

Respondent filed a Request for Order on October 27, 2022, requesting attorney's fees and costs. Respondent filed an Income and Expense Declaration on October 21, 2022. Upon review of the court file, there is no Proof of Service showing Petitioner was served with the RFO. There is a Proof of Service showing Petitioner was served by mail with the Income and Expense Declaration, and various other documents, on October 21, 2022.

Petitioner has not filed a Responsive Declaration.

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

TENTATIVE RULING #2: 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.

On July 19, 2022 Petitioner filed a Request for Order (RFO), requesting the court suspend Respondent's parenting time as well as change venue pending completion of an investigation by the El Dorado County Sheriff's Department. Petitioner filed an Order Shortening Time (OST) requesting the matter be heard on an expedited basis. On July 19, 2022, the court granted the OST, set a hearing for August 25, 2022, and directed Petitioner to serve Respondent on or before July 28, 2022.

Respondent was personally served with the RFO on August 4, 2022.

Respondent filed a Responsive Declaration as well as three additional Declarations on August 12, 2022. Petitioner was served electronically on August 12, 2022. Respondent objected to Petitioner's requested orders. Respondent requested the court order the minor be returned to Respondent's custody in California where Respondent has located treatment for the minor's mental health. Respondent also opposed the request to change venue to Wyoming.

The parties appeared for hearing on August 25th. At that time the court denied Petitioner's request for a change of venue. The parties were referred to Child Custody Recommending Counseling (CCRC) with the direction that CCRC was to obtain additional information regarding the investigation being conducted by the El Dorado County Sheriff's Department and any investigation by Child Protective Services. The court set a review hearing for October 27th. In the interim, the court allowed Respondent only therapeutically supervised phone contact with the minor 1 time per week for a period of no more than 15 minutes. Phone calls were ordered to be initiated by the therapist and only at the therapist's discretion.

The court found good cause to refer the parties to Child Custody Recommending Counseling (CCRC). The court needed additional information about the pending investigation from the El Dorado County Sheriff's Department as well as any Child Protective Services investigation. Petitioner and the minor may participate via phone. The court continued the review hearing and reserved on Petitioner's requests. Pending the continued hearing date Respondent shall have supervised phone and/or video call contact with the minor a minimum of one time a week for 15 minutes.

As ordered, the parties attended CCRC on September 14, 2022. A report was issued on October 13th and sent to the parties the next day. On October 27, 2022, parties appeared for the hearing. Respondent requested the matter be continued to allow her time to review the CCRC report and file a Supplemental Declaration if necessary. The court granted the request to continue the matter and set a further review hearing on January 19, 2023. The court stayed the tentative ruling pending the next court date.

Respondent filed a Supplemental Declaration on January 9, 2023. Petitioner was served electronically on January 9, 2022. Respondent requests quarterly updates be provided directly

to her or her counsel by the minor's service providers. Respondent also requests the minor's service providers make time to speak with her regarding the allegations. Respondent requests Petitioner cease all harassment via text and social media. Respondent has provided no evidence of harassment via text or social media.

Petitioner filed a Reply Declaration on January 11, 2023. Respondent was served by mail, overnight delivery, and electronically on January 11, 2023. Petitioner disputes Respondent's claims of harassment, and states there has been no contact with Respondent via text or social media since August of 2022. Petitioner also refutes other statements made by Respondent in her January 9, 2023 Declaration.

After a review of the filings of the parties and the CCRC report, the court has determined that the recommendations contained in the CCRC report are in the best interest of the child. Therefore, the recommendations of the CCRC report are adopted with the following modifications: Provision 2 of the Physical Custody section shall be amended to read - "Mother shall have no contact with the child until such time El Dorado County Sheriff's Office has completed its investigation." Provision 3 of the Physical Custody section shall be amended to read - "In addition, Mother is to have no contact with the child until it is deemed to be therapeutically indicated by the child's treatment plan. Father is to communicate with Mother quarterly to inform her on the status of the therapist's opinion regarding therapeutically supervised contact between Mother and the child. If the therapist deems therapeutically supervised contact to be within the best interest of the child prior to the next quarterly update, Father is to notify Mother as soon as the therapist's recommendation is made. If at any time the therapist no longer feels therapeutically supervised contact is in the best interest of the minor, the therapist may discontinue such contact."

TENTATIVE RULING #3: THE RECOMMENDATIONS OF THE CCRC REPORT ARE ADOPTED WITH THE FOLLOWING MODIFICATIONS: PROVISION 2 OF THE PHYSICAL CUSTODY SECTION SHALL BE AMENDED TO READ - "MOTHER SHALL HAVE NO CONTACT WITH THE CHILD UNTIL SUCH TIME EL DORADO COUNTY SHERIFF'S OFFICE HAS COMPLETED ITS INVESTIGATION." PROVISION 3 OF THE PHYSICAL CUSTODY SECTION SHALL BE AMENDED TO READ - "IN ADDITION, MOTHER IS TO HAVE NO CONTACT WITH THE CHILD UNTIL IT IS DEEMED TO BE THERAPEUTICALLY INDICATED BY THE CHILD'S TREATMENT PLAN. FATHER IS TO COMMUNICATE WITH MOTHER QUARTERLY TO INFORM HER ON THE STATUS OF THE THERAPIST'S OPINION REGARDING THERAPEUTICALLY SUPERVISED CONTACT BETWEEN MOTHER AND THE CHILD. IF THE THERAPIST DEEMS THERAPEUTICALLY SUPERVISED CONTACT TO BE WITHIN THE BEST INTEREST OF THE CHILD PRIOR TO THE NEXT QUARTERLY UPDATE, FATHER IS TO NOTIFY MOTHER AS SOON AS THE THERAPIST'S RECOMMENDATION IS MADE. IF AT ANY TIME THE THERAPIST NO LONGER FEELS THERAPEUTICALLY SUPERVISED CONTACT IS IN THE BEST INTEREST OF THE MINOR, THE THERAPIST MAY DISCONTINUE SUCH CONTACT. PETITIONER IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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4. JOHN ISAAC COLE PATTERSON V. CHRISTY MARIE THOMAS
22FL1054

Petitioner filed a Request for Domestic Violence Restraining Order (DVRO) on November 1, 2022. Respondent opposes the DVRO.

TENTATIVE RULING #4: THE PARTIES ARE ORDERED TO APPEAR FOR HEARING ON PETITIONER'S REQUEST FOR DOMESTIC VIOLENCE RESTRAINING ORDER.

On August 1, 2022, Respondent filed a Request for Order (RFO) requesting the following orders: (1) The parties to share joint legal custody of their two minor children; (2) The parties to share joint physical custody of the two minor children with a week on/week off schedule with each minor; and (3) a holiday and vacation schedule as stated in the FL-341 filed concurrently with his RFO. The RFO was served electronically on August 5th. The parties were referred to CCRC and a hearing on the RFO was set for October 20th.

Petitioner filed a Responsive Declaration to Request for Order on October 7th. In her response Petitioner asks the court to deny Respondent's RFO, grant Petitioner sole legal and primary physical custody, allow Petitioner out of state travel with the minors, and all holidays. She requests an 80/20 timeshare with B.M. and 50/50 with A.M. She asks that Respondent pay for ½ of the tuition for A.M.'s private school as well as all other expenses including medical, dental, and extracurricular costs in addition to child support. Finally, she is seeking attorney's fees and costs.

The parties attended CCRC on August 31st. A report was issued on October 7th and mailed to the parties on October 11th. CCRC made recommendations regarding parenting time, counseling services, legal custody, phone contact between the parties and the children, communication between the parties, and respect guidelines.

On October 14th Respondent filed a Reply Declaration. Respondent disputes Petitioner's contentions regarding her alleged violation of the ATROS, A.M.'s medication, B.M.'s need to see a doctor, A.M. attending private school and the issue of an equal timeshare.

Petitioner filed a Reply Declaration to CCRC report on October 14th. Petitioner notes Respondent and the CCRC counselor were conferring separately prior to her arrival. She does not agree with statements attributed to her in the report and her concerns regarding Respondent's anger and outbursts were not even included in the report. She objects to the portion of the CCRC report which states that neither child shall be required to visit a parent against their wishes. The younger child is only 13 years old which she feels is not of "sufficient age and capacity to reason as to form an intelligent preference." Cal. Fam. Code § 3042(a). She does, however, think that the older child, who is 17 years old, does have the capacity to choose whether or not to attend visits with Respondent especially given the negative impact her visits have had on her mental health.

The court has reviewed the aforementioned filings of the parties and finds the recommendations contained in the October 7th CCRC report are in the best interest of the children with the following modification: Paragraph 2 of the Parenting Time section shall be amended to read "The older child, B.M., shall not be required to attend visits with either parent against her wishes."

