

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 9, 2023

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

**1. ALLISON MURBACH V. DENNY MURBACH**

**22FL0815**

This matter is before the Court on the Respondent's Request for Orders filed November 21, 2022. Respondent filed an Income and Expense Declaration that same date, and both filings were served on the Petitioner's counsel by mail on November 22, 2022, per the Proof of Service filed November 23, 2022.

Petitioner filed a Responsive Declaration (with an Income and Expense Declaration attached) on January 27, 2023, and served a copy by email on the Respondent's counsel on January 27, 2023 per the Proof of Service filed that same date.

Respondent requests orders that the Plaintiff return funds taken from joint accounts prior to the date she filed the Petition for Dissolution, to account for said funds, and for an award of Attorney's fees pursuant to FC 2030. Petitioner opposes Respondent's requests and requests an award of attorney's fees pursuant to FC 2030 and as a sanction pursuant to FC 270 for having to expend fees in opposing Respondent's RFO.

Petitioner acknowledges having withdrawn approximately \$675,000 in funds from community accounts in Summer of 2022 prior to filing the underlying Petition on August 30, 2022. Her Income and Expense Declaration states at item 11(a) that she has \$678,503 in Cash, etc. The Court deems this amount to be sufficient for her to afford representation without an award of Fees from the Respondent at this juncture of the case.

Respondent presents an Income and Expense Declaration which, as pointed out in Petitioner's Responsive filings, is not complete and is misleading. At Item 15 of his I & E, he asserts that he has paid his attorney \$5,000 to date but doesn't state that anything is currently owed to his attorney. Further at item 11(a), 11(b), 11(c) he enters \$0 for each question. Attachments to his declaration in support of his RFO show that even without the money withdrawn by the Petitioner, he has more than \$0 in assets from which he can afford representation.

The court denies Respondent's request for return of the withdrawn funds and for an accounting of the same. The withdrawal of the funds was prior to the ATROs and Respondent fails to show that the community will suffer irreparable harm if the funds are not returned. Similarly, he fails to show why the requested accounting cannot be addressed through the discovery process and why the question of the return or retention of the funds by the Petitioner cannot be addressed in the division of the parties' assets and debts at time of Trial.

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. 4<sup>th</sup> 860, 866 (1999). This assures each party has access to legal representation to preserve each party's

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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. 4<sup>th</sup> 238,251 (2009). The award must be just and reasonable; in determining 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. The court must consider the impact of the fee award on the payor taking into account any orders for support. In Re Marriage Of Keech, *supra*, at 860.

Each party’s request for an award of fees is denied as neither has shown that they need an award of fees from the other to maintain representation in the action. This denial is without prejudice to a subsequent application by either party, including an award of fees following trial of the underlying dissolution action.

The last issue is Petitioner’s request for an award of fees by way of sanction per FC 271, which in part states: “. . . the court may base an award of attorney’s fees and costs on the extent to which the conduct of each party or attorney furthers or frustrates the policy of the law to promote settlement or litigation by encouraging cooperation between the parties and attorneys.”

The Court finds that the Respondent’s request for return of the funds was not well founded. More concerning is that the Income and Expense Declaration submitted by the Respondent was incomplete and inaccurate. Petitioner was forced to incur fees in opposition to Respondent’s RFO. The Court grants an award of fees to the Petitioner from the Respondent, as a sanction, pursuant to FC 271 in the amount of \$500 due March 1, 2023.

Respondent is directed to prepare a Findings and Order After Hearing consistent with this ruling.

**TENTATIVE RULING #1: RESPONDENT’S REQUEST FOR AN ORDER FOR PETITIONER TO RETURN FUNDS WITHDRAWN FROM JOINT ACCOUNTS AND FOR AN ORDER FOR HER TO ACCOUNT FOR THOSE FUNDS IS DENIED. BOTH PARTIES’ REQUESTS FOR AN AWARD OF ATTORNEYS FEES PURSUANT TO FAMILY CODE SECTION 2030 ARE DENIED WITHOUT PREJUDICE. THE COURT GRANTS AN AWARD OF FEES TO THE PETITIONER FROM THE RESPONDENT, AS A SANCTION, PURSUANT TO FC 271 IN THE AMOUNT OF \$500 DUE MARCH 1, 2023. RESPONDENT IS DIRECTED TO PREPARE A FINDINGS AND ORDER AFTER HEARING CONSISTENT WITH THIS RULING.**

**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**

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**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.**

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**2. AMY E. SMITH V. DAVID G. SMITH**

**22FL0989**

Petitioner filed a Request for Order (RFO) requesting temporary spousal support and Family Code Section 2030 attorney's fees on November 17, 2022. Petitioner concurrently filed an Income and Expense Declaration. Respondent was served by mail on November 17, 2022. Petitioner is requesting guideline temporary spousal support and attorney's fees in the amount of \$4,500.

Respondent filed a Responsive Declaration, Income and Expense Declaration, as well as an additional Declaration on January 26, 2023. Petitioner was personally served on January 26, 2023.

Petitioner is requesting guideline spousal support and attorney's fees in the amount of \$4,500. Respondent does not oppose an order for spousal support but he does request the court take into consideration Petitioner's failure to be self-supporting. In that vein, Respondent is asking the court to issue a Gavron Warning, impute petitioner with a full-time minimum wage salary, order a vocational assessor/counselor, and he would like copies of the following documents: (1) An extensive list of the jobs applied for by Petitioner and (2) Petitioner's mother's living trust and power of attorney agreement evidencing Petitioner's status as the current trustee. He asks that each party pay their own attorney's fees. He notes that Petitioner's portion of their community 401k would be sufficient for her to pay her attorney.

In his additional declaration, Respondent requests an updated spreadsheet and photos of the community property items and their disposition. He would also like sufficient advance notice prior to Petitioner showing up at the marital residence. And finally, he requests an order limiting Petitioner's withdrawals from his accounts until support is determined. Regarding these additional requests, the court finds they are outside the scope of the pending RFO and thus, are not properly before the court. While "[t]he responding party may request relief related to the orders requested in the moving papers...unrelated relief must be sought by scheduling a separate hearing using *Request for Order* (form FL-300)..." Cal. Rule Ct. § 5.92(g)(2). These requests are denied without prejudice. Respondent may file an RFO to properly place these requests before the court.

Spousal Support

Based on Petitioner's November 17, 2022 filed Income and Expense Declaration, she has no income and no deductions. Regarding Respondent's request to impute income to Petitioner, the court finds that Petitioner has the ability to work and opportunity to work. Based on the information provided to the court, the court finds that Petitioner has not made a diligent job search effort for jobs for which she is qualified. Further, Petitioner has not been out of the workforce a significant period of time. Therefore, the court finds it appropriate to impute full-time minimum wage earnings (40 hours per week at \$15.50 per hour, or \$2,686) to Petitioner. While Petitioner may be spending time caring for her aging mother and disabled

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sister, she also has an obligation to make efforts to become self-supporting and as such the court finds good cause to impute income to her.

Based on Respondent's January 26, 2023 filed Income and Expense Declaration the court finds Respondent's average monthly income to be \$9,953. Respondent has deductions of \$482 for health insurance, \$1068 for mandatory retirement including the OPEB contribution, and \$270 for property taxes.

Using a Married filing jointly tax status, the court finds temporary guideline spousal support to be \$1,476. (See DissoMaster) The court orders Respondent to pay Petitioner \$1,476 per month as and for temporary guideline spousal support, effective December 1, 2022 and payable on the first 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 \$4,428 for December through February inclusive. The court orders Respondent to pay Petitioner \$396 per month as and for arrears, effective March 15, 2023 and payable on the 15<sup>th</sup> of each month until the balance is paid in full (approximately 12 months). Any missed payment will result in the full balance being due with legal interest.

Gavron Warning

The Parties are advised that it is the goal of the State of California that both parties shall become and remain self-supporting to the best of their ability. Parties are further advised that, at some future date, should either fail to become self-supporting the other party may argue that your failure to become self-supporting is a factor which may be considered by the court to modify a spousal support order or terminate the court's jurisdiction to order spousal support. Parties are further advised that if you voluntarily terminate employment, the court can impute income to you without application of the ability and opportunity requirement and the court can deny a modification of support. In Re Marriage of Gavron, 203 Cal.App.3d 705 (1988). Parties are further advised that mismanagement of your estate may result in a reduction of the court's order of support, termination of the court's ability to continue spousal support or imputation of income on property.

Attorney's Fees

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. 4<sup>th</sup> 860, 866(1999). This assures each party has access to legal representation to preserve each party's 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. 4<sup>th</sup> 238,251(2009). The award must be just and reasonable; in determining what is just and reasonable, the court can take into consideration the need for the award to enable each party,

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to the extent practical, to have sufficient financial resources to present the party's case adequately. The court must consider the impact of the fee award on the payor taking into account any orders for support. *In Re Marriage Of Keech, supra*, at 860.

The court finds that even after the award of support there is still a disparity in income between the parties. The court further finds that Respondent does have the ability to pay. Petitioner charged the retainer of \$4,500 to a community credit card. The court grants Petitioner's request for Family Code section 2030 attorney fees in the amount of \$4,500. Respondent is to pay Petitioner \$4,500 as and for attorney fees to pay the credit card balance.

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 #2: THE COURT FINDS TEMPORARY GUIDELINE SPOUSAL SUPPORT TO BE \$1,476. (SEE DISSOMASTER) THE COURT ORDERS RESPONDENT TO PAY PETITIONER \$1,476 PER MONTH AS AND FOR TEMPORARY GUIDELINE SPOUSAL SUPPORT, EFFECTIVE DECEMBER 1, 2022 AND PAYABLE ON THE FIRST 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 \$4,428 FOR DECEMBER THROUGH FEBRUARY INCLUSIVE. THE COURT ORDERS RESPONDENT TO PAY PETITIONER \$396 PER MONTH AS AND FOR ARREARS, EFFECTIVE MARCH 15, 2023 AND PAYABLE ON THE 15<sup>TH</sup> OF EACH MONTH UNTIL THE BALANCE IS PAID IN FULL (APPROXIMATELY 12 MONTHS). ANY MISSED PAYMENT WILL RESULT IN THE FULL BALANCE BEING DUE WITH LEGAL INTEREST. THE COURT ISSUES THE GAVRON WARNING AS SET FORTH ABOVE. THE COURT GRANTS PETITIONER'S REQUEST FOR FAMILY CODE SECTION 2030 ATTORNEY FEES IN THE AMOUNT OF \$4,500. RESPONDENT IS TO PAY PETITIONER \$4,500 AS AND FOR ATTORNEY FEES TO PAY THE CREDIT CARD BALANCE. 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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ATTORNEY (NAME AND ADDRESS): <b>EDC 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> 2023, Monthly	CASE NUMBER:

Input Data	Resp.	Pet.	Guideline (2023)	Cash Flow Analysis	Resp.	Pet.
Number of children	0	0	<b>Nets (adjusted)</b>	<b>Guideline</b>		
% time with Second Parent	0%	0%	Resp.	6,338 Payment (cost)/benefit	(1,476)	1,476
Filing status	MFJ->	<-MFJ	Pet.	2,118 Net spendable income	4,862	3,594
# Federal exemptions	1*	1*	Total	8,456 % combined spendable	57.5%	42.5%
Wages + salary	9,953	2,687	<b>Support (Nondeductible)</b>	Total taxes	2,065	569
401(k) employee contrib	0	0	SS Payor	Resp. # WHA	1	0
Self-employment income	0	0	El Dorado	1,476 Net wage paycheck/mo	7,724	2,264
Other taxable income	0	0	Total	1,476 Comb. net spendable	8,456	
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	(1,476)	1,476
Other gains (and losses)	0	0	El Dorado	1,476 Net spendable income	4,862	3,594
Ordinary dividends	0	0	Total	1,476 NSI change from gdl	0	0
Tax. interest received	0	0	Savings	0 % combined spendable	57.5%	42.5%
Social Security received	0	0	No releases	% of saving over gdl	0%	0%
Unemployment compensation	0	0		Total taxes	2,065	569
Operating losses	0	0		# WHA	1	0
Ca. operating loss adj.	0	0		Net wage paycheck/mo	7,724	2,264
Roy, partnerships, S corp, trusts	0	0		Comb. net spendable	8,456	
Rental income	0	0		Percent change	0.0%	
Misc ordinary tax. inc.	0	0		<b>Default Case Settings</b>		
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 (Pre-tax)	482	0				
Qual. Bus. Inc. Ded.	0	0				
Itemized deductions	270	0				
Other medical expenses	0	0				
Property tax expenses	270	0				
Ded. interest expense	0	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	1,068	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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**3. ANDREA ALFONSO V. ROMEO VALLAR**

**PFL20070651**

Counsel for Respondent filed a Motion to be Relieved on November 21, 2022. Respondent was served on with the Notice of Motion to be Relieved and Declaration in Support on December 2, 2022. Petitioner and her counsel were served by mail on January 25, 2023.

The court finds a Judgment was entered on January 24, 2023. There are no pending hearings.

Counsel for Petitioner filed a Notice of Withdrawal on February 1, 2023.

The court finds notice to Respondent was proper. To the extent there was any defect in notice to Petitioner and her counsel, the court finds good cause to waive such a defect. Neither Petitioner nor her counsel will be prejudiced, as the court has entered Judgment in the case and there are no pending hearings. Respondent's Attorney has shown sufficient reasons why the motion should be granted and why the motion was brought under Code of Civil Procedure Section 284(2). The motion is granted, and the court will sign the submitted proposed order. Respondent's Attorney is relieved upon filing of the proof of service for the order.

**TENTATIVE RULING #3: MOTION TO BE RELIVED IS GRANTED.**

**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.**



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**4. ASHLEY VAN BUREN V. KYLE VAN BUREN**

**PFL20150183**

On November 10, 2022, Respondent filed a Request for Order (RFO) requesting modification of the parenting plan and for Petitioner to provide for the minors' medical insurance. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on December 12, 2022 and a review hearing on February 9, 2023. Petitioner was served by mail on November 10, 2022.

