

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 12, 2023

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

1. AARON ROSELI V. CHRISTINA ROSELI

PFL20160177

On October 20, 2022, the court adopted its tentative ruling with modifications. The minor H.R. was to be referred to a therapist to be assessed for counseling services. The court set a timeline for selecting a therapist. The court rereferred the parties to Child Custody Recommending Counseling (CCRC) and directed the counselor to determine whether the minors should be interviewed. The court set a further review hearing for January 12, 2023.

Only Petitioner and the minors attended the CCRC appointment on November 10, 2022. A report without recommendations or agreements was filed with the court on November 10, 2022. The report does contain the interview the counselor conducted with the minors. The report was mailed to the parties on November 17, 2022.

Neither party has filed a Supplemental Declaration.

The court has read and considered the November 10, 2022 filed CCRC report. The court finds the current orders for custody and parenting time remain in the minors' best interests. All prior orders remain in full force and effect.

TENTATIVE RULING #1: THE COURT FINDS THE CURRENT ORDERS FOR CUSTODY AND PARENTING TIME REMAIN IN THE MINORS' BEST INTERESTS. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6725 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999). NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 12, 2023

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

2. DCSS V. JOHN FINISH (OTHER PARENT: HEATHER STEPHENS)

PFS20190290

Respondent filed a Request for Order (RFO) requesting the court modify child custody, parenting time, and child support on October 19, 2022. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on November 7, 2022 and a review hearing on January 12, 2023. Other Parent and DCSS were served by mail on October 20, 2022. Respondent requests the court order joint legal and physical custody of the minors. Respondent requests child support be adjusted to reflect his timeshare with the minors.

Neither party appeared for the CCRC appointment on November 7, 2022.

Other Parent filed a Responsive Declaration on December 7, 2022. Respondent was personally served on December 2, 2022. Other Parent objects to Respondent's request for custody and parenting time. Other Parent agrees to the court ordering guideline child support.

The court rerefers the parties to CCRC for an appointment on 1/19/2023 at 9:00 am with Norman Labat and a further review hearing on March 16, 2023 at 8:30 in Department 5. The court admonishes the parties, should either fail to appear for the CCRC appointment, the court may impose sanctions on the party who failed to appear.

The court notes the parties are scheduled to appear in Department 5 on January 23, 2023 for a further hearing on child support. The court continues the review hearing on Child Support and sets Respondent's request to modify child support on March 27, 2023 at 8:30 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.

TENTATIVE RULING #2: THE COURT REREFERS THE PARTIES TO CCRC FOR AN APPOINTMENT ON 1/19/2023 at 9:00 am AND A FURTHER REVIEW HEARING ON March 16, 2023 AT 8:30 IN DEPARTMENT 5. THE COURT ADMONISHES THE PARTIES, SHOULD EITHER FAIL TO APPEAR FOR THE CCRC APPOINTMENT, THE COURT MAY IMPOSE SANCTIONS ON THE PARTY WHO FAILED TO APPEAR. THE COURT CONTINUES THE REVIEW HEARING ON CHILD SUPPORT AND SETS RESPONDENT'S REQUEST TO MODIFY CHILD SUPPORT ON March 27, 2023 AT 8:30 IN DEPARTMENT 5. ANY SUPPLEMENTAL DECLARATIONS AND UPDATED INCOME AND EXPENSE DECLARATIONS ARE DUE AT LEAST 10 DAYS PRIOR TO THE RESPECTIVE HEARING. 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.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6725 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 12, 2023

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

RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999). NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 12, 2023

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

3. CURT SALVESON V. HOLLY SALTER

PFL20210077

Petitioner filed a Request for Order (RFO) on October 14, 2022, seeking to compel Respondent to produce her preliminary disclosure and sanctions in the amount of \$7,000. The RFO was properly served on October 17th. Respondent filed her Responsive Declaration to Request for Order on December 1st. It was served electronically and via U.S. Mail on November 29th. Petitioner's reply was filed on January 3rd and served thereafter on January 4th.

According to Petitioner, Respondent's preliminary disclosures were due on September 20, 2022. As of September 28th, no such disclosures had been served. Petitioner contacted Respondent's attorney and asked that the documents be served no later than October 12th or a motion to compel would be filed. Still, Respondent did not serve her documents. Petitioner is of the belief that Respondent's failure to serve the required documents is in an effort to hide or manipulate disclosure information and to force Petitioner to incur the cost of obtaining an attorney. Petitioner requests \$7,090 in attorney's fees and costs, although it is unclear if his request is pursuant to Family Code Section 2107(c) or to Family Code Section 271.

Respondent denies the allegation that she is attempting to be evasive or manipulate her disclosures. Instead, Respondent states, the delay in her disclosures was due to Petitioner improperly moving for entry of default. Respondent was working to set aside the default when the court did so on its own motion. The day after the court set aside the default, Petitioner contacted Respondent and asked for the disclosures within two weeks, or he would proceed with a motion to compel. On October 3rd, Respondent's counsel emailed Petitioner assuring him that since they had received the set aside of the default, they would be sending disclosures as soon as possible. It appears Petitioner did not Respond. Respondent has since served her preliminary disclosures on November 22, 2022. Respondent requests \$1,500 in attorney's fees for having to oppose the present motion.

Petitioner maintains that even though the disclosures have been served, his RFO should still be granted as the disclosures are unreadable, missing, or incomplete. On December 7th Petitioner sent a meet and confer letter regarding the alleged deficiencies in the disclosures. It was requested that amended responses be served no later than December 31st. Respondent requested additional time due to the holidays.

Petitioner's motion is to compel preliminary disclosure responses. Responses have since been served. Thus, it appears Petitioner's request for an order compelling responses is now moot and no ruling on the motion is necessary.

Requests for sanctions by both parties are denied. Respondent was untimely in serving her disclosures. However, Petitioner failed to make a good faith effort to meet and confer. Filing a motion to compel when the opposing party has indicated its intent to comply but states

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 12, 2023

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

it needs more time, is not good faith. The parties are admonished to engage in conduct which furthers the policy of the law to promote settlement and reduce litigation costs. Failure to do so in the future may result in sanctions.

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

TENTATIVE RULING #3: THE MOTION TO COMPEL IS MOOT AS DISCLOSURES HAVE BEEN SERVED. REQUESTS FOR SANCTIONS BY BOTH PARTIES ARE DENIED. THE PARTIES ARE ADMONISHED TO ENGAGE IN CONDUCT WHICH FURTHERS THE POLICY OF THE LAW TO PROMOTE SETTLEMENT AND REDUCE LITIGATION COSTS. FAILURE TO DO SO IN THE FUTURE MAY RESULT IN SANCTIONS. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 12, 2023

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

4. DCSS V. BRANDON J. ROY

PFS20180084

On October 6, 2022, the court adopted its tentative ruling with modifications to the Child Custody Recommending Counseling (CCRC) report. The court set a review hearing for January 12, 2023, to review the step-up plan for Other Parent's parenting time and compliance with substance abuse treatment and testing. Parties were served with the Findings and Orders After Hearing on October 18, 2022.

Neither party has filed a Supplemental Declaration.

The court notes Respondent filed a Request for Order (RFO) for modification of Child Support on December 1, 2022. That RFO has been set for a hearing on February 16, 2023. For judicial economy, the court continues this matter to February 16, 2023. Parties are ordered to file Supplemental Declarations updating the court on Other Parent's progress in substance abuse treatment and testing as well as participation in supervised parenting time. Failure to file a Supplemental Declaration may result in the parenting plan review hearing being dropped from calendar.

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

TENTATIVE RULING #4: FOR JUDICIAL ECONOMY, THE COURT CONTINUES THIS MATTER TO FEBRUARY 16, 2023. PARTIES ARE ORDERED TO FILE SUPPLEMENTAL DECLARATIONS UPDATING THE COURT ON OTHER PARENT'S PROGRESS IN SUBSTANCE ABUSE TREATMENT AND TESTING AS WELL AS PARTICIPATION IN SUPERVISED PARENTING TIME. FAILURE TO FILE A SUPPLEMENTAL DECLARATION MAY RESULT IN THE PARENTING PLAN REVIEW HEARING BEING DROPPED FROM CALENDAR. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6725 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999). NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 12, 2023

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

5. GARREN J. BRATCHER V. EMMALEIGH BRATCHER

PFL20140350

On June 3, 2022, Respondent filed an Ex Parte Application and Declaration for Orders and Notice requesting sole physical and legal custody of the minor children and no visitation with Petitioner. The ex parte was denied and the parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on July 7, 2022. A hearing on the issue was set for August 25, 2022.

On June 6, 2022, Respondent filed her Request for Order (RFO) making the same requests as set forth in her ex parte application. There is a Notice and Acknowledgement of Receipt on file indicating that Petitioner was served with the RFO and CCRC questionnaire.

Also on June 6th, the parties filed a Stipulation and Order for Custody and/or Visitation of Children. At that time, they agreed that, among other things, the minor E.B. will not have any visitation with Petitioner until either July 7th, if an agreement is reached at mediation, or until August 25th if the parties cannot agree at mediation and a hearing on the motion is conducted. Respondent was to have only supervised visits with the minor R.B. as agreed upon by the parties. On August 9th the stipulation was re-filed to correct a clerical error. Nothing substantive had changed.

The CCRC report was not issued until August 16, 2022 and not mailed to the parties until August 18, 2022. To allow the parties time to review and respond to the CCRC report, the court continued the matter to October 6th for a review of the CCRC report and ruling on the RFO. Neither party has filed a response to the CCRC report.

On October 6, 2022, after reviewing the filings of the parties, as well as the recommendations of the CCRC report, the court adopted the recommendations contained in the CCRC report as the order of the court with the following modifications: (1) The parties are to have joint legal custody of the minor children; (2) Petitioner is to have primary physical custody of the minor R.B.; (3) Respondent is to have supervised visitation with R.B. at least once per week for 2 hours per visit; (4) Respondent is to have primary physical custody of the minor E.B.; (5) Petitioner is to have supervised visits with the minor E.B. at least once per week for a period of 2 hours per visit; (6) Both parties shall exert every effort to maintain free and unhampered phone, text, or videoconference contact between the children and the other party, and shall foster a feeling of affection between them and the other party. The court set a review hearing for January 12, 2023. The court directed that Supplemental Declarations were to be filed at least 10 days prior to the next hearing.

Respondent filed a Supplemental Declaration on January 4, 2022. Petitioner was served electronically on January 3, 2023. Respondent asserts in her Declaration that Petitioner has failed to provide proof of enrollment of the minor R.B. in counseling services. Respondent

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 12, 2023

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

asserts Petitioner has not allowed anyone other than himself to supervise visits between Respondent and the minor. Respondent further asserts Petitioner will only allow the visits to take place at his home. This has resulted in Respondent not being able to visit the minor one time. Respondent requests the court designate the maternal grandmother as a visitation supervisor. Respondent also asserts Petitioner has prevented her from having free and unhampered phone, text, or videoconference contact with the minor. Respondent states Petitioner has made no effort to contact or see the minor E.B. Respondent requests the court order the parties to cooperate and agree on the designation of a supervisor, that visits be extended to four hours each given the travel time between the parties, that the minor R.B. be assessed for counseling services within 14 days and to follow the recommendations of the therapist, and Petitioner not be allowed to monitor or interfere with Respondent's phone/video contact with the minor.

Petitioner has not filed a Supplemental Declaration.

The minor R.B. is to be assessed for counseling services on or before February 2, 2023. If the recommendation is for additional counseling services, the minor shall attend at a frequency and duration as directed by the therapist. The court affirms the prior orders as to visitation with the following modification, if the parties cannot agree on a third party to supervise the visits, visits shall be in a professionally supervised setting, with the parties to share in the costs equally. This shall apply to visitation between both parties and both minors. The visits shall be a minimum of three hours. Petitioner shall allow free and unhampered phone, text, or videoconference contact between the minor and Respondent, and shall foster a feeling of affection between them and the other party.

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 #5: THE MINOR R.B. IS TO BE ASSESSED FOR COUNSELING SERVICES ON OR BEFORE FEBRUARY 2, 2023. IF THE RECOMMENDATION IS FOR ADDITIONAL COUNSELING SERVICES, THE MINOR SHALL ATTEND AT A FREQUENCY AND DURATION AS DIRECTED BY THE THERAPIST. THE COURT AFFIRMS THE PRIOR ORDERS AS TO VISITATION WITH THE FOLLOWING MODIFICATION, IF THE PARTIES CANNOT AGREE ON A THIRD PARTY TO SUPERVISE THE VISITS, VISITS SHALL BE IN A PROFESSIONALLY SUPERVISED SETTING, WITH THE PARTIES TO SHARE IN THE COSTS EQUALLY. THIS SHALL APPLY TO VISITATION BETWEEN BOTH PARTIES AND BOTH MINORS. THE VISITS SHALL BE A MINIMUM OF THREE HOURS. PETITIONER SHALL ALLOW FREE AND UNHAMPERED PHONE, TEXT, OR VIDEOCONFERENCE CONTACT BETWEEN THE MINOR AND RESPONDENT, AND SHALL FOSTER A FEELING OF AFFECTION BETWEEN THEM AND THE OTHER PARTY. ALL PRIOR ORDERS NOT IN CONFLICT

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 12, 2023

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

WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 12, 2023

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

6. JACQUELIN MULLINAX V. BRYAN MULLINAX

22FL0813

Parties appeared for a hearing on a request for a Domestic Violence Restraining order on November 4, 2022. The court set the matter for a one-day evidentiary hearing on January 25, 2022. The court set a Mandatory Settlement Conference to join with the previously set Child Custody Recommending Counseling (CCRC) review hearing on January 12, 2023. The court directed parties to file Statements of Issues and Contentions at least 10 days prior to the Settlement Conference. The court reissued the temporary restraining order with the same terms and conditions as previously established.

