

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 23, 2022

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

**1. APRIL ROBINSON V. GORDON ROBINSON**

**PFL20210147**

Respondent filed a Request for Order (RFO) on December 8, 2022, requesting the court modify the current child and spousal support orders. Respondent concurrently filed an Income and Expense Declaration. Petitioner was served by mail on December 8, 2022. There is no Proof of Service showing Minors' Counsel was served. Respondent states he was laid off on November 30, 2022. Respondent requests child support temporarily be set at \$0, pending him obtaining gainful employment, subject to retroactive modification at trial. Respondent previously agreed to forego temporary spousal support, as a part of his child support agreement with Petitioner. Respondent is now requesting temporary guideline spousal support.

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

Minors' Counsel has not submitted any Declarations.

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

All prior orders remain in full force and effect.

**TENTATIVE RULING #1: THE COURT DROPS THE MATTER FROM CALENDAR DUE TO LACK OF PROPER SERVICE TO MINORS' COUNSEL. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT.**

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**2. ASHLEY MOORE V. ANDREW MOORE**

**22FL0676**

Petitioner filed a Request for Order (RFO) on December 2, 2022, requesting the court make orders as to property control and spousal support. Petitioner had previously filed an Income and Expense Declaration on November 29, 2022. Respondent was served by mail on January 9, 2023. Petitioner requests the court order temporary guideline spousal support. Petitioner also requests the court grant her exclusive use and control of the property located at 4821 Pleasant Valley Grange Rd, Placerville CA. Petitioner asserts she is currently disabled and unable to work and is currently homeschooling the parties' minor son. In her declaration, Petitioner is also requesting exclusive use and control of the parties' vehicle, a Chevrolet Volt. Petitioner appears to make a discovery request as well, which the court will not address as it is not properly before the court. Petitioner notes in her Income and Expense Declaration she has an appointment for social security disability on November 11, 2022.

Respondent filed a Responsive Declaration as well as and Income and Expense Declaration on February 8, 2023. Petitioner was served by mail on February 8, 2023. Respondent objects to the requested orders and requests the court order temporary guideline spousal support based on the income Petitioner was previously earning, or in the alternative she be imputed with full time minimum wage income. Respondent has no objection to Petitioner having exclusive use and control of the property but does request Petitioner assume responsibility of the payment of the mortgage and related expenses attributable to maintaining the residence. Respondent asserts the request for exclusive use and control of the Chevrolet Volet is not properly before the court.

The court finds Petitioner's Income and Expense Declaration is nearly out of date. The court needs updated information prior to being able to rule on the requested orders. Parties are ordered to appear for the hearing.

**TENTATIVE RULING #2: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.**

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February 23, 2022

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

**3. ASHLEY SHENEFIELD V. SEAN AGUILAR**

**PFL20140027**

Petitioner filed a Request for Order (RFO) requesting modification of child custody and parenting plan orders on December 2, 2022. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on December 29, 2022 and a review hearing on February 23, 2023. There is no Proof of Service showing how or when Respondent was served. Further, the Department of Child Support Services (DCSS) is a party to the case and there is no Proof of Service showing they were served.

Respondent filed a Responsive Declaration on December 28, 2022. Petitioner was served electronically on December 28, 2022. There is no Proof of Service showing DCSS was served. As a preliminary matter, Respondent objects to the court considering the matter due to lack of proper service. Respondent objects to any change in the current court orders.

Both parties appeared for CCRC on December 29, 2022. A report was filed on January 27, 2023. A copy was mailed to the parties on February 2, 2023. The parties were able to reach agreements, predicated on the minors' reunification counselor also agreeing to the step-up plan. The reunification therapist believed it was premature to progress to unsupervised parenting time between Petitioner and the minors. The report recommends proceeding with the step-up plan despite the therapist's position.

Petitioner filed a Declaration on February 14, 2023. Respondent was served by mail on February 14, 2023. Petitioner requests the court adopt the recommendations from CCRC as well as designate two additional holidays.

The court has read and considered the filings as outlined above. The court finds good cause to proceed with hearing the RFO, despite the anomalies in service, as it appears Respondent did have notice of the CCRC appointment and Petitioner's requested orders. The court declines to adopt the recommendation as set forth in the CCRC report. The court concurs with the reunification counselor that it would be premature to start unsupervised parenting time with the minors and Petitioner. The family was just recently assigned a new reunification therapist. Further sessions need to take place prior to proceeding with the step-up plan. The court continues the matter for 60 days to allow further sessions to take place. The court is directing a further CCRC report be prepared with the CCRC counselor to reach out to the new reunification counselor for an update on the progress in reunification counseling.

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

**TENTATIVE RULING #3: THE COURT FINDS GOOD CAUSE TO PROCEED WITH HEARING THE RFO, DESPITE THE ANOMALIES IN SERVICE, AS IT APPEARS RESPONDENT DID HAVE NOTICE OF**

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**THE CCRC APPOINTMENT AND PETITIONER'S REQUESTED ORDERS. THE COURT DECLINES TO ADOPT THE RECOMMENDATION AS SET FORTH IN THE CCRC REPORT. THE COURT CONCURS WITH THE REUNIFICATION COUNSELOR THAT IT WOULD BE PREMATURE TO START UNSUPERVISED PARENTING TIME WITH THE MINORS AND PETITIONER. THE FAMILY WAS JUST RECENTLY ASSIGNED A NEW REUNIFICATION THERAPIST. FURTHER SESSIONS NEED TO TAKE PLACE PRIOR TO PROCEEDING WITH THE STEP-UP PLAN. THE COURT CONTINUES THE MATTER TO MAY 4<sup>TH</sup> 2023 AT 8:30 IN DEPARTMENT 5, TO ALLOW FURTHER SESSIONS TO TAKE PLACE. THE COURT IS DIRECTING A FURTHER CCRC REPORT BE PREPARED WITH THE CCRC COUNSELOR TO REACH OUT TO THE NEW REUNIFICATION COUNSELOR FOR AN UPDATE ON THE PROGRESS IN REUNIFICATION COUNSELING. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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**4. BERTHA GONSALVES V. GARY GONSALVES**

**22FL0946**

Petitioner filed a Request for Order (RFO) on October 24, 2022, requesting the court order guideline temporary spousal support and Family Code section 2030 attorney fees. Petitioner concurrently filed an Income and Expense Declaration with the RFO. Respondent was served by mail on November 15, 2022.

Respondent filed a Responsive Declaration and Income and Expense Declaration on February 8, 2023. Petitioner was served by mail and electronically on February 8, 2023. Respondent requests the court deviate from guideline temporary spousal support. Respondent also requests the court deny Petitioner's request for attorney fees, as she withdrew \$35,000 from the parties joint checking account.

Petitioner is on a fixed income of \$1,325 per month from Social Security. She has a deduction of \$284 for Medicare.

Respondent has a monthly income of \$5,057 per month from Social Security and retirement benefits. Respondent has a deduction of \$216 per month for property taxes.

Utilizing the above figures and a married filing jointly status, the court finds guideline temporary spousal support to be \$1,422 per month. (See DissoMaster) The court orders Respondent to pay Petitioner \$1,422 per month as and for guideline temporary spousal support effective November 1, 2022 and 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 \$5,688 for November through February inclusive. Respondent has been paying \$819.35 per month towards expenses for Petitioner. The court finds after this adjustment, the arrears balance is \$2,410.60. The court orders Respondent to pay petitioner \$100.44 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 24 months). If there is any missed payment, the full amount is 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. 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 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

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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. 4<sup>th</sup> 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. Further Petitioner has access to funds to pay her counsel. The court denies Petitioner's request for Family Code section 2030 attorney fees.

