

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 9, 2023

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

12. ASHLEY ST. GEORGE V. JOSHUA ST. GEORGE

22FL0412

Petitioner filed an Order to Show Cause and Affidavit for Contempt (OSC) on November 30, 2022. Petitioner has alleged three count of contempt for failing to pay the mortgage as ordered. Petitioner filed a Proof of Service on February 6, 2023, which the court finds to be untimely. Further, the Proof of Service indicates Respondent was served on February 3, 2023, which was not 16 court days prior to the hearing.

The matter is dropped from calendar due to lack of proper service.

TENTATIVE RULING #12: THE MATTER IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE.

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

February 9, 2023

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

13. BROOK ROTHER V. LAURA THIEL

22FL0940

Petitioner filed a Petition for Nullity on October 4, 2022. Respondent was personally served on October 8, 2022. Petitioner requested and was granted a Default on November 22, 2022. Petitioner filed a Request to Set an Uncontested Matter on December 6, 2022. Petitioner filed a Declaration with attached exhibits on December 16, 2022. There is a Proof of Service showing Respondent was served by mail with the Declaration and attachments on December 16, 2022. Upon review of the court file, there is no Proof of Service showing Respondent was served with the Request to Set an Uncontested Matter.

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

TENTATIVE RULING #13: THE COURT DROPS THE MATTER FROM CALENDAR DUE TO LACK OF PROPER SERVICE.

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

February 9, 2023

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

14. CODY METZGER V. CRYSTAL SCHMEHL

PFL20190072

Respondent filed a Request for Order (RFO) requesting changes to the standing child custody and visitation orders. The parties were referred to Child Custody Recommending Counseling with an appointment on November 2nd and a hearing on the RFO was set for December 15th. According to the Proof of Service on file, the RFO, CCRC referral and other required documents were served on October 6th, however, due to a postal error, Petitioner was not served until November 14th. Petitioner requested to continue the hearing date and asked for a re-referral to CCRC, which the court granted and the matter was re-set to be heard on the present date.

By way of her RFO, Respondent is requesting sole legal custody and joint physical custody of the minor child. She asks that Petitioner have parenting time on the first, second, and forth weekend of each month from Friday after school until Monday before school. In addition, she request the following orders: (1) All exchanges that do not occur at school to take place at the El Dorado County Sheriff's Office; (2) Neither parent to travel with the child more than 100 miles from Placerville, CA or outside the state of CA without the prior written permission of the other party or the court; (3) The implementation of her proposed holiday schedule; (4) Respect Guidelines put in place and prohibition from either party discussing the court proceedings with the child or using him as a messenger; (5) Notifications regarding changes in address or proposed move of the child; (6) Child care provisions and a right of first option for child care; (7) Phone contact provisions; (8) Alcohol, substance abuse and cigarette and marijuana provisions; (8) the requirement of a log book; and (9) the requirement that each party maintain clothing for the child.

The parties attended CCRC on December 15, 2022 and reached agreements regarding legal custody, parenting time, a holiday schedule, transportation, communication, co-parenting counseling, phone contact and individual counseling. In addition to the agreements, the CCRC counselor made recommendations regarding travel and vacations, right of first option, a proposed move of the child, respect guidelines, clothing and belongings, parenting course by Petitioner and individual therapy by Respondent, and transportation of the minor. A report was prepared by the CCRC counselor on December 23, 2022, and mailed to the parties on December 27th.

Petitioner filed his Responsive Declaration to Request for Order on January 27, 2023. It was served via U.S. mail the same day. Service was not in compliance with Civil Procedure Section 1005(c) and therefore the court has not considered this document.

On January 31st, Respondent filed and served a reply to Petitioner's responsive declaration as well as a declaration in response to the CCRC report. Both declarations were mail

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 9, 2023

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

served on January 31st which is not in compliance with Civil Procedure Section 1005(c) and therefore the court has not considered either document.

The court has reviewed the aforementioned filings and finds that the agreements and recommendations as stated in the December 23, 2022, CCRC report to be in the best interest of the minor and hereby adopts them as the orders of the court.

It is apparent from the filings that Petitioner has not fully complied with his child support obligations. The court strongly admonishes Petitioner to fully and timely pay all child support, as ordered by the court.

All prior orders not in conflict with this order are to remain in full force and effect. Failure of either party to comply with any court orders may be grounds for reconsideration of the custody and visitation schedule. Respondent is to prepare and file the Findings and Orders After Hearing.