Only Respondent appeared for the CCRC appointment on November 9, 2022. Petitioner's counsel was present on October 24, 2022 when the court referred the parties to CCRC for an appointment on November 9, 2022. A single parent report with no agreements or recommendations was filed on November 9, 2022. A copy of the report was mailed to the parties on November 10, 2022.

Neither party has filed a Statement of Issues and Contentions.

Parties are ordered to appear for the hearing.

TENTATIVE RULING #6: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 12, 2023

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

7. JENNIFER BARRY V. MARK BARRY

22FL0585

On September 9, 2022, the parties appeared for a hearing on a request for a Domestic Violence Restraining Order. Parties agreed to the court issuing a restraining order for a period of two years, with Petitioner and minors as the protected parties and Respondent as the restrained party. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on October 5, 2022 and a review hearing on November 17, 2022.

On September 28, 2022, the CCRC appointment was reset to October 24, 2022 and the review hearing was reset to December 15, 2022.

On October 20, 2022, a peremptory challenge was filed against the CCRC counselor and the matter was reassigned to a new counselor. The CCRC appointment was reset to November 10, 2022 and the review hearing was reset to January 12, 2023.

Both parties attended the CCRC appointment on November 10, 2022. The parties were able to reach a full agreement. A copy of the report with the parties' agreement was filed with the court on November 10, 2022 and mailed to the parties on November 17, 2022.

Petitioner filed a Reply Declaration and Supplemental Declaration on November 29, 2022. Respondent was served by mail on November 29, 2022. Petitioner states in her Reply to CCRC Declaration that the report does not accurately depict what she agreed to. Specifically, she did not agree to step up to unsupervised visitation automatically after 90 days. Petitioner requests all current court orders regarding supervised visitation remain in full force and effect. Respondent to complete a three-month outpatient program through Kaiser, CDRP, and provide proof of completion to Petitioner's attorney prior to the next hearing as previously ordered. Respondent shall attend two Alcoholics Anonymous meetings per week and provide proof of attendance to Petitioner's attorney at the end of each month as previously ordered. Petitioner requests Respondent be ordered to continue to participate in the Soberlink testing as previously ordered. Respondent to enroll in and complete a 52-week Batterers Intervention Program. Respondent to complete individual counseling. Respondent to participate in counseling with the minors when deemed appropriate by the minors' therapist. Respondent to complete a four-hour parenting class and provide proof of completion to the court and Petitioner's attorney. The court to set a further review hearing in approximately 90 days. Petitioner asserts in her declaration the Respondent has failed to abide by multiple court orders.

On December 27, 2022, Respondent filed a Supplemental Declaration and Reply Declaration to Petitioner's Declarations and CCRC report. Respondent concurrently filed a Declaration with the Supervised Visitation Logs attached. Petitioner was served both by mail on December 23, 2022. Respondent asserts he has largely complied with attending Alcoholic

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 12, 2023

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

Anonymous meetings two time per week but does acknowledge missing some meetings. Respondent asserts that he has been mostly compliant with the Soberlink testing and has excuses for each occasion he has missed a test or tested positive. Respondent asserts he complied with signing up with Soberlink as ordered, albeit, one day late. Respondent asserts a “handful” of the missed tests were due to him losing the device, which took some time to replace. Respondent asserts he has been able to sign up for a Batterers Intervention Program as of December 3, 2022. Respondent acknowledges that it took some time to locate and enroll in a program, but that he didn’t have a lot of time to locate and sign up for a program due to his work schedule and CDRP program. Respondent has completed the four-hour parenting class and provided proof of completion. Respondent asserts that he has been compliant with the supervised visitation rules, and that any violations of the rules was not his fault. Respondent requests the court order he begin unsupervised visitation immediately for six hours on a Saturday or Sunday. Respondent requests the court find he has complied with the required four-hour parenting class, three months of CRDP, and AA meetings. Respondent requests the court not order him into residential inpatient treatment if there is a positive or missed test. Respondent seeks clarification of what is considered a missed test as well as clarification of the order for him to participate in counseling with the minors after 60 days of clean tests. Respondent agrees to continue to participate in random alcohol testing with Soberlink. Respondent requests a review hearing in 90 days to review his compliance with the orders and his parenting time with the children. Respondent insists he was not in violation of any orders regarding possession of a firearm, and asserts the confusion was due to Deputy French of the El Dorado County Sheriffs Department.

Petitioner filed an updated Supplemental Declaration on January 6, 2023. Respondent was served electronically on January 6, 2023. Petitioner asserts Respondent fails to recognize the trauma the minors have suffered because of the domestic violence and that Respondent fails to take any accountability for his actions. Petitioner reiterates her requests as set forth in the prior Reply and Supplemental Declaration.

The court orders the parties to appear for the hearing.

TENTATIVE RULING #7: THE COURT ORDERS THE PARTIES TO APPEAR FOR THE HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 12, 2023

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

9. LEANN PARRISH V. GREG PARRISH

PD21359

Respondent filed a Request for Order (RFO) on October 18, 2022, requesting the court enter Judgment Nunc Pro Tunc per Family Code Section 2346. Respondent filed a Memorandum of Points and Authorities concurrently therein. Upon review of the court file, there is no Proof of Service showing Petitioner was served with the RFO or Memorandum of Points and Authorities.

The court drops the matter from calendar due to lack of proper service.

TENTATIVE RULING #9: THE MATTER IS DROPPED FROM CALENDAR DUE TO LACK OF SERVICE.

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LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 12, 2023

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

10. MALIA GREEN V. BRYCE DANIELS, JR.

22FL0712

At the October 21, 2022 hearing on Petitioner's request for a Domestic Violence Restraining Order, the court referred the parties to Child Custody Recommending Counseling (CCRC) for an appointment on November 8, 2022 and a review hearing on January 12, 2023. Counsel for Petitioner requested the spousal support issue be dropped as an issue for the review hearing, as the parties were not married.

Parties attended CCRC on November 8, 2022 and were able to reach a full agreement. A report was filed with the court on November 8, 2022. A copy of the report was mailed to the parties on November 10, 2022.

Respondent filed a Declaration regarding the parenting plan on December 15, 2022. Upon review of the court file, there is no Proof of Service showing Petitioner was served with the Declaration and therefore, the court cannot consider it.

The court has read and considered the November 8, 2022 CCRC report and finds the agreement of the parties to be in the best interest of the minors. The court adopts the parties' agreement as its orders. The parties shall have joint legal custody. Respondent shall have parenting time every other weekend from Friday at 6:00 pm to Sunday at 4:00 pm. The exchanges shall take place as set forth in the agreement. The court adopts the travel plan agreement. The parties shall use talkingparents.com or similar application to communicate regarding the minors. The parties shall enroll in and participate in co-parenting counseling. The court adopts the holiday schedule as set forth in the November 8, 2022 CCRC report.

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

TENTATIVE RULING #10: THE COURT FINDS THE AGREEMENT OF THE PARTIES TO BE IN THE BEST INTEREST OF THE MINORS. THE COURT ADOPTS THE PARTIES' AGREEMENT AS ITS ORDERS. THE PARTIES SHALL HAVE JOINT LEGAL CUSTODY. RESPONDENT SHALL HAVE PARENTING TIME EVERY OTHER WEEKEND FROM FRIDAY AT 6:00 PM TO SUNDAY AT 4:00 PM. THE EXCHANGES SHALL TAKE PLACE AS SET FORTH IN THE AGREEMENT. THE COURT ADOPTS THE TRAVEL PLAN AGREEMENT. THE PARTIES SHALL USE TALKINGPARENTS.COM OR SIMILAR APPLICATION TO COMMUNICATE REGARDING THE MINORS. THE PARTIES SHALL ENROLL IN AND PARTICIPATE IN CO-PARENTING COUNSELING. THE COURT ADOPTS THE HOLIDAY SCHEDULE AS SET FORTH IN THE NOVEMBER 8, 2022 CCRC REPORT. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

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LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 12, 2023

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

11. MARCI ERICKSON V. ROBERT ERICKSON

PFL20210456

On October 17, 2022 Respondent filed a Request for Order (RFO) requesting an order for consolidation of the Family Law Case PFL20210456 with the Civil Case PC20210439. Petitioner was served by mail and electronically on October 17, 2022.

Petitioner filed a Responsive Declaration and Memorandum of Points and Authorities on December 23, 2022. Respondent was served electronically on December 23, 2022. Petitioner objects to the cases being consolidated. Petitioner also requests Attorney Fees and expert witness fees in her Memorandum of Points and Authorities.

Respondent filed a Reply Memorandum of Points and Authorities on January 3, 2023. Petitioner was served by mail and electronically on January 3, 2023.

Petitioner filed a further Rebuttal Declaration to Respondent's Reply on January 5, 2023. Respondent was served electronically on January 5, 2023.

Respondent filed a further Reply Memorandum of Point and Authorities on January 6, 2023. Petitioner was served electronically and by mail on January 5, 2023.

The court has read and considered the filings as set forth above. The court finds Respondent's RFO to be moot. The parties stipulated to consolidate the cases in their stipulation of November 2021. Specifically on page two, item 8, which states: "The pending civil case #PC2021439 shall be consolidated with this case." The court signed and adopted the stipulation of the parties on November 10, 2021. The stipulation remains in full force and effect. The Civil Case PC20210439 has been consolidated with Family Law Case PFL20210456, with the Family Law Case being the lead case.

The court declines to address the request for attorney fees and expert witness fees as it exceeds the scope of the RFO.

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 #11: THE COURT FINDS RESPONDENT'S RFO TO BE MOOT. THE COURT DECLINES TO ADDRESS THE REQUEST FOR ATTORNEY FEES AND EXPERT WITNESS FEES AS IT EXCEEDS THE SCOPE OF THE RFO. 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.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6725 BY 4:00 P.M. ON THE DAY THE TENTATIVE

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 12, 2023

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

RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999). NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 12, 2023

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

12. MARTA WILSON V. BRANDON WILSON

22FL0973

Petitioner filed a Request for Order (RFO) requesting spousal support and attorney fees on October 12, 2022. Petitioner concurrently filed an Income and Expense Declaration. Respondent was personally served on October 31, 2022. Petitioner is requesting the court order guideline temporary spousal support. Petitioner also requests the court award her \$5,000 in attorney fees pursuant to Family Code section 2030.

Respondent filed a Responsive Declaration and Income and Expense Declaration on December 20, 2022. Petitioner was served by mail on December 19, 2022. Respondent agrees to the court ordering guideline temporary spousal support and has attached a proposed DissoMaster as Exhibit A. Respondent objects to the court ordering attorney fees, and requests each party be responsible for their own fees. Respondent asserts he does not have the ability to pay both his and Petitioner's attorneys' fees.

Utilizing Petitioner's October 12, 2022 filed Income and Expense Declaration the court finds her average monthly income to be \$8,191. She has deductions for health insurance of \$332 per month, union dues of \$80 per month; mandatory retirement of \$769 per month, and 457 plan contributions of \$60 per month.

Based on Respondent's December 20, 2022, filed Income and Expense Declaration the court finds Respondent has an average monthly income of \$12,124. Respondent has monthly deductions of \$500 per month for property taxes, \$156 per month for union dues, \$2,155 per month for mandatory retirement and 457 plan contributions of \$1,040 per month.

Based on the above referenced numbers the court finds temporary guideline spousal support, per the Alameda Formula, to be \$381 per month. See attached DissoMaster. The court orders Respondent to pay Petitioner \$381 per month as and for temporary spousal support effective November 1, 2022. Payment is due on the 1st of each month until further order of the court or termination by operation of law.

The court finds this order results in an arrears balance of \$1143. Respondent may pay Petitioner in one lump sum or may make monthly payments of \$190.50 per month for six months. The first payment is due on or before January 15, 2023 and due on the 15th of each month until paid in full. Any missed payment will result in the full amount being due with legal interest.

The public policy of Family Code Section 2030 is to provide "at the outset of litigation, consistent with the financial circumstances of the parties, parity between spouses in their ability to obtain effective legal representation." In Re Marriage of Keech, 75 Cal. App. 4th 860, 866 (1999). This assures each party has access to legal representation to preserve each party's

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 12, 2023

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

rights. It “is not the redistribution of money from the greater income party to the lesser income party,” but rather “parity.” Alan S. v Superior Court, 172 Cal. App. 4th 238,251(2009). The award must be just and reasonable; in taking into consideration what is just and reasonable, the court can take into consideration the need for the award to enable each party, to the extent practical, to have sufficient financial resources to present the party’s case adequately. In addition to the parties’ financial resources, the court may consider the parties’ trial tactics. In Re Marriage of Falcone & Fyke, 203 Cal. App. 4th 964; 975 (2012). The court must consider the impact of the fee award on the payor taking into account any orders for support. Keech, supra, at 860. Here, while Petitioner does earn less than Respondent, it does not appear that the disparity is such that Petitioner is unable to afford counsel. The court denies Petitioner’s request for Family Code section 2030 attorney fees.

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

TENTATIVE RULING #12: THE COURT ORDERS RESPONDENT TO PAY PETITIONER \$381 PER MONTH AS AND FOR TEMPORARY SPOUSAL SUPPORT EFFECTIVE NOVEMBER 1, 2022. PAYMENT IS DUE ON THE 1ST OF EACH MONTH UNTIL FURTHER ORDER OF THE COURT OR TERMINATION BY OPERATION OF LAW. THE COURT ORDERS RESPONDENT TO PAY PETITIONER \$190.50 PER MONTH AS AND FOR ARREARS, FOR SIX MONTHS. THE FIRST PAYMENT IS DUE ON OR BEFORE JANUARY 15, 2023 AND DUE ON THE 15TH OF EACH MONTH UNTIL PAID IN FULL. ANY MISSED PAYMENT WILL RESULT IN THE FULL AMOUNT BEING DUE WITH LEGAL INTEREST. THE COURT DENIES PETITIONER’S REQUEST FOR FAMILY CODE SECTION 2030 ATTORNEY FEES. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT’S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6725 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999). NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.

ATTORNEY (NAME AND ADDRESS): EDC Court California	TELEPHONE NO:	Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
ATTORNEY FOR: Resp.	DISSOMASTER REPORT 2023, Monthly	
		CASE NUMBER:

Input Data	Resp.	Pet.	Guideline (2023)	Cash Flow Analysis	Resp.	Pet.
Number of children	0	0	Nets (adjusted)	Guideline		
% time with Second Parent	0%	0%	Resp.	7,084 Payment (cost)/benefit	(346)	346
Filing status	MFS->	<-MFS	Pet.	4,911 Net spendable income	6,702	5,293
# Federal exemptions	1*	1*	Total	11,995 % combined spendable	55.9%	44.1%
Wages + salary	10,565	8,191	Support (Nondeductible)	Total taxes	2,729	2,099
401(k) employee contrib	1,040	60	SS Payor	Resp. # WHA	0	0
Self-employment income	0	0	Alameda	381 Net wage paycheck/mo	7,807	6,165
Other taxable income	1,559	0	Total	381 Comb. net spendable	11,995	
Short-term cap. gains	0	0	Proposed, tactic 9	Proposed		
Long-term cap. gains	0	0	SS Payor	Resp. Payment (cost)/benefit	(346)	346
Other gains (and losses)	0	0	Alameda	381 Net spendable income	6,702	5,293
Ordinary dividends	0	0	Total	381 NSI change from gdl	0	0
Tax. interest received	0	0	Savings	0 % combined spendable	55.9%	44.1%
Social Security received	0	0	No releases	% of saving over gdl	0%	0%
Unemployment compensation	0	0		Total taxes	2,729	2,099
Operating losses	0	0		# WHA	0	0
Ca. operating loss adj.	0	0		Net wage paycheck/mo	7,807	6,165
Roy, partnerships, S corp, trusts	0	0		Comb. net spendable	11,995	
Rental income	0	0		Percent change	0.0%	
Misc ordinary tax. inc.	1,559	0		Default Case Settings		
Other nontaxable income	0	0				
New-spouse income	0	0				
Adj. to income (ATI)	0	0				
SS paid other marriage	0	0				
Ptr Support Pd. other P'ships	0	0				
CS paid other relationship	0	0				
Health ins(Pd by party)	0	332				
Qual. Bus. Inc. Ded.	0	0				
Itemized deductions	500	0				
Other medical expenses	0	0				
Property tax expenses	500	0				
Ded. interest expense	0	0				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
Required union dues	156	80				
Cr. for Pd. Sick and Fam. L.	0	0				
Mandatory retirement	2,155	769				
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				



LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 12, 2023

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

13. SARAH CRAIG V. RYAN CRAIG

PFL20170099

Respondent filed a Request for Order (RFO) on October 14, 2022, requesting Judge Bowers be disqualified. The court has reviewed the court file and is unable to locate a Proof of Service which corresponds to this RFO. The court notes, there is a Proof of Service filed October 14, 2022, stating “1. Responsive Declaration to Request for Order (vex. Lit) 2. RFO (Dis.)” were personally served on Petitioner and Minors’ Counsel on October 14, 2022 at 2:12 and 2:00 pm respectively. The court cannot decipher if the “RFO (Dis.)” is in reference to the instant RFO or another RFO filed by Respondent. Additionally, the Proof of Service does not include proof of service of the other documents required to be served on Petitioner and Minors’ Counsel, i.e. a blank FL-320 and the Notice of Tentative Ruling. The court finds that if in fact this is the Proof of Service associated with the October 14, 2022 filed RFO, the notice is deficient. However, Petitioner has filed a responsive declaration so the court sees good cause to rule on the matter despite the potentially defective service.

The matter is also on calendar for a review of the exchange location for child custody exchanges.

Request for Disqualification

Respondent requests Judge Bowers be disqualified pursuant to Code of Civil Procedure section 170.1(a)(6)(A0(iii)), asserting Judge Bowers is not able to be impartial. Respondent further asserts Code of Civil Procedure section 1701.1(a)(6)(B) as grounds for disqualification as Respondent argues Judge Bowers is biased or prejudiced against him.

Petitioner filed a Responsive Declaration on December 20, 2022. Respondent was served by mail on December 20, 2022. Petitioner requests the court deny Respondent’s request as Respondent has failed to cite any bias or prejudice against him, but rather claims he has not obtained the orders he desires. Petitioner cites 170.6(a)(2) and requests the court deny the request as untimely.

Minors’ Counsel has not filed a Responsive Declaration.

The statutes governing disqualification of a judge appear in Section 170.1 (grounds for disqualification) and Section 170.3 (procedure). The court finds an RFO is not the proper vehicle to bring a request for disqualification, and the court would deny the request on those grounds alone. Even if the court were to find an RFO was a means by which a request for disqualification could be brought, the court would deny the request on the merits.

First, taking up the issue of procedure, Respondent has failed to personally serve the judge or her clerk with the Statement of Disqualification as required by Section 170.3(c)(1). Rather, Respondent filed an RFO, which was not personally served on Judge Bowers or her

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 12, 2023

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

clerk. Additionally, Respondent did not bring this motion until October 14, 2022, nearly five months after the first hearing Respondent asserts Judge Bowers was biased towards him. The next hearing Respondent asserts Judge Bowers was biased towards him was in July of 2022, and the following was in September of 2022. Section 170.3(c)(1) requires the statement be presented at “the *earliest practicable opportunity* after discovery of the facts continuing the grounds for disqualification” (Emphasis added). Therefore, the court finds petitioner’s challenge was not properly served and is untimely

Even if the motion had been properly served and timely, the court would deny the motion. The presumption is that no bias or prejudice actually exists. Golish v. Feinstein, 123 Cal.App.547, 549 (1932). The party seeking to challenge the judge has the burden of proof to establish that a ground for disqualification exists. Betz v. Pankow, 16 Cal.App.4th 919, 926 (1993).

A party seeking disqualification of a judge under Section 170.1(a)(6)(A)(iii) need not prove actual bias, but potential bias must be clearly established, and statutes that authorize disqualification based upon bias must be applied with restraint. Roitz v. Coldwell Banker Residential Brokerage Co., 62 Cal.App.4th 716, 724 (1998); Christie v. City of El Centro, 135 Cal.App.4th 767, 776 (2006). The standard is an objective one to determine whether a reasonable person would entertain doubts as to the judge’s impartiality when looking at the same circumstances. Briggs v. Super. Ct., 87 Cal.App.4th 312, 319 (2001); United Farm Workers of Am. v. Super. Ct., 170 Cal.App.3d 97, 104 (1985).

Here, Respondent’s dissatisfaction with the rulings of the court made during the proceedings does not constitute grounds for disqualification. In fact, Code of Civil Procedure section 170.2(b), makes clear that it is not grounds for disqualification that a judge “[h]as in any capacity expressed a view on a legal or factual issue presented in the proceeding....” Cal. Civ. Pro. § 170.2(b).

Indeed, as stated in McEwen v. Occidental Life Ins. Co. 172 Cal. 6 (1916), findings based upon evidence and argument officially presented can almost never constitute a valid basis for disqualification. A party's remedy for an erroneous ruling is not a motion to disqualify, but rather review by appeal or writ. *Ibid.* at 11; *see also* Ryan v. Welte, 87 Cal.App.2d 888, 893 (1948) (“[A] wrong opinion on the law of a case does not disqualify a judge, nor is it evidence of bias or prejudice.”) Otherwise, “no judge who is reversed by a higher court on any ruling or decision would ever be qualified to proceed further in the particular case.” *Ibid.*

Therefore, if the court had reached the matter on the merits, the request would be denied.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 12, 2023

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

Custody Exchanges

On December 8, 2022, the court set a further review hearing on the issue of the custody exchange location. Petitioner had requested the exchanges continue to take place at the El Dorado County Sheriff's Department. Respondent has requested the exchanges take place at the Safeway located on Missouri Flat Road. On December 8, 2022, the court maintained the exchange location at the El Dorado County Sheriff's Department.

Respondent filed a Supplemental Declaration on December 19, 2022, however, it does not appear to pertain to this issue. Parties were served on December 19, 2022.

Neither Petitioner nor Minors' Counsel have filed Supplemental Declarations regarding the custody exchanges.

The current orders remain in full force and effect. Respondent shall prepare and file the findings and orders after hearing. Respondent shall prepare and file the Findings and Orders After Hearing.

TENTATIVE RULING #13: THE REQUEST TO DISQUALIFY JUDGE BOWERS IS DENIED. ALL CURRENT ORDERS AS TO CUSTODY EXCHANGES REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6725 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999). NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.