**TENTATIVE RULING #4: THE COURT FINDS GUIDELINE TEMPORARY SPOUSAL SUPPORT TO BE \$1,422 PER MONTH. (SEE DISSOMASTER) THE COURT ORDERS RESPONDENT TO PAY PETITIONER \$1,422 PER MONTH AS AND FOR GUIDELINE TEMPORARY SPOUSAL SUPPORT EFFECTIVE NOVEMBER 1, 2022 AND 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 \$5,688 FOR NOVEMBER THROUGH FEBRUARY INCLUSIVE. RESPONDENT HAS BEEN PAYING \$819.35 PER MONTH TOWARDS EXPENSES FOR PETITIONER. THE COURT FINDS AFTER THIS ADJUSTMENT, THE ARREARS BALANCE IS \$2,410.60. THE COURT ORDERS RESPONDENT TO PAY PETITIONER \$100.44 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 24 MONTHS). IF THERE IS ANY MISSED PAYMENT, THE FULL AMOUNT IS DUE WITH LEGAL INTEREST. THE COURT DENIES PETITIONER'S REQUEST FOR FAMILY CODE SECTION 2030 ATTORNEY FEES. PETITIONER IS TO 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.	4,857	Payment (cost)/benefit	(1,422) 1,422
Filing status	MFJ->	<-MFJ	Pet.	1,041	Net spendable income	3,435 2,463
# Federal exemptions	1*	1*	Total	5,898	% combined spendable	58.2% 41.8%
Wages + salary	0	0	<b>Support (Nondeductible)</b>	Total taxes	0	0
401(k) employee contrib	0	0	SS Payor	Resp.	Comb. net spendable	5,898
Self-employment income	0	0	El Dorado	1,422	<b>Proposed</b>	
Other taxable income	3,732	1,325	Total	1,422	Payment (cost)/benefit	(1,422) 1,422
Short-term cap. gains	0	0	<b>Proposed, tactic 9</b>		Net spendable income	3,435 2,463
Long-term cap. gains	0	0	SS Payor	Resp.	NSI change from gdl	0 0
Other gains (and losses)	0	0	El Dorado	1,422	% combined spendable	58.2% 41.8%
Ordinary dividends	0	0	Total	1,422	% of saving over gdl	0% 0%
Tax. interest received	0	0	Savings	0	Total taxes	0 0
Social Security received	2,204	1,325	No releases		Comb. net spendable	5,898
Unemployment compensation	0	0			Percent change	0.0%
Operating losses	0	0			<b>Default Case Settings</b>	
Ca. operating loss adj.	0	0				
Roy, partnerships, S corp, trusts	0	0				
Rental income	0	0				
Misc ordinary tax. inc.	1,528	0				
Other nontaxable income	1,325	0				
New-spouse income	0	0				
SS paid other marriage	0	0				
CS paid other relationship	0	0				
Adj. to income (ATI)	0	0				
Ptr Support Pd. other P'ships	0	0				
Health insurance	200	284				
Qual. Bus. Inc. Ded.	0	0				
Itemized deductions	230	0				
Other medical expenses	0	0				
Property tax expenses	230	0				
Ded. interest expense	0	0				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
State sales tax paid	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. adjustments	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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**5. BRYAN CHASE V. KYLIE CHASE**

**22FL0549**

Counsel for Respondent filed a Motion to be Relieved as counsel on December 7, 2022. Respondent was noticed by mail on December 19, 2022. There is no Proof of Service showing Petitioner was served with the notice of the Motion to be Relieved. The court notes the parties currently have a hearing set for March 2, 2023 for review of Child Custody Recommending Counseling.

For judicial economy the court continues the Motion to be Relived to join with the review hearing set on March 2, 2023. Counsel for Respondent is directed to provide notice to Petitioner of the Motion to be Relived.

**TENTATIVE RULING #5: FOR JUDICIAL ECONOMY THE COURT CONTINUES THE MOTION TO BE RELIVED TO JOIN WITH THE REVIEW HEARING SET ON MARCH 2, 2023. COUNSEL FOR RESPONDENT IS DIRECTED TO PROVIDE NOTICE TO PETITIONER OF THE MOTION TO BE RELIVED.**

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

**7. DAVID MERCADO V. APRIL LOCKHART**

**PFL20180104**

Petitioner filed a Request for Order (RFO) for Family Code section 271 sanctions on December 8, 2022. Upon review of the court file, there is no Proof of Service showing Respondent was served with the RFO.

Respondent has not filed a Responsive Declaration.

The court drops the matter from calendar due to lack of proper service. The court further finds that even if service had been proper, the court would have denied the motion as the pleadings were wholly insufficient.

All prior orders remain in full force and effect.