Respondent is requesting the court modify the current parenting plan as he is relocating out of state. Respondent also requests the court order Petitioner cover the minors on her health insurance as he is no longer employed and does not have health insurance available to the minors.

Parties attended CCRC on December 12, 2022 and were able to reach a full agreement. A copy of the report was filed with the court on December 15, 2022. A copy was mailed to the parties on December 21, 2022.

Petitioner filed a Responsive Declaration on January 26, 2023. Respondent was served electronically on the same day. Petitioner is in agreement with the agreements reached at CCRC as set forth in the December 15, 2022 CCRC report. Petitioner agrees to maintain the minors on her health insurance. Petitioner requests the court order Respondent to provide documentation of his retirement and resulting inability to cover the minors, to demonstrate a qualifying event to allow Petitioner to enroll the minors outside the open enrollment period. Petitioner requests Respondent maintain the minors' health insurance until they are able to be enrolled on Petitioner's plan. Petitioner also requests the court adopt the agreements as set forth in the December 15, 2022 CCRC report in the event Respondent objects to the agreements. Petitioner requests Family Code section 271 sanctions in the event Respondent does not maintain the agreements from CCRC and a hearing is held on the matter.

Respondent filed a Reply Declaration to the CCRC report on January 27, 2023. Petitioner was served electronically on January 27, 2023. Respondent agrees with the court adopting the agreement of the parties as set forth in the CCRC report. Respondent requests there be additional clarification to some of the orders.

Petitioner filed a Sur-Reply Declaration on February 3, 2023. Respondent was served electronically on February 3, 2023. The court finds this to be late filed and therefore, has not considered it.

The court has read and considered the filings as outlined above. The court adopts the agreement of the parties as set forth in the December 15, 2022 CCRC report, with the following additions: Respondent is to provide Petitioner 30 days-notice of the itineraries for the minors travel to Texas. Petitioner is to ensure the minors are transported to the airport timely and are

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boarded on the plane; Petitioner shall provide 30 days-notice to Respondent for the dates of her annual vacation to Pismo Beach. The Pismo Beach vacation shall not be scheduled prior to June 25th; Respondent shall provide 30 days-notice to Petitioner of his parenting time to take place in California, along with the location where he will be staying; Petitioner shall provide Respondent a list of any regularly scheduled activities for the minors during his California parenting time at the time Respondent notices Petitioner of the intended dates, and again five days prior to the California visit, Respondent is to ensure the minors attend all regularly scheduled activities; Respondent shall have up to 7 consecutive days while visiting in California, with up to three California visits per year; all school breaks are deemed to start the first non-school day following the last day the minors attend school prior to the break; and Respondent shall provide the minors' flight information 14 days prior to the day of the flight. All other provisions of the agreements as set forth in the CCRC report are adopted as set forth.

Petitioner shall enroll the minors on her health insurance plan. Respondent shall provide Petitioner with all necessary paperwork showing he is retired and unable to enroll the minors any longer on or before February 23, 2023, if he has not already done so. Respondent shall maintain the minors' health insurance until Petitioner is able to enroll them on her plan. Once Petitioner has received the requisite paperwork from Respondent, she shall enroll the minors within 14 days.

The court reserves jurisdiction on Petitioner's request for Family Code section 271 sanctions.

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

**TENTATIVE RULING #4: THE COURT ADOPTS THE AGREEMENT OF THE PARTIES AS SET FORTH IN THE DECEMBER 15, 2022 CCRC REPORT, WITH THE FOLLOWING ADDITIONS: RESPONDENT IS TO PROVIDE PETITIONER 30 DAYS-NOTICE OF THE ITINERARIES FOR THE MINORS TRAVEL TO TEXAS. PETITIONER IS TO ENSURE THE MINORS ARE TRANSPORTED TO THE AIRPORT TIMELY AND ARE BOARDED ON THE PLANE; PETITIONER SHALL PROVIDE 30 DAYS-NOTICE TO RESPONDENT FOR THE DATES OF HER ANNUAL VACATION TO PISMO BEACH. THE PISMO BEACH VACATION SHALL NOT BE SCHEDULED PRIOR TO JUNE 25TH; RESPONDENT SHALL PROVIDE 30 DAYS-NOTICE TO PETITIONER OF HIS PARENTING TIME TO TAKE PLACE IN CALIFORNIA, ALONG WITH THE LOCATION WHERE HE WILL BE STAYING; PETITIONER SHALL PROVIDE RESPONDENT A LIST OF ANY REGULARLY SCHEDULED ACTIVITIES FOR THE MINORS DURING HIS CALIFORNIA PARENTING TIME AT THE TIME RESPONDENT NOTICES PETITIONER OF THE INTENDED DATES, AND AGAIN FIVE DAYS PRIOR TO THE CALIFORNIA VISIT, RESPONDENT IS TO ENSURE THE MINORS ATTEND ALL REGULARLY SCHEDULED ACTIVITIES; RESPONDENT SHALL HAVE UP TO 7 CONSECUTIVE DAYS WHILE VISITING IN CALIFORNIA,**

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**WITH UP TO THREE CALIFORNIA VISITS PER YEAR; ALL SCHOOL BREAKS ARE DEEMED TO START THE FIRST NON-SCHOOL DAY FOLLOWING THE LAST DAY THE MINORS ATTEND SCHOOL PRIOR TO THE BREAK; AND RESPONDENT SHALL PROVIDE THE MINORS' FLIGHT INFORMATION 14 DAYS PRIOR TO THE DAY OF THE FLIGHT. ALL OTHER PROVISIONS OF THE AGREEMENTS AS SET FORTH IN THE CCRC REPORT ARE ADOPTED AS SET FORTH. PETITIONER SHALL ENROLL THE MINORS ON HER HEALTH INSURANCE PLAN. RESPONDENT SHALL PROVIDE PETITIONER WITH ALL NECESSARY PAPERWORK SHOWING HE IS RETIRED AND UNABLE TO ENROLL THE MINORS ANY LONGER ON OR BEFORE FEBRUARY 23, 2023, IF HE HAS NOT ALREADY DONE SO. RESPONDENT SHALL MAINTAIN THE MINORS' HEALTH INSURANCE UNTIL PETITIONER IS ABLE TO ENROLL THEM ON HER PLAN. ONCE PETITIONER HAS RECEIVED THE REQUISITE PAPERWORK FROM RESPONDENT, SHE SHALL ENROLL THE MINORS WITHIN 14 DAYS. THE COURT RESERVES JURISDICTION ON PETITIONER'S REQUEST FOR FAMILY CODE SECTION 271 SANCTIONS. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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**5. JACQUELINE MULLINAX V. BRYAN MULLINAX**

**22FL0920**

Respondent filed a Request for Order on November 23, 2022, requesting the court make orders as to child custody, parenting time, child and spousal support, property control, a domestic violence order, as well as an order for the parties to use "Custody X Change". Upon review of the court file, there is no Proof of Service showing Petitioner was served with the RFO.

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

**TENTATIVE RULING #5: 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.**

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**6. JENNIFER LADLEY V. WILLIAM LADLEY**

**PFL20180837**

On April 29, 2022, Respondent filed a Request for Order (RFO) and supporting documents requesting the court issue an order compelling responses to Respondent's Demand for Production of Documents, Set Number One, and imposing monetary sanctions in the amount of \$1,000. Petitioner filed her Responsive Declaration to Request for Order and her updated Income and Expense Declaration on June 30, 2022. The foregoing documents were served via U.S. Mail on June 30, 2022.

The court issued a tentative ruling on the RFO, and Petitioner requested oral argument. The parties appeared before the court on July 21, 2022 and presented arguments. The court adopted its tentative ruling in part but stayed the portion regarding sanctions and continued it to August 4, 2022.

On June 7, 2022, Petitioner filed an RFO requesting an order compelling Respondent to produce pay stubs for determination of support owed on overtime and a determination of child support and spousal support arrears. The RFO was served via U.S. Mail on June 15, 2022. On July 18, 2022, Respondent filed a Responsive Declaration to Request for Order and an updated Income and Expense Declaration, both of which were served that same day.

The court issued its ruling and ordered Respondent to produce pay stubs from December 21, 2018 to September 20, 2019 and from April 15, 2022 through the present no later than August 18, 2022. The matter was set for a review hearing on October 6th to calculate arrears and make a determination on the issue of discovery sanctions. The court reserved jurisdiction to award amounts owed dating back to the date of the filing of the RFO. Likewise, the court continued to reserve jurisdiction to award discovery sanctions pursuant to the April 29, 2022, RFO.

On August 30th Respondent filed another RFO requesting orders on child custody, visitation, and child support. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on October 3rd and the RFO was set to be heard on November 17th.

On October 6, 2022, parties appeared for a hearing. The parties were rereferred to CCRC, given Petitioner did not receive notice of the prior CCRC. The court set an appointment for CCRC on October 25, 2022 and a review hearing on December 22, 2022. Given the overlap in issues between Respondent's August 30th RFO and the calculation of arrears, the court found it is in the interest of judicial economy to continue this review hearing to join with Respondent's August 30, 2022 filed RFO hearing. The court advanced and reset the November 17, 2022 hearing to December 22, 2022. The court ordered Respondent to provide the Proof of Service for the August 30, 2022 RFO and the missing pay stubs forthwith. The court continued

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to reserve jurisdiction to award amounts owed dating back to the date of the filing of the June 7th RFO. Likewise, the court continued to reserve jurisdiction to award discovery sanctions pursuant to the order on the April 29, 2022, RFO.

Respondent filed a Proof of Service showing Petitioner was served with the August 30, 2022 RFO by mail on October 17, 2022.

Parties attended CCRC on October 25, 2022. The parties were unable to reach any agreements. A report with recommendations was filed on November 3, 2022. A copy of the report was mailed to the parties on November 8, 2022.

On December 8, 2022, Respondent filed a Request to Continue the December 22, 2022 hearing as his counsel was unavailable on December 22. On December 12, 2022, the court granted the Request to Continue and continued the hearing to February 9, 2022.

The court has read and considered the filings as set forth above. The court adopts the recommendations as set forth in the November 3, 2022 CCRC report. All current orders as to custody and parenting time remain in full force and effect.

The court finds it needs additional information prior to making a determination on the child support issue, the arrears owed, and discovery sanctions. Parties are ordered to appear on those issues.

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 #6: THE COURT FINDS IT NEEDS ADDITIONAL INFORMATION PRIOR TO MAKING A DETERMINATION ON THE CHILD SUPPORT ISSUE, THE ARREARS OWED, AND DISCOVERY SANCTIONS. PARTIES ARE ORDERED TO APPEAR ON THOSE ISSUES.**

**THE COURT ADOPTS THE RECOMMENDATIONS AS SET FORTH IN THE NOVEMBER 3, 2022 CCRC REPORT. ALL CURRENT ORDERS AS TO CUSTODY AND PARENTING TIME REMAIN IN FULL FORCE AND EFFECT. 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. 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**

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ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.**

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**7. JOHN CRISAFULLI V. ANITA CRISAFULLI**

**22FL1094**

On November 21, 2022, Petitioner filed an ex parte request for emergency orders requesting immediate return of the minors to Petitioner pursuant to the Temporary Domestic Violence Restraining Order (TDVRO) granted on November 15, 2022. The court granted the ex parte request on November 22, 2022. Petitioner filed a Request for Order (RFO) mirroring his requests in the ex parte request on November 22, 2022. The parties were referred to an emergency set Child Custody recommending Counseling (CCRC) appointment for December 6, 2022 and a review hearing on February 9, 2023. Service of the RFO and referral on Respondent is unclear. Respondent was served with the TDVRO orders and ex parte orders electronically on November 22, 2022.

Both parties appeared for the CCRC appointment on December 6, 2022. Parties were unable to reach any agreements. A report was filed on December 19, 2022 and mailed to the parties on December 27, 2022.

Respondent filed an ex parte application for emergency custody orders on December 29, 2022. The court denied the request on December 30, 2022. Respondent did not file a RFO after the denial of the ex parte order.

Respondent filed a Responsive Declaration on January 27, 2023. Proof of Service filed on the same date indicates Petitioner was served electronically and by mail on January 27, 2023.

Respondent filed a Supplemental Declaration on February 2, 2023. Petitioner was served electronically and by mail on February 2, 2023. The court finds this filing to be late and will not consider it. Respondent filed Declarations from Elizabeth Palmeri and Dedra Culbreth on February 2, 2023. It was served concurrently with the Supplemental Declaration. The court has not considered this Declaration as it is late filed.

Petitioner filed an Objection and Motion to Strike Respondent's Responsive Declaration as well as all Respondent's Supplemental Declarations and the Declarations of Elizabeth Palmeri and Dedra Culbreth on February 6, 2023. Respondent was served electronically on February 3, 2023. Petitioner requests the court strike the Responsive Declaration as it was not timely served, does not comply with the California Rules of Court and contains inadmissible material; strike all of Respondent's Supplemental Declarations as there is no provision in the Code of Civil Procedure for filing Supplemental Declarations, only for a motion, response, and a reply. Additionally, Petitioner argues the February 2, 2023 Supplemental Declaration should be stricken as it was late filed; and the Declarations of Elizabeth Palmeri and Dedra Culbreth should be stricken as they are unverified, not timely filed, and contain inadmissible hearsay.



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The court has not considered Respondent's February 2, 2023 filed Supplemental Declaration, nor the Declarations of Elizabeth Palmeri and Dedra Culbreth as they were not timely filed. The court further grants Petitioner's request to strike the Declarations of Elizabeth Palmeri and Dedra Culbreth as they are not verified.

As to the timeliness of the service of the Responsive Declaration, the court finds Respondent attempted electronic service on January 27, 2023. It appears based on Petitioner's Exhibit 2, the email did not go through and the Response was resent on January 30, 2023. The document was mailed to Petitioner on January 27, 2023. Pursuant to Code of Civil Procedure section 1005(c), Petitioner was served not later than the next business day, via the subsequent email on January 30, 2023. Therefore, the court finds the service was in compliance with the Code of Civil Procedure. However, the court notes the format of the Declaration included with the Responsive Declaration does not comply with the California Rules of Court as noted by Petitioner. While the court will not reject the Responsive Declaration on these grounds alone, the court admonishes Respondent that if future filings do not comport with the California Rules of Court, it may not be considered.

The court finds there is an evidentiary hearing set on Petitioner's DVRO set for April 18, 2023. The court finds the issues of child custody and parenting time need to be determined concurrently with the DVRO issues. Therefore, the court sets the issues child custody and parenting time to join with the trial set for April 18, 2023 at 8:30 in Department 5.

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

**TENTATIVE RULING #7: THE COURT FINDS THERE IS AN EVIDENTIARY HEARING SET ON PETITIONER'S DVRO SET FOR APRIL 18, 2023. THE COURT FINDS THE ISSUES OF CHILD CUSTODY AND PARENTING TIME NEED TO BE DETERMINED CONCURRENTLY WITH THE DVRO ISSUES. THEREFORE, THE COURT SETS THE ISSUES CHILD CUSTODY AND PARENTING TIME TO JOIN WITH THE TRIAL SET FOR APRIL 18, 2023 AT 8:30 IN DEPARTMENT 5. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. 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.**

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**8. LISA COOK V. RAYMOND COOK**

**22FL1027**

Petitioner filed a Request for Order (RFO) requesting the court make orders as to child support, spousal support, and attorney's fees on November 1, 2022. Petitioner concurrently filed an Income and Expense Declaration. Respondent was served by mail on November 2, 2022. Petitioner is requesting the court order guideline child and temporary spousal support as well as Family Code Section 2030 attorney's fees in the amount of \$5,000. Petitioner asserts there is one minor who resides with her full time.

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

Utilizing Petitioner's November 1, 2022 filed Income and Expense Declaration, the court finds Petitioner has an average monthly income of \$4,740. The court further finds Respondent's average monthly income to be \$11,200 based on Petitioner's declaration in the November 1, 2022 Income and Expense Declaration. Using a tax status of married filing jointly, and a 100% timeshare to Petitioner, the court finds guideline child support to be \$1,568 per month. (See DissoMaster) The court orders Respondent to pay Petitioner \$1,568 per month as and for child support effective November 1, 2022, payable on the first of each month until further court order or termination by operation of law.

The court finds this order results in an arrears balance of \$6,272 for November through February inclusive. The court orders Respondent to pay Petitioner \$448 per month as and for arrears effective March 15, 2023 and due on the 15<sup>th</sup> of each month until paid in full (approximately 14 months). Any missed payment will result in the full balance being due with legal interest.

Using the same figures as set forth above, the court finds temporary guideline spousal support to be \$1,295. (See DissoMaster) The court orders Respondent to pay Petitioner \$1,295 per month as and for temporary guideline spousal support effective November 1, 2022, payable on the first of each month until further court order or termination by operation of law.

The court finds this order results in an arrears balance of \$5,180, for November through February inclusive. The court order Respondent to pay Petitioner \$370 per month as and for arrears effective March 15, 2023 and due on the 15<sup>th</sup> of each month until paid in full (approximately 14 months). Any missed payment will result in the full balance 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); Kevin Q. vs. Lauren W., 195 Cal. App. 4th 633 (2011). This assures each party has access to legal representation to preserve each party's rights. It "is not the redistribution of

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money from the greater income party to the lesser income party,” but rather “parity”. Alan S. v Sup. Ct., 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.

The court finds that even after the payment of support, there remains a disparity in income between the parties. Additionally, Respondent’s ability to pay is also reduced. Finally, the court finds Petitioner has stated in her Income and Expense Declaration she has access to \$96,000 in assets. Therefore, the court denies Petitioner’s request for Family Code Section 2030 attorney’s fees, as the court finds Petitioner has access to sufficient financial resources to present her case adequately.

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

**TENTATIVE RULING #8: THE COURT FINDS PETITIONER HAS AN AVERAGE MONTHLY INCOME OF \$4,740. THE COURT FURTHER FINDS RESPONDENT’S AVERAGE MONTHLY INCOME TO BE \$11,200 BASED ON PETITIONER’S DECLARATION IN THE NOVEMBER 1, 2022 INCOME AND EXPENSE DECLARATION. USING A TAX STATUS OF MARRIED FILING JOINTLY, AND A 100% TIMESHARE TO PETITIONER, THE COURT FINDS GUIDELINE CHILD SUPPORT TO BE \$1,568 PER MONTH. (SEE DISSOMASTER) THE COURT ORDERS RESPONDENT TO PAY PETITIONER \$1,568 PER MONTH AS AND FOR CHILD SUPPORT EFFECTIVE NOVEMBER 1, 2022, PAYABLE ON THE FIRST OF EACH MONTH UNTIL FURTHER COURT ORDER OR TERMINATION BY OPERATION OF LAW. THE COURT FINDS THIS ORDER RESULTS IN AN ARREARS BALANCE OF \$6,272 FOR NOVEMBER THROUGH FEBRUARY INCLUSIVE. THE COURT ORDERS RESPONDENT TO PAY PETITIONER \$448 PER MONTH AS AND FOR ARREARS EFFECTIVE MARCH 15, 2023 AND DUE ON THE 15<sup>TH</sup> OF EACH MONTH UNTIL PAID IN FULL (APPROXIMATELY 14 MONTHS). ANY MISSED PAYMENT WILL RESULT IN THE FULL BALANCE BEING DUE WITH LEGAL INTEREST. THE COURT FINDS TEMPORARY GUIDELINE SPOUSAL SUPPORT TO BE \$1,295. (SEE DISSOMASTER) THE COURT ORDERS RESPONDENT TO PAY PETITIONER \$1,295 PER MONTH AS AND FOR TEMPORARY GUIDELINE SPOUSAL SUPPORT EFFECTIVE NOVEMBER 1, 2022, PAYABLE ON THE FIRST OF EACH MONTH UNTIL FURTHER COURT ORDER OR TERMINATION BY OPERATION OF LAW. THE COURT FINDS THIS ORDER RESULTS IN AN ARREARS BALANCE OF \$5,180, FOR NOVEMBER THROUGH FEBRUARY INCLUSIVE. THE COURT ORDER RESPONDENT TO PAY PETITIONER \$370 PER MONTH AS AND FOR ARREARS EFFECTIVE MARCH 15, 2023 AND DUE ON THE 15<sup>TH</sup> OF EACH MONTH UNTIL PAID IN FULL (APPROXIMATELY 14 MONTHS). ANY MISSED PAYMENT WILL RESULT IN THE FULL BALANCE**

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**BEING DUE WITH LEGAL INTEREST. THE COURT FINDS THAT EVEN AFTER THE PAYMENT OF SUPPORT, THERE REMAINS A DISPARITY IN INCOME BETWEEN THE PARTIES. ADDITIONALLY, RESPONDENT'S ABILITY TO PAY IS ALSO REDUCED. FINALLY, THE COURT FINDS PETITIONER HAS STATED IN HER INCOME AND EXPENSE DECLARATION SHE HAS ACCESS TO \$96,000 IN ASSETS. THEREFORE, THE COURT DENIES PETITIONER'S REQUEST FOR FAMILY CODE SECTION 2030 ATTORNEY'S FEES, AS THE COURT FINDS PETITIONER HAS ACCESS TO SUFFICIENT FINANCIAL RESOURCES TO PRESENT HER CASE ADEQUATELY. 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): <b>EDC 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> 2023, Monthly	CASE NUMBER:

