner when traveling from Poland to Greece in 2018, are unfounded. The court denies Respondent's request to modify the current custody and parenting, plan, except as set forth above. The court declines to micromanage the parties use of the talkinparents.com application. Further, with regards to the request for a support person to be present at the CCRC session, the court finds this request to be moot. The court finds

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Respondent has not only, failed to properly plead the request for attorney fees but also, failed to file an Income and Expense Declaration as required by the California Rules of Court as well as the El Dorado County Local Rules. Therefore, the request for Family Code section 2030 attorney fees is denied.

With regards to Petitioner's request for attorney fees, although not specifically delineated in her request, the court reasonably infers the request is made pursuant to Family Code section 271. The court finds it does not have the requisite information to ascertain the parties' incomes, assets, liabilities, and ability to pay as required under Family Code section 271. Therefore, Petitioner's request for 271 sanctions is denied. However, the court admonishes Respondent, that while he is appearing in these matters in propria persona, he is charged with having the same knowledge and skills as an attorney. This includes abiding by the California Rules of Court in filing proper pleading as well as the California Family Code, and El Dorado County Local Rules. Respondent is advised that future conduct which the court finds frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation by encouraging cooperation between the parties and attorneys, may result in the court awarding sanctions.

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

TENTATIVE RULING #1: THE COURT GRANTS RESPONDENT'S REQUEST FOR THE MINOR TO PARTICIPATE IN THERAPY AS SET FORTH ABOVE. THE COURT ALSO GRANTS THE REQUEST FOR RESPONDENT TO BE NAMED AS A PRIMARY CONTACT PARENT AT THE MINOR'S SCHOOL. THE COURT FINDS RESPONDENT'S DECLARATION IS NOT PROPERLY PLEAD. HOWEVER, EVEN IF PROPERLY PLEAD, THE COURT DENIES THE REQUESTED ORDERS. THE COURT DENIES RESPONDENT'S REQUEST TO MODIFY THE CURRENT CUSTODY AND PARENTING PLAN, EXCEPT AS SET FORTH ABOVE. THE REQUEST FOR A SUPPORT PERSON TO BE PRESENT AT THE CCRC SESSION IS MOOT. THE COURT DENIES THE REQUESTS REGARDING TRAVEL AS WELL AS REGARDING THE ALLEGED POLISH AND EUROPEAN UNION PASSPORTS AND/OR CITIZENSHIP CARDS. THE COURT DENIES THE REQUEST AS TO MANAGING THE PARTIES' COMMUNICATION IN THE TALKINGPARENTS.COM APPLICATION. THE REQUEST FOR FAMILY CODE SECTION 2030 ATTORNEY FEES IS DENIED. PETITIONER'S REQUEST FOR 271 SANCTIONS IS DENIED.

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2. ALBA BOJORQUEZ V. GABRIEL GODSEY

PFL20210496

On August 5, 2021, Petitioner filed a Petition to Determine Parental Relationship and Request for Order (RFO) requesting custody orders. On October 12, 2021 Respondent filed a response along with an RFO requesting custody orders and a request for referral to Child Custody Recommending Counseling (CCRC). A CCRC was calendared for November 15, 2021 at 9:00 a.m. and a hearing on the RFO was set on January 6, 2022.

On October 21, 2021, Petitioner filed an ex parte application asking the court to grant Petitioner and Respondent joint legal and physical custody, order Respondent to return the children to Petitioner, and order the parties to exercise week-on/week off custody with exchanges to take place on Fridays. On October 22, 2021 the court denied the ex parte request as there were no emergency circumstances to warrant such an order. Parties were referred to the existing court date of January 6, 2021 and to the existing CCRC date of November 15, 2021.

Only Petitioner appeared for the November 15, 2021 CCRC session. A CCRC report was issued on November 15, 2021 with copies mailed to the parties on November 18, 2021. The report made no recommendations as only one party participated.

On November 19, 2021, Petitioner again filed an ex parte application asking the court to grant Petitioner and Respondent joint legal and physical custody, order Respondent to return children to Petitioner, and order the parties to exercise week-on/week off custody with exchanges to take place on Fridays. On November 22, 2021 the court again denied the ex parte request as there were no emergent circumstances. The court re-referred the parties to CCRC on December 16, 2021 and confirmed the hearing date of January 6, 2022.

Both parties participated in CCRC and reached a nearly full agreement as to custody, which provides for joint legal custody with parties sharing parenting time on a 50/50 basis utilizing a 2-2-3 parenting schedule. Parties were unable to reach an agreement as to when to initiate this schedule. A CCRC report was issued on December 22, 2021 with copies mailed to the parties on December 23, 2021.

On January 6, 2022, both parties appeared for the hearing. The court modified its tentative ruling and ordered the parties to exchange the minors at the El Dorado County Sheriff substation in El Dorado Hills. Petitioner's parenting time would be every weekend, Saturday and Sunday from 9:00 am to 6:00 pm, for one month. After one month Petitioner's parenting time would be every Friday from 5:00 pm until Sunday at 5:00 pm for six weeks. The court appointed CASA and set a review hearing for March 17, 2022. The court was to address progressing to the 2-2-3 schedule at the March 17, 2022 hearing.

On March 17, 2022, the matter was continued to June 16, 2022 for CASA to be assigned and prepare a report.

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CASA filed a report on June 3, 2022. Copies were mailed to the parties on the same day. CASA had the opportunity to meet with the minors in both parties' respective homes. CASA reports both homes are appropriate, and the minors appear to be well behaved and respectful in each parties' home. CASA further reports the minors appear to enjoy the time they spend with each party.

Neither party has filed a supplemental declaration.

Having reviewed the filings of the parties and the CASA 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. The parties shall have joint legal and physical custody of the minors. The parties shall utilize a 2-2-3 schedule. The schedule will commence on Friday June 10, 2022, with Petitioner having the minors Friday through Sunday, as per the regular weekend schedule. Respondent will then have the minors on June 13-14. Petitioner will have the minors June 15-16. Respondent will have the minors June 17-19. The 2-2-3 schedule will continue thereafter. The court terminates the order for both parties to drug test.

CASA is thanked and relieved.

TENTATIVE RULING #2: THE PARTIES SHALL HAVE JOINT LEGAL AND PHYSICAL CUSTODY OF THE MINORS. THE PARTIES SHALL UTILIZE A 2-2-3 SCHEDULE. THE SCHEDULE WILL COMMENCE ON FRIDAY JUNE 10, 2022, WITH PETITIONER HAVING THE MINORS FRIDAY THROUGH SUNDAY, AS PER THE REGULAR WEEKEND SCHEDULE. RESPONDENT WILL THEN HAVE THE MINORS ON JUNE 13-14. PETITIONER WILL HAVE THE MINORS JUNE 15-16. RESPONDENT WILL HAVE THE MINORS JUNE 17-19. THE 2-2-3 SCHEDULE WILL CONTINUE THEREAFTER. THE COURT TERMINATES THE ORDER FOR BOTH PARTIES TO DRUG TEST. CASA IS THANKED AND RELIEVED. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT.

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3. ANDREW DILLINGER V. KELLY DILLINGER

PFL20140829

On February 4, 2022 the court denied Petitioner's ex parte application and Petitioner's concurrently filed a Request for Order (RFO) requesting modification of the current child custody and visitation orders was calendared on the Law and Motion calendar for the instant hearing date. Respondent filed a Responsive Declaration to the ex parte application, which was considered by the court. The parties were referred to CCRC.

Although Represented by Counsel at the time, Respondent filed a lengthy declaration with the court on March 10, 2022. However, as there is no Proof of Service in the file showing Petitioner was served with the Declaration, the court did not review or consider the filing.

The parties both appeared for CCRC and a CCRC report was issued on April 13, 2022. Copies of the report were mailed to the parties on April 18, 2022.

On April 21, 2022 Petitioner filed a Supplemental Declaration and a Proof of Service by Mail showing service upon Respondent on April 20, 2021.

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

Judgement was entered on June 18, 2018 and granted joint legal and physical custody to the parties pursuant to their agreement. The Judgement does not contain language indicating this order was intended to be a final order pursuant to *Montenegro v. Diaz* (2001) 26 Cal.4th 249, and therefore a best interest of the child standard applies.

On April 28, 2022, parties appeared for the hearing as Respondent had requested oral argument. Counsel for Respondent requested the matter be continued as Respondent was ill and Respondent had not yet served Petitioner with the March 10, 2022 declaration. The matter was continued to May 26, 2022 and the recommendations from the CCRC report were adopted on a temporary basis.

On May 16, 2022, Petitioner filed a Supplemental Declaration. Respondent was served by mail on May 16, 2022. Petitioner is requesting the court confirm the prior tentative ruling and adopt the recommendations from the CCRC report. Further Petitioner is requesting the court order reunification therapy commence upon the recommendation of the minor's therapist, rather than immediately.

Although Petitioner states he has received the March 10, 2022 Declaration from Respondent, there is no Proof of Service for this document in the court file, and therefore, the court has not considered it.

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On May 26, 2022, parties submitted a stipulation and order to continue the hearing as Respondent and her counsel had Covid-19. The court continued the hearing to June 16, 2022. The prior orders remained in full force and effect.

Respondent filed a Supplemental Declaration on June 8, 2022. Petitioner was served by mail the same day. Respondent denies the allegations of abuse. Respondent renews her request for reunification therapy to begin immediately, rather than upon the recommendation of the minor's therapist. Respondent requests the court set a review hearing in 90 days.

The recommendations contained within the CCRC report are in the minor's best interest. Further, the court finds that the circumstances described by the minor provide a change in circumstances to warrant a change in legal custody to sole legal custody with Petitioner as recommended by the CCRC. The court adopts the CCRC recommendations as temporary orders. The minor is to continue to participate in individual counseling with his current therapist. Respondent shall provide Petitioner with the names of three potential licensed reunification therapists on or before July 7, 2022. Petitioner shall select one of the three, and inform Respondent of the selection, on or before July 14, 2022. Once a therapist has been selected, Respondent shall participate in an intake and thereafter any sessions as directed by the therapist. The reunification therapist and minor's individual therapist are to meet and confer to form a treatment plan. The minor and Respondent will engage in reunification therapy when deemed appropriate by the minor's individual therapist in conjunction with the reunification therapist. Minor and Respondent shall engage in reunification therapy at a frequency and durations as directed by the reunification therapist.

The court sets a review hearing for September 15th, 2022 at 8:30 AM to review progress in reunification therapy.

All prior orders not in conflict remain in full force and effect. Petitioner shall prepare and file the Findings and Order After Hearing.

TENTATIVE RULING #3: THE COURT ADOPTS THE CCRC REPORT AS THE ORDERS OF THE COURT. THESE ORDERS ARE TEMPORARY ORDERS PENDING FURTHER ORDER OF THE COURT. THE MINOR IS TO CONTINUE TO PARTICIPATE IN INDIVIDUAL COUNSELING WITH HIS CURRENT THERAPIST. RESPONDENT SHALL PROVIDE PETITIONER WITH THE NAMES OF THREE POTENTIAL LICENSED REUNIFICATION THERAPISTS ON OR BEFORE JULY 7, 2022. PETITIONER SHALL SELECT ONE OF THE THREE, AND INFORM RESPONDENT OF THE SELECTION, ON OR BEFORE JULY 14, 2022. ONCE A THERAPIST HAS BEEN SELECTED, RESPONDENT SHALL PARTICIPATE IN AN INTAKE AND THEREAFTER ANY SESSIONS AS DIRECTED BY THE THERAPIST. THE REUNIFICATION THERAPIST AND MINOR'S INDIVIDUAL THERAPIST ARE TO MEET AND CONFER TO FORM A TREATMENT PLAN. THE MINOR AND RESPONDENT WILL ENGAGE IN REUNIFICATION THERAPY WHEN DEEMED APPROPRIATE BY THE MINOR'S INDIVIDUAL

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THERAPIST IN CONJUNCTION WITH THE REUNIFICATION THERAPIST. MINOR AND RESPONDENT SHALL ENGAGE IN REUNIFICATION THERAPY AT A FREQUENCY AND DURATIONS AS DIRECTED BY THE REUNIFICATION THERAPIST. THE COURT SETS A REVIEW HEARING FOR SEPTEMBER 15TH, 2022 AT 8:30 AM TO REVIEW PROGRESS IN REUNIFICATION THERAPY. ALL PRIOR ORDERS NOT IN CONFLICT REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

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5. DEDRA SCHMEECKLE-COX V. JASON COX

PFL20180475

On March 7, 2022, Petitioner filed an ex parte request for emergency orders, requesting temporary sole physical custody of the minor, temporary suspension of Respondent's parenting time, and an order preventing Respondent from coming to Petitioner's home or sending third parties to Petitioner's home on his behalf. The court denied Petitioner's ex parte request on March 8, 2022, and ordered all prior orders were to remain in full force and effect. Petitioner was granted final decision-making authority. Petitioner filed a Request for Order (RFO) on March 8, 2022, requesting modification of custody and parenting time orders. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on April 27, 2022 and a review hearing on June 16, 2022. On March 14, 2022, Petitioner filed a Proof of Service along with Address Verifications showing Respondent was served with the RFO and referral to CCRC. Minor's Counsel was served by mail on March 8, 2022.

On March 24, 2022, Respondent filed an ex parte request for emergency orders, requesting to resume contact with the minor. The court notes there was never a legal suspension of contact with the minor, but rather the minor refusing to participate in parenting time with Respondent. On March 25, 2022, the court denied Respondent's ex parte request and reaffirmed the prior orders remained in full force and effect. The court affirmed the referral to CCRC and the review hearing dates. No further RFO was filed by Respondent.

Respondent filed a Responsive Declaration to Petitioner's RFO on April 21, 2022. The proof of Service filed on April 21, 2022, states Petitioner was served by mail on April 25, 2022, a future date. Respondent himself served the Responsive Declaration, which does not conform with Code of Civil Procedure section 1013(a)(1). Additionally, the Declaration exceeds the page limit prescribed in California Rule of Court, Rule 5111(a). Minor's Counsel was not served. Therefore, the court has not considered this filing.

On May 2, 2022, Respondent filed an additional Responsive Declaration to the RFO. The Proof of Service filed on May 2, 2022, and signed by Respondent on May 1, 2022, states Petitioner was served by mail on May 3, 2022. The court finds this does not comply with Code of Civil Procedure section 1013(a)(1). Minor's Counsel was not served. Therefore, the court has not considered this filing.

On May 5, 2022, Petitioner's Counsel filed an objection to the court considering Respondent's April 21, 2022 Responsive Declaration due to the improper service and the Declaration exceeding the 10 page limit. The court grants counsel's request to not consider the April 21, 2022 Responsive Declaration.

On May 9, 2022, Respondent filed a Reply Declaration to Petitioner's objection to the Responsive Declaration. Petitioner was served with the Declaration by mail on May 9, 2022. Once again, Respondent signed the Proof of Service stating he served the Declaration, which

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the court finds does not comply with Code of Civil Procedure section 1013(a)(1). Minor's Counsel was not served. Therefore, the court has not considered this filing.

A CCRC report was filed on May 13, 2022. A copy was mailed to the parties on the same day. The parties attended CCRC on April 27, 2022 and were unable to reach an agreement. The CCRC report contains recommendations from the counselor. The court has read and considered the CCRC report.

Petitioner filed a Declaration of Julia Hackett on May 31, 2022. Respondent was served with the Declaration by mail on May 30, 2022. Minor's Counsel was not served. Therefore, the court has not considered this filing.

Petitioner filed a Supplemental Declaration and a Reply Declaration on June 6, 2022. Respondent and Minor's Counsel were served on June 3, 2022.

Minor's Counsel filed a Statement of Issues and Contentions on June 6, 2022. Petitioner and Respondent were served by mail on June 6, 2022. Minor's Counsel recommends the court order the parties to cooperate with the minor's therapist, Ms. Harris and follow her recommendations. The court adopt the CCR recommendations but modify the parenting plan to a 2-2-3 schedule to transition Respondent back into joint physical custody. Finally, Minor's Counsel requests the court set a review hearing in 60 days to reassess the parenting plan schedule.

Respondent filed a Supplemental Declaration on June 8, 2022. Petitioner and Minor's Counsel were served by mail on June 8, 2022. Respondent is requesting the court strike the declaration of Julie Hackett from the record as well as sanctions under Family Code section 271 in the amount of \$3,000.

Petitioner filed a Supplemental Declaration of Julia Hackett on June 13, 2022. Respondent and Minor's Counsel were served Electronically and by mail on June 11, 2022.

The court has read and considered the filings as outlined above and makes the following orders: The court adopts the recommendations contained within the CCRC report with the following modifications: The parties shall continue to have joint legal and physical custody. The parties shall utilize a 2-2-3 parenting plan. Starting Friday June 17, 2022 at 4:00 p.m., Respondent shall have the minor for two days. Petitioner shall have the minor the following two days, from Sunday June 19, 2022 at 4:00 p.m. until Tuesday June 21, 2022 at 4:00 p.m.. Respondent will then have the minor for three days from Tuesday at 4:00 p.m. until Friday at 4:00 pm. The pattern will then repeat. The minor shall continue in therapy with Ms. Harris. the minor shall participate at a frequency and duration as directed by Ms. Harris. The parties are directed to cooperate with Ms. Harris and follow her treatment directives. The court sets a review hearing for August 18th, 2022 at 8:30 AM to reassess the parenting plan schedule. Any

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Supplemental Declarations are due at least ten days prior to the next hearing. 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 #5: THE COURT ADOPTS THE RECOMMENDATIONS CONTAINED WITHIN THE CCRC REPORT WITH THE FOLLOWING MODIFICATIONS: THE PARTIES SHALL CONTINUE TO HAVE JOINT LEGAL AND PHYSICAL CUSTODY. THE PARTIES SHALL UTILIZE A 2-2-3 PARENTING PLAN. STARTING FRIDAY JUNE 17, 2022 AT 4:00 P.M., RESPONDENT SHALL HAVE THE MINOR FOR TWO DAYS. PETITIONER SHALL HAVE THE MINOR THE FOLLOWING TWO DAYS, FROM SUNDAY JUNE 19, 2022 AT 4:00 P.M. UNTIL TUESDAY JUNE 21, 2022 AT 4:00 P.M.. RESPONDENT WILL THEN HAVE THE MINOR FOR THREE DAYS FROM TUESDAY AT 4:00 P.M. UNTIL FRIDAY AT 4:00 PM. THE PATTERN WILL THEN REPEAT. THE MINOR SHALL CONTINUE IN THERAPY WITH MS. HARRIS. THE MINOR SHALL PARTICIPATE AT A FREQUENCY AND DURATION AS DIRECTED BY MS. HARRIS. THE PARTIES ARE DIRECTED TO COOPERATE WITH MS. HARRIS AND FOLLOW HER TREATMENT DIRECTIVES. THE COURT SETS A REVIEW HEARING FOR AUGUST 18TH, 2022 AT 8:30 AM TO REASSESS THE PARENTING PLAN SCHEDULE. ANY SUPPLEMENTAL DECLARATIONS ARE DUE AT LEAST TEN DAYS PRIOR TO THE NEXT HEARING. 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.

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6. JAIME LUPER V. RICHARD LIMING

PFL20180266

On January 25, 2022, Respondent filed an ex parte request for order, requesting the court order an immediate referral to Child Custody Recommending Counseling (CCRC), that Petitioner comply with the prior orders for Respondent to have parenting time every other weekend, and visitation with the parties minor daughter to be in a therapeutic setting if necessary but for parenting time with the parties minor son to commence immediately.

The court denied Respondent's ex parte request on January 26, 2022, as it did not constitute an emergency. The court ordered all previous orders remain in full force and effect.

On January 26, 2022, Respondent filed a request for Order (RFO) requesting the court make orders as to parenting time. Parties were referred to CCRC with an appointment on February 28, 2022 and a review hearing set on April 14, 2022. Upon review of the court file, there is no Proof of Service showing Petitioner had been served with the RFO and referral to CCRC.

Neither party appeared at the CCRC appointment scheduled on February 28, 2022. Therefore, on April 14, 2022, the court adopted its tentative ruling, and the court dropped the matter from the court's calendar. The previous orders regarding custody and visitation remained in full force and effect with no modifications.

On April 21, 2022, Respondent filed a RFO requesting an immediate referral to CCRC. Petitioner was served by mail on April 27, 2022. Respondent asserts neither he nor his attorney received the prior referral to CCRC. Respondent states he has only been able to see the minors when Petitioner decides, and she is not following the current court order for parenting time.

On June 2, 2022, Respondent filed a Supplemental Declaration. Petitioner was served by mail; however, the Proof of Service does not indicate what date the Supplemental Declaration was mailed. Respondent asserts Petitioner has continued to prevent him from seeing the minors and has prevented the minors from communicating with Respondent by taking the minor daughter's phone from her. Respondent states Petitioner had the parties' minor daughter file a false police report, which resulted in an Emergency Protective Order being issued preventing Respondent from having contact with the minors. Respondent requests the court order the parties be re-referred to mediation. Respondent requests he be granted primary parenting time and the non-custodial parent have phone contact during the other party's parenting time.

Petitioner has not filed a Responsive Declaration.

The court grants Respondent's request. Parties are re-referred to CCRC for an appointment on July 7th, 2022 at 1:00 PM. The court sets a review hearing for August 18th, 2022 at 8:30 AM for review of the CCRC report. The court reminds parties failure to abide by the current custody and parenting plan orders may result in the court changing custody. All prior

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

TENTATIVE RULING #6: THE COURT GRANTS RESPONDENT'S REQUEST. PARTIES ARE RE-REFERRED TO CCRC FOR AN APPOINTMENT ON JULY 7TH, 2022 AT 1:00 PM. THE COURT SETS A REVIEW HEARING FOR AUGUST 18TH, 2022 AT 8:30 AM, FOR REVIEW OF THE CCRC REPORT. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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7. JAMES MILLIMAN V. ERICA MORALES-MILLIMAN

PFL20170881

On January 6, 2022 parties appeared for a Child Custody and Recommending Counseling (CCRC) review hearing. Parties agreed to participate in a Family Code section 3111 evaluation with Respondent to pay the costs, subject to reallocation. The court ordered Respondent to provide Petitioner with the names of three potential evaluations within two weeks. Petitioner was to select one within a week. The court adopted the tentative ruling with modifications to the parenting time schedule and set a further review hearing for March 24, 2022.

On March 11, 2022 the court signed an order appointing Wendy Campbell as the child custody evaluator.

On March 24, 2022, the court continued the matter to June 16, 2022 for receipt of the Family Code section 3111 report.

Respondent filed a Supplemental Declaration on June 9, 2022. Petitioner was served electronically on the same day. Respondent states the Family Code Section 3111 evaluation is set to begin in August. Pending return of the evaluation, Respondent is requesting the court order all exchanges occur at the McDonald's in Galt, California, and Respondent shall have parenting time every other weekend from Friday pick up at the minor's school or if no school at 12:00 pm until Sunday at 6:00 pm. Respondent is also requesting Family Code section 271 sanctions against Petitioner. Respondent asserts Petitioner has failed to follow the court's order to use the talkingparents.com application for all communication about the minor. The July 28, 2021 parenting plan order contained a step-up provision, with the concurrence of the reunification therapist, that would have ultimately afforded Respondent parenting time two days per week. Parties subsequently appeared at court on January 6, 2022 where the court modified the parenting plan to the current order. Respondent states she was not in agreement with the parenting plan as set forth in the December 1, 2021 CCRC report and that is why she requested the court order a Family Code section 3111 evaluation. Respondent is requesting the court expand her parenting time, given the Family Code section 3111 evaluation was ordered in January and is not scheduled to take place until August.

The court has not received Supplemental Declarations from either Petitioner or Minor's Counsel.

The court notes the current order is silent as to where the custody exchanges are to take place. Therefore, the court orders custody exchanges are to take place at the McDonald's, located at 12801 Stockton Blvd, in Galt, California. The court denies Respondent's request to modify the current parenting plan, without prejudice.

Regarding Respondent's request for sanctions under Family code section 271, the court denies this request finding that a failure to use the talkingparents.com application by itself does

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not constitute conduct that frustrates the policy of the law to promote settlement. In denying Respondent's request for sanctions, the court reaffirms its July 28, 2021 order regarding communication between the parties. The parties are to utilize the talkingparents.com application for communication about the minor. The court admonishes Petitioner that failure to follow these orders may be punishable by contempt.

The court has not yet received a Family Code section 3111 report. Therefore, the court continues the matter to October 6th, 2022 at 8:30 AM. All prior orders remain in full force and effect.

Respondent is to prepare the Findings and Orders After Hearing.

TENTATIVE RULING #7: THE COURT CONTINUES THE MATTER TO OCTOBER 6TH, 2022 AT 8:30 AM. FOR RECEIPT OF THE FAMILY CODE SECTION 3111 REPORT. THE COURT ORDERS CUSTODY EXCHANGES ARE TO TAKE PLACE AT THE MCDONALD'S, LOCATED AT 12801 STOCKTON BLVD, IN GALT, CALIFORNIA. THE COURT DENIES RESPONDENT'S REQUEST TO MODIFY THE CURRENT PARENTING PLAN, WITHOUT PREJUDICE. THE COURT DENIES THE REQUEST FOR SANCTIONS FINDING THAT A FAILURE TO USE THE TALKINGPARENTS.COM APPLICATION BY ITSELF DOES NOT CONSTITUTE CONDUCT THAT FRUSTRATES THE POLICY OF THE LAW TO PROMOTE SETTLEMENT. IN DENYING RESPONDENT'S REQUEST FOR SANCTIONS, THE COURT REAFFIRMS ITS JULY 28, 2021 ORDER REGARDING COMMUNICATION BETWEEN THE PARTIES. THE PARTIES ARE TO UTILIZE THE TALKINGPARENTS.COM APPLICATION FOR COMMUNICATION ABOUT THE MINOR. THE COURT ADMONISHES PETITIONER THAT FAILURE TO FOLLOW THESE ORDERS MAY BE PUNISHABLE BY CONTEMPT. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. RESPONDENT IS THE PREPARE THE FINDINGS AND ORDERS AFTER HEARING

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8. JENNIFER WIDAU V. TOM SANDOVAL

PFL20210301

On March 24, 2022, the court adopted its tentative ruling, re-referring the parties to CCRC and setting a further review hearing. Parties were ordered to attend CCRC on April 29, 2022 and a review hearing was set for June 16, 2022.

Parties attended CCRC on April 29, 2022 and were able to reach a full agreement. A report was filed containing the agreement on June 7, 2022. A copy of the report was mailed to the parties on June 8, 2022. The court has read and considered the report and finds the agreement of the parties to be in the minor's best interest. The court adopts the agreement as its order.

The parties shall have joint legal and physical custody. The minor shall primarily reside with Petitioner. Respondent shall consistently visit with the minor on Sundays. The visits will be professionally supervised. Upon completion of consistent visitation from April 29, 2022 until June 16, 2022, the visits may be supervised by a mutually agreed upon non-professional third party. After 60 days of non-professionally supervised visitation, Respondent shall have four hours of unsupervised parenting time. Respondent shall submit a clean drug test to Petitioner's attorney prior to beginning unsupervised parenting time. After 30 days of four hour visits, Respondent's parenting time shall increase to six hours. After 30 days of six-hour visits, Respondent's parenting time shall increase to 24 hours. After 30 days of 24-hour visits, Respondent's parenting time shall increase to alternating weekends from Friday afternoon until Sunday at 6:00 pm. The court adopts the additional provisions as outlined in the report. Respondent shall not consume alcoholic beverages, narcotics, or restricted dangerous drugs, except with a valid prescription, within 24 hours before or during his parenting time. Respondent shall provide Petitioner's attorney with ongoing drugs tests for the next 120 days. Respondent shall provide proof of negative drug test prior to beginning non-professionally supervised parenting time. Neither party shall expose the minor to secondhand smoke of any type. Respondent shall enroll in anger management through the Veterans Administration and provide proof of enrollment to the court and Petitioner's attorney.

Neither party has filed a supplemental declaration.

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

TENTATIVE RULING #8: THE COURT ADOPTS THE AGREEMENT OF THE PARTIES AS ITS ORDER. THE PARTIES SHALL HAVE JOINT LEGAL AND PHYSICAL CUSTODY. THE MINOR SHALL PRIMARILY RESIDE WITH PETITIONER. RESPONDENT SHALL CONSISTENTLY VISIT WITH THE MINOR ON SUNDAYS. THE VISITS WILL BE PROFESSIONALLY SUPERVISED. UPON COMPLETION OF CONSISTENT VISITATION FROM APRIL 29, 2022 UNTIL JUNE 16, 2022, THE VISITS MAY BE SUPERVISED BY A MUTUALLY AGREED UPON NON-PROFESSIONAL THIRD

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PARTY. AFTER 60 DAYS OF NON-PROFESSIONALLY SUPERVISED VISITATION, RESPONDENT SHALL HAVE FOUR HOURS OF UNSUPERVISED PARENTING TIME. RESPONDENT SHALL SUBMIT A CLEAN DRUG TEST TO PETITIONER'S ATTORNEY PRIOR TO BEGINNING UNSUPERVISED PARENTING TIME. AFTER 30 DAYS OF FOUR HOUR VISITS, RESPONDENT'S PARENTING TIME SHALL INCREASE TO SIX HOURS. AFTER 30 DAYS OF SIX-HOUR VISITS, RESPONDENT'S PARENTING TIME SHALL INCREASE TO 24 HOURS. AFTER 30 DAYS OF 24-HOUR VISITS, RESPONDENT'S PARENTING TIME SHALL INCREASE TO ALTERNATING WEEKENDS FROM FRIDAY AFTERNOON UNTIL SUNDAY AT 6:00 PM. THE COURT ADOPTS THE ADDITIONAL PROVISIONS AS OUTLINED IN THE REPORT. RESPONDENT SHALL NOT CONSUME ALCOHOLIC BEVERAGES, NARCOTICS, OR RESTRICTED DANGEROUS DRUGS, EXCEPT WITH A VALID PRESCRIPTION, WITHIN 24 HOURS BEFORE OR DURING HIS PARENTING TIME. RESPONDENT SHALL PROVIDE PETITIONER'S ATTORNEY WITH ONGOING DRUGS TESTS FOR THE NEXT 120 DAYS. RESPONDENT SHALL PROVIDE PROOF OF NEGATIVE DRUG TEST PRIOR TO BEGINNING NON-PROFESSIONALLY SUPERVISED PARENTING TIME. NEITHER PARTY SHALL EXPOSE THE MINOR TO SECONDHAND SMOKE OF ANY TYPE. RESPONDENT SHALL ENROLL IN ANGER MANAGEMENT THROUGH THE VETERANS ADMINISTRATION AND PROVIDE PROOF OF ENROLLMENT TO THE COURT AND PETITIONER'S ATTORNEY. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER SHALL REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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9. JESSICA CHOW V. CHRIS WANG

PFL20210060

On March 22, 2022, the court referred the parties to Child custody Recommending Counseling (CCRC) for an appointment on April 22, 2022 and a review hearing on June 16, 2022. Parties also stipulated to review child support at the June 16, 2022 hearing. The court reserved jurisdiction to modify child support to September 1, 2021.

On April 8, 2022 Respondent filed a Supplemental Declaration regarding custody and visitation. Petitioner was served by mail on April 6, 2022.

On April 14, 2022, Petitioner filed a Supplemental Declaration regarding custody and visitation. Respondent was served electronically on April 14, 2022.

On April 22, 2022, parties attended the CCRC appointment and reached a full agreement. A CCRC report was filed on June 6, 2022. Copies of the report were mailed to the parties on June 8, 2022. The court has read and considered the CCRC report and finds the agreement of the parties to be in the minors' best interests. The court adopts the agreement as its order. The parties agree to continue joint legal and physical custody with Petitioner having primary physical custody. During the school year, Respondent shall have parenting time the 1st, 3rd, and 5th weekend of the month from Friday after school until Sunday at 7:00 pm. If Monday is a holiday or non-instruction day, Respondent will return the minors on Monday at 7:00 pm. During the summer Respondent will have the minors in his care for three weeks starting the day after the last day of instruction. Petitioner will then have the next three weeks. Respondent will then have the minors for three weeks, or one week prior to the start of the school year. Petitioner shall have the minors in her care the entire week prior to the start of the school year.

On June 7, 2022, Respondent filed an updated Income and Expense Declaration. Petitioner was served by mail on June 3, 2022.

The court has not received an updated Income and Expense Declaration from Petitioner.

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

TENTATIVE RULING #9: THE COURT FINDS THE AGREEMENT OF THE PARTIES TO BE IN THE MINORS' BEST INTERESTS. THE COURT ADOPTS THE AGREEMENT AS ITS ORDER. THE PARTIES AGREE TO CONTINUE JOINT LEGAL AND PHYSICAL CUSTODY WITH PETITIONER HAVING PRIMARY PHYSICAL CUSTODY. DURING THE SCHOOL YEAR, RESPONDENT SHALL HAVE PARENTING TIME THE 1ST, 3RD, AND 5TH WEEKEND OF THE MONTH FROM FRIDAY AFTER SCHOOL UNTIL SUNDAY AT 7:00 PM. IF MONDAY IS A HOLIDAY OR NON-INSTRUCTION DAY, RESPONDENT WILL RETURN THE MINORS ON MONDAY AT 7:00 PM. DURING THE SUMMER RESPONDENT WILL HAVE THE MINORS IN HIS CARE FOR THREE WEEKS STARTING THE DAY

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AFTER THE LAST DAY OF INSTRUCTION. PETITIONER WILL THEN HAVE THE NEXT THREE WEEKS. RESPONDENT WILL THEN HAVE THE MINORS FOR THREE WEEKS, OR ONE WEEK PRIOR TO THE START OF THE SCHOOL YEAR. PETITIONER SHALL HAVE THE MINORS IN HER CARE THE ENTIRE WEEK PRIOR TO THE START OF THE SCHOOL YEAR.

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10. JOSEPH UVA V. ABIGAIL UVA

PFL20210620

On April 12, 2022, Respondent filed a Request for Order (RFO) requesting that the court order child support, spousal support and attorneys' fees in the amount of \$7,500. Respondent filed a Proof of Service of the RFO and supporting documentation on April 26, 2022, showing that Petitioner was served by mail on April 22, 2022. Petitioner filed his Responsive Declaration to Request for Order, Petitioner's Income and Expense Declaration, and a proof of service of the same, all on June 2, 2022. Thereafter, Respondent filed and served a Reply Declaration of Abigail Uva on June 9, 2022, and a Family Code Section 4331 Evaluation Report and its corresponding proof of service on June 13, 2022.

Respondent requests that she be awarded guideline child support on the basis that she has primary physical custody of the minor children. While Petitioner and Respondent share joint legal custody, the children spend the majority of their time with Respondent, with the exception of sixteen hours a week (four hours a day for four consecutive days) that they spend with Petitioner. There are no current child support orders in this matter.

While petitioner is not opposed to child support, he does request that three main factors be taken into account when calculating the amount of the support needed. First, Petitioner requests that Respondent be imputed with a monthly income in the amount of \$8,333, which totals \$100,000 per year. Petitioner argues that, as a licensed real estate agent, Respondent has plenty of opportunities to work available to her. Petitioner cites a search of the job posting website *Indeed* which lists 206 available jobs with a range of incomes from \$47,186 to \$500,000.

Second, Petitioner argues that Respondent's mother should be considered income as she pays approximately \$6,843 of Respondent's monthly expenses. Petitioner cites Family Code Section 4057(b)(5)(A) which allows for the rebuttal of the formula established by Family Code Section 4055(a) where the circumstances of the particular case would cause use of the formula to be unjust or inappropriate. Section 4057(b)(5)(A) cites specifically circumstances "in which the parents have different time-sharing arrangements for different children." This seems inapplicable to the matter at hand. However, Section 4057(b)(5)(B) states that use of the formula may be unjust where "both parents have substantially equal time-sharing of the children and one parent has much lower or higher percentage of income used for housing than the other parent." Petitioner asserts that Respondent uses a much lower percentage of her income to account for housing given that her mother pays for the majority of her monthly expenses while Petitioner pays the entirety of his housing expenses from his income alone.

Third, Petitioner states that as of April 2022, he was able to procure a home where he can have the children for 50% of the time as established by the Stipulation and Order dated March 24, 2022. Petitioner states that he is willing and able to have the children 50% of the

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time but Respondent has denied him the opportunity to do so. Petitioner estimates that he has physical custody of the children approximately 30% of the time. Petitioner requests that child support be computed using a 49.99% time share given the prior agreement of the parties and Petitioner's desire to abide by that agreement.

Respondent requests that she be awarded guideline spousal support due to the current disparity in monthly income. There are no current orders for spousal support on file. Respondent claims that Petitioner has not made any spousal support payments.

Petitioner opposes any award of spousal support on the basis that Respondent has financial assistance from her mother, and Respondent has not made an effort to find gainful employment. Petitioner points to the fact that Respondent has not undergone the agreed upon Family Code Section 4331 Vocational Evaluation. In the event that the Court does award spousal support, Petitioner requests that the court calculate the amount on the basis of Respondent's alleged earning capacity of \$100,000 per year and with consideration of the fact that Respondent's mother is paying approximately \$6,843 in monthly expenses.

Respondent further requests that she be awarded attorneys' fees in the amount of \$15,000. Respondent initially requested \$7,500 in attorneys' fees. In support of her request Respondent filed a Request for Attorney's Fees and Costs Attachment and a Supporting Declaration for Attorney's Fees and Costs. The supporting documentation sets forth those factors required by Family Code Section 4320 for an award of attorney's fees. In Respondents Reply Declaration she increased her request for attorneys' fees to \$15,000. This amount is supported by the attachments to her initial RFO.

Petitioner requests that each party pay their own attorney's fees or, in the alternative, the matter be deferred until the settlement conference and trial. While petitioner acknowledges the current income disparity, he cites the fact that he has little disposable income.

Parties are ordered to appear.

TENTATIVE RULING #10: PARTIES ARE ORDERED TO APPEAR.

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11. TODD FUJIWARA V. KRIS FUJIWARA

PFL20150424

On April 12, 2022, Petitioner filed an Order to Show Cause and Affidavit for Contempt alleging Respondent had violated the March 15, 2022 court order. Respondent's counsel was personally served on April 13, 2022.

Upon review of the file, the court find that there is no proof of service indicating personal service of the contempt complain on the Petitioner. "Service 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.) The court dismisses the Order to Show Cause without prejudice for lack of service.

TENTATIVE RULING #11 THE COURT DISMISSES THE ORDER TO SHOW CAUSE WITHOUT PREJUDICE FOR LACK OF PROPER SERVICE.