**TENTATIVE RULING #7: THE COURT DROPS THE MATTER FROM CALENDAR DUE TO LACK OF PROPER SERVICE. THE COURT FURTHER FINDS THAT EVEN IF SERVICE HAD BEEN PROPER, THE COURT WOULD HAVE DENIED THE MOTION AS THE PLEADINGS WERE WHOLLY INSUFFICIENT. 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.**

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**8. GERGANA MUDROVA V. PAUL BONDAR**

**22FL0444**

Respondent seeks an order quashing deposition notices which set the depositions of Respondent and Venci Mudrov for December 6<sup>th</sup> and December 7<sup>th</sup>, respectively. Respondent filed his Request for Order (RFO) on December 2, 2022, and personally served it on December 12<sup>th</sup>. Petitioner opposes the RFO by way of her Responsive Declaration to Request for Order and Declaration of Analisa Herdon in Support of Responsive Declaration, both of which were filed and served on February 8, 2023.

Respondent has provided only three reasons for his motion to quash. First, he feels the depositions are irrelevant. Second, he states that none of the three companies are under his control or ownership, or they have been shut down. He does not specify which companies. And third, he states that he has already provided Petitioner with his 2021 taxes and his K-1.

According to Petitioner, the motion to quash was not served until after the scheduled date and time for Respondent's deposition. Further, Respondent did not serve any written objection to his deposition notice. The deposition went forward as scheduled on December 7<sup>th</sup> but Respondent did not appear. Petitioner also opposes Respondent's grounds for the motion to quash. The depositions seek information regarding the income and assets of the companies in which Respondent had an interest, even if they are no longer operating, the depositions are intended to determine if Respondent received any assets from them. In addition, the deposition notices seek taxes for the years 2017 through 2022, not just 2021, and additional documents are requested that have not already been provided. Petitioner requests the motion be denied as to each of the deposition notices, and Respondent's deposition be set for a new date.

Any party objecting to a deposition notice must do so at least three calendar days prior to the deposition date and shall personally serve such objection. Cal. Civ. Pro. § 2025.410(a) & (b). Failure to timely object to the motion constitutes a waiver of any error or irregularity in the deposition notice. Cal. Civ. Pro. 2025.410(a). In addition to objecting to the deposition notice, a party may move for an order quashing a deposition notice, however, such a motion must be accompanied by a meet and confer declaration wherein the moving party sets forth facts establishing a reasonable, good faith attempt was made to informally resolve the matter prior to filing the motion. Cal. Civ. Pro. §§ 2025.410 & 2016.040. Likewise, a party may move for an order quashing a deposition subpoena of a third-party. Cal. Civ. Pro. § 1987.1.

Here, Respondent timely filed his motion, but did not serve it until after the depositions were scheduled to take place. Nor did he serve a declaration evidencing he made a good faith attempt to informally resolve the matter with Petitioner prior to filing the motion. Respondent's motion is denied due to lack of timely service and failure to comply with the

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procedural requirements of the Civil Discovery Act. Even if the court were to reach the merits of the motion, it would be denied. The depositions are clearly relevant to the issues involved in the present litigation and are likely to lead to the discovery of admissible evidence. Petitioner is to make a good faith effort to reset the depositions at a date and time that Respondent is available. If Petitioner and Respondent are unable to reach an agreed upon date and time then Petitioner may set the depositions at a date and time of her choosing. Respondent is ordered to appear at the deposition as scheduled.

**TENTATIVE RULING #8: RESPONDENT'S MOTION IS DENIED DUE TO LACK OF TIMELY SERVICE AND FAILURE TO COMPLY WITH THE PROCEDURAL REQUIREMENTS OF THE CIVIL DISCOVERY ACT. EVEN IF THE COURT WERE TO REACH THE MERITS OF THE MOTION, IT WOULD BE DENIED. PETITIONER IS TO MAKE A GOOD FAITH EFFORT TO RESET THE DEPOSITIONS AT A DATE AND TIME THAT RESPONDENT IS AVAILABLE. IF PETITIONER AND RESPONDENT ARE UNABLE TO REACH AN AGREED UPON DATE AND TIME THEN PETITIONER MAY SET THE DEPOSITIONS AT A DATE AND TIME OF HER CHOOSING. RESPONDENT IS ORDERED TO APPEAR AT THE DEPOSITION AS SCHEDULED. PETITIONER IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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**9. GREGORY BUXTON V. KATHLEEN BUXTON**

**22FL0754**

Petitioner filed a Request for Order (RFO) on September 27, 2022 seeking an order to sell the marital residence. The RFO was mail served on October 18<sup>th</sup> and electronically served on November 9<sup>th</sup>. Respondent has not filed a responsive declaration.