Input Data	Resp.	Pet.	Guideline (2023)	Cash Flow Analysis	Resp.	Pet.
Number of children	0	1	<b>Nets (adjusted)</b>	<b>Guideline</b>		
% time with Second Parent	0%	0%	Resp.	8,277 Payment (cost)/benefit	(2,863)	2,863
Filing status	MFJ->	<-MFJ	Pet.	3,248 Net spendable income	5,414	6,111
# Federal exemptions	1*	2*	Total	11,525 % combined spendable	47%	53%
Wages + salary	11,200	0	<b>Support (Nondeductible)</b>	Total taxes	2,923	1,492
401(k) employee contrib	0	0	CS Payor	Resp. # WHA	0	0
Self-employment income	0	4,740	Presumed	1,568 Net wage paycheck/mo	8,243	0
Other taxable income	0	0	Basic CS	1,568 Comb. net spendable	11,524	
Short-term cap. gains	0	0	Add-ons	0 <b>Proposed</b>		
Long-term cap. gains	0	0	Presumed Per Kid	Payment (cost)/benefit	(2,863)	2,863
Other gains (and losses)	0	0	Child 1	1,568 Net spendable income	5,414	6,111
Ordinary dividends	0	0	SS Payor	Resp. NSI change from gdl	0	0
Tax. interest received	0	0	El Dorado	1,295 % combined spendable	47%	53%
Social Security received	0	0	Total	2,863 % of saving over gdl	0%	0%
Unemployment compensation	0	0	<b>Proposed, tactic 9</b>	Total taxes	2,923	1,492
Operating losses	0	0	CS Payor	Resp. # WHA	0	0
Ca. operating loss adj.	0	0	Presumed	1,568 Net wage paycheck/mo	8,243	0
Roy, partnerships, S corp, trusts	0	0	Basic CS	1,568 Comb. net spendable	11,524	
Rental income	0	0	Add-ons	0 Percent change	0.0%	
Misc ordinary tax. inc.	0	0	Presumed Per Kid	<b>Default Case Settings</b>		
Other nontaxable income	0	0	Child 1	1,568		
New-spouse income	0	0	SS Payor	Resp.		
Adj. to income (ATI)	0	0	El Dorado	1,295		
SS paid other marriage	0	0	Total	2,863		
Ptr Support Pd. other P'ships	0	0	Savings	0		
CS paid other relationship	0	0	No releases			
Health ins.	0	0				
Qual. Bus. Inc. Ded.	0	0				
Itemized deductions	0	0				
Other medical expenses	0	0				
Property tax expenses	0	0				
Ded. interest expense	0	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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**9. NIKOLAS PAECH V. CAROLINE GIROUX**

**PFL20210276**

Petitioner filed a Request for Order (RFO) on October 27, 2022, requesting the court make orders as to child and spousal support. Petitioner concurrently filed an Income and Expense Declaration. Respondent was served by mail on October 27, 2022. Respondent filed an Income and Expense Declaration on October 28, 2022 and again on November 2, 2022. Petitioner was served electronically on October 28, 2022. The RFO was originally set for a hearing on February 2, 2023 but was continued by stipulation to join with the review hearing set for February 9, 2023.

Petitioner is requesting guideline child support and guideline temporary spousal support. Petitioner requests the court use a 100% timeshare for Petitioner, although the current orders are for joint physical custody of the minors, as the minors have been residing with Petitioner full time and refusing their time with Respondent.

Respondent filed a Responsive Declaration and Memorandum of Points and Authorities on January 27, 2023. Petitioner was personally served on January 27, 2023. Respondent requests the court defer the issue of child and spousal support to trial. The parties are currently set to start trial on March 22, 2023. Respondent states in her declaration that her Income and Expense Declaration filed in October is still accurate and has provided her most recent paystubs as attachments. Respondent has also included a proposed DissoMaster. Respondent requests that if the court were to go forward with the support hearing, that Petitioner be imputed with full-time income. Currently, Petitioner works 24 hours per week. Respondent also requests the court use the 50% parenting time order, despite the minors residing solely with Petitioner. Respondent asserts the court may deviate from guideline support due to the special circumstances in this case.

Petitioner filed a Reply Declaration and Income and Expense Declaration on January 30, 2023. Parties were served on January 29, 2023. Petitioner objects to Respondent's request that he be imputed with income at 40 hours per week. Petitioner is currently employed as an independent contractor and asserts 24 hours per week is the maximum number of hours he is assigned. Petitioner also asserts that is the maximum number of hours he is able to work due to having the minors in his care full time. Petitioner has included a proposed DissoMaster as well.

Petitioner filed a Supplemental Declaration on January 30, 2023. Parties were served on January 29, 2023. Petitioner states the progress in the Transition Families Program has not yet begun, as there has only been a 15 minute intake interview. Petitioner states all other services the family had previously been participating in have ceased. Petitioner requests a two to three month continuance to allow the family additional time to complete the intake process and complete any recommended services.

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Respondent filed a Supplemental Declaration on January 31, 2023. Parties were personally served on January 31, 2023. The court notes Respondent's Declaration was not filed within 10 calendar days, and is therefore, late. As such, the court will not consider it.

Minors' Counsel has not filed a Supplemental Declaration.

The court finds Petitioner's average monthly income to be \$18,609. Petitioner has a deduction of \$710 per month for maintaining malpractice insurance.

Respondent's average monthly income is \$21,917 per month. Respondent has deductions of \$1,500 for her 410(k) contribution, \$308 for health insurance, and \$1,181 for mandatory retirement.

Utilizing these figures, with a tax status of married filing jointly, and a 50% timeshare<sup>1</sup> the court finds guideline child support to be \$386 per month. (See DissoMaster) The court orders Respondent to pay Petitioner \$386 per month as and for guideline child support effective November 1, 2022 and payable on the first 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 \$1,544 for November through February inclusive. Respondent is ordered to pay Petitioner \$518 per month, as and for arrears, effective March 15, 2023 until paid in full. If there is any missed payment, the full amount is due with legal interest.

Using the same figures, the court finds guideline temporary spousal support to be \$9. (see Dissomaster) The court orders Respondent to pay Petitioner \$9 per month as and for guideline temporary spousal support effective November 1, 2022 and payable on the first of each month until further order of the court or termination by operation of law.

The court finds this results in an arrears balance of \$36 for November through February inclusive. Respondent is ordered to pay Petitioner \$36 on or before March 15, 2023.

The court finds good cause to continue the review hearing for 90 days as the family has not yet begun participating in the Transitioning Families program. The court reminds the parties, that Kelly Bentley has been designated the coordinator/point person for this service. The court further reminds the parties, of the prior order to comply with all directives from Transitioning Families about setting up and participating in additional services including but not limited to family counseling, individual counseling, and co-parenting counseling. Parties are to

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<sup>1</sup> The court is using the 50% timeshare as that is the current order for parenting time for Respondent. The children's refusal to participate in parenting time with Respondent is not grounds to change the timeshare.

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ensure that these services are set up and in place. If parties cannot agree on a service provider, Minors' Counsel shall select the provider.

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 #9: THE COURT FINDS GUIDELINE CHILD SUPPORT TO BE \$386 PER MONTH. (SEE DISSOMASTER) THE COURT ORDERS RESPONDENT TO PAY PETITIONER \$386 PER MONTH AS AND FOR GUIDELINE CHILD SUPPORT EFFECTIVE NOVEMBER 1, 2022 AND PAYABLE ON THE FIRST 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 \$1,544 FOR NOVEMBER THROUGH FEBRUARY INCLUSIVE. RESPONDENT IS ORDERED TO PAY PETITIONER \$518 PER MONTH, AS AND FOR ARREARS, EFFECTIVE MARCH 15, 2023 UNTIL PAID IN FULL. IF THERE IS ANY MISSED PAYMENT, THE FULL AMOUNT IS DUE WITH LEGAL INTEREST. THE COURT FINDS GUIDELINE TEMPORARY SPOUSAL SUPPORT TO BE \$9. (SEE DISSOMASTER) THE COURT ORDERS RESPONDENT TO PAY PETITIONER \$9 PER MONTH AS AND FOR GUIDELINE TEMPORARY SPOUSAL SUPPORT EFFECTIVE NOVEMBER 1, 2022 AND PAYABLE ON THE FIRST OF EACH MONTH UNTIL FURTHER ORDER OF THE COURT OR TERMINATION BY OPERATION OF LAW. THE COURT FINDS THIS RESULTS IN AN ARREARS BALANCE OF \$36 FOR NOVEMBER THROUGH FEBRUARY INCLUSIVE. RESPONDENT IS ORDERED TO PAY PETITIONER \$36 ON OR BEFORE MARCH 15, 2023. THE COURT FINDS GOOD CAUSE TO CONTINUE THE REVIEW HEARING TO MAY 11, 2023 AT 8:30 IN DEPARTMENT 5 AS THE FAMILY HAS NOT YET BEGUN PARTICIPATING IN THE TRANSITIONING FAMILIES PROGRAM. THE COURT REMINDS THE PARTIES, THAT KELLY BENTLEY HAS BEEN DESIGNATED THE COORDINATOR/POINT PERSON FOR THIS SERVICE. THE COURT FURTHER REMINDS THE PARTIES, OF THE PRIOR ORDER TO COMPLY WITH ALL DIRECTIVES FROM TRANSITIONING FAMILIES ABOUT SETTING UP AND PARTICIPATING IN ADDITIONAL SERVICES INCLUDING BUT NOT LIMITED TO FAMILY COUNSELING, INDIVIDUAL COUNSELING, AND CO-PARENTING COUNSELING. PARTIES ARE TO ENSURE THAT THESE SERVICES ARE SET UP AND IN PLACE. IF PARTIES CANNOT AGREE ON A SERVICE PROVIDER, MINORS' COUNSEL SHALL SELECT THE PROVIDER. 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.**

**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**



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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.**

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

Input Data	Pet.	Resp.	Guideline (2023)	Cash Flow Analysis	Pet.	Resp.
Number of children	3	0	<b>Nets (adjusted)</b>	<b>Guideline</b>		
% time with Second Parent	0%	50%	Pet.	11,215 Payment (cost)/benefit	839	(839)
Filing status	MFJ->	<-MFJ	Resp.	13,951 Net spendable income	12,054	13,112
# Federal exemptions	4*	1*	Total	25,166 % combined spendable	47.9%	52.1%
Wages + salary	0	21,500	<b>Support (Nondeductible)</b>	Total taxes	6,684	6,727
401(k) employee contrib	0	1,500	CS Payor	Resp. # WHA	0	0
Self-employment income	18,609	0	Presumed	623 Net wage paycheck/mo	0	15,221
Other taxable income	0	667	Basic CS	623 Comb. net spendable	25,166	
Short-term cap. gains	0	0	Add-ons	0 <b>Proposed</b>		
Long-term cap. gains	0	0	Presumed Per Kid	Payment (cost)/benefit	839	(839)
Other gains (and losses)	0	0	Child 2	127 Net spendable income	12,054	13,112
Ordinary dividends	0	0	Child 3	187 NSI change from gdl	0	0
Tax. interest received	0	0	Child 4	308 % combined spendable	47.9%	52.1%
Social Security received	0	0	SS Payor	Resp. % of saving over gdl	0%	0%
Unemployment compensation	0	0	EI Dorado	216 Total taxes	6,684	6,727
Operating losses	0	0	Total	839 # WHA	0	0
Ca. operating loss adj.	0	0	<b>Proposed, tactic 9</b>	Net wage paycheck/mo	0	15,221
Roy, partnerships, S corp, trusts	0	0	CS Payor	Resp. Comb. net spendable	25,166	
Rental income	0	0	Presumed	623 Percent change	0.0%	
Misc ordinary tax. inc.	0	667	Basic CS	623 <b>Default Case Settings</b>		
Other nontaxable income	0	0	Add-ons	0		
New-spouse income	0	0	Presumed Per Kid			
Adj. to income (ATI)	0	0	Child 2	127		
SS paid other marriage	0	0	Child 3	187		
Ptr Support Pd. other P'ships	0	0	Child 4	308		
CS paid other relationship	0	0	SS Payor	Resp.		
Health ins(Pd by party)	0	308	EI Dorado	216		
Qual. Bus. Inc. Ded.	0	0	Total	839		
Itemized deductions	0	0	Savings	0		
Other medical expenses	0	0	No releases			
Property tax expenses	0	0				
Ded. interest expense	0	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	1,181				
Hardship deduction	0*	0*				
Other gdl. deductions	710	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

February 9, 2023

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

**10. SUSAN SOHAL V. RISHI SOHAL**

**PFL20180510**

Petitioner filed a Request for Order (RFO) on September 30, 2022 asking the court to terminate Respondent's parenting time and refer the matter to FCS for mediation to facilitate an order directing Respondent to engage in parenting therapy before his parenting time may be restored. The RFO was served both electronically and by mail on October 3rd.

Petitioner argues Respondent has been inconsistent with his parenting time and unaccountable regarding the activities of the children. She argues this is detrimental to the health and wellbeing of the children.

The parties attended Child Custody Recommending Counseling (CCRC) on October 27th. CCRC issued a report on November 4, 2022 which provides recommendations for a parenting plan, exchanges, summer break and respect guidelines. The report was mailed to the parties the same date of issuance.

On November 18, 2022, Respondent filed a RFO requesting a modification of child and spousal support. Parties were served by mail on December 7, 2022. Respondent states there has been a significant reduction in his income as of December 10, 2022.

Parties appeared for the hearing on December 15, 2022. Petitioner's request to modify child custody and parenting time as set for a contested hearing on April 11, 2023. The court stayed its tentative ruling and rereferred the parties to CCRC for an appointment on January 5, 2023, to allow the counselor to interview the minors.