TENTATIVE RULING #14: THE COURT ADOPTS THE AGREEMENTS AND RECOMMENDATIONS IN THE DECEMBER 23, 2022 CCRC REPORT AS THE ORDERS OF THE COURT. PETITIONER IS STRONGLY ADMONISHED TO FULLY AND TIMELY PAY ALL CHILD SUPPORT AS ORDERED BY THE COURT. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER ARE TO REMAIN IN FULL FORCE AND EFFECT. FAILURE OF EITHER PARTY TO COMPLY WITH ANY COURT ORDERS MAY BE GROUNDS FOR RECONSIDERATION OF THE CUSTODY AND VISITATION SCHEDULE. RESPONDENT IS TO 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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 9, 2023

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

15. JEFFREY SMITH V. KONG SMITH

PFL20170657

On December 6, 2022, parties appeared for a contested hearing on all issues. The parties stated they had reached a full agreement and requested the matter be set for the court to receive the Judgment and Marital Settlement Agreement. The court granted the parties request and set the matter for a hearing on February 9, 2023.

Upon review of the court file, no Judgement or Marital Settlement Agreement has been submitted.

Parties are ordered to appear to submit the Judgment and Marital Settlement Agreement.

TENTATIVE RULING #15: PARTIES ARE ORDERED TO APPEAR TO SUBMIT THE JUDGMENT AND MARITAL SETTLEMENT AGREEMENT.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 9, 2023

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

16. JENNIFER BERG V. KEVIN BERG

22FL0500

Respondent filed a Request for Order (RFO) on November 28, 2022, requesting the family law case be transferred to Butte County. Petitioner was served by mail on January 9, 2023. Respondent states in his Declaration that both minors currently reside with him in Butte County. Petitioner resides in Nevada County. The venue most convenient to the parties is Butte County. Respondent states he will be responsible for paying the transfer fee to transfer the matter to Butte County. Respondent also notes, there is a pending request to transfer the parties child support case (Case number #PFS20130051) to Butte County as well. The court notes that matter is currently set to be heard by the Child Support Commissioner on March 13, 2023.

Petitioner has not filed a Responsive Declaration.

The court grants Respondent's request to change venue to Butte County per Civil Procedure Section 397.5 as there are currently no pending issues before this court in the family law case and neither minor resides in El Dorado County. Therefore, the court finds the convenience of the parties and the interest of justice are served by transferring the matter to Butte County. Respondent shall pay any and all necessary fees to have the matter transferred to Butte County.

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

TENTATIVE RULING #16: THE COURT GRANTS RESPONDENT'S REQUEST TO CHANGE VENUE TO BUTTE COUNTY PER CIVIL PROCEDURE SECTION 397.5 AS THERE ARE CURRENTLY NO PENDING ISSUES BEFORE THIS COURT IN THE FAMILY LAW CASE AND NEITHER MINOR RESIDES IN EL DORADO COUNTY. THEREFORE, THE COURT FINDS THE CONVENIENCE OF THE PARTIES AND THE INTEREST OF JUSTICE ARE SERVED BY TRANSFERRING THE MATTER TO BUTTE COUNTY. RESPONDENT SHALL PAY ANY AND ALL NECESSARY FEES TO HAVE THE MATTER TRANSFERRED TO BUTTE COUNTY. ALL PRIOR ORDERS 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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 9, 2023

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

**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

February 9, 2023

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

17. KARLY GENTRY V. PAUL GENTRY

22FL0745

Petitioner filed a Request for Order (RFO) on December 5, 2022, requesting the court make orders as to child and spousal support, as well as a request to remove Petitioner's name from the title of Respondent's vehicle. Petitioner filed an Income and Expense Declaration on the same date. Petitioner filed an Amended Income and Expense Declaration on December 6, 2022. Respondent was personally served on December 17, 2022.

Petitioner filed an Amended RFO on December 19, 2022. Petitioner requests the court make orders as to child custody and parenting time, child and spousal support, as well as to have Petitioner's name removed from the title of Respondent's Vehicle. Upon review of the court file, there is no Proof of Service showing Respondent was served with the Amended RFO .

Petitioner filed a Supplemental Declaration and updated Income and Expense Declaration on January 27, 2023. Respondent was served by mail on January 27, 2023. Petitioner affirms her request orders as set forth in the Amended RFO. Petitioner requests the court order joint legal custody and for Petitioner to have sole physical custody, with Respondent having parenting time for two weeks in the summer and two weeks in the winter, to coincide with the minors' school breaks. Petitioner is requesting all parenting time occur in California. Petitioner requests guideline child and temporary spousal support.

Respondent has not filed a Responsive Declaration or an Income and Expense Declaration.

The court finds the December 19, 2022 Amended RFO has not been properly served. Therefore, the court drops the Amended RFO from calendar and proceeds with the originally filed RFO.

The court finds Petitioner's most recent Income and Expense Declaration to be incomplete. It is missing page two. Further Petitioner's December 6, 2022 filed Income and Expense Declaration does not have any pay stubs attached. Petitioner's December 5, 2022 Income and Expense Declaration does have pay stubs attached however, Petitioner is no longer employed with the employer. Therefore, the court finds it does not have the requisite information necessary to make the guideline calculations for support.

The court reserves on the issue of removing Petitioner's name from the title of Respondent's Vehicle.

Parties are ordered to appear for the hearing on the issues of child and temporary spousal support. Parties are to file updated, complete Income and Expense Declarations.

TENTATIVE RULING # 17: THE COURT RESERVES ON THE ISSUE OF REMOVING PETITIONER'S NAME FROM THE TITLE OF RESPONDENT'S VEHICLE. PARTIES ARE ORDERED TO APPEAR FOR

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 9, 2023

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

THE HEARING ON THE ISSUES OF CHILD AND TEMPORARY SPOUSAL SUPPORT. PARTIES ARE TO FILE UPDATED, COMPLETE INCOME AND EXPENSE DECLARATIONS.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 9, 2023

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

18. KEVIN VANDERLINDER V. BRIANA THORNTON

PFL20180810

Petitioner filed a Request for Order (RFO) on October 31, 2022 seeking changes in custody, as well as an award of attorney's fees. The RFO and all other required documents were served on Respondent on December 26, 2022. Respondent has not filed a Responsive Declaration.

Petitioner is seeking sole legal and physical custody of the parties' two minor children. He requests no therapeutic visits between Respondent and the children, but, if such visits are ordered, he would like all costs not covered by his insurance to be paid by Respondent as well as any applicable insurance deductible. Further, he requests nail follicle testing as he believes Respondent has chemically altered her hair which would affect the results of a hair follicle test. According to Petitioner, orders were made in December 2018 awarding him temporary sole physical custody of the children. In June of 2022 orders were made allowing Respondent to have supervised visits so long as she, among other things, completed random drug testing at least once a week and attended AA or NA meetings. Petitioner maintains that Respondent has not complied with the orders and she has been largely absent from the children's lives for the past 4 years. The last time they saw her was two years ago when she was using drugs in front of them.

In addition to the requested custody orders, Petitioner requests \$4,750 in attorney's fees and costs. Petitioner bases his request on the fact that Respondent has wasted his and the court's time by failing to comply with the court order and forcing Petitioner to retain an attorney and file the present RFO to ensure the protection of his children. Petitioner has paid his attorney a retainer of \$2,500. His attorney has spent an additional estimated 9 hours of work on the matter, at a billing rate of \$250 per hour this results in an estimated additional \$2,250 in attorney's fees.

In light of the gravity of the requested orders, and the fact that Respondent did not file a Responsive Declaration, the parties are ordered to appear to further discuss the requested orders.

TENTATIVE RULING #18: IN LIGHT OF THE GRAVITY OF THE REQUESTED ORDERS, AND THE FACT THAT RESPONDENT DID NOT FILE A RESPONSIVE DECLARATION, THE PARTIES ARE ORDERED TO APPEAR TO FURTHER DISCUSS THE REQUESTED ORDERS.

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
February 9, 2023
8:30 a.m./1:30 p.m.

19. KIYA BESSOM V. JOHN VANDER WHITE

22FL1157

Petitioner filed a Petition to Establish a Parental Relationship on December 13, 2022. A Summons was issued on December 13, 2022. Petitioner concurrently filed a Request for Order (RFO) on December 13, 2022, requesting the court make orders as to child custody, parenting plan, and child support. Petitioner filed an Income and Expense Declaration on December 13, 2022. Petitioner filed an Acknowledgement of Receipt on January 30, 2023, showing Respondent acknowledged receipt of the above listed filings on January 25, 2023. The court finds this to be untimely. Further the Acknowledgement of Receipt states the documents were mailed to Respondent on January 19, 2023, which was not timely.

Respondent filed a Response and Responsive Declaration on January 30, 2023. The court finds this to be a late filed Response and therefore has not considered it. Respondent filed an Income and Expense Declaration on January 30, 2023. There is no Proof of Service showing Petitioner was served with the Income and Expense Declaration, the Response, or the Responsive Declaration.

Parties are ordered to appear for the hearing.

TENTATIVE RULING #19: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 9, 2023

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

20. TERRY MEDINA V. RAYMOND MEDINA, JR.

PFL20150870

Petitioner filed a Request for Order (RFO) on November 22, 2022, requesting the court set aside the Judgment entered on November 8, 2021. Respondent was personally served on January 23, 2023. The court finds this was not 16 court days prior to the hearing as required.

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

TENTATIVE RULING #20: THE MATTER IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE.

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. 3.13.08; LOCAL RULE 8.05.07.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 9, 2023

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

21. TIFFANY STEENBURGEN V. TAYLOR STEENBURGEN

PFL20210047

Respondent filed a Request for Order (RFO) on November 22, 2022, requesting the court modify the parenting plan orders as well as change the minors' school. The parties were referred to Child Custody Recommending Counselling (CCRC) for an appointment on December 19, 2022 and a review hearing on February 9, 2023. Upon review of the court file, there is no Proof of Service showing Petitioner was served with the RFO or the referral to CCRC.

Neither party appeared for CCRC on December 19, 2022.

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

TENTATIVE RULING #21: THE MATTER IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE.

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. 3.13.08; LOCAL RULE 8.05.07.