

Petitioner filed a Request for Order (RFO) on September 6, 2022, requesting court permission to relocate the minor to New Hampshire. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on September 28, 2022 and a review hearing on November 10, 2022. Respondent was personally served on September 11, 2022. Petitioner subsequently filed an amended RFO on October 18, 2022. It was served by mail on October 18, 2022, with address verification. The court finds the amended RFO was not timely served as it was not served 16 court days plus five calendar days prior to the hearing.

Petitioner is requesting the court allow her and the minor to relocate to New Hampshire. Petitioner currently has sole legal and physical custody of the minor with Respondent having reasonable visitation. Petitioner sets forth in her request the reasons for the proposed move as well as why she believes it is in the minor's best interest.

Parties attended CCRC on September 28, 2022 but were unable to reach any agreements. A report with recommendations was filed on November 1, 2022. Copies of the report were mailed to the parties on November 1, 2022.

Respondent filed a Declaration on September 28, 2022. Upon review of the court file, there is no Proof of Service showing Petitioner was served with the Declaration and therefore, the court cannot consider it.

The court has read and considered the filings as set forth above. The court adopts the recommendations as set forth in the CCRC report as they are in the best interest of the minor. The parties shall have joint legal custody of the minor. The minor shall reside primarily with Petitioner. Respondent shall have parenting time as set forth in the CCRC report. The court adopts the Exchange and Transportation recommendations. The court also adopts the additional provisions, including address notification, notification about a proposed move of the child, canceled visitation, phone contact with the child, communication between the parties, the respect guidelines, parenting class and co-parenting class. The court is not adopting the alcohol or substance abuse portion of the recommendations, as there are no allegations Respondent has a substance abuse problem.

Parties are ordered to appear to select dates for a Mandatory Settlement Conference and Trial on the Move-Away request.

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 #14: THE COURT ADOPTS THE RECOMMENDATIONS AS SET FORTH IN THE CCRC REPORT AS MODIFIED ABOVE. PARTIES ARE ORDERED TO APPEAR TO SELECT DATES FOR A MANDATORY SETTLEMENT CONFERENCE AND TRIAL ON THE MOVE-AWAY REQUEST. 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 THESE MATTERS 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.

**15. CARISSA MASTEN V. NICHOLAS WHITE**

**22FL0574**

On July 19, 2022, Petitioner filed an Order to Show Cause (OSC) and Affidavit for Contempt alleging Respondent has violated the temporary domestic violence restraining order on multiple occasions. Respondent was personally served with the OSC on July 22, 2022.

Parties appeared on September 8, 2022. The Public Defender's Office was appointed to represent Respondent and the matter was continued.

**TENTATIVE RULING #15: PARTIES ARE ORDERED TO APPEAR FOR ARRAIGNMENT.**

Petitioner filed a Request for Order (RFO) requesting Respondent cooperate in obtain passports for the parties' minor children and the court authorize travel to Mexico. Respondent was personally served on September 16, 2022. Petitioner asserts Respondent has not been opposed to the minors obtaining passports, however, he is opposed to the minors traveling to Mexico. Petitioner has been communicating with Respondent since January 27, 2022 in an attempt to obtain the passports. At that time, Respondent stated he was in agreement with obtaining passports for the minors. Petitioner states that since that time, Respondent has failed to complete the necessary forms for the applications to be completed.

Respondent filed a Responsive Declaration on October 10, 2022. Petitioner was personally served on October 16, 2022. Respondent states he is not opposed to the minors obtaining passports, but does object to the minors traveling to Mexico. Respondent states his objection is based on the United States State Department's travel advisory for Mexico. Respondent states he has no objection to the minors traveling to any country so long as it has a "Level 1" travel advisory from the US State Department.

The court has read and considered the filings as outlined above. Respondent is ordered to complete the necessary forms for the minors' passports on or before November 18, 2022. If Respondent fails to complete the necessary forms, the court authorizes the clerk of the court to act as elisor to sign the forms.