Petitioner requested oral argument for the hearing on December 8, 2022. Respondent did not appear. The court denied Petitioner's request to sell the former marital home pendente liete. The court continued the hearing and ordered parties to file Supplemental Declarations at least 10 days prior to the next hearing.

Neither party filed a Supplemental Declaration.

Inherent in the court's authority to ensure that community assets are divided equally, the court holds broad discretion to "...make any orders [it] considers necessary.." Fam. Code § 2553. This includes ordering the sale and division of proceeds of the marital residence. Marriage of Holmgren, 60 Cal. App. 3d 869 (1976); *See also* In re Marriage of Horowitz, 159 Cal. App. 3d 368 (1984).

In his moving papers Petitioner states that the marital home is a community asset, though he has not provided any documentation to that effect, nor has he provided the court with information regarding when the home was purchased and the form of title to the home. Further, Petitioner has not provided any reason as to why the marital home must be sold at this stage in the proceedings.

The request to sell the former marital home remains denied.

**TENTATIVE RULING #9: THE REQUEST TO SELL THE FORMER MARITAL HOME REMAINS DENIED.**

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

**10. HENRY BERNARD V. BEATRIZ ESCOLANO BERNARD**

**PFL20210038**

Parties appeared for a hearing on August 25, 2022 and presented the court a stipulation. The court signed the stipulation and set a further hearing for November 10, 2022. On November 7, 2022, parties submitted a stipulation to continue the November 10, 2022 hearing to February 23, 2023. The November 7, 2022 stipulation stated the parties were finalizing a global settlement and QDROs, however, needed additional time to complete them.

The court signed the parties' QDRO on February 14, 2023.

It is unclear to the court if parties have reached a global settlement or if additional time is needed. Parties are ordered to appear for the hearing.

**TENTATIVE RULING #10: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.**

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

**11. JUANITA OCANAS V. RICHARD OCANAS**

**22FL0460**

Respondent filed a Request for Order (RFO) on December 6, 2022, requesting the court order child support and attorney's fees. Respondent concurrently filed an Income and Expense Declaration. Upon review of the court file, there is no Proof of Service of the RFO or Income and Expense Declaration.

Petitioner filed a Responsive Declaration and Income and Expense Declaration on February 17, 2023. There is no Proof of Service for these documents. Additionally, the Responsive Declaration was not filed nine court days prior to the hearing and the Income and Expense Declaration was not filed 10 days prior to the hearing, and as such, both are late filed. The court cannot consider these documents.

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

All prior orders remain in full force and effect.

**TENTATIVE RULING #11: THE COURT DROPS THE MATTER FROM CALENDAR DUE TO THE LACK OF PROPER SERVICE OF THE RFO. 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

February 23, 2022

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

**12. LISA TOMASON V. LOUIS MOLAKIDES**

**PFL20210494**

Petitioner filed an ex parte application for orders on December 22, 2022, requesting modification of child custody as well as parenting time orders. On December 23, 2022, the court denied the ex parte request and affirmed all prior orders. Petitioner filed a Request for Order (RFO) on December 23, 2022, requesting the same modifications as set forth in the ex parte application. Upon review of the court file, there is no Proof of Service showing Respondent was served with the RFO. Therefore, the court drops the matter from calendar.

Respondent filed an updating Declaration on February 7, 2023, for the 3111 review hearing set for February 23, 2023. Petitioner was served electronically on February 7, 2023. Respondent states the 3111 evaluation is in progress and the evaluator expects it to be completed by the end of May or beginning of June. Respondent requests the court specify Petitioner's parenting time as set forth in his declaration, as there have been problems in the past when specific dates were not identified. Respondent also requests the court order sanctions against Petitioner pursuant to Family Code Section 271 for her failure to appear at the court hearing on September 5, 2022 after requesting oral argument, as well as for her failure to appear after requesting oral argument on November 3, 2022. Respondent is also requesting the court order Family Code Section 271 sanctions against Petitioner for her filing frivolous ex parte applications and failure to follow proper procedure and service requirements. Respondent requests \$5,000 in attorney's fees as sanctions.

Respondent filed an Income and Expense Declaration as well as a Memorandum of Points and Authorities and Declaration from Counsel on February 7, 2023. Petitioner was served electronically on February 7, 2023. Respondent reiterates his requests for Family Code Section 271 sanctions for Petitioner's failure to appear at two hearings after requesting oral argument, failure to follow proper procedure for ex parte filings, as well as failure to properly serve Respondent.

The court has read and considered the filings as set forth above. The court continues the review hearing on the return of the 3111 evaluation to June 22, 2023 at 8:30 in Department 5. The court adopts the parenting plan as set forth in Respondent's Declaration.

Family Code Section 271 states, in pertinent part, "...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 of litigation and, where possible, to reduce the cost of litigation by encouraging cooperation of the parties..." Fam. Code § 271(a).

It appears evident that Petitioner's conduct does in fact, frustrate the policy of the law to promote settlement and reduce the costs of litigation. Given Petitioner's lack of cooperation, failure to appear for hearing in which she requested oral argument, and failure to follow proper

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 23, 2022

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

procedure and provide proper notice on multiple occasions in this matter the court finds it appropriate to award Respondent \$2,500 in sanctions.

Sanctions may be paid in one lump sum or in monthly increments of \$200 due and payable to Respondent's counsel on the 15th of each month, with payments to begin March 15, 2023. If any payment is missed or late, the entire outstanding amount is to become due and payable within five days of the date the late or missed payment was originally due.

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 #12: THE COURT DROPS PETITIONER'S DECEMBER 23, 2022 FILED RFO FROM CALENDAR DUE TO LACK OF PROPER SERVICE. THE COURT CONTINUES THE REVIEW HEARING ON THE RETURN OF THE 3111 EVALUATION TO JUNE 22, 2023 AT 8:30 IN DEPARTMENT 5. THE COURT ADOPTS THE PARENTING PLAN AS SET FORTH IN RESPONDENT'S DECLARATION. THE COURT GRANTS RESPONDENT'S REQUEST FOR FAMILY CODE SECTION 271 SANCTIONS IN THE AMOUNT OF \$2,500. SANCTIONS MAY BE PAID IN ONE LUMP SUM OR IN MONTHLY INCREMENTS OF \$200 DUE AND PAYABLE TO RESPONDENT'S COUNSEL ON THE 15TH OF EACH MONTH, WITH PAYMENTS TO BEGIN MARCH 15, 2023. IF ANY PAYMENT IS MISSED OR LATE, THE ENTIRE OUTSTANDING AMOUNT IS TO BECOME DUE AND PAYABLE WITHIN FIVE DAYS OF THE DATE THE LATE OR MISSED PAYMENT WAS ORIGINALLY DUE. 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 23, 2022

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

**13. AND 14. MICHAEL HOOPER V. MYRA HALTON-HOOPER/MYRA HALTON HOOPER V.  
MICHAEL HOOPER PFL20190743 AND PFL20190712**

Counsel for Petitioner/Respondent Michael Hooper filed a Motion to be Relieved as Counsel in both matters on December 13, 2022. Petitioner/Respondent Michael Hooper was served by mail on December 15, 2022.

On February 2, 2023, a Substitution of Attorney was filed, substituting counsel for Petitioner/Respondent to Petitioner/Respondent Michael Hooper representing himself.

As a Substitution of Attorney has been filed, the court finds the Motion to be Relieved to be moot. Therefore, the matter is dropped from calendar.

**TENTATIVE RULING #13 AND #14: THE COURT FINDS THE MOTION TO BE RELIEVED TO BE MOOT AND THE MATTER IS DROPPED FROM CALENDAR.**

**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.**