Regarding the request for attorney's fees, the court notes the parties have stipulated to continue their trial on Respondent's finances and earning capacity. The court reserves jurisdiction on the issue of attorney's fees until the time of trial.

TENTATIVE RULING #5: THE COURT HAS REVIEWED THE AFOREMENTIONED FILINGS OF THE PARTIES AND FEELS THE RECOMMENDATIONS CONTAINED IN THE OCTOBER 7TH CCRC REPORT ARE IN THE BEST INTEREST OF THE CHILDREN WITH THE FOLLOWING MODIFICATION: PARAGRAPH 2 OF THE PARENTING TIME SECTION SHALL BE AMENDED TO READ "THE OLDER CHILD, B.M., SHALL NOT BE REQUIRED TO ATTEND VISITS WITH EITHER PARENT AGAINST HER WISHES." THE COURT RESERVES JURISDICTION ON THE ISSUE OF ATTORNEY'S FEES UNTIL THE TIME OF TRIAL.

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On October 25, 2022, Respondent filed a Request for Order (RFO) seeking child custody and visitation orders. The parties were referred to Child Custody Recommending Counseling (CCRC) and a hearing on the RFO was set for January 19, 2023.

By way of his RFO, Respondent is asking for a week-on/week-off schedule, with the receiving parent to pick the child up after school on Friday. On school breaks, exchanges are to be held at 9:00 a.m. Further, Respondent would like to continue the current holiday schedule as ordered by the court on October 18, 2019. Currently the parties share a week-on/week-off schedule during summer break but during the week Respondent has the child from Tuesday until Friday morning. On the 2nd weekend of each month Respondent has the child from Saturday at 9am until Monday at 9am. Petitioner has the child from Friday after school until Tuesday before school. While the current schedule is approximately a 50/50 timeshare, Respondent requests this change because the current schedule results in him primarily having the child during the school week, while the majority of Petitioner's time with the minor falls on the weekends.

The parties attended CCRC on December 7, 2022. A report was drafted on January 5, 2023 and mailed to the parties on the next day. The parties were unable to reach any agreements during CCRC, as such, the CCRC counselor made recommendations regarding legal custody, parenting time, phone contact between the parties and children, communication between the parents, and respect guidelines.

Having reviewed the RFO and the CCRC report, the court finds that the recommendations contained in the January 5, 2023 CCRC report are in the best interest of the minor with the exception of the recommended 2-2-5-5 parenting schedule. The minor is of sufficient age to tolerate a week-on/week-off schedule. Further, the parties already adhere to week-on/week-off during the summer months. Continuing that schedule year-round would allow for continuity and stability for the minor. As such, the court adopts the recommendations of the January 5, 2023 CCRC report with the following modifications: The Parenting Time section shall be amended to read (1) The parties will share parenting time on a week-on/week-off basis with exchanges to occur at 9:00 a.m. on Friday when school is not in session. When school is in session, the receiving parent shall pick up the child after school on Fridays. (2) The parties are to continue the current holiday schedule in accordance with the court's order of October 18, 2019.

TENTATIVE RULING #6: THE COURT ADOPTS THE RECOMMENDATIONS OF THE JANUARY 5, 2023 CCRC REPORT WITH THE FOLLOWING MODIFICATIONS: THE PARENTING TIME SECTION SHALL BE AMENDED TO READ (1) THE PARTIES WILL SHARE PARENTING TIME ON A WEEK-ON/WEEK-OFF BASIS WITH EXCHANGES TO OCCUR AT 9:00 A.M. ON FRIDAY WHEN SCHOOL IS NOT IN SESSION. WHEN SCHOOL IS IN SESSION, THE RECEIVING PARENT SHALL PICK UP THE CHILD AFTER SCHOOL ON FRIDAYS. (2) THE PARTIES ARE TO CONTINUE THE CURRENT

HOLIDAY SCHEDULE IN ACCORDANCE WITH THE COURT'S ORDER OF OCTOBER 18, 2019.
RESPONDENT IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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Petitioner filed her Request for Order (RFO) on October 27, 2022. Proof of Service, showing service by mail on Respondent's Attorney of Record on October 31, 2022, was filed on November 1, 2022.

Respondent filed his Responsive Declaration on January 11, 2023, including an attached a Proof of Service by mail, showing a copy was mailed to the Petitioner's Attorney of Record on January 4, 2023.

Petitioner requests that the court enter a Judgment for Dissolution of the marriage based on previous court orders which have addressed various issues at various dates during the pendency of this matter. Petitioner asserts entry of Judgment per Civil Procedure Section 664.6. Petitioner attaches two proposed Judgments as Exhibits "A" and "B" to her RFO. Option "A" consists of Judicial Counsel form FL-180 and an attached though unexecuted Marital Settlement Agreement, which purportedly has been negotiated and agreed to by the parties, as well as copies of orders previously entered by the Court on October 13, 2022 (Custody and Visitation), November 30, 2021 (Property and Attorney's fees), and December 1, 2021 (Property and Spousal Support) and Judicial Counsel form FL-192. Option "B" consists of Judicial Counsel form FL-180 with attached copies of orders previously entered by the Court on August 28, 2020 (Custody), the order of October 13, 2022 (Custody and Visitation), the order of November 30, 2021 (Property and Attorney's fees) and Judicial Counsel form FL-192.

Respondent opposes the entry of Exhibit "A" on the basis that the proposed Judgment contains terms not stipulated to by the parties or ordered by the court as required per Civil Procedure Section 664.6.

Respondent opposes the entry of Exhibit "B" because the FL-180 marks that the matter was both "contested" and the result of "Agreement in Court". Additionally Respondent notes that the proposed Judgment references a child support attachment, but none is attached and the proposed Judgment lacks the orders made on December 1, 2021 and that the copy of the orders of October 13, 2022 are incomplete.

The court agrees that the version presented as Exhibit "A" cannot be entered as is because the Marital Settlement Agreement submitted as the overarching agreement is unsigned and the court cannot take on faith that it represents an agreement of the parties. The version submitted as Exhibit "B" however, does consist of matters stipulated to by the parties "in a writing signed outside the presence of the Court." Cal. Civ. Pro. § 664.6. However, that judgment should be as complete as possible.

The court has reviewed the Minutes of the Court for the trial scheduled for November 30, 2021 and December 1, 2021. It is clear to the court that the parties and their respective attorneys were intending an extensive trial which ultimately would yield entry of a judgment of the court ending their marriage.

The minutes of November 30, 2021 show that the trial began at 8:50 am before the Honorable Judge Pesce, argument and discussion before the Court took place until 9:22 am, at which point the Court took a recess. A chambers meeting was held, after which the parties met and conferred with Judge Ashworth. At 3:31 pm the court reconvened, the parties were sworn, and a written stipulation was presented to the Court. After the court conducted voir dire of the parties, the court signed the Stipulation and Order. The balance of the trial was continued to December 1, 2021.

The minutes of December 1, 2021 show the trial resumed at 9:04 am, various witnesses were called and examined, recesses were taken and at 3:37 pm a stipulation and order was presented which was signed by the court. No further continuance date was set, and exhibits were returned to the parties, confirming that the two stipulations and orders resolved all pending matters.

Based on the review of the minutes of the trial, the court agrees with Respondent, that the judgment should include the stipulation and order from December 1, 2021 in addition to the one from November 30, 2021. The court, however, disagrees that the FL-180 may only have either the "Contested" or "Agreement in Court" box checked. The record is clear that this matter was contested, but that it yielded agreements entered in court. Checking both the "Contested" and "Agreement entered in Court" boxes is an accurate reflection of how the results came to be.

The court finds that the parties are entitled to a Judgment of Dissolution which incorporates the orders made by the Court on November 30, and December 1, 2021, as well as the current orders on Custody and visitation and Child Support (if any).

TENTATIVE RULING #7: THE COURT FINDS THAT THE PARTIES ARE ENTITLED TO A JUDGMENT OF DISSOLUTION AND THAT THE FORM OF JUDGMENT SHOULD INCORPORATE ALL CURRENT ORDERS PREVIOUSLY ENTERED BY THE COURT. PETITIONER IS ORDERED TO PREPARE A FORM OF JUDGMENT CONSISTENT WITH THIS RULING AND SUBMIT IT FOR APPROVAL TO COUNSEL FOR THE RESPONDENT AND AFTERWARD TO THE COURT FOR EXECUTION.

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This matter is before the court by orders made on October 27, 2021. The court continued the Petitioner's request for sanctions per Family Code Section 271, to January 19, 2023. The Court further ordered the Respondent to file and serve an Income and Expense Declaration at least 10 days prior to the hearing and ordered that any supplemental declarations must be filed and served at least 10 days prior to the hearing.

The Respondent filed a Supplemental Declaration and an Income and Expense Declaration on January 06, 2023. Proof of service, also filed January 06, 2023, shows that each document was served by mail on Petitioner's attorney on January 06, 2023.

Petitioner filed a Supplemental Declaration on January 11, 2023, with an attached Proof of Service showing a copy of the Declaration was served on Respondent's attorney by electronic transmission that same date. As Petitioner's Supplemental Declaration was not timely filed, it has not been considered by the Court.

The court discussed the Petitioner's request for sanctions in the Tentative Ruling issued in advance of the hearing on October 27, 2022. The court subsequently adopted the Tentative ruling as its order and a Findings and Order After Hearing was entered on January 10, 2022. Without reiterating the analysis previously given, the Court found that Respondent's "motion was without any basis in law or fact", but the court needed information about the Respondent's ability to pay an award of sanctions.

The Respondent's Income and Expense shows average monthly income of \$6,807 and monthly expenses of \$5,310 (after deducting the \$1,000 per month of the Respondent's expenses paid by another person). This leaves \$1,497 available to the Respondent each month. The Court finds that the imposition of sanctions on the Respondent will not constitute an unreasonable financial burden on the Respondent.

The Petitioner's Responsive RFO filed October 18, 2022, requests sanctions in the amount of \$1,275. Petitioner's attorney filed a Declaration in support of the Sanctions request on October 18, 2022, both were properly served on the Respondent. Supplemental amounts requested, if any, were not timely filed and so the Court is limited to the amount previously requested.

The Court orders the Respondent to pay to the Petitioner \$1,275 in sanctions per Family Code Section 271. Respondent is ordered to make payments of \$255 per month for approximately five months to counsel for Petitioner. The first payment is due on February 1, 2023 and further payments are due the first of each month thereafter until paid in full. Any missed payment will result in the full balance owing being due with legal interest. Petitioner is ordered to prepare a Findings and Orders after Hearing consistent with this ruling.

All prior orders not in conflict with this order shall remain in full force and effect.

TENTATIVE RULING #8: PETITIONER'S REQUEST FOR AN ORDER OF SANCTIONS PER FAMILY CODE SECTION 271 IS GRANTED. THE COURT ORDERS THE RESPONDENT TO PAY TO THE PETITIONER \$1,275 IN SANCTIONS PER FAMILY CODE SECTION 271. RESPONDENT IS ORDERED TO MAKE PAYMENTS OF \$255 PER MONTH FOR APPROXIMATELY FIVE MONTHS TO COUNSEL FOR PETITIONER. THE FIRST PAYMENT IS DUE ON FEBRUARY 1, 2023 AND FURTHER PAYMENTS ARE DUE ON THE FIRST OF EACH MONTH THEREAFTER UNTIL PAID IN FULL. ANY MISSED PAYMENT WILL RESULT IN THE FULL BALANCE OWING BEING DUE WITH LEGAL INTEREST. PETITIONER IS ORDERED TO PREPARE A FINDINGS AND ORDERS AFTER HEARING CONSISTENT WITH THIS RULING. PETITIONER IS ORDERED TO PREPARE THE FINDINGS AND ORDER AFTER HEARING. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER SHALL REMAIN IN FULL FORCE AND EFFECT.

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Respondent filed an ex parte motion for emergency custody orders on December 12, 2022. The court denied the request on December 13, 2022. Respondent filed a Request for Order (RFO) on December 13, 2022, requesting the same orders as set forth in the ex parte request, joint legal and physical custody of the minors and that the minors be re-enrolled in Lake Forest Elementary School in El Dorado Hills. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on December 29, 2022 and a review hearing on March 2, 2022. The court issued an ex parte minute order on December 23, 2022, correcting the review hearing date to January 19, 2023.

The parties attended CCRC on December 29, 2022 and reached a full agreement. A report was filed with the court on December 29, 2022 and mailed to the parties on January 6, 2023.

Respondent filed a Supplemental Declaration on January 12, 2023. Petitioner was served by mail and electronically on January 12, 2023. The court notes this is less than 10 days prior to the hearing date. Respondent requests several modifications to the agreements, including modification of alcohol testing requirements, the allocation of the cost for testing, and modification of the parenting plan. Respondent asserts he is concerned with the alcohol testing requirements given his profession as a registered nurse. Respondent is required to use an alcohol-based hand sanitizer throughout his shift. Respondent has included as exhibits studies indicating the possibility of false positive tests due to alcohol-based and sanitizer. Respondent requests the court set a higher cut-off threshold for his alcohol tests to avoid any potential for false positive tests. Respondent agrees to continue to use the BAC Track breathalyzer device the parties are currently using in addition to random tests. Respondent requests the costs of testing be allocated equally between the parties.

Petitioner has not filed a Supplemental Declaration.

The court has read and considered the filings as outlined above. The court adopts the parties' agreements as set forth in the December 29, 2022 CCRC report as they are in the best interest of the minors.

The court recognizes the concerns raised by Respondent about the potential for a false positive alcohol test given the need to use alcohol-based hand-sanitizer repeatedly throughout his workday. However, the court also recognizes the need to ensure Respondent is clean and sober. Respondent shall participate in random alcohol testing; it may be urinalysis or oral swab testing. The testing shall include testing for EtG and EtS. The court is not modifying the cut off levels, as the cutoff for EtS is not exceeded when hand-sanitizer is being used. Therefore, so long as the EtS levels remain below cutoff, the test will be considered negative. Respondent must test as directed, a minimum of three times per month randomly, completing any test required within one hour of the end of his shift. Any missed test will be considered a positive test. Respondent shall test randomly for 90 days Respondent shall be responsible for the cost

of tests for 90 days. Thereafter, Petitioner may request Respondent test via the breathalyzer, with live results, if she suspects Respondent has been drinking.

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

TENTATIVE RULING #9: THE COURT ADOPTS THE PARTIES' AGREEMENTS AS SET FORTH IN THE DECEMBER 29, 2022 CCRC REPORT AS THEY ARE IN THE BEST INTEREST OF THE MINORS. THE COURT RECOGNIZES THE CONCERNS RAISED BY RESPONDENT ABOUT THE POTENTIAL FOR A FALSE POSITIVE ALCOHOL TEST GIVEN THE NEED TO USE ALCOHOL-BASED HAND-SANITIZER REPEATEDLY THROUGHOUT HIS WORKDAY. HOWEVER, THE COURT ALSO RECOGNIZES THE NEED TO ENSURE RESPONDENT IS CLEAN AND SOBER. RESPONDENT SHALL PARTICIPATE IN RANDOM ALCOHOL TESTING; IT MAY BE URINALYSIS OR ORAL SWAB TESTING. THE TESTING SHALL INCLUDE TESTING FOR ETG AND ETS. THE COURT IS NOT MODIFYING THE CUT OFF LEVELS, AS THE CUTOFF FOR ETS IS NOT EXCEEDED WHEN HAND-SANITIZER IS BEING USED. THEREFORE, SO LONG AS THE ETS LEVELS REMAIN BELOW CUTOFF, THE TEST WILL BE CONSIDERED NEGATIVE. RESPONDENT MUST TEST AS DIRECTED, A MINIMUM OF THREE TIMES PER MONTH RANDOMLY, COMPLETING ANY TEST REQUIRED WITHIN ONE HOUR OF THE END OF HIS SHIFT. ANY MISSED TEST WILL BE CONSIDERED A POSITIVE TEST. RESPONDENT SHALL TEST RANDOMLY FOR 90 DAYS RESPONDENT SHALL BE RESPONSIBLE FOR THE COST OF TESTS FOR 90 DAYS. THEREAFTER, PETITIONER MAY REQUEST RESPONDENT TEST VIA THE BREATHALYZER, WITH LIVE RESULTS, IF SHE SUSPECT RESPONDENT HAS BEEN DRINKING. ALL PRIOR ORDERS NOT IN CONFLICT WITH THESE ORDERS REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6725 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247(1999). NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.13.08; LOCAL RULE 8.05.07.

Respondent filed a Request for Order (RFO) on October 25, 2022, requesting the court modify child custody orders as well as transfer jurisdiction to Montana. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on November 16, 2022. Petitioner was served my mail and electronically on October 26, 2022.

Respondent is requesting sole legal and physical custody of the minor. Petitioner to have visitation subject to providing the court and Respondent a copy of a clean drug test. Petitioner is currently ordered to test twice monthly at Progress House. Respondent requests the court transfer jurisdiction of the matter to Montana, as he and the minor have resided there for the past three years. Respondent asserts the court may decline to exercises its jurisdiction for child custody matter under Family Code Section 3427 at any time upon motion of any party, the court itself, or another court, if the court finds it is an inconvenient forum to make such determinations. Brewer v. Carter, 218 Cal. App. 4th 1312, 1319 (2013). Respondent sets forth the factors for the court to considering in determining whether the current court is an inconvenient forum including: any past domestic violence along with the likelihood of it continuing in the future; length of time the child has resided out of the state; the distance between the current and proposed states; the degree of financial hardship to the parties litigating in one forum over the other; any agreements the parties make in regards to jurisdiction; the nature and location of the evidence required to resolve the pending litigation; the courts' ability to decide the issue expeditiously and the procedures necessary to present the evidence; and the familiarity of the court with the facts and pending litigation.

Respondent also asserts Petitioner has only participated in visitation with the minor three times. Further, Petitioner has not provided any drug tests since the July 20, 2020 court order. Respondent further asserts Petitioner has appeared to be under the influence at each of the visits and was late for each visit. Respondent asserts Petitioner is difficult to reach, which often delays important decisions for the minor's school and medical care.

Only Respondent appeared for the CCRC appointment on November 16, 2022. As such, as single parent report with no agreements or recommendations was filed. A copy of the report was mailed to the parties on November 22, 2022.

Petitioner has not filed a Responsive Declaration.

The court has read and considered the filings as set forth above. The court denies Respondent's request for sole legal custody, however, modifies the current legal custody orders. The parties are to use the talkingparents.com application for all communication about the minor's education, health, and general welfare. Respondent shall contact Petitioner via the talkingparents.com application for all legal custody inquiries. Petitioner shall respond within 24 hours. Should Petitioner fail to respond, Respondent shall have final decision-making authority. Respondent shall maintain sole physical custody of the minor. The current orders for visitation and drug testing remain in full force and effect. The court modifies the visitation order to add,

if Respondent has a reasonable belief, Petitioner is under the influence, the visit will be cancelled.

The court finds Respondent's request to transfer the matter to Montana to be premature. With the resolution of the current RFO, there are no pending matters in California. The court has no evidence before it that a court of competent jurisdiction in Montana has a pending cause of action or is willing to accept the transfer-in of this case. Should that issue arise, and the appropriate Uniform Child-Custody Jurisdiction and Enforcement Act (UCCJEA) case conference be set, the court would be inclined to find Montana is the more appropriate jurisdiction. The parties entered a Judgment on September 20, 2016. There are no allegations of domestic violence. The minor has resided with Respondent in Montana since October 10, 2019. The court granted Respondent's move-away request on July 20, 2020. Petitioner has limited visitation due to her drug use. The court finds the degree of financial hardship to the parties litigating in one forum over the other results in a draw, as each party would either be required to travel or appear remotely. Each party would be required to hire counsel in the respective jurisdiction. However, the court further finds the location of the evidence weighs in favor of transferring the matter to Montana. The minor resides in Montana and the majority of visitation has taken place in Montana. The minor has only traveled to California one time in the last two years. The court further finds this is not a complex case and the Montana court would be able to familiarize themselves with the matter quickly and easily. Respondent is directed to register the current custody orders in his county of residence in Montana. Respondent may request a certified copy of the orders to facilitate the registration.

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

TENTATIVE RULING #10: THE COURT DENIES RESPONDENT'S REQUEST FOR SOLE LEGAL CUSTODY, HOWEVER, MODIFIES THE CURRENT LEGAL CUSTODY ORDERS. THE PARTIES ARE TO USE THE TALKINGPARENTS.COM APPLICATION FOR ALL COMMUNICATION ABOUT THE MINOR'S EDUCATION, HEALTH, AND GENERAL WELFARE. RESPONDENT SHALL CONTACT PETITIONER VIA THE TALKINGPARENTS.COM APPLICATION FOR ALL LEGAL CUSTODY INQUIRIES. PETITIONER SHALL RESPOND WITHIN 24 HOURS. SHOULD PETITIONER FAIL TO RESPOND, RESPONDENT SHALL HAVE FINAL DECISION-MAKING AUTHORITY. RESPONDENT SHALL MAINTAIN SOLE PHYSICAL CUSTODY OF THE MINOR. THE CURRENT ORDERS FOR VISITATION AND DRUG TESTING REMAIN IN FULL FORCE AND EFFECT. THE COURT MODIFIES THE VISITATION ORDER TO ADD, IF RESPONDENT HAS A REASONABLE BELIEF, PETITIONER IS UNDER THE INFLUENCE, THE VISIT WILL BE CANCELLED. THE COURT FINDS RESPONDENT'S REQUEST TO TRANSFER THE MATTER TO MONTANA TO BE PREMATURE. RESPONDENT IS DIRECTED TO REGISTER THE CURRENT CUSTODY ORDERS IN HIS COUNTY OF RESIDENCE IN MONTANA. RESPONDENT MAY REQUEST A CERTIFIED COPY OF THE ORDERS TO FACILITATE THE REGISTRATION. ALL PRIOR ORDERS NOT IN CONFLICT WITH THESE ORDERS REMAIN IN

FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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On February 14, 2022, Respondent filed a Request for Order (RFO) requesting a change in custody and parenting time. Petitioner was served with the RFO by mail on February 16, 2022.

Respondent requested the court modify custody and parenting time to allow him to be involved in the minors lives and decisions. Respondent requested to begin the visitation process again to be reunified with the minors. Respondent asserted he had been cleared through his mental health evaluation. Respondent included four exhibits with his declaration, including a letter from Keith Rivera, a Licensed Clinical Social Worker, who conducted a Mental Health Status Exam for Respondent.

On April 14, 2022, the court adopted its tentative ruling, findings good cause to continue the matter for the parties to attend CCRC. The court set a review hearing for July 7, 2022 to review the CCRC report.

On May 11, 2022, Petitioner filed a Responsive Declaration requesting the court deny Respondent's requested orders. Respondent was served by mail on May 6, 2022. According to Petitioner Respondent had failed to comply with the prior order to participate in a 730 evaluation, had not visited or had contact with the minors since approximately 2018, and failed to comply with the court order to use the talkingparents.com application for all communication regarding the minors. Petitioner requested the court affirm its prior order for a 730 Evaluation, with additional provisions to be assessed. Petitioner further requested the court suspend the then current order for professionally supervised visitation pending a return on the 730 Evaluation, as the minors had not had contact with Respondent in over three years. If and when contact is resumed, Petitioner requested it take place in a therapeutic setting under the guidance of a reunification counselor.

The court issued a tentative ruling on the RFO, which it adopted at the July 7th hearing. At that time the court adopted the recommendations of the CCRC report with the following modifications: The court adopted the recommendation for the minors to participate in individual therapy as its order. The court temporarily suspended the order for professionally supervised visitation. The court further modified the order for Respondent to complete a 730 evaluation to include in the issues to be addressed whether it would be in the best interests of the minors to have renewed contact with Respondent, given his lengthy absence. All other prior orders as to custody and communication between the parties not in conflict remained in full force and effect. The court sets a review hearing for return of the 730 Evaluation on October 27th.

Parties appeared for the hearing on October 27, 2022 and agreed to continue the matter to review the 730 evaluation. The court continued the matter to January 19, 2023.

Petitioner filed a Supplemental Declaration on January 13, 2023. Respondent was served electronically on January 13, 2023. Petitioner states Dr. Roeder published his report on September 14, 2022. The court notes it is not in receipt of the 730 evaluation report. Petitioner asserts Respondent elected not to return to Dr. Roeder's office to address issues which had not initially been included as part of the scope of the evaluation, despite them being identified in the court's order. Petitioner states the minors are no longer receiving therapy, as their therapist found they have met their goals and therapy is no longer recommended. The minors do not desire reunification. Petitioner requests the court deny Respondent's request for contact with the minors due to Respondent's failure to comply with the July 7, 2022 court order. Petitioner requests in the alternative, if the court is not inclined to deny Respondent's request, that Respondent comply with the July 7, 2022 order as well as start the outpatient supportive counseling services identified in Dr. Roeder's report.

Respondent has not filed a Supplemental Declaration.

As the court has not received the 730 evaluation, the court orders parties to appear for the hearing.

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

Respondent filed a Request for Order (RFO) on October 24, 2022 seeking bifurcation of the issue of marital status. According to the RFO he has completed and served his Declaration of Disclosure, Schedule of Assets and Income and Expense Declaration along with the RFO. There are no retirement accounts to be joined. The RFO and all required documents were served on November 3rd.

Petitioner filed her Responsive Declaration to Request for Order on January 4, 2023. Petitioner feels there are retirement accounts that may be subject to joinder. She does not oppose the bifurcation but wants to ensure that her interests are being protected prior to doing so.

The parties are ordered to appear to discuss the issue of the retirement accounts and select hearing dates for a status-only judgment.

TENTATIVE RULING 12: THE PARTIES ARE ORDERED TO APPEAR TO DISCUSS THE ISSUE OF RETIREMENT ACCOUNTS AND SELECT HEARING DATES FOR A STATUS-ONLY JUDGMENT.