The Department of Child Support Services filed a Responsive Declaration to Respondent's RFO on December 14, 2022, requesting the child support issue be continued to the child support calendar to be heard by the Child Support Commissioner pursuant to Family Code Section 4251. Parties were served by mail on December 14, 2022.

Petitioner filed a Responsive Declaration on January 26, 2023. Parties were served by mail on January 26, 2023. Petitioner objects to Respondent's request to modify child and spousal support. Petitioner asserts the parties' Judgment as to spousal support dictates that Petitioner's obligation to pay spousal support to Respondent shall not ever exceed the total child support amount that Respondent would owe based on the statewide calculation formula. The parties agreed that the court did not have jurisdiction to make spousal support orders any different that was had been agreed to. The parties further agreed that Respondent's right to spousal support would only serve as an offset against his child support obligation.

The parties and minors participated in the CCRC appointment on January 5, 2023. A report with recommendations was filed on January 30, 2023. A copy was mailed to the parties on January 31, 2023.

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DEPARTMENT 5

February 9, 2023

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

The court finds the prior issues set for an evidentiary hearing on April 11, 2023 must be resolved prior to the court making a determination as to child and spousal support. Therefore, the court continues Respondent's request to modify child and spousal support to trail the trial currently pending. The court reserves jurisdiction to retroactively modify support to the date of the filing 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 #10: THE COURT CONTINUES THE REQUEST TO MODIFY CHILD AND SPOUSAL SUPPORT TO TRIAL THE RESOLUTION OF THE CHILD CUSTODY AND PARENTING TIME ORDERS CURRENTLY SET FOR TRIAL ON APRIL 11, 2023, WITH A MANDATORY SETTLEMENT CONFERENCE ON APRIL 3, 2023 AND A READINESS CONFERENCE ON APRIL 7, 2023. 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. 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.

**11. TROY WICKHAM V. KRISTIE WICKHAM**

**21FL0161**

On March 21, 2022, Petitioner filed a Declaration for Default or Uncontested Dissolution. The court entered judgment on the dissolution on April 7, 2022, with the terms of the judgment to be those set forth in the marital settlement agreement (MSA) entered into by the parties. The MSA terminated jurisdiction of the court to award spousal support to petitioner, and ordered spousal support to Respondent as follows: "The Husband shall pay to Wife for rehabilitative spousal maintenance, the sum of \$80,000 per month payable in advance on the first (1st) day of each month commencing on January 1, 2022 and continuing thereafter until the earliest of the following events (i) death of either party, (ii) remarriage of Wife, (iii) the cohabitation by Wife with a person of the opposite sex in a relationship similar to a husband-wife relationship for 90 continuous or noncontinuous days in a 12 month period, (iv) a duration of 1 month has passed since the first payment was made."

On May 24, 2022, Respondent filed a Request for Order (RFO), requesting spousal support in the amount of \$1,500 per month and indicating that she feels Petitioner has no intention of paying the \$80,000. In addition to the RFO, Respondent filed her Income and Expense Declaration on the same day. Both documents were served on June 1, 2022. The RFO was scheduled to be heard on July 7th.

On June 24, 2022, Respondent filed another RFO asking the court to set aside the default entered on March 8, 2022, and the Default Judgment filed April 7, 2022, and granting Respondent leave to file a Response to the Petition for Dissolution. In conjunction with the filing of the RFO, petitioner filed a Memorandum of Points and Authorities to support her position. This RFO and supporting memorandum were served on July 5th and scheduled for a hearing date on September 1st.

The parties later stipulated to continue the July 7th hearing to allow the spousal support RFO to be heard on the same day as the RFO to set aside default.

On June 27, 2022, Petitioner filed a Responsive Declaration to Request for Order and his Income and Expense Declaration. There is no proof of service on file indicating that Respondent was served with these documents. Accordingly, the court has not read or considered them.

Respondent claims that she was induced into signing the MSA based on several false representations made by Petitioner. According to Respondent, Petitioner falsely represented (1) that the provisions of the MSA were fair and reasonable; (2) that several dozen families would lose their livelihoods if Respondent did not agree to the terms of the MSA; and (3) that Petitioner was entitled to 100% of the retirement funds in his name.

On the issue of spousal support, the court noted that it cannot rule on whether or not to award spousal support until after a determination is made on whether or not to set aside the

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 9, 2023

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

default, default judgment and the MSA. The court reserved on the issue of spousal support dating back to the date of filing of the Request for Order.

Petitioner filed an RFO on August 30, 2022. It was served by mail on September 26, 2022. The RFO seeks an order modifying the settlement agreement of the parties which, according to Petitioner, contains a clerical error. As it currently stands, the agreement states that Petitioner will pay Respondent \$80,000 per month upon Petitioner's refinancing of the marital home. Petitioner states that the intent of the parties was for the agreement to say Petitioner would pay one lump sum of \$80,000. He would like this corrected.

Respondent filed and served a Responsive Declaration to Request for Order on October 27<sup>th</sup>. Respondent requests the court set this issue to join with the issues set for trial on December 20<sup>th</sup>. She asks the court to award her reasonable attorney's fees and costs as well as Family Code Section 271 sanctions but asks the court to reserve on this request until trial as well.

The issues set to be heard on December 20<sup>th</sup> arose from two separate RFOs previously filed by the parties. On May 24, 2022, Respondent filed An RFO requesting spousal support in the amount of \$1,500 per month and indicating that she feels Petitioner has no intention of paying the \$80,000. On June 24, 2022, Respondent filed an RFO asking the court to set aside the default entered on March 8, 2022, and the Default Judgment filed April 7, 2022, and granting Respondent leave to file a Response to the Petition for Dissolution. On September 1<sup>st</sup> the court noted its need for additional information prior to ruling on the set aside request and its inability to rule on the request for spousal support until a determination is made on the set aside. Thus, the court set both issues for trial on December 20<sup>th</sup> with a settlement conference on November 28<sup>th</sup>. The court reserved on jurisdiction to award spousal support back to the date of filing the subject RFO.

Given the noted overlap of issues, in the interest of judicial economy, the court continued the hearing on this RFO to join with the matters currently scheduled for settlement conference on November 28<sup>th</sup> and trial on December 20<sup>th</sup>. The court continued to reserve on jurisdiction to award spousal support back to the date of filing the RFO.

On November 21, 2022, the parties submitted a stipulation and order to the court, agreeing to set aside and vacate the Default and Judgment. Respondent was to file a Response to the Petition for Dissolution of Marriage. The parties also agreed to continue the May 24, 2022 RFO to February 9, 2022. The parties agreed to vacate the MSC and trial dates.

Respondent filed an Income and Expense Declaration on January 26, 2023. Petitioner was served by mail on January 26, 2023.

Petitioner has not filed an updated Income and Expense Declaration.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 9, 2023

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

The court finds based on the parties' stipulation, the Default and Judgment have been set aside. The court finds the remaining issue to be resolved is Respondent's May 24, 2022, RFO requesting spousal support in the amount of \$1,500 per month. The court finds it needs additional information prior to being able to rule on the request. Parties are ordered to appear for the hearing.

**TENTATIVE RULING #11: THE PARTIES ARE ORDERED TO APPEAR.**