In Petitioner's Declaration, she states the proposed travel would be in February of 2023 to Mexico via a cruise. While the court understands Respondent's concern with travel, the court finds it would be in the minors' best interests to allow the travel via cruise. The minors would be sleeping aboard the ship each night and traveling briefly off the ship via excursions through the cruise line. The court finds this to be reasonable. The court authorizes Petitioner to travel with the minors to Mexico, via one of the cruises proposed in her Declaration. Petitioner must provide Respondent with the travel itinerary at least 30 days prior to departure. The itinerary must include the dates of travel, the cruise line, the ports of call, as well as any scheduled excursions.

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

**TENTATIVE RULING #16: RESPONDENT IS ORDERED TO COMPLETE THE NECESSARY FORMS FOR THE MINORS' PASSPORTS ON OR BEFORE NOVEMBER 18, 2022. IF RESPONDENT FAILS TO COMPLETE THE NECESSARY FORMS, THE COURT AUTHORIZES THE CLERK OF THE COURT TO ACT AS ELISOR TO SIGN THE FORMS. THE COURT AUTHORIZES PETITIONER TO TRAVEL WITH THE MINORS TO MEXICO, VIA ONE OF THE CRUISES PROPOSED IN HER DECLARATION. PETITIONER MUST PROVIDE RESPONDENT WITH THE TRAVEL ITINERARY AT LEAST 30 DAYS PRIOR TO DEPARTURE. THE ITINERARY MUST INCLUDE THE DATES OF TRAVEL, THE CRUISE LINE, THE PORTS OF CALL, AS WELL AS ANY SCHEDULED EXCURSIONS. ALL PRIOR ORDERS NOT IN CONFLICT WITH THE ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

**NO HEARING ON THESE MATTERS 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.

Respondent filled a Request for Order (RFO) with a request for an Order Shortening Time (OST) on October 27, 2022. The court granted the OST and set the hearing on the RFO on November 10, 2022. Respondent was to serve Petitioner with the RFO on or before October 31, 2022. The court authorized Petitioner to file any Responsive Declaration on or before November 7, 2022. Respondent filed a Proof of Service on October 28, 2022, showing Petitioner was served by mail on October 28, 2022.

Respondent requests the court authorize the clerk of the court to act as elisor to sign the Qualified Domestic Relations Order (QDRO). Respondent asserts that in the parties stipulated Marital Settlement Agreement (MSA) the parties agreed to divide the retirement account via QDRO and to retain Moon, Schwartz, and Madden, or by mutual agreement in writing another service. The parties agreed to split the costs. The parties agreed to cooperate in executing all documents required. A joinder was to be filed within 10 days from the entry of Judgment. Respondent asserts Petitioner has failed to cooperate with the QDRO process. Respondent asserts Petitioner sought out Legal Docs on Main to prepare the QDRO without his agreement. Despite Petitioner seeking out these services, the QDRO has yet to be completed. Respondent states he will be retired as of December 31, 2022, and it is necessary to complete the QDRO for him to be able to draw on his retirement.

Petitioner has not filed a Responsive Declaration.

Respondent filed a letter with the court on November 8, 2022, stating Petitioner had signed the CalPers approved QDRO, and requested the matter be taken off calendar. Petitioner was carbon copied on the letter. The court finds Respondent's request to be moot as the CalPers QDRO has been sign and drops the matter from calendar.

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

**TENTATIVE RULING #17: THE MATTER IS DROPPED FROM CALENDAR AS MOOT. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT.**

**NO HEARING ON THESE MATTERS 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.**

Petitioner filed a Petition to Establish a Parental Relationship on August 11, 2022. Respondent was personally served on September 7, 2022. Petitioner states he is the father to the minor and that he and Respondent have shared joint custody by mutual agreement since 2011. Respondent has not filed a Responsive Declaration. The court finds Petitioner to be the presumed father of the minor pursuant to Family Code section 7611(d). Petitioner is ordered to prepare and file the Judgment of Paternity.

Petitioner also filed a Request for Order (RFO) on August 11, 2022, requesting the court make custody and parenting plan orders. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on September 19, 2022 and a review hearing on November 10, 2022. Respondent was personally served on September 7, 2022. Petitioner requests the court order joint legal custody, with physical custody to Petitioner. Petitioner requests Respondent have reasonable parenting time as determined in mediation. Petitioner also requests the minor and Respondent participate in reunification therapy.

Both parties and the minor attended CCRC on September 19, 2022. The parties were unable to reach any agreements. A report with recommendations was filed with the court on September 29, 2022. A copy of the report was mailed to the parties on October 11, 2022.

Petitioner filed a Supplemental Declaration on November 2, 2022. Respondent was served both electronically and by mail on November 2, 2022. Petitioner requests the court adopt the recommendations as set forth in the CCRC report, with modifications. Petitioner requests the parenting time for Respondent not begin until recommendation from the reunification therapist. Petitioner also requests that once Respondent's parenting time begins, it be every other weekend from Saturday at 10:00 AM until Sunday at 6:00 PM, and that Respondent ensure the minor's attendance at his scheduled sporting events, practices, and extracurricular activities that are scheduled during Respondent's parenting time.

Respondent has not filed a Responsive Declaration.

The court has read and considered the above filings as set forth. The court adopts the recommendations as set forth in the CCRC report with modifications, as they are in the best interest of the minor. The parties shall have joint legal custody. Petitioner shall have sole physical custody. Respondent and the minor shall participate in reunification counseling. Upon the recommendation of the reunification counselor, Respondent shall have parenting time every other weekend from Saturday at 10:00 AM until Sunday at 6:00 PM. Parties shall select a reunification counselor on or before December 1, 2022. Respondent and the minor shall participate in reunification counseling at a frequency and duration as directed by the reunification counselor. The parties are to enroll and participate in co-parenting counseling. Parties shall select a co-parenting counselor on or before December 1, 2022. Parties shall participate in co-parenting counseling at a frequency and duration as directed by the co-parenting counselor. The court is not adopting the provision for Respondent to participate in individual counseling. The minor is to continue participating in individual counseling at a frequency and duration as directed by the therapist. Once parenting time with Respondent begins, the exchanges are to take place at a location halfway between El Dorado County and Contra Costa County, mutually agreed upon by the parties. The exchanges shall be brief, with no discussion of co-parenting issues during the exchanges. The court adopts the recommendations for out of state travel.

The court denies Petitioner's request for Respondent to ensure the minor attends in all extracurricular activities during her parenting time. The court finds Respondent resides in Contra Costa County, and this would potentially require Respondent to travel to El Dorado County multiple times during her parenting time. The court encourages the parties to meet and confer on the issue through co-parenting counseling.

Petitioner is ordered to prepare and file the Findings and Orders After Hearing.

**TENTATIVE RULING #18: THE COURT FINDS PETITIONER TO BE THE PRESUMED FATHER OF THE MINOR PURSUANT TO FAMILY CODE SECTION 7611(D). PETITIONER IS ORDERED TO PREPARE AND FILE THE JUDGMENT OF PATERNITY. THE COURT ADOPTS THE RECOMMENDATIONS AS SET FORTH IN THE CCRC REPORT WITH MODIFICATIONS, AS THEY ARE IN THE BEST INTEREST OF THE MINOR. THE PARTIES SHALL HAVE JOINT LEGAL CUSTODY. PETITIONER SHALL HAVE SOLE PHYSICAL CUSTODY. RESPONDENT AND THE MINOR SHALL PARTICIPATE IN REUNIFICATION COUNSELING. UPON THE RECOMMENDATION OF THE REUNIFICATION COUNSELOR, RESPONDENT SHALL HAVE PARENTING TIME EVERY OTHER WEEKEND FROM SATURDAY AT 10:00 AM UNTIL SUNDAY AT 6:00 PM. PARTIES SHALL SELECT A REUNIFICATION COUNSELOR ON OR BEFORE DECEMBER 1, 2022. RESPONDENT AND THE MINOR SHALL PARTICIPATE IN REUNIFICATION COUNSELING AT A FREQUENCY AND DURATION AS DIRECTED BY THE REUNIFICATION COUNSELOR. THE PARTIES ARE TO ENROLL AND PARTICIPATE IN CO-PARENTING COUNSELING. PARTIES SHALL SELECT A CO-PARENTING COUNSELOR ON OR BEFORE DECEMBER 1, 2022. PARTIES SHALL PARTICIPATE IN CO-PARENTING COUNSELING AT A FREQUENCY AND DURATION AS DIRECTED BY THE CO-PARENTING COUNSELOR. THE COURT IS NOT ADOPTING THE PROVISION FOR RESPONDENT TO PARTICIPATE IN INDIVIDUAL COUNSELING. THE MINOR IS TO CONTINUE PARTICIPATING IN INDIVIDUAL COUNSELING AT A FREQUENCY AND DURATION AS DIRECTED BY THE THERAPIST. ONCE PARENTING TIME WITH RESPONDENT BEGINS, THE EXCHANGES ARE TO TAKE PLACE AT A LOCATION HALFWAY BETWEEN EL DORADO COUNTY AND CONTRA COSTA COUNTY, MUTUALLY AGREED UPON BY THE PARTIES. THE EXCHANGES SHALL BE BRIEF, WITH NO DISCUSSION OF CO-PARENTING ISSUES DURING THE EXCHANGES. THE COURT ADOPTS THE RECOMMENDATIONS FOR OUT OF STATE TRAVEL. THE COURT DENIES PETITIONER'S REQUEST FOR RESPONDENT TO ENSURE THE MINOR ATTENDS IN ALL EXTRACURRICULAR ACTIVITIES DURING HER PARENTING TIME. THE COURT FINDS RESPONDENT RESIDES IN CONTRA COSTA COUNTY, AND THIS WOULD POTENTIALLY REQUIRE RESPONDENT TO TRAVEL TO EL DORADO COUNTY MULTIPLE TIMES DURING HER PARENTING TIME. THE COURT ENCOURAGES THE PARTIES TO MEET AND CONFER ON THE ISSUE THROUGH CO-PARENTING COUNSELING. PETITIONER IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

**NO HEARING ON THESE MATTERS 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.**



Respondent filed an ex parte application for emergency orders on October 9, 2022, requesting the court make orders as to separate property and damage to his home. Petitioner filed a Responsive Declaration on October 10, 2022, stating the matter was not an issue that should be granted on an ex parte basis and her counsel had not been properly served. The court denied the request on October 10, 2022 but granted an order shortening time to set the matter on the regular law and motion calendar.

On October 11, 2022, Respondent filed a Request for Order (RFO), requesting the same relief as set forth in the ex parte request. Petitioner was served electronically on October 13, 2022. Respondent asserts in his declaration that Petitioner has been destroying and selling his personal property. Respondent requests the court prohibit Petitioner and her agents from transferring, selling, giving, away, destroying or otherwise disposing of all personal property she took from the home. Respondent wants Petitioner ordered to return all of Respondent's inherited items and separate property items as set forth in Exhibit B [sic] which he provided to the court. He requests Petitioner be ordered to return one-half all community personal property to Respondent and pay \$100,000 for damage she caused to the property located at 2416 Pinon Road, Rescue, CA. Further, he seeks orders for Petitioner to have both 500-gallon propane tanks serviced, repaired, and filled and for Petitioner to pay for roof repair and replacement. Respondent is also requesting attorney fees and costs under Family Code section 271.

Petitioner filed a Responsive Declaration on October 31, 2022. Respondent was served by mail and electronically on October 31, 2022. Petitioner asserts the requested relief is not necessary, as she has not transferred, sold, given away, destroyed, or disposed of Respondent's personal property. Petitioner asserts she is not in possession of any of the items set forth in Exhibit B. Petitioner provides an Attachment A which sets forth each of her responses to the items Respondent alleges are missing in his Exhibit C. Petitioner denies being in possession of one-half the community personal property. Petitioner objects to paying \$100,000 for damage to the property located at 2416 Pinon Road in Rescue, CA. Petitioner object to the requests regarding the propane tanks. Petitioner objects to the request to pay for roof repairs. Petitioner objects to the request for Family Code section 271 attorney fees.

The court finds the RFO raises many issues that will require evidence and/or testimony be presented to the court. The court further finds the matter is currently set for trial for all purposes starting on January 10, 2022. The court finds these issues can best be dealt with at trial. The court adds these matters to the issues to be adjudicated at the trial currently set in this matter. The court reserves jurisdiction on Respondent's request for Family Code section 271 sanctions until the time of trial.

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 #19: THE COURT JOINS THESE ISSUES AND REQUESTS WITH THE MATTERS CURRENTLY SET FOR TRIAL. THE COURT RESERVES JURISDICTION ON RESPONDENT'S REQUEST FOR FAMILY CODE SECTION 271 SANCTIONS UNTIL THE TIME OF TRIAL. 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 THESE MATTERS 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.

Petitioner filed an ex parte request for emergency custody orders on September 1, 2022, requesting sole custody and supervised parenting time for Respondent. On September 2, 2022, the court denied the ex parte request. Petitioner filed a Request for Order (RFO) on September 2, 2022, requesting the same orders as the ex parte request. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on September 26, 2022, and a review hearing on November 10, 2022. Respondent was personally served with the RFO on September 12, 2022. It does not appear Respondent was served all the necessary documents.

Petitioner requests the court grant her sole physical and legal custody of the minor. Petitioner asserts the Respondent's home is not safe for the minor. Petitioner has not filed a declaration with any evidence to support her claim.

Both parties attended CCRC on September 26, 2022. The parties were unable to reach any agreements. A report with recommendations was filed on November 1, 2022. A copy of the report was mailed to the parties on November 1, 2022.

Petitioner filed a second ex parte application for emergency orders allowing her to move the minor to Crescent City, CA on October 6, 2022. Respondent filed an opposition to the ex parte on October 10, 2022. The court denied the ex parte request on October 11, 2022. Petitioner filed a RFO on October 11, 2022, requesting the court allow the minor to move-away. Petitioner was directed to serve Respondent on or before October 18, 2022. Petitioner filed a Proof of Service on November 4, 2022. The Proof of Service indicates Respondent was mailed the RFO on October 15, 2022.

Respondent filed a Responsive Declaration on October 27, 2022. Petitioner was served by mail on October 27, 2022. Respondent requests the court deny Petitioner's request to modify custody and parenting time. Respondent also requests the court not consider the October 11, 2022 filed RFO as he was never served. Respondent requests the court expand his parenting time to reflect the actual parenting time he has been exercising over the last two years. Respondent also requests the court order a mutual right of first refusal for childcare for the minor for over three hours.

Petitioner filed a Reply Declaration on November 4, 2022. Respondent was served by mail on November 4, 2022.

The court has read and considered the filings as outlined above. The court orders parties to appear to select a Mandatory Settlement Conference date and trial date on the move-away request. Pending the outcome of the trial, the court finds the recommendations as set forth in the CCRC report to be in the best interest of the minor. All current orders remain in full force and effect. The court adopts the recommendation as to counseling for the minor. The court grants Respondent's request for mutual right of first refusal if childcare is required for the minor for a period of more than three hours.

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 #20: THE COURT ORDERS PARTIES TO APPEAR TO SELECT A MANDATORY SETTLEMENT CONFERENCE AND TRIAL DATES ON THE MOVE-AWAY REQUEST. THE COURT FINDS THE RECOMMENDATIONS AS SET FORTH IN THE CCRC REPORT TO BE IN THE BEST INTEREST OF THE**

MINOR. ALL CURRENT ORDERS REMAIN IN FULL FORCE AND EFFECT. THE COURT ADOPTS THE RECOMMENDATION AS TO COUNSELING FOR THE MINOR. PENDING THE OUTCOME OF THE TRIAL, THE COURT GRANTS RESPONDENT'S REQUEST FOR MUTUAL RIGHT OF FIRST REFUSAL IF CHILDCARE IS REQUIRED FOR THE MINOR FOR A PERIOD OF MORE THAN THREE HOURS. 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 THESE MATTERS 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.

Petitioner filed a Request for Order (RFO) on August 26, 2022, requesting the court change child custody and parenting time orders. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on September 22, 2022 and a review hearing on November 10, 2022. Upon review of the court file, there is no Proof of Service showing Respondent was served with the RFO. Petitioner is requesting joint legal and physical custody of the minors. Petitioner is requesting his parenting time be Thursday through Sunday week one and Friday to Sunday week two.

Respondent filed a Responsive Declaration on September 14, 2022. The Responsive Declaration addresses the requests made by Petitioner in his RFO therefore, the court finds Respondent has adequate and actual notice of the RFO and finds good cause to proceed despite the lack of Proof of Service. Respondent objects to the request for modification of custody and parenting time. Respondent asserts Petitioner works graveyard shift and the proposed parenting plan would require the minors to be at Petitioner's house overnight without supervision. Respondent proposes Petitioner have parenting time every other weekend and Thursdays that Petitioner is not working.

Both parties and the minors appeared for the CCRC appointment on September 22, 2022. Parties were unable to reach any agreements. A report with recommendations was filed on October 10, 2022. A copy was mailed to the parties on October 10, 2022.

The court has read and considered the filings as outlined above. The court adopts the recommendations as set forth in the CCRC report, with the modification as set forth below, as they are in the best interest of the minors. The parties shall share joint legal custody. The minors shall reside primarily with Respondent. Petitioner shall have parenting time every other Thursday from after School through Sunday at 7:00 pm. Petitioner shall have parenting time each Wednesday from after school until 6:00 pm. The prior holiday schedule shall remain in full force and effect. The minors shall be assessed for individual counseling. If it is determined counseling is necessary, they shall attend at a frequency and duration as recommended by the therapist. The parties shall enroll and participate in co-parenting counseling.

All prior orders not in conflict with this order shall remain in full force and effect. Petitioner shall prepare and file the findings and orders after hearing.

**TENTATIVE RULING #21: THE COURT ADOPTS THE RECOMMENDATIONS OF CCRC REPORT AS MODIFIED ABOVE. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER SHALL REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

**NO HEARING ON THESE MATTERS 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.**

Petitioners filed a Petition for Grandparent's Visitation on June 6, 2022. Respondent was personally served on July 1, 2022. Petitioners request the court grant reasonable visitation with the minor.

On September 16, 2022, the parties submitted a stipulation and order, which the court adopted, agreeing to attend Child Custody Recommending Counseling (CCRC), and scheduling a review hearing. Parties were to attend CCRC on October 7, 2022 and a review hearing was set for November 10, 2022.

Parties attended CCRC on October 7, 2022 and reached an agreement as to visitation. A report was filed with the court on October 11, 2022. A copy was mailed to the parties on October 11, 2022.

Petitioners filed a Reply Declaration to the CCRC report on November 3, 2022. Respondent was personally served on November 3, 2022. Respondent was also served by mail on November 3, 2022. Petitioners state in their Reply that no agreements were reached in CCRC. Petitioners are requesting the court order all visits between the Petitioners and the minor be unsupervised, that the Petitioners have two, one week out of state vacations each year, with one week to occur during winter break and one week to occur in July including the 4<sup>th</sup> of July in odd years; Petitioners also request overnight visits in California on weekends and other non-school nights, for up to one week of consecutive nights.

Respondent has not filed a Responsive Declaration.

If either parent of an unemancipated minor dies, the deceased parent's children, siblings, parents, and grandparents "may be granted reasonable visitation" rights during the child's minority upon a finding visitation would be in the child's best interest. Family Code section 3102(a); *Ian J. v. Peter M.* (2013) 213 Cal. App. 4<sup>th</sup> 189,203. The parent's death does not instill the grandparents with the deceased parent's parental rights; not does it diminish the surviving parent's parental rights. "Nothing in the unfortunate circumstance of one biological parent's death affects the surviving parent's (constitutionally protected) fundamental right to make parenting decisions concerning their child's contact with grandparents." *Kyle O. v. Donald R.*, 85 Cal. App. 4<sup>th</sup> 848, 863(2000). Therefore, courts ordinarily defer to the surviving parent's constitutional right to determine the child's care, custody, and control, where there is no evidence of the surviving parent's "unfitness" as a parent, and they are not seeking to cut off grandparent visitation completely. The nonparent petitioners bear a heavy burden of rebutting the presumption favoring a fit parent's visitation decisions. *Id.* at 863-864. To overcome the presumption that a fit parent will act in the best interests of their child, a grandparent has the burden of proving by clear and convincing evidence that denial of visitation is not in the best interests of the child, that is, that denying visitation would be detrimental to the child. *Ian J. v. Peter M.*, 213 Cal. App. 4<sup>th</sup> 189,203(2013). "To adequately protect a fit sole surviving parent's constitutional right to raise a child, a 'mere preponderance' burden as to 'best interest' is not sufficient. The 'clear and convincing' burden...promotes a parent's constitutionally protected 'first' choice. The higher evidentiary burden preserves the constitutionality of section 3102 and insures against erroneous fact finding." *Rich v. Thatcher*, 200 Cal. App. 4<sup>th</sup> 1176, 1181(2011).

The court has read and considered the filings as set forth above. Petitioners have provided no evidence Respondent is an unfit parent. Petitioners have provided no evidence Respondent is seeking to cut off grandparent visitation completely. Petitioners have not shown by clear and convincing

evidence it would be detrimental to the child to not allow contact with them. Rather, the evidence shows Respondent has sought to set boundaries with Petitioners and parameters for visitation which Respondent feels are appropriate and, in the minor's best interest. Therefore, the court finds it is appropriate for the court to defer to Respondent to make appropriate visitation decisions. Petitioners have stated in their Reply Declaration that there were no agreements reached in CCRC, as such the court will not adopt the CCRC report. Respondent shall maintain sole legal and physical custody. Respondent shall have the discretion to exercise reasonable visitation with the Petitioners.

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

**TENTATIVE RULING #22: PETITIONERS HAVE NOT MET THEIR BURDEN TO SHOW RESPONDENT IS AN UNFIT PARENT. PETITIONERS HAVE NOT MET THEIR BURDEN TO SHOW RESPONDENT SEEKS TO CUT OFF ALL CONTACT WITH THE MINOR. PETITIONERS HAVE NOT SHOWN BY CLEAR AND CONVINCING EVIDENCE IT WOULD BE DETRIMENTAL TO THE CHILD TO NOT ALLOW CONTACT WITH THEM. RESPONDENT SHALL MAINTAIN SOLE LEGAL AND PHYSICAL CUSTODY. RESPONDENT SHALL HAVE THE DISCRETION TO EXERCISE REASONABLE VISITATION WITH THE PETITIONERS. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONERS SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

**NO HEARING ON THESE MATTERS 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.**

Petitioner filed a Petition for Grandparent Visitation on August 17, 2022. Petitioner concurrently filed a Declaration in support of the Petition for Grandparent Visitation. Respondent was personally served on September 17, 2022. There is no Proof of Service showing Other Parent was served with the Petition. Petitioner states in her declaration that Other Parent is aware of the request and supports it, however, there is no evidence to support that claim. Therefore, the court finds the Petition for Grandparent Visitation was not properly served, and therefore, drops the matter from the calendar.

**TENTATIVE RULING #23: THE MATTER IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE.**

**NO HEARING ON THESE MATTERS 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.**