

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

June 23, 2022

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

**1. AMANDA RENFROE V. ANDREW RENFROE**

**PFL20160677**

On February 14, 2022, Petitioner filed a Request for Order (RFO) requesting the court modify the orders for child custody and parenting time, as well as order reimbursement for prior drug testing. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on March 30, 2022 and a review hearing on May 19, 2022. Respondent was served by mail on February 21, 2022. Petitioner is requesting equal parenting time. Petitioner asserts she is sober and has been in therapy for over a year. Petitioner asserts Respondent has made it difficult to see the minors and has frustrated Petitioner's attempts to communicate with the minors as well. Petitioner states she wants to effectively co-parent with Respondent. Petitioner asserts that there was an agreement between the parties that if Respondent requested Petitioner to test, Respondent would pay for the test. Petitioner states Respondent has not paid for 11 tests, despite the parties' agreement.

Parties submitted a request to continue the review hearing date on March 17, 2022. The court granted the request to continue the review hearing from May 19, 2022 to June 23, 2022.

Respondent filed a Responsive Declaration on March 21, 2022. Petitioner was served by mail on March 17, 2022. Respondent request the court deny Petitioner's motion as there is not a significant change in circumstances relating to Petitioner's substance abuse issues and emotional abuse issues, exclude Ian Galloway from being present during Petitioner's parenting time, and deny the request for reimbursement for drug testing. Respondent asserts Petitioner has been inconsistent with exercising her parenting time. Respondent states Petitioner missed nearly five months of parenting time with the minors, from August of 2021 until December of 2021. Petitioner has only been consistent since January of this year. Respondent further asserts Petitioner has been inconsistent with drug testing. Respondent states there was an agreement between the parties that Ian Galloway be excluded from Petitioner's parenting time, and this should not be modified. Respondent states the court order from January 10, 2019 did not contain provisions for reimbursement for drug test costs and did not reserve on the reallocation of those costs, and therefore, Petitioner's request for reimbursement should be denied.

Both parties appeared at the CCRC appointment and were able to reach several agreements. A CCRC report with the agreements and additional recommendations was filed on April 25, 2022. A copy of the report was mailed to the parties on April 25, 2022.

Petitioner filed a Declaration with drug test results attached on March 25, 2022. Respondent was served by mail on March 25, 2022.

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Respondent filed a Reply to the drug test results on April 20, 2022. Petitioner was served by mail on April 18, 2022. Respondent asserts Petitioner's declaration and attached test results is not an full and accurate history of Petitioner's drug testing in this case. Respondent asserts he has provided all the tests, rather than a small sample of negative tests.

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

The court adopts the agreements of the parties as contained in the CCRC report as they are in the best interest of the minors. The court adopts the recommendations as set forth in the CCRC report as they are in the best interest of the minors. Ian Galloway is to have no contact either in person or electronically/telephonically with the minors. The minors are to remain in therapy with their respective therapists. The parties shall abide by all the recommendations of the minors' therapists, doctors, and teachers. Petitioner shall submit to a hair follicle test on or before June 30, 2022. If the hair test result is negative, Petitioner will no longer be required to drug test. If the hair test result is positive, the current order allowing Respondent to request Petitioner to randomly drug test shall remain in effect. Petitioner shall submit to random drug tests on a consistent basis and with negative results for a three-month period. The court adopts the parenting plan as set forth in the CCRC report. The court adopts the holiday schedule as set forth in the CCRC report. The court adopts the recommendation as to the exchanges.

The court denies Petitioner's request for reimbursement of prior drug tests, as the order from January 10, 2019 specified that Petitioner was responsible for the cost of tests. If Petitioner is required to continue drug testing as set forth above, any negative drug test result shall be reimbursed by Respondent. Any positive drug test result shall be paid for by Petitioner.

All prior orders not in conflict with this order remain in full force and effect. Petitioner is to prepare and file the Findings and Orders after hearing.

**TENTATIVE RULING #1: THE COURT ADOPTS THE AGREEMENTS AND RECOMMENDATIONS AS SET FORTH IN THE CCRC REPORT AND ABOVE. THE COURT DENIES PETITIONER'S REQUEST FOR REIMBURSEMENT OF PRIOR DRUG TESTS. IF PETITIONER IS REQUIRED TO CONTINUE DRUG TESTING AS SET FORTH ABOVE, ANY NEGATIVE DRUG TEST RESULT SHALL BE REIMBURSED BY RESPONDENT. ANY POSITIVE DRUG TEST RESULT SHALL BE PAID FOR BY PETITIONER. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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**2. APRIL ROBINSON V. GORDON ROBINSON**

**PFL20210147**

On March 8, 2022, the parties reached a stipulation resolving Petitioner's request for a Domestic Violence Restraining Order (DVRO). The stipulation included the minors being removed as protected parties and the DVRO to be in place protecting Petitioner until March 1, 2024. The court ordered Petitioner to have sole legal and physical custody of the minors and found Family Code section 3044 applied. The court authorized Respondent to begin unsupervised parenting time with the minors as well as phone contact. The court did not order text messaging but did allow Respondent to reply to any text messages the minors sent him. The court authorized Respondent to initiate letter and email contact with the minors as well. The parties agreed to participate in private Child Custody Recommending Counseling (CCRC). The court set a review hearing for the private CCRC for May 26, 2022.

On March 23, 2022, Respondent submitted a request to continue the May 26, 2022 hearing to June 23, 2022 as the CCRC session would not be able to be completed by May 26, 2022. The court granted the request to continue the hearing on April 7, 2022.

On April 28, 2022 Petitioner filed an ex parte request for supervised visitation for Respondent. Respondent was served with the ex parte request electronically on April 28, 2022. Respondent filed a Responsive Declaration on April 29, 2022.

The court granted the ex parte request in part, on April 29, 2022. The court on its own motion granted an order shortening time and set the Request for Order (RFO) for a hearing on May 12, 2022. The court on its own motion also find it in the best interest of the children to appoint Minors' Counsel. The minors were to be made available to Minors' Counsel. The court reserved on the allocation of costs for Minors' Counsel. Respondent was authorized supervised visitation two times per week for two hours each visit. Parties were to file Income and Expense Declaration prior to the hearing. Petitioner was directed to serve Respondent with notice of the RFO on or before May 2, 2022. Respondent was served electronically on May 2, 2022.

On May 12, 2022, parties, including newly appointed Minors' Counsel, submitted a stipulation to continue the hearing to June 23, 2022 to join with the previously set CCRC review hearing.

Petitioner filed a Response to the private CCRC report on June 16, 2022. Respondent was served both electronically and by mail on June 16, 2022. Petitioner objects to many of the recommendations contained in the CCRC report. Petitioner requests the current court orders remain in full force and effect until Respondent has rebutted the Family Code section 3044 presumptions. Petitioner also requests the court not order the parties to participate in conjoint co-parenting counseling. Petitioner requests the issue be reserved until the next review hearing. Petitioner also objects to the court ordering the right of first refusal.

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The court received the private CCRC report on June 17, 2022. It is unclear when the parties received a copy of the report. However, the court notes Minors Counsel was not included in the notation on page 22 of the report of who received a copy of the report.

The court has not received a Supplemental Declaration from Respondent. The court has not received a Statement of Issues and Contentions from Minors' Counsel.

The court finds the CCRC report was not filed at least 10 days prior to the hearing. The court orders that Minors' Counsel shall receive a copy of the private CCRC report, have an opportunity to review it, and if necessary, meet further with her clients. The court continues the hearing to allow Minors' Counsel that opportunity as well as to file a Statement of Issues and Contentions.

The matter is continued to July 28<sup>th</sup>, 2022 at 8:30 AM in Department 5. Any Statements of Issues and Contentions or Supplemental Declarations are due at least 10 days prior to the next hearing date.

All prior orders remain in full force and effect. Petitioner shall prepare and file the Findings and Orders After Hearing.

**TENTATIVE RULING #2: THE COURT FINDS GOOD CAUSE TO CONTINUE THE MATTER TO July 28<sup>TH</sup>, 2022 AT 8:30 AM IN DEPARTMENT 5. MINORS' COUNSEL SHALL BE PROVIDED A COPY OF THE PRIVATE CCRC REPORT. STATEMENTS OF ISSUES AND CONTENTIONS OR SUPPLEMENTAL DECLARATIONS ARE DUE AT LEAST 10 DAYS PRIOR 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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**3. DIERDRE WALKE V. RICHARD WALKE JR.**

**PFL20210452**

Petitioner and Respondent married on October 5, 1996 and separated on December 25, 2020. During that time, they accumulated several properties including the marital home and four additional properties, three of which are rental properties that generate income.

On April 8, 2022, Petitioner filed a Request for Order (RFO) requesting the following orders: (1) that Petitioner be granted exclusive use and control of the marital residence located in Cameron Park; (2) that Respondent be ordered to place all rental income received by rental properties in Henderson Nevada, Camino California, and Sacramento California in a jointly accessible account from which all rental property mortgages, property taxes, and home owner's insurance be paid and all other rental income be equally divided; (3) that all other expenses related to the rental properties be incurred and/or paid only by mutual written agreement of the parties or court order; (4) that Respondent provide copies of all necessary expenses related to the rental properties, and any requests for repairs or maintenance moving forward; (5) that Respondent provide an accounting of all rental income received since the date of separation; (6) that all remaining rental funds received since date of separation be divided equally between the parties; and (7) that Respondent pay attorney's fees as sanctions pursuant to Family Code Section 271 in the amount of \$2,000 or other amount as deemed reasonable by the Court. The RFO and supporting documentation were served on Respondent on April 27, 2022. To date, Respondent has not filed a response.

"...[T]he court may issue an order determining the use, possession and control of real or personal property of the parties..." Fam. Code §6342.5.

At issue here is the marital residence owned jointly by the parties. According to Petitioner, Respondent left the marital residence in December of 2021 and moved in with his sister. Respondent has not returned to live in the home since that date and he no longer contributes to the payment of any of the bills regarding the property. Given the foregoing, and pursuant to the Court's authority under Family Code Section 6342.5, the Court hereby grants exclusive use, possession, and control of the marital residence to Petitioner. Respondent may access the marital residence as needed but only after conferring with Petitioner to determine a mutually agreeable time for him to do so.

It is a longstanding tenant of the law that the form in which title to a property is held gives a rise to a rebuttable presumption of its status. Fam. Code §§ 760 and 2581; see also Cal. Evidence Code §662. Accordingly, any rental income that flows from the presumed community property is also presumed to be community property. A fiduciary duty exists between the parties which mandates "the highest good faith and fair dealing" on the part of each spouse

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and requires that each spouse provide the other with full and accurate disclosures of true and full information regarding the community property. Fam. Code §721.

Here, the presumption of community property is appropriate. Petitioner has provided deeds to the rental properties, all of which do confirm that the properties are held in the names of both parties. The deeds for the Henderson and Sacramento properties state expressly that the property is to be held by Petitioner and Respondent “as husband and wife.” Respondent has not provided any evidence that any of these properties are to be treated as separate property. The Court is expressly reserving the issue of the character and division of the rental properties and their resulting rental income in the event that Respondent does, at a later date, provide evidence to rebut the community property presumption. However, until such time as the court determines the character and division of the rental properties, in the interest of preserving potential community property, the Court orders as follows:

- (1) The parties are ordered to place all rental income from the properties in Henderson, Camino, and Sacramento to be placed in a joint bank account in the names of both parties and to which both parties have access (the “joint account”).
- (2) Mortgage, property taxes, and homeowner’s insurance shall be paid from the joint account. Expenses for maintenance and repairs to the rental parties shall be paid with funds from the joint account. Prior to withdrawing any funds from the joint account, the party seeking to withdraw the funds shall provide the other party with written documentation of the repairs or maintenance needed and the costs thereof no later than 5 business days prior to the withdraw.
- (3) Until such time as the character and division of the rental funds can be properly determined, all funds in excess of the foregoing costs and expenses listed above shall not be removed from the account by either party except on the express written consent of both parties or on the order of the court.
- (4) Respondent is ordered to deposit any and all rental income received since December 25, 2020, into the joint account within fourteen (14) calendar days of the opening of the account.
- (5) Respondent is ordered to provide petitioner with current copies of all leases in effect for the rental properties and an accounting of all rental income received since December 25, 2020, including the amounts received, amounts paid, and a description of payments made. These documents must be provided to Petitioner within thirty (30) calendar days of the hearing date.

Family Code §271 empowers the court to award attorney’s fees and costs based on the conduct of a party if it “...frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation...” In making such an award the Court is to

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consider the “income, assets and liabilities” of the sanctioned party to ensure that the sanctions do not impose “an unreasonable financial burden on the party against whom the sanction is imposed.”

Here, Respondent’s failure to cooperate with Petitioner to reach an agreement regarding the rental properties, has clearly frustrated the public policy of promoting settlement and reducing litigation costs through mutual cooperation. However, the court has little information regarding Respondent’s income, assets, and liabilities as he has not filed an Income and Expense Declaration. In an effort to avoid imposing an unreasonable financial burden on Respondent, the court reserves jurisdiction over the request for Family Code §271 sanctions until the time of trial.

**TENTATIVE RULING #3: THE COURT ORDERS THE FOLLOWING: THE COURT GRANTS EXCLUSIVE USE, POSSESSION, AND CONTROL OF THE MARITAL RESIDENCE TO PETITIONER. RESPONDENT MAY ACCESS THE MARITAL RESIDENCE AS NEEDED BUT ONLY AFTER CONFERRING WITH PETITIONER TO DETERMINE A MUTUALLY AGREEABLE TIME FOR HIM TO DO SO. THE PARTIES ARE ORDERED TO PLACE ALL RENTAL INCOME FROM THE PROPERTIES IN HENDERSON, CAMINO, AND SACRAMENTO TO BE PLACED IN A JOINT BANK ACCOUNT IN THE NAMES OF BOTH PARTIES AND TO WHICH BOTH PARTIES HAVE ACCESS. MORTGAGE, PROPERTY TAXES, AND HOMEOWNER’S INSURANCE SHALL BE PAID FROM THE JOINT ACCOUNT. EXPENSES FOR MAINTENANCE AND REPAIRS TO THE RENTAL PARTIES SHALL BE PAID WITH FUNDS FROM THE JOINT ACCOUNT. PRIOR TO WITHDRAWING ANY FUNDS FROM THE JOINT ACCOUNT, THE PARTY SEEKING TO WITHDRAW THE FUNDS SHALL PROVIDE THE OTHER PARTY WITH WRITTEN DOCUMENTATION OF THE REPAIRS OR MAINTENANCE NEEDED AND THE COSTS THEREOF NO LATER THAN 5 BUSINESS DAYS PRIOR TO THE WITHDRAW. UNTIL SUCH TIME AS THE CHARACTER AND DIVISION OF THE RENTAL FUNDS CAN BE PROPERLY DETERMINED, ALL FUNDS IN EXCESS OF THE FOREGOING COSTS AND EXPENSES LISTED ABOVE SHALL NOT BE REMOVED FROM THE ACCOUNT BY EITHER PARTY EXCEPT ON THE EXPRESS WRITTEN CONSENT OF BOTH PARTIES, OR ON THE ORDER OF THE COURT. RESPONDENT IS ORDERED TO DEPOSIT ANY AND ALL RENTAL INCOME RECEIVED SINCE DECEMBER 25, 2020, INTO THE JOINT ACCOUNT WITHIN FOURTEEN (14) DAYS OF THE OPENING OF THE ACCOUNT. RESPONDENT IS ORDERED TO PROVIDE PETITIONER WITH CURRENT COPIES OF ALL LEASES IN EFFECT FOR THE RENTAL PROPERTIES AND AN ACCOUNTING OF ALL RENTAL INCOME RECEIVED SINCE DECEMBER 25, 2020, INCLUDING THE AMOUNTS RECEIVED, AMOUNTS PAID AND A DESCRIPTION OF PAYMENTS MADE. THESE DOCUMENTS MUST BE PROVIDED TO PETITIONER WITHIN THIRTY (30) DAYS OF THE DATE OF THIS ORDER. THE COURT RESERVES JURISDICTION OVER THE REQUEST FOR FAMILY CODE §271 SANCTIONS UNTIL THE TIME OF TRIAL. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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**4. GLORIA DELGADILLO v. CARLOLS DELGADILLO BRIONES**

**21FL0154**

On March 24, 2022, Petitioner and Respondent filed a Stipulation and Order wherein, among other things, they stipulated to a hearing on Petitioner's pending requests for child support, temporary spousal support and attorney's fees and costs to be held on June 23, 2022.

Petitioner's initial requests for the foregoing support orders were made on December 2, 2021, when she filed her Petition for Dissolution of Marriage.

Petitioner filed her Income and Expense Declaration on March 8, 2022. On June 17, 2022, attorney for Petitioner filed a declaration indicating that the information contained in Petitioner's March 8<sup>th</sup> Income and Expense Declaration remains valid and accurate and no material changes to her income or expenses have occurred since the original filing thereof.

Counsel's declaration further asserted that as of June 17, 2022, she had not received an Income and Expense Declaration from Respondent despite having spoken with Respondent's attorney about the issue. To date, Respondent has not filed an Income and Expense Declaration with the court.

By and through her attorney's declaration, Petitioner requests the following orders: (1) Deny any request by Respondent to file a late Responsive Declaration or an Income and Expense Declaration; (2) Grant Petitioner's request for guideline child support based on her estimate of Respondent's income and expenses; (3) Grant Petitioner's request for guideline spousal support based on her estimate of Respondent's income and expenses; (4) Make support orders retroactive to December 2, 2021; (5) Confirm support arrears in the amount of \$18,513.29; (6) Order arrears paid in the amount of \$700 per month, until paid in full; (7) Order Respondent to file an Income and Expense Declaration within 10 days of the June 23, 2022 hearing date; (8) Reserve jurisdiction to retroactively modify the above orders upward if, after receiving Respondent's Income and Expense Declaration, it is determined that his income is higher than estimated; (9) Grant Petitioner's request for attorney's fees in the amount of \$7,500.

"In a family law proceeding under the Family Code...[a] Request for Order (form FL-300) must be used to ask for court orders... Cal. Rule of Court 5.92 (a)(1)(B). When seeking orders for spousal or child support, the moving party must file an Income and Expense Declaration (Form FL150) and file it with the Request for Order. Cal. Rule Ct. 5.92(b)(2) and (b)(3). The Income and Expense Declaration must be current, meaning the form has been completed within the past three months. Cal. Rule Ct. 5.26.

Petitioner has not filed the proper Request for Order form, nor has she filed a current Income and Expense Declaration. The rules of court are clear that the use of these forms is



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mandatory; a declaration of counsel is not the procedurally proper method to move for the orders sought. Accordingly, the court cannot rule on the merits of the motion. Petitioner's motion is denied but Petitioner is granted leave to file the proper documentation for the requested orders.

**TENTATIVE RULING #4: PETITIONER'S MOTION IS DENIED BUT PETITIONER IS GRANTED LEAVE TO FILE THE PROPER DOCUMENTATION FOR THE REQUESTED ORDERS. PETITIONER TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.**

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**5. JENNIFER CACHARELIS v. JUDE CACHARELIS**

**SFL20090110**

Respondent filed a Request for Order (RFO) on March 24, 2022, requesting a change to the standing visitation order and requesting that Petitioner be ordered to provide Respondent with the minor child's health insurance information and social security number. The parties currently share joint legal custody of the minor with visitation on the first and third weekends of the month. Respondent requests that he be afforded visitation once per week for dinner and that he and the minor attend joint counseling.

In response to the RFO filing the court ordered the parties to participate in Child Custody Recommended Counseling (CCRC) on May 4, 2022, and the matter was set for a review hearing on June 23, 2022. Proof of Service of the CCRC order was filed by Respondent on March 30, 2022.

On April 28, 2022, Petitioner filed a Declaration with authenticated transcripts from the Talking Parents app as well as an audio recording of Respondent and the minor child. A Proof of Service was filed on April 28th indicating that the foregoing had been served on Respondent. However, on April 29th an Amended Proof of Service was filed indicating that only the transcripts were served as the audio recording was too large. Given that Respondent was not served with the audio recording the court cannot consider it.

On June 1, 2022, Petitioner filed a Responsive Declaration to Request for Order. A Proof of Service thereof was filed on the same day. By way of her Responsive Declaration to Request for Order, Petitioner requests sole legal custody to be granted to her with visitation to be arranged at the minor's discretion. Petitioner has had sole physical custody of the minor for over 13 years. While the parties share legal custody of the minor, Petitioner claims to have made all legal decisions pertaining to the minor as Respondent has chosen not to participate in the decision making. The Talking Parents transcripts provided by Petitioner as well as Petitioner's Declaration do establish a contentious relationship between the parties which has clearly adversely affected their ability to co-parent.

A CCRC report was issued on June 7, 2022. On June 15, 2022, Petitioner filed Petitioner's Reply Declaration to CCRC Report. A Proof of Service was filed on June 16, 2022. Petitioner's reply re-states her desire to have full legal and physical custody of the minor and asks that the court remove CCRC's recommendation that the minor attend counseling as he has already done so.

Having read and considered the above filings, except for the audio recording which does not seem to have been served on Respondent, the court finds that the recommendations contained within the CCRC report are in the best interest of the minor apart from the additional provision #1 regarding the minor's attendance of individual therapy. Given that the minor has

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attended individual therapy in the past, but he has not done so in the past year, it is warranted to have a licensed therapist assess the minor and make a determination as to whether or not further therapy is needed at this time. If after completion of the assessment it is determined the minor should continue in therapy, he shall attend at a frequency and duration as directed by the therapist. If the assessment determines therapy is not warranted, no further therapy is ordered.

**TENTATIVE RULING #5: THE COURT ADOPTS THE CCRC REPORT AS THE ORDER OF THE COURT WITH THE FOLLOWING MODIFICATION TO ADDITIONAL PROVISION #1: THE MINOR SHALL PARTICIPATE IN AN ASSESSMENT FOR INDIVIDUAL THERAPY. THE PARTIES AND MINOR SHALL ABIDE BY THE THERAPIST'S TREATMENT RECOMMENDATIONS. IF THE THERAPIST FINDS THAT INDIVIDUAL THERAPY IS NOT WARRANTED THEN THE MINOR WILL NOT BE REQUIRED TO ATTEND ANY ADDITIONAL THERAPY SESSIONS. RESPONDENT TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.**

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**6. JEREMY DAY V. RAVEN DAY**

**PFL20200495**

On May 17, 2021, Respondent filed an Order to Show Cause and Affidavit for Contempt. On May 19, 2021, the Contempt complaint was served by mail on Petitioner's counsel. On June 26, 2021, the Contempt complaint was served personally on Petitioner.

On July 8, 2021 the parties appeared, and the matter was continued to October 7, 2021 at the request of the parties. Petitioner was ordered to appear.

On September 9, 2021, Petitioner filed a Request for Order (RFO) requesting that the Contempt complaint be dismissed with prejudice for lacking evidentiary support. Petitioner further requested sanctions in the amount of \$5,000 under Code of Civil Procedure 128.5 and 128.7.

Respondent was personally served with the RFO on October 6, 2021. This service was untimely for the October 7, 2021 hearing, however, has since become effective.

On October 7, 2021, the matter was set to be heard by Commission Slossberg. Petitioner did not stipulate to the Commissioner hearing the matter, and therefore, the hearing was continued to January 27, 2022. The tentative ruling was stayed pending the next hearing.

On January 18, 2022, Petitioner filed a request to continue the January 27, 2022 hearing due to illness. The court granted the request and set the matter for March 10, 2022.

On March 10, 2022, parties appeared for the arraignment. Petitioner's request for demurrer was denied. Petitioner was arraigned and entered not guilty pleas to counts 1-21. The matter was set for a contested hearing on April 27, 2022.

Respondent failed to appear on April 27, 2022, however, the court was unavailable to hear the matter. The contested contempt hearing was reset for June 7, 2022.

Once again, on June 7, 2022, Respondent failed to appear. Petitioner requested the contempt charges be dismissed with prejudice and the court set a further hearing on the request for Family Code section 271 sanctions. The court granted Petitioner's request to dismiss the contempt charges with prejudice and set a hearing on the request for Family Code section 271 sanctions.

Petitioner and Petitioner's counsel filed Declarations in support of attorney fees and costs on June 15, 2022. Respondent was served by mail on the same day. The court finds this is insufficient notice to Respondent as Code of Civil Procedure section 1005 requires Declarations be filed at least 10 days prior to the hearing. Further, the court has not received an Income and Expense Declaration from Respondent since January 21, 2022. The court finds it requires this information to ascertain the parties' incomes, assets, liabilities, and ability to pay as required under Family Code section 271. Therefore, the court finds good cause to continue the matter.

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Parties are ordered to file updated Income and Expense Declarations at least 10 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 #6: THEREFORE, THE COURT FINDS GOOD CAUSE TO CONTINUE THE MATTER TO AUGUST 18, 2022 AT 8:30 AM IN DEPARTMENT 5. THE COURT RESERVES JURISDICTION ON PETITIONER'S REQUEST FOR FAMILY CODE SECTION 271 SANCTIONS. PARTIES ARE ORDERED TO FILE UPDATED INCOME AND EXPENSE DECLARATIONS AT LEAST 10 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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**7. JOSEPH MCKEEN V. HEIDI MCKEEN**

**PFL20200547**

Respondent filed an ex parte request for emergency temporary custody orders on April 5, 2022. Respondent requested temporary sole legal and physical custody of the minor and Respondent to have professionally supervised parenting time.

On April 6, 2022, the court granted Respondent's ex parte request for temporary sole legal and physical custody with Petitioner having professionally supervised visitation twice per week. Respondent filed a Request for Order (RFO) requesting the court modify child custody and parenting plan orders. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on May 11, 2022 and a review hearing on June 23, 2022.

Both parties attended CCRC on May 11, 2022. A report was file don May 11, 2022 and mailed to the parties on the same day. Parties were able to reach a full agreement at CCRC. The report outlines a step-up plan for Petitioner to return to an equal parenting time share. However, the steps do not have a specified duration.

On June 9, 2022, Petitioner filed a Responsive Declaration to the RFO. Respondent was served both electronically and by mail on June 9, 2022. Petitioner requests the court adopt the agreement of the parties but requests there be more specificity as to the duration of each step. Petitioner requests each step be one week in duration, so long as the minor's therapist concurs that the minor is ready to advance to the next step.

Respondent filed a Supplemental Declaration on June 14 ,2022. Petitioner was served electronically on June 13, 2022. Respondent also requests the agreements reached a CCRC be adopted as the court's order. Respondent requests Petitioner re-enroll in supervised parenting time pending a return hearing in three months. Respondent asserts Petitioner has only exercised two supervised parenting sessions, May 13 and May 18, 2022. If Petitioner had participated in all the supervised parenting time afforded him from April 6, 2022, through the current court date, he would have had 22 visits with the minor. Respondent asserts the step-up plan was agreed to not have specified timelines to allow flexibility with the step-up and input from the minor's therapist, Petitioner, and Respondent. Respondent asserts this agreement was reached as the minor's therapist did not want to be the sole decision maker as to increasing Petitioner's parenting time. Respondent believes the one week between steps is too aggressive for the minor as the minor has expressed that he is not ready to be alone with Petitioner. Respondent concludes the agreed step-up plan was premised on Petitioner participating in supervised parenting time twice a week until the present review hearing. Respondent requests the court order Petitioner to participate in supervised parenting time pending a review hearing in 90 days.

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

The court adopts the agreement of the parties as set forth in the CCRC report with the following modifications: the parties shall have joint legal custody; Respondent will have primary physical custody pending Petitioner's completion of the step-up plan. Once Petitioner has completed the step-up plan, parties shall have joint physical custody. Petitioner shall have supervised parenting time for two times a week for two hours each visit, pending his completion of a parenting class specific to Child Behavior Problems. Parties may agree to a non-professional supervisor in writing. Petitioner shall submit his certificate of completion to Respondent, the minor's therapist, and the court. Upon completion of the parenting class and supervised parenting time, Petitioner shall commence Step 1. Each step of the step-up plan shall be a minimum of two weeks. Prior to progressing to the next step, the parties are to meet and confer with the minor's therapist and with the parties and the minor's therapist's approval, Petitioner may proceed to the next step.

On June 2, 2022, the court reserved on the further modification of child support pending the review of hearing on child custody. On June 2, 2022, the court adopted Respondent's proposed DissoMaster which reflects a zero percent time share for Petitioner. The court finds the current step-up plan order as to parenting time will not result in a significant change of Petitioner's custodial timeshare for approximately the next 60 days. Therefore, the court continues to reserve on the modification of child support and sets a review hearing in 60 days.

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 #7: THE COURT ADOPTS THE AGREEMENT OF THE PARTIES AS MODIFIED. THE PARTIES SHALL HAVE JOINT LEGAL CUSTODY; RESPONDENT WILL HAVE PRIMARY PHYSICAL CUSTODY PENDING PETITIONER'S COMPLETION OF THE STEP-UP PLAN. ONCE PETITIONER HAS COMPLETED THE STEP-UP PLAN, PARTIES SHALL HAVE JOINT PHYSICAL CUSTODY. PETITIONER SHALL HAVE SUPERVISED PARENTING TIME FOR TWO TIMES A WEEK FOR TWO HOURS EACH VISIT, PENDING HIS COMPLETION OF A PARENTING CLASS SPECIFIC TO CHILD BEHAVIOR PROBLEMS. PARTIES MAY AGREE TO A NON-PROFESSIONAL SUPERVISOR IN WRITING. PETITIONER SHALL SUBMIT HIS CERTIFICATE OF COMPLETION TO RESPONDENT, THE MINOR'S THERAPIST, AND THE COURT. UPON COMPLETION OF THE PARENTING CLASS AND SUPERVISED PARENTING TIME, PETITIONER SHALL COMMENCE STEP 1. EACH STEP OF THE STEP-UP PLAN SHALL BE A MINIMUM OF TWO WEEKS. PRIOR TO PROGRESSING TO THE NEXT STEP, THE PARTIES ARE TO MEET AND CONFER WITH THE MINOR'S THERAPIST AND WITH THE PARTIES AND THE MINOR'S THERAPIST'S APPROVAL,**

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

**PETITIONER MAY PROCEED TO THE NEXT STEP. THE COURT CONTINUES TO RESERVE ON MODIFICATION OF CHILD SUPPORT AND SETS A FURTHER REVIEW HEARING ON THE ISSUE OF CHILD SUPPORT ON AUGUST 18<sup>TH</sup>, 2022 AT 8:30 AM IN DEPARTMENT 5. 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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DEPARTMENT 5

June 23, 2022

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

**9. MARY JO ADAMS-HERRMANN V. MICHAEL HERRMANN**

**22FL0326**

Petitioner filed a Request for Order (RFO) and Income and Expense Declaration on April 26, 2022. The RFO requests the court order guideline temporary spousal support, Respondent be ordered to maintain Petitioner as beneficiary on all deferred compensation accounts as well as all insurances, and Respondent provide written documentation showing such, and Family Code 2030 attorney fees. Respondent was personally served on May 9, 2022.

Respondent filed a Responsive Declaration and Income and Expense Declaration on June 10, 2022. Petitioner was served by mail on June 3, 2022. Respondent consents to guideline spousal support as well as the parties maintaining each other on respective retirement accounts, deferred compensation accounts, and health insurance. Respondent objects to Petitioner's request for Family Code section 2030 attorney fees. Respondent has attached proposed DissoMaster and bonus tables.

Per the April 26, 2022 filed Income and Expense Declaration, Petitioner has an average monthly income of \$2,549. She contributes \$102 monthly to her 401(k). Petitioner contributes \$146 to a health care flex account. Petitioner has no other deductions.

Respondent has an average monthly income of \$30,000 per the June 10, 2022 filed Income and Expense Declaration. He has deductions for property tax of \$1,645 per month and declared interest expense of \$6,208.

Utilizing the same figures as outlined above, the court finds that spousal support per the Alameda formula is \$7,891 per month. See attached DissoMaster report. The court adopts the attached DissoMaster report and orders Respondent to pay Petitioner \$7,891 per month as and for temporary spousal support, payable on the 1st of the month until further order of the court or legal termination. The court orders the temporary spousal support order effective May 1, 2022.

The court finds the above order results in arrears in the amount of \$15,782 through and including June 1, 2022. The court orders Respondent pay Petitioner \$1,214 on the 15th of each month until paid in full (approximately 13 months). If a payment is late or missed the remaining balance is due in full with legal interest within five (5) days.

The parties are ordered to abide by the Automatic Temporary Restraining Orders (ATROS). The parties shall maintain each other as the beneficiary of retirement accounts, deferred compensation accounts, and health insurance policies.

The court denies Petitioner's request for Family Code section 2030 attorney fees. Petitioner has not properly plead the request, as she has not included the requisite forms or

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declaration, as required by California Rule of Court 5.427; Petitioner has not included FL-319, FL-158 or comparable declaration, and FL-157 or comparable declaration.

Petitioner shall prepare and filed the Findings and Orders After Hearing.

**TENTATIVE RULING #9: THE COURT ORDERS GUIDELINE TEMPORARY SPOUSAL SUPPORT AS OUTLINED ABOVE. THE COURT ORDERS BOTH PARTIES TO ABIDE BY THE ATROS. THE COURT DENIES PETITIONER'S REQUEST FOR FAMILY CODE SECTION 2030 ATTORNEY FEES. PETITIONER SHALL PREPARE AND FILED THE FINDINGS AND ORDERS AFTER HEARING.**

ATTORNEY (NAME AND ADDRESS): <b>EDC</b> <b>Court</b>  <b>California</b>  ATTORNEY FOR: <b>Resp.</b>	TELEPHONE NO.:	Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
<b>DISSOMASTER REPORT</b> 2022, Monthly		CASE NUMBER: <div style="font-size: 1.5em; font-family: cursive;">22 FLO326</div>

Input Data	Resp.	Pet.	Guideline (2022)	Cash Flow Analysis	Resp.	Pet.
Number of children	0	0	<b>Nets (adjusted)</b>	<b>Guideline</b>		
% time with Second Parent	0%	0%	Resp.	21,501 Payment (cost)/benefit	(7,157)	7,260
Filing status	Single	Single	Pet.	1,548 Net spendable income	13,610	9,438
# Federal exemptions	1*	1*	Total	23,049 % combined spendable	59.1%	40.9%
Wages + salary	30,000	2,549	<b>Support (Nondeductible)</b>	Total taxes	8,499	1,001
401(k) employee contrib	0	102	SS Payor	Resp. # WHA	18	2
Self-employment income	0	0	Alameda	7,891 Net wage paycheck/mo	20,033	2,152
Other taxable income	0	0	Total	7,891 Comb. net spendable	23,049	
Short-term cap. gains	0	0	<b>Proposed, tactic 9</b>	<b>Proposed</b>		
Long-term cap. gains	0	0	SS Payor	Resp. Payment (cost)/benefit	(7,157)	7,260
Other gains (and losses)	0	0	Alameda	7,891 Net spendable income	13,610	9,438
Ordinary dividends	0	0	Total	7,891 NSI change from gdl	0	0
Tax. interest received	0	0	Savings	0 % combined spendable	59.1%	40.9%
Social Security received	0	0	No releases	% of saving over gdl	0%	0%
Unemployment compensation	0	0		Total taxes	8,499	1,001
Operating losses	0	0		# WHA	18	2
Ca. operating loss adj.	0	0		Net wage paycheck/mo	20,033	2,152
Roy, partnerships, S corp, trusts	0	0		Comb. net spendable	23,049	
Rental income	0	0		Percent change	0.0%	
Misc ordinary tax. inc.	0	0		Default Case Settings		
Other nontaxable income	0	0				
New-spouse income	0	0				
Adj. to income (ATI)	0	146				
SS paid other marriage	0	0				
Ptr Support Pd. other P'ships	0	0				
CS paid other relationship	0	0				
Health ins.	0	0				
Qual. Bus. Inc. Ded.	0	0				
Itemized deductions	7,853	0				
Other medical expenses	0	0				
Property tax expenses	1,645	0				
Ded. interest expense	6,208	0				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
Required union dues	0	0				
Cr. for Pd. Sick and Fam. L.	0	0				
Mandatory retirement	0	0				
Hardship deduction	0*	0*				
Other gdl. deductions	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	0				



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

**10. MARY MCQUINN V. MICHAEL MCQUINN**

**PFL20170332**

On April 26, 2022, Respondent filed a Request for Order (RFO) requesting the court order Petitioner seek employment. Petitioner was served electronically on April 28, 2022. Respondent asserts Petitioner is “not really working” and does not contribute to the financial support of the minors. Respondent asserts there are financial issues in the case including attorney fees, child support, and the payment of fees for the minors’ counseling and Minors’ Counsel’s attorney fees. Respondent states Petitioner’s refusal to work interferes with his ability to have a greater timeshare with the minors.

On May 3, 2022, parties submitted a stipulation and order to the court regarding custody and parenting time.

On May 4, 2022, Respondent filed an Erratum, to the RFO with Attachment 10 which had be omitted from the original filing. Petitioner was served electronically on May 4, 2022. Attachment 10 sets forth Respondent’s assertion that Petitioner is able to earn no less than \$29,120 to \$31,200 a year and no less than \$31,200 per year starting January 1, 2023. Respondent offers no authority under which the court can make this order.

Petitioner filed a Responsive Declaration on June 9, 2022. Respondent was served by mail on June 9, 2022. Petitioner objects to Respondent’s request she see work. Petitioner asserts Respondent is voluntarily unemployed and not seeking work. The parties Judgment of Dissolution was entered in 2017. The current child support orders have been in place for approximately two years. Petitioner asserts there is no pending request to modify child support based on change in circumstances which would be needed for the court to exercise its continuing jurisdiction under Family Code section 3651 and California Rules of Court, Rules 5.260 and 5.92. Petitioner requests the court order Family Code section 271 sanctions against Respondent for bringing this motion. Petitioner also states she is currently employed and is seeking further employment. Petitioner asserts it is challenging to find employment that will also accommodate the minors’ schedules and needs. Petitioner requests the court order Respondent seek full time employment under Family Code section 4505 as he is the child support obligor and is in default.

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

The court denies Respondent’s request to order Petitioner to seek work. First, the court finds there is no pending motion to modify child support, and therefore, the court lacks jurisdiction to make such an order. Second, even if the court had jurisdiction, the court would deny the request, as it is not in the best interest of the minors. Petitioner is currently employed part-time and is seeking further employment. Additionally, one of the minors has special needs

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and requires specialized childcare. Further, all the minors have a demanding schedule, including transporting them to multiple appointments at various locations, multiple days a week. The court finds the costs of childcare would exceed any potential additional earning Petitioner may gain with full-time minimum wage employment.

Additionally, the court denies Petitioner's request for Respondent to seek work. However, the court reminds both parties of their mutual responsibility to provide support for the minors.

Neither party has filed an Income and Expense Declaration within the last 90 days. The court finds it does not have adequate information to ascertain the parties' incomes, assets, liabilities, and ability to pay as required under Family Code section 271. Therefore, the court denies Petitioner's request for Family Code section 271 sanctions without prejudice.

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 #10: RESPONDENT'S REQUEST FOR ORDER IS DENIED. PETITIONER'S REQUEST FOR RESPONDENT TO SEEK WORK IS DENIED, WITHOUT PREJUDICE. PETITIONER'S REQUEST FOR FAMILY CODE SECTION 271 SANCTIONS IS DENIED WITHOUT PREJUDICE. 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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8:30 a.m./1:30 p.m.

**11. MONICA LITTLE V. JAMES LITTLE**

**PFL20200073**

On April 7, 2022, Respondent filed an ex parte request for emergency temporary custody orders, requesting Respondent have parenting time with the minors every weekend from Friday at 8:00 pm until Sunday at 9:00 pm. Petitioner filed a responsive declaration on April 7, 2022, stating the parties currently exercise a parenting plan with Respondent having parenting time every other weekend from Friday to Sunday. Petitioner asserted Respondent's home is no longer safe for the minors, due to domestic violence between Petitioner and Respondent. Petitioner requested the court order sole legal and physical custody to Petitioner. Petitioner also objected to the request as there was no emergency basis to file the ex parte and requested the court order Family Code section 271 sanctions against Respondent. On April 8, 2022, the court denied Respondent's ex parte request, and ordered parties to maintain the current custody agreement. The court reserved on Petitioner's request for Family Code section 271 sanctions. Respondent filed a Request for Order (RFO) on April 8, 2022, requesting the court make custody and parenting plan orders. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on May 12, 2022 and a review hearing on June 11, 2022. On April 11, 2022, the court issued an amended referral, which modified the review hearing date to June 23, 2022. Petitioner was served electronically on April 26, 2022.

On April 8, 2022, Petitioner filed a request for a Domestic Violence Restraining Order (DVRO). The court granted the request on April 8, 2022 and issued a Temporary Restraining Order (TRO) protecting Petitioner as well as the minors. The court ordered Respondent to have professionally supervised parenting time two times a week for two hours each. On April 22, 2022, the court continued the TRO to November 1, 2022, and set the matter for a three-day evidentiary hearing set to commence on October 21, 2022.

On May 6, 2022, Respondent filed a Supplemental Declaration. Petitioner was served electronically on May 6, 2022.

On May 24, 2022, Respondent's attorney filed a declaration regarding Respondent's participation in parenting and coparenting classes as well as supervised parenting time. Petitioner was served electronically on May 24, 2022.

The parties participated in CCRC on May 24, 2022. The parties were able to agree the minors should participate in therapy. No other agreements were reached. The CCRC counselor made recommendations as to custody and a parenting plan.

Respondent filed a Supplemental Declaration regarding the CCRC report and recommendations. Petitioner was served electronically on June 13, 2022. Respondent essentially agrees with the recommendations of the CCRC counselor but requests several modifications. Respondent requests that Step 1 of the step-up plan commence immediately,

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on Saturday June 25, 2022. Respondent requests Step 2 be modified to two eight-hour day visits a week rather than one. Respondent also requests the parent approval provision be modified to only require the minors' therapist's approval. Respondent requests Step 3 be modified from every other weekend to the 1<sup>st</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> weekend. Respondent agrees to the remaining recommendations. Respondent also requests the minors be allowed to initiate phone calls and text messages with them whenever the minors choose, rather than everyday between 7:00 pm and 7:15 pm.

Petitioner has not filed any additional declarations.

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

The court finds the recommendations contained in the CCRC report are in the best interest of the minors. The parties shall have joint legal custody. Petitioner shall have primary physical custody. The court adopts the step-up parenting plan as set forth in the CCRC report, with the following modifications: Step 1 will start after the minors have completed their intake session with their individual counselor; Step 2 will be two six hour visits, rather than one eight hour visit; Step 3 will be the 1<sup>st</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> weekends; each step will be at least 30 days and Respondent may progress to the next step with the minors' therapist's approval, with Petitioner providing input to the minors' therapist. The court adopts the holiday schedule, transportation plan, travel provisions, as well as the additional provisions as set forth in the report. The minors shall be made available everyday from 7:00 pm to 7:15 pm for telephone contact with Respondent. The court denies Respondent's request to allow the minors to contact them at any time, as there is a currently a Temporary Restraining Order in effect which protects the minors, and prohibits contact with the minors outside the court ordered visitation. The parties are to use the familywizard.com application to communicate with each out about the minors. The court adopts the respect guidelines. The parties shall each participate in a co-parenting class; the court notes Respondent's certificate of completion for co-parenting class dated May 22, 2022 (Exhibit O). Respondent shall complete a parenting class; the court notes Respondent has provided a certificate of completion for a 16-hour parenting class Respondent completed on May 23, 2022 (Exhibit N). The minors shall participate in individual therapy. Parents are to follow the recommendations and treatment plan of the therapist. The minors shall attend at a frequency and duration as directed by the therapist. Petitioner shall participate in individual therapy with a licensed clinician, at a frequency and duration as directed by the clinician. Respondent shall participate in individual therapy, with a licensed clinician, at a frequency and duration as directed by the clinician.

All prior orders not in conflict with these orders remain in full force and effect. Respondent shall prepare and file the Findings and Orders After Hearing.

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

**TENTATIVE RULING #11: THE COURT ADOPTS THE RECOMMENDATIONS CONTAINED IN THE CCRC REPORT AS MODIFIED ABOVE. ALL PRIOR ORDERS NOT IN CONFLICT WITH THESE ORDERS REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**



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

**12. RENEE KLINGHARDT V. JOHN KLINGHARDT**

**PFL20190857**

Parties appeared for trial on May 4, 2022 and stated they had reached a global settlement of the case. Parties requested the court reserve a hearing date on the law and motion calendar for receipt of the judgement. The court is not in receipt of the judgement in this matter. Therefore, parties are ordered to appear.

**TENTATIVE RULING #12: PARTIES ARE ORDERED TO APPEAR.**

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

**13. SANDRA GRANADE V. TIMOTHY GRANADE**

**PFL20190133**

On April 11, 2022, Petitioner filed a Request for Order (RFO) requesting the court order the entry of the order after trial and the entry of judgement or in the alternative, order the sale of the family residence. Respondent was served by mail on April 14, 2022. Petitioner concurrently filed an Income and Expense Declaration. Respondent was served with the Income and Expense Declaration by mail on April 11, 2022. Petitioner requests the court enter the order after trial issued by Commissioner Shepard on November 4, 2021, as the court's order. Petitioner is also requesting entry of proposed Judgement with an attached Marriage Settlement Agreement prepared on November 16, 2021 as a court order or in the alternative, Petitioner requests that the marital residence be sold with the proceeds of the sale divided equally between the parties. Petitioner is requesting Family Code section 2030 attorney fees as well.

On April 18, 2022, Respondent filed an Income and Expense Declaration. Petitioner was served by mail on the same date.

On May 26, 2022, Respondent concurrently filed a Responsive Declaration and RFO requesting the court set a new trial pursuant to Code of Civil Procedure 657. Petitioner was served with the Responsive Declaration and RFO on May 26, 2022. Respondent in the Responsive Declaration requests the RFO for a new trial be heard concurrently with Petitioner's RFO as they involve the same facts and issues. Currently Respondent's RFO is set for a hearing on July 28, 2022.

On June 16, 2022, Respondent filed a Declaration in response to the "Reply Declaration of Sandra Granade". Petitioner was served electronically with Respondent's Declaration on June 16, 2022. Respondent asserts the health insurance issue has been resolved and that he has paid the \$500 in sanctions the court ordered. Respondent renews his assertion the court miscalculated his income in its November 4, 2021 ruling on the submitted matter. Respondent believes there is still a partial settlement agreement between the parties, but if there is not, requests there be a new trial on all the issues. Respondent further requests the court maintain the May 13, 2021 temporary guideline child support and \$1,568 per month and spousal support of \$633 per month. Respondent notes the court reserved retroactivity to December 22, 2020. Respondent is requesting retroactivity to December 22, 2020 with a 36% timeshare. Respondent has attached a DissoMaster as exhibit A which is reflective of the 36% timeshare and what Respondent asserts is the proper income and non-taxable income for Respondent.

Petitioner has not yet filed a Responsive Declaration to Respondent's RFO, however, that matter is not set until July 28, 2022.

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The court continues Petitioner's RFO to join with Respondent's RFO currently set for July 28, 2022 as the court finds they raise the same issues and concerns. The court also notes Respondent filed a Request for a Statement of Decision or in the alternative, an Objection to the Court's Statement of Decision on November 15, 2021. As trial was heard by Commissioner Shepard, he will also need to ruling on Respondent's request and/or objection.

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 #13: THE MATTER IS CONTINUED TO JULY 28, 2022. 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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June 23, 2022

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

**14. SARAH PINNELL V. RICHARD PINNELL**

**PFL20170430**

On April 14, 2022, Respondent filed a Request for Order (RFO) requesting the court modify the parenting plan and allow Respondent an opportunity to have a trial on the Child Custody Recommending Counseling (CCRC) report from March 8, 2022. The court notes, the facesheet of the RFO mistakenly refers to Respondent as Petitioner and vice versa. Respondent's declaration also misidentifies Respondent as Petitioner. Upon review of the court file, there does not appear to be a Proof of Service showing Petitioner was served with the RFO. However, Petitioner has filed a Responsive Declaration to the RFO responding to the issues presented. Therefore, the court finds Petitioner has actual notice of the RFO and the requests being made.

Respondent asserts he was not provided with the tentative ruling paperwork when he filed his RFO on January 5, 2022. The court notes there is a copy of the tentative ruling guidelines in the court file, file endorsed January 5, 2022. The court does not find Respondent's assertion that he did not receive the paperwork from the clerk's office to be credible. Respondent did not request oral argument for the March 23, 2022 hearing and the court adopted its tentative ruling. Respondent requests the court grant him primary physical custody of the minors and set the custody recommendation for trial. Respondent asserts the CCRC counselor and court should have conducted a move away analysis.

Petitioner filed a Responsive Declaration on June 17, 2022. Respondent was served by mail on June 15, 2022. The court notes the Responsive Declaration was not filed ten days prior to the hearing in accordance with Code of Civil Procedure 1005. However, in her declaration Petitioner asserts she received a letter from Respondent's counsel stating he would be requesting a continuance of the hearing date as he was unavailable on June 23, 2022. Petitioner attached the letter as an exhibit to her declaration. Petitioner further asserts when she contacted Respondent's counsel on June 14, 2022, counsel stated the hearing was not going to be continued. The court finds good cause to accept and consider Petitioner's Responsive Declaration. Petitioner requests the current court orders remain in full force and effect. Petitioner asserts she has been the primary caretaker for the minors throughout their lives. Petitioner also asserts Respondent has not been ensuring the minors' attendance at school on Fridays, missing 11 Fridays during the school year. Petitioner further states Respondent has neglected the minors' medical needs including dental needs and failing to take J.P. to the emergency room for follow up care after he suffered a febrile seizure. Petitioner states Respondent has failed to pay for one-half the medical bills for the minors. Petitioner requests the medical bills be added to the child support order.

The court denies Respondent's request to modify the parenting plan. The court is concerned with the issues Petitioner has raised in her responsive declaration, specifically

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

Respondent's refusal to cooperate with Petitioner on the minors' dental needs, as well as the failure to seek follow-up medical care for the minor J.P. after he suffered a seizure. The court is also concerned about Respondent's failure to ensure the minors regular school attendance during his parenting time. The court finds the current orders are in the minors' best interest.

The court finds the request to set a trial on Petitioner's relocation is akin to a motion for reconsideration. The court finds Respondent has failed to identify any new facts, circumstances, or law not available to be presented at the first hearing. Parties attended Child Custody Recommending Counseling on March 8, 2022 where the issue of Petitioner's relocation to Vacaville was thoroughly discussed. Although Respondent asserts, he was not provided with the tentative ruling procedures, the court does not find that assertion credible. The court denies Respondent's request to set a trial on Petitioner's relocation.

Petitioner's request for the minors' medical bills to be added to the child support order is beyond the scope of Respondent's RFO, and therefore is denied.

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#14: RESPONDENT'S REQUEST FOR ORDER TO MODIFY THE CURRENT PARENTING PLAN IS DENIED. RESPONDENT'S REQUEST FOR A TRIAL ON PETITIONER'S RELOCATION IS DENIED. PETITIONER'S REQUEST TO ADD THE MINORS' MEDICAL BILLS TO THE CHILD SUPPORT ORDER IS DENIED WITHOUT PREJUDICE. 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.**

LAW & MOTION TENTATIVE RULINGS

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June 23, 2022

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

14A. SUSAN MOSKALETS V. VICTOR MOSKALETS

PFL20210479

On June 14, 2022, Petitioner filed an application for Order Shortening Time (OST) and a Request for Order (RFO), requesting Respondent reinstate the homeowner's insurance for the marital property and for Family Code section 2030 attorney fees. On June (date) 2022, the court granted the OST and set the RFO on the law and motion calendar for June 23, 2022. Petitioner was ordered to serve Respondent with the RFO on or before June 16, 2022. The court allowed Respondent until June 20, 2022 to file a Responsive Declaration.

On June 16, 2022 Petitioner filed a Proof of Service indicating Respondent was served by mail on June 15, 2022.

Petitioner asserts the parties own a house in Somerset, without any encumbrances. Petitioner states Respondent cancelled the homeowner's insurance on the residence. Petitioner asserts the cancellation of the homeowner's insurance is not only a violation of the Automatic Temporary Restraining Orders (ATROS) but also a violation of Family Code section 721, which delineates spouses' fiduciary duties to each other. Petitioner states that in addition to cancelling the homeowner's insurance, Respondent has also removed the key to the riding lawnmower and disabled the weed-eaters. This has resulted in the defensible space of the home being compromised. Cal-Fire has issued a citation requiring the weeds be cut down.

Petitioner is requesting the court order Family Code 2030 attorney fees, as the matter is currently set for trial on the issue of the date of the marriage, spousal support, and attorney fees. Petitioner asserts Respondent is a master mechanic and has the ability to earn on average \$80,000 to \$100,000 per year. Since Petitioner requested spousal support, Respondent has asserted his is disabled and cannot work. Petitioner asserts, however, Respondent has continued to work in a cash only business buying and selling vehicles. Petitioner requests the court order Respondent to cooperate in selling \$15,000 in community assets to allow Petitioner to retain counsel.

Respondent filed an Income and Expense Declaration on May 6, 2022. Petitioner was served by mail on May 6, 2022. Respondent has no stated income.

Petitioner filed and Income and Expense Declaration on May 31, 2022. Upon review of the court file, there is no Proof of Service indicating Respondent was served with the Income and Expense Declaration.

Parties are ordered to appear.

**TENTATIVE RULING #14A: PARTIES ARE ORDERED TO APPEAR.**