

Petitioner filed a Petition to Establish a Paternal Relationship on August 30, 2022. Respondent was personally served on September 2, 2022. Petitioner requests he be found the presumed father of the minor. Petitioner asserts he is the biological father, and his name appears on the minor's birth certificate.

Petitioner filed an ex parte request for emergency custody orders on August 31, 2022. Petitioner requested sole physical custody of the minor. On September 6, 2022, the court denied the ex parte request as to custody, but ordered the minor to have no contact with Jeffery Baker.

On September 6, 2022, Petitioner filed a Request for Order (RFO) requesting the court make child custody and visitation orders, counseling for the minor, and drug and alcohol testing for Respondent. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on September 29, 2022, and a review hearing on November 17, 2022. Respondent was served by mail on September 6, 2022.

Both parties and the minor attended the CCRC appointment on September 29, 2022 but were unable to reach any agreements. A report with recommendations was filed with the court on November 7, 2022. A copy of the report was mailed to the parties on November 8, 2022.

On October 6, 2022, Respondent filed an Application for an Order Shortening Time (OST) along with an RFO requesting the court dismiss the case. The court granted the OST and set the RFO for the same date as the review hearing for Petitioner's RFO. The court ordered Respondent to serve Petitioner on or before October 20, 2022. Petitioner was personally served on October 19, 2022.

Respondent asserts this Parentage action should be dismissed as El Dorado County lacks jurisdiction. Respondent also asserts it should be dismissed as moot because the minor's paternity has never been disputed. Respondent asserts Placer County is the proper jurisdiction, as that is where the minor has resided. Respondent requests that all orders by this court be vacated.

Petitioner filed a Responsive Declaration to Respondent's RFO on November 3, 2022. Respondent was served by overnight service on November 3, 2022. Petitioner asserts El Dorado County is the proper jurisdiction. Petitioner filed in El Dorado County prior to Respondent filing any action in Placer County. Further, the minor has resided with both parties throughout her life. Last the minor has been residing primarily with Petitioner since September of this year as Respondent is unwilling to have Jeffery Baker move out of her home. Petitioner reiterates his request for sole physical and legal custody of the minor.

Respondent's request to dismiss the matter due to lack of proper service is denied. The minor splits her time between Placer and El Dorado County. In fact, since the filing of the present action the minor has resided primarily with Petitioner in El Dorado County.

On November 10th Petitioner filed and served a Reply Declaration of Brandon Jenkins to address his RFO for custody and visitation orders. As of the date of filing, Petitioner states he has not received any opposition from Respondent regarding his requested custody and visitation orders. He recounts three separate incidents regarding Respondent's actions which support the need for established custody and visitation orders.

The court has reviewed the aforementioned filings and finds the recommendations contained in the CCRC report to be in the best interest of the minor. The court hereby adopts the recommendations as stated in the November 7, 2022 CCRC report as the orders of the court.

TENTATIVE RULING #1: RESPONDENT’S REQUEST TO DISMISS THE MATTER DUE TO LACK OF PROPER SERVICE IS DENIED. ON THE ISSUE OF PETITIONER’S RFO, THE COURT ADOPTS THE RECOMMENDATIONS AS STATED IN THE NOVEMBER 7, 2022, CCRC REPORT AS THE ORDERS OF THE COURT. PETITIONER IS 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

All matters where there is a request for oral argument or an order to appear will be heard on the law and motion calendar at 8:30 a.m. on December 1, 2022, either in person or by zoom appearance unless otherwise notified by the court.

On August 15, 2022, Respondent filed a Request for Order (RFO) seeking \$44,100 in attorney's fees. Concurrently therewith she filed her Income and Expense Declaration. Both documents were served via U.S. Mail on August 31st.

According to her moving papers, Respondent has paid \$26,500 in attorney's fees to date, of which \$3,000 was ordered to be paid by Petitioner, and \$19,600 was paid by Respondent. There is an outstanding balance of \$4,500 and Respondent anticipates incurring another \$20,000 in fees. She states that issues surrounding the characterization of property she owns in Thailand make the matter especially complex and expensive to litigate. Respondent claims that she has limited earning capacity due to her minimal education, her limited ability to speak English, and impaired hearing.

On October 21st Petitioner filed a Responsive Declaration to RFO, and his Income and Expense Declaration. Both documents were served via U.S. Mail the same day as filing. Petitioner asks that each party bears his or her own attorney's fees. He denies Respondent's claim that she is unable to work. She has held several jobs which required her to speak English and the predominant language in their home during the marriage was English. He further denies her claims of a hearing condition. Petitioner states that Respondent has several avenues of income available to her from which to obtain money for attorney's fees. He further notes the court's Gavron warning given to Respondent on March 18, 2018. Since that time, she still has not become self-supporting. Finally, he notes his own health problems and states that he does not have sufficient income to pay for Respondent's attorney's fees.

Petitioner filed and served a Supplemental Declaration of Petitioner on October 28th. In his supplemental declaration Petitioner notes that Respondent has been co-habiting since mid-July of 2017 and her cohabitant pays for "some" of the household expenses, though she does not indicate how much. He points to previous Income and Expense Declarations where Respondent admits the co-habitant pays for some of her expenses but notably, in her most recent Income and Expense Declaration she states that he does not pay for any of the household expenses. She notes only that her adult son contributes. Petitioner argues Respondent has been contradictory in the source of the money she has used to pay her attorneys to date. Finally, he reiterates Respondent's available resources.

The public policy of Family Code section 2030 is to provide "consistent with the financial circumstances of the parties, parity between spouses in their ability to obtain effective legal representation." *In Re Marriage Of Keech*, 75 Cal. App. 4th 860, 866(1999). 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. 4th 238,251(2009). The award must be just and reasonable; in taking into consideration what is just and reasonable, the court can take into consideration the need for the award to enable each party, to the extent practical, to have sufficient financial resources to present the party's case adequately. In addition to the parties' financial resources, the court may consider the parties' trial tactics, (*In Re Marriage Of Falcone & Fyke*, 203 Cal. App. 4th 964; 975 (2012)), as well as the assets, debts, earning ability, ability to pay, and the age and health of each party. *In re Marriage of McLain*, 212 Cal. Rptr. 3d 537 (2017). The court must consider the impact of the fee award on the payor taking into account any orders for support. *In Re Marriage Of Keech*, *supra*, at 860.

In the five years since the parties separated, Respondent has made no real advances toward becoming self-sufficient, as she was admonished to do pursuant to the court's 2018 *Gavron* Warning. The court may consider the respective earning abilities of each party, even if that party is not actively employed. By Respondent's own admission as well as her employment history, Petitioner does have the ability to earn minimum wage. That said, in making its determination on attorney's fees, the court imputes on Respondent an income of \$2,400 per month (\$15 per hour multiplied by 40 hours per week and four weeks per month). Also, in terms of earning capacity, the court notes the disparity in the ages of the parties. Petitioner is 73 and retired, while Respondent is only 41, well within her prime earning years.

Likewise, Respondent has the ability to rent out the Thailand property and earn income to pay for attorney's fees that way, as she did previously in the litigation. Given that the property was previously rented for \$350 a month, the court considers that to be a reasonable amount to attribute to Respondent's earning ability.

With the imputation of minimum wage and rental income, there remains a disparity of monthly income between the parties in which Petitioner does have a higher monthly income by approximately \$1,239. However, an award of attorney's fees under Section 2030 is not merely the redistribution of wealth; the award must be just and reasonable. Noting Petitioner's serious health condition, as well as Respondent's earning capacity as discussed above, the court does not find an award of attorney's fees in the entire amount of \$44,000 would be either just or reasonable. Nonetheless, with the higher income going to Petitioner, it is not unreasonable to have him contribute a portion of Respondent's attorney's fees. Petitioner is ordered to pay \$4,500 to Respondent by and for attorney's fees. This amount may be paid in one lump sum or monthly increments of \$500 due and payable on the 1st of each month beginning on December 1st. If any payment is late or missed, the entire amount will become immediately due and payable with legal interest.

TENTATIVE RULING #2: PETITIONER IS ORDERED TO PAY \$4,500 TO RESPONDENT BY AND FOR ATTORNEY'S FEES. THIS AMOUNT MAY BE PAID IN ONE LUMP SUM OR MONTHLY INCREMENTS OF \$500 DUE AND PAYABLE ON THE 1ST OF EACH MONTH BEGINNING ON DECEMBER 1ST. IF ANY PAYMENT IS LATE OR MISSED, THE ENTIRE AMOUNT WILL BECOME IMMEDIATELY DUE AND PAYABLE WITH LEGAL INTEREST.

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On February 4, 2022, Petitioner filed a Request for Order (RFO) requesting the court make orders as to custody, parenting time, child support, property control, spousal support, Respondent to maintain health insurance, and attorney fees. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on March 7, 2022, and a hearing was set for April 21, 2022.

Petitioner requested joint legal custody and sole physical custody. She proposed a parenting plan and requested the court order guideline child support as well as spousal support and asked to have Respondent maintain health insurance for her and the children. Additionally, Petitioner sought orders to have temporary use, possession, and control of the property located at 2682 Cresta Verde Drive in Camino as well as of an inoperable Saab vehicle. Finally, Petitioner requested the court award her \$7,500 for Family Code section 2030 attorney fees.

Respondent filed a Responsive Declaration and Income and Expense Declaration on April 8, 2022. Respondent requested the court order joint legal and physical custody of the minors, pursuant to his proposed parenting plan. He agreed to guideline child and spousal support, but requested the court make a seek work order for Petitioner, impute at least full-time minimum wage to Petitioner, order a vocational evaluation and set a 90-day review hearing, and credit to Respondent per *Marriage of Stallworth*. He also asked that her request for attorney's fees be denied. Respondent agreed to maintain Petitioner and the minors on his health insurances and consented to Petitioner having exclusive use and control of the Saab, but requested Petitioner be responsible for any payments associated with it. Lastly, Respondent requested the court order the former family home be sold or, in the alternative, grant Petitioner temporary control, provided Petitioner is to pay all mortgage, tax, and insurance costs, and any other costs of living.

Petitioner filed a Reply Declaration on April 15, 2022, wherein she objected to the seek work order. According to Petitioner, it is not in the best interest of the minors for her to work outside the home, as the eldest minor is 15 and autistic and cannot be left unattended and the youngest minor is three. Petitioner argued that she has been a full-time homemaker throughout the marriage and has not worked outside the home since approximate 2005. She claimed the other adults living on the property are not appropriate or available to provide full-time childcare for the minors. Petitioner also asserted prior to the parties' separation, the rent being paid by the maternal family members was substantially lower than what has been paid since the separation, and Petitioner has received loans from family members to pay the mortgage each month. Finally, Petitioner argues Respondent's income is misstated in his Income and Expense Declaration.

Parties attended CCRC on March 7th and were able to reach a full agreement regarding custody and visitation. The parties appeared for hearing on April 12th during which, the court made rulings on all issues but reserved on the issue of an 18% timeshare used in calculating child support. The court reserved jurisdiction to make orders on support back to the date of filing of the RFO, March 1, 2022. The court ordered a vocational evaluation and declined to impute minimum wage at the time of the hearing but reserved jurisdiction on the issue pending the return of the evaluation. The court also reserved jurisdiction on the Stallworth request. A review hearing was set for August 11, 2022. That hearing was eventually continued to the present date.

Neither party has filed a status update and the court is not in receipt of the results of the vocational evaluation. The parties are ordered to appear to update the court on the status of the evaluation.

TENATIVE RULING #3: THE PARTIES ARE ORDERED TO APPEAR TO UPDATE THE COURT ON THE STATUS OF THE VOCATIONAL EVALUATION. HEARING ON THIS MATTER WILL BE HELD ON DECEMBER 1ST AT 8:30 A.M. IN DEPARTMENT 5.

ATTORNEY (NAME AND ADDRESS): EDC Court California ATTORNEY FOR: Husband	TELEPHONE NO: Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
DISSOMASTER REPORT 2022, Monthly	CASE NUMBER:

Input Data	Husband	Wife	Guideline (2022)	Cash Flow Analysis	Husband	Wife
Number of children	0	0	Nets (adjusted)	Guideline		
% time with Second Parent	0%	0%	Husband	1,737 Payment (cost)/benefit	368	(368)
Filing status	MFS->	<-MFS	Wife	3,092 Net spendable income	2,105	2,723
# Federal exemptions	1*	1*	Total	4,829 % combined spendable	43.6%	56.4%
Wages + salary	0	0	Support (Nondeductible)	Total taxes	0	24
401(k) employee contrib	0	0	SS Payor	Wife Comb. net spendable	4,828	
Self-employment income	0	0	Alameda	Proposed		
Other taxable income	1,737	3,116	Total	368 Payment (cost)/benefit	368	(368)
Short-term cap. gains	0	0	Proposed, tactic 9	Net spendable income	2,105	2,723
Long-term cap. gains	0	0	SS Payor	Wife NSI change from gdl	0	0
Other gains (and losses)	0	0	Alameda	368 % combined spendable	43.6%	56.4%
Ordinary dividends	0	0	Total	368 % of saving over gdl	0%	0%
Tax. interest received	0	0	Savings	0 Total taxes	0	24
Social Security received	1,737	3,116	No releases	Comb. net spendable	4,828	
Unemployment compensation	0	0		Percent change	0.0%	
Operating losses	0	0		Default Case Settings		
Ca. operating loss adj.	0	0				
Roy, partnerships, S corp, trusts	0	0				
Rental income	0	0				
Misc ordinary tax. inc.	0	0				
Other nontaxable income	0	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	0	0				
Qual. Bus. Inc. Ded.	0	0				
Itemized deductions	0	0				
Other medical expenses	0	0				
Property tax expenses	0	0				
Ded. interest expense	0	0				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
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				

Petitioner filed a Request for Order (RFO) on September 8, 2022, asking the court to make orders regarding custody and visitation. The court referred the parties to Child Custody Recommending Counseling (CCRC) and a hearing on the RFO was set for November 17th. The CCRC referral and the RFO were then served via U.S. Mail on September 9th.

According to Petitioner, the parties had agreed on an informal custody and visitation schedule but due to a disagreement, Respondent is no longer abiding by the previously agreed to schedule. Petitioner has provided the court with proposed custody, parenting time and additional orders which are included with his RFO as Attachment 2b. Petitioner notes that Respondent has filed a motion for child custody orders with Sacramento County, but he has not been served with that motion and he does not believe Sacramento has jurisdiction as Respondent has not resided in that county for three months prior to filing her motion.

Only Petitioner appeared at the CCRC appointment. CCRC prepared a single parent report but could not make any recommendations due to Respondent's lack of participation.

A Responsive Declaration to Request for Order was filed by Respondent on November 10th. The declaration was untimely as it was not filed 9 court days prior to the hearing. Accordingly, the court has not read or considered it.

The parties are ordered to appear to provide testimony on the Petition to Establish Paternal Relationship. Regarding the RFO, the parties are ordered to appear to discuss a re-referral to CCRC.

TENTATIVE RULING #4: THE PARTIES ARE ORDERED TO APPEAR TO PROVIDE TESTIMONY ON THE PETITION TO ESTABLISH PATERNAL RELATIONSHIP. REGARDING THE RFO, THE PARTIES ARE ORDERED TO APPEAR TO DISCUSS A RE-REFERRAL TO CCRC. HEARING ON THIS MATTER WILL BE HELD ON DECEMBER 1ST AT 8:30 A.M. IN DEPARTMENT 5.

Respondent filed a Request for Order (RFO) on September 16, 2022, requesting monthly spousal support in the amount of \$2,545.50 and \$1,500 in attorney's fees. Concurrently with his RFO, Respondent filed an Income and Expense Declaration. Both documents were personally served on the same day as filing.

Petitioner filed her Responsive Declaration to Request for Order and her Income and Expense Declaration on November 8th. Both were served by mail on November 3rd. According to Petitioner, she has not been receiving the pension benefits she is entitled to from her employment with Kaiser because Respondent refused to sign the requisite paperwork. She believes monthly pension payments would be \$3,400 per month, \$670.55 of which would go to Respondent as his portion of the community property interest in the pension. Petitioner would agree to immediately advance Respondent his portion of the pension provided Respondent sign the documents to have the money released. Petitioner points to several deficiencies in Respondent's Income and Expense Declaration and she provides an xSpouse calculation with the numbers she feels are correct. Finally, she objects to the request for attorney's fees as he has not and will not hire an attorney and the net spendable income of the parties is similar when the correct amounts of income are used for Respondent.

On November 10th Respondent filed and served his Reply to Responsive Declaration to Request for Order as well as an amended Income and Expense Declaration. Respondent argues the marriage was for a duration of 6 years, 1 month. He claims he has not signed the documents releasing retirement funds because Petitioner has not provided him with the information that has been requested for the QDRO. Respondent states that he was unclear on how to fill out the FL-150. He states that the only income he received in 2022 was from social security which amounts to \$1,736.60 per month. Pursuant to the FL-319 filed with his reply, Respondent has increased his requested attorney's fees and costs from \$1,500 to \$1,850. This accounts for \$1,500 in attorney's fees and \$350 for a consultation. On November 14th Respondent filed a declaration to further amend his Income and Expense Declaration due to an error in the amount of land dues paid.

Calculating spousal support pursuant to the income amounts provided by each party in their respective Income and Expense Declarations, the court has prepared the attached DissoMaster report. The court adopts the attached DissoMaster report and orders Petitioner to pay Respondent \$368 per month as and for spousal support, payable on the 1st of the month until further order of the court or legal termination. The court orders the spousal support effective October 1, 2022. This results in an arrears amount of \$736. The court orders Petitioner to pay Respondent \$200 on the 15th of each month, with a final payment of \$136, until paid in full (approximately 4 months). If a payment is missed or late, the remaining balance shall become due and payable, with legal interest, within 5 days of the missed payment.

Regarding Respondent's request for attorney's fees, the public policy of Family Code Section 2030 is to provide "at the outset of litigation, consistent with the financial circumstances of the parties, parity between spouses in their ability to obtain effective legal representation." *In Re Marriage Of Keech*, 75 Cal. App. 4th 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. 4th 238,251(2009). The award must be just and reasonable.

In light of Section 2030 and the policy of the state to ensure equal access to legal representation and considering the respective incomes and assets of the parties the court finds it just and reasonable to award Respondent \$1,850 as and for attorney's fees.

TENTATIVE RULING #5: THE COURT ADOPTS THE ATTACHED DISSOMASTER REPORT AND ORDERS PETITIONER TO PAY RESPONDENT \$368 PER MONTH AS AND FOR SPOUSAL SUPPORT, PAYABLE ON THE 1ST OF THE MONTH UNTIL FURTHER ORDER OF THE COURT OR LEGAL TERMINATION. THE COURT ORDERS THE SPOUSAL SUPPORT EFFECTIVE OCTOBER 1, 2022. THIS RESULTS IN AN ARREARS AMOUNT OF \$736. THE COURT ORDERS PETITIONER TO PAY RESPONDENT \$200 ON THE 15TH OF EACH MONTH, WITH A FINAL PAYMENT OF \$136, UNTIL PAID IN FULL (APPROXIMATELY 4 MONTHS). IF A PAYMENT IS MISSED OR LATE, THE REMAINING BALANCE SHALL BECOME DUE AND PAYABLE, WITH LEGAL INTEREST, WITHIN 5 DAYS OF THE MISSED PAYMENT. PETITIONER IS TO PAY RESPONDENT \$1,850 AS AND FOR ATTORNEY'S FEES.

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On August 22, 2022, Petitioner filed and served an Application for Order Shortening Time (OST) and a corresponding Request for Order (RFO). The OST was granted, and a hearing was set for September 15, 2022.

In her RFO, Petitioner requested a return to the pre-June 2021 parenting time orders which included supervised visits only, no overnight visits, visits in the Boston area only (no California visits), and all phone calls to be recorded. She would also like an updated report from the previously appointed child custody evaluator Sidney Nelson and an interim recommendation regarding parenting time restrictions from Family Court Services.

In 2019, after Petitioner moved to Boston and the three minor children were moved with her, she noticed a marked change in their behavior when they began visits with Respondent in California. Ultimately Dr. Sidney Nelson was retained to do a child custody evaluation. In 2020, after the evaluation, the court imposed numerous restrictions on Respondent's parenting time including requirements that the visits be held only in the Boston area, visits were to be supervised, overnight visits were not allowed, and all phone contact was to be recorded. In 2022 the situation had improved, and the parties agreed to discontinue recording calls and allow for visits which could be held in California. Shortly after the parties agreed to lift the restrictions, the minors began to act out again. At issue in the August 22nd motion was only parenting time with the youngest child as the other two have since reached the age of majority.

On August 19, 2022, Respondent filed and served his Responsive Declaration to Request for Order. Respondent maintained that pursuant to the March 1, 2022, stipulation regarding visitation, any changes to the parenting plan were to be determined by Minor's Counsel, Donelle Anderson, and AC Decker. Respondent stated that Petitioner never expressed that the intensity of the behavioral problems with the minor had ever reached the level she claimed in her moving papers. According to Respondent, Petitioner had not made any of the claims she brings up in her moving papers until after a change in child support. Respondent claimed that he supports the minor's transition to Boston, but he cannot help it if the minor retained his friendships, and is happier, in California. Respondent requested the existing parenting plan remain in place.

In ruling on the motion, the court looked to the March 1, 2022 stipulation of the parties which the court noted does state that under the new parenting plan the minor's "...behavior and his adjustment level to the Boston area must remain stable or improve. Any regression in his behavior towards Mother, or his adjustment to school and living in Boston, will be evaluated by AC Decker, Donelle Anderson, and Minor's Counsel, to determine if changes are needed to the parenting plan outlined in this stipulation and order, including a return to supervised, non-overnight parenting periods in Boston." The court found Petitioner had not provided any authority which would allow the court to disregard or set aside the stipulation agreed to by the parties. Further, the court had not received any input or recommendation from AC Decker, Donelle Anderson, or Minor's Counsel to modify the parenting plan as set forth in the stipulation.

The parties appeared and presented oral argument to the court on September 15th. The court referred the parties to Child Custody Recommending Counseling (CCRC) and a review hearing was set for the present hearing date. The court re-referred the parties to Dr. Sid Nelson to do an updated child

custody evaluation but stated that the parties may substitute Dr. Jacqueline Singer for Dr. Sid Nelson. Fees for the evaluation were ordered to be split by the parties in proportion to their net income.

On October 7th Respondent filed a declaration indicating that the parties' older child (who has since reached the age of majority) voluntarily chose to return to California for his senior year of high school. Respondent provides text messages from Petitioner as well as school records and a flight itinerary to support his declaration. Respondent filed another declaration on October 12, 2022, as background for the CCRC appointment. This declaration reiterates Respondent's original response to Petitioner's RFO and adds three additional points. First, he states that the problems between Petitioner and the older son pre-dated his return to California by over a year and they have since been made worse by Petitioner, not by anything Respondent has done. Second, Petitioner has informed the minor of her plans to keep him from returning to California and though she admitted that his behavior has improved; Respondent feels that these are emotional responses as opposed to real concerns. Finally, Respondent notes that Petitioner has exhibited no sense of urgency in pursuing the changed custody orders which he feels is also indicative of the fact that she does not have any real concerns regarding the minor's return to visits in California.

A CCRC appointment was held on October 20th both parties and the minor participated. A report was prepared by CCRC on November 2nd and sent to the parties the same day. CCRC recommended that all prior orders remain in full force and effect. She also made several recommendations regarding counseling and recommended that the minor be allowed in-person visits with his brother three times per year.

After reviewing the aforementioned filings of the parties, as well as the CCRC report, the court finds the recommendations contained in the CCRC report to be in the best interest of the minor. Accordingly, the recommendations contained in the October 20, 2022, CCRC report are hereby adopted as the orders of the court.

TENTATIVE RULING #6: THE RECOMMENDATIONS CONTAINED IN THE OCTOBER 20, 2022, CCRC REPORT ARE HEREBY ADOPTED AS THE ORDERS OF THE COURT. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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On August 11, 2022, Respondent filed a Request for Order (RFO) and an Income and Expense Declaration. There is no proof of service on file indicating that these documents were properly served. Nonetheless, Petitioner filed a Responsive Declaration to Request for Order and a Memorandum of Points and Authorities in Support of Petitioner's Responsive Declaration to Request for Order Motion neither of which raised an objection on the basis of service. Thus, the court finds that Petitioner had actual notice of the motion and any defect in service is waived. Petitioner's responsive documents were filed and served on August 29, 2022. Respondent filed and served a Supplemental Declaration of Katharine Weber on September 1st and 2nd respectively.

The RFO was set to be heard on September 12th. It was later continued to October 13th and then continued once again to the present hearing date.

Respondent requests orders regarding child support, transportation costs, and attorney's fees as discussed in further detail below. Petitioner objects to Respondent's requests, and requests a seek work order, clarification of summer visitation and attorney's fees. Finally, the parties are collectively seeking a ruling on the correct Findings and Orders After Hearing for the March 10, 2022 hearing date.

Child Support

Respondent asserts a change child support orders from July 21, 2022, is warranted due to an error in the timeshare used by the court during its March 10th hearing. The calculation provided shows a parental timeshare percentage of 27.75% but the court's finding on March 10th was a 35% timeshare. Respondent is requesting a timeshare of 33.8% for four children from July 30, 2021, through August 19, 2022, and 35.9% for three children from August 20th forward. Additionally, she asks the court to adopt overtime tables, both retrospective and prospective, but she attached bonus tables to her moving documents.

Commencing August 20, 2022, Respondent argues monthly child support should be \$1674 due and payable no later than 7 days from the date of Petitioner's paycheck. She requests late payments accrue an interest of 1% per week.

Petitioner does not object to guideline child support with the correct visitation timeshare, but he would like Respondent to be imputed with full time income. He is of the position that the timeshare that has been used to date has been correct. Moving forward from September of 2022, Petitioner proposes a timeshare of 30.5%. He bases this calculation on the visitation for three minors, the eldest of which has chosen to spend the majority of his summer with Petitioner.

While Petitioner has not filed an Income and Expense Declaration, he has attested that the declaration filed July 15, 2022 remains accurate. He does note that his monthly income is equivalent to \$14,629.37 base pay. He gets an additional \$51.04 as allowances for uniform and food which he requests the court not use for calculating support. Also on his paystubs, there is an amount listed EMT SPECIAL, which he claims he will no longer be receiving moving forward. He asks that the court take into consideration the \$938 per month that he pays for health insurance, \$932 per month for mandatory union dues and \$813 per month for mandatory retirement contributions. He also asks for one hardship deduction for his stepson who lives with him and his wife full time. Finally, Petitioner proposes an Ostler-Smith overtime table with a range of \$0-\$20,000.

Respondent notes that based on Petitioner's own admission, the monthly income used by the court in its previous calculation was incorrect. She asks the court to recalculate support using the correct income and include all routinely received pay as income. Respondent also notes the large discrepancy between the requested deductions in Petitioner's responsive declaration in comparison to his July 15th Income and Expense Declaration. She also asks the court to ignore Petitioner's requested hardships as he is not the sole provider for his stepson, nor does he pay all expenses for the minors as he alleges. Given the numbers proposed by Respondent, she claims the total baseline child support underpayment is \$5881.08.

Petitioner asks that Respondent be imputed a monthly salary of \$3,120 per month, which is her earning capacity. Additionally, Petitioner asks the court to order Respondent to seek full time employment. Respondent objects to this as it has already been adjudicated and is not properly before the court. She also claims that she is currently working. An untitled document with listed earnings has been provided to support this assertion.

The issue of timeshare going back to March of 2022 has already been ruled on. On May 26, 2022, Respondent filed a declaration requesting corrections to the March 10, 2022 minute order. At that time, she made the same request that she asserts in her present RFO – correct the timeshare and recalculate support because the wrong timeshare was used in the DissoMaster calculation, the timeshare should be 35%, not 27.75%. The issue came before the court on June 9th at which time the court found the timeshare in the March 10, 2022 DissoMaster to be correct. 27.25% is an average of the amount of time the minors would be spending with Respondent based on the fact that the eldest minor was aging out of the support orders.

Counsel for the Department of Child Support Services (DCSS) appeared at the September 12th hearing date though they have not filed any intervening documentation. The court is unclear if DCSS is involved in the case. According to Respondent's supplemental declaration DCSS was unable to take the case due to the complexity of the matter.

The parties are ordered to appear to clarify the involvement of DCSS. Clerk of the court is to provide DCSS with notice of the December 1st hearing date and direct them to appear as well.

Seek Work Order

Petitioner request an order directing Respondent to seek work. He notes that the court issued a Gavron warning to Respondent in the Judgment of Dissolution. According to Petitioner, in the five years since the parties separated, Respondent has not made any serious efforts to become gainfully employed. Respondent asserts that she is employed. She has provided the court with documentation of her income to support her position.

Allocation of Transportation Costs

Respondent is requesting the court allocate and order payment terms for travel costs. Specifically, she requests all travel costs to be split 50/50. Respondent will purchase roundtrip tickets for the children and provide Petitioner receipts by the end of the month of purchase. She would like Petitioner to then reimburse her within 30 days of the date he receives the receipts. Respondent would like any amounts that are not paid within the 30-day time frame to accrue an interest of 1% for each week the payment is delayed.

Respondent also requests that the cost of either party to accompany the children on their flights to be shared by both parties equally. She proposes each party accompany the minors on one leg of the trip or, in the alternative, Respondent to travel with the minors for both legs of the trip but Petitioner to reimburse her for half of her travel costs.

Petitioner objects to the request for him to share future travel expenses as the current orders reflect that Respondent chooses not to work and does not share in her required support of the children. In the alternative, if the court is inclined to split travel costs, Petitioner asks that each party alternate responsibility for purchase of the entire round-trip airfare per visit. He requests the court order each party to purchase the airfare and provide the other party with the itinerary no later than 30 days prior to the travel. Finally, he would like the court to confirm its prior order that the children are not to fly unaccompanied unless they are on a direct flight to their final destination.

Respondent made this request in her May 24, 2022 RFO and the court ruled on it by way of its tentative ruling on July 21, 2022. All prior orders remain in full force and effect.

Reimbursement of 2021/2022 Travel Costs

Respondent is requesting an order directing Petitioner to pay \$2,769.66, which is half the amount she incurred for visitation during the 2021 and 2022 holiday breaks. Petitioner objects to Respondent's request for him to pay half of the travel expenses retroactively to July 2021. He notes that this issue was already adjudicated at the March 10, 2021 hearing.

Respondent made this request in her May 24, 2022 RFO and the court ruled on it by way of its tentative ruling on July 21, 2022. All prior orders remain in full force and effect.

Clarification of Summer Visitation

Petitioner asks the court to clarify its prior visitation orders. Currently, Petitioner is to have the children for the first 10 days of summer break. However, summer break for the eldest child commenced 8 days prior to the commencement of break for the younger children. Petitioner would like the court to clarify its order to state that Petitioner has visitation for the first 10 days of summer vacation which shall commence on the first day after all three of the children are on summer vacation.

While "[t]he responding party may request relief related to the orders requested in the moving papers...unrelated relief must be sought by scheduling a separate hearing using *Request for Order* (form FL-300)..." Cal. Rule Ct. § 5.92(g)(2). Respondent's RFO does not seek relief related to the visitation schedule. As such, Petitioner's request for clarification on the visitation orders is outside the scope of the RFO and therefore not properly before the court. Petitioner's request for clarification on the visitation orders is denied without prejudice.

Attorney's Fees

Respondent is requesting attorney's fees and costs in the amount of \$3,792.50. She states that due to the complexity of the case she was forced to hire an attorney on a limited basis. She has paid \$2,217.50 to date and anticipates incurring an additional \$1,575.

Petitioner opposes Respondent's request for attorney's fees and, in the alternative, asks that he be awarded attorney's fees in the amount of \$1,580. He notes Respondent's failure to cooperate, failure

to follow court orders, and her continued attempts to re-litigate issues, all of which have caused Petitioner to incur attorney's fees and costs that would have otherwise been avoidable.

Findings and Orders Objection

On August 29th counsel for Petitioner filed correspondence with the court indicating that the parties have been unable to agree on the Findings and Orders After Hearing (FOAH) for the March 10, 2022 hearing. She provided copies of the FOAH provided by each party as well as their respective objections. Pursuant to El Dorado County Local Rule 8.06.04, the court set the present hearing date.

The FOAH prepared by Respondent includes notes from the court clerk which states: "There is overpayment of child support in the amount of \$3728.00. Child support will be deducted for a total of support in the amount of \$621.00 for the next 6 months. The support for \$621.00 per month is effective 4/1/2022." Petitioner objects noting the confusing language in the court's minute order.

The court agrees, the minute order is unclear. The monthly support payment commencing April 1st was to be \$548 per month for six months. This is a deduction of \$621 from the ordered monthly support payment of \$1,169. The reduction of \$621 acts as a credit to Petitioner for his prior overpayment of support. Thus, the \$621 credit multiplied by 6 months equals \$3,726, which is the total amount of the overpayment. This means \$1,169 (support payment) minus \$621 (credit for overpayment) equals \$548 (monthly payment amount for 6 months).

Petitioner also objected to the court's indication that the parties were to meet and confer regarding a bonus table. According to Petitioner the parties were ordered to address the issue of an overtime table, not a bonus table. While the minute order refers to a bonus table, the court attached an overtime table which was to be provided to the parties.

The parties are ordered to appear.

TENTATIVE RULING #7: THE PARTIES ARE ORDERED TO APPEAR TO CLARIFY THE INVOLVEMENT OF DCSS. CLERK OF THE COURT IS TO PROVIDE DCSS WITH NOTICE OF THE DECEMBER 1ST HEARING DATE AND DIRECT THEM TO APPEAR AS WELL. RESPONDENT'S REQUEST FOR REIMBURSEMENT OF PRIOR TRAVEL EXPENSES AS WELL AS HER REQUEST FOR REIMBURSEMENT FOR FUTURE TRAVEL EXPENSES ARE BOTH DENIED ON THE BASIS OF RES JUDICATA. PRIOR RULINGS REGARDING THESE MATTERS REMAIN IN FULL FORCE AND EFFECT. PETITIONER'S REQUEST FOR CLARIFICATION ON THE SUMMER VISITATION ORDERS IS DENIED WITHOUT PREJUDICE AS IT IS OUTSIDE THE SCOPE OF THE RFO. THE PARTIES ARE ORDERED TO APPEAR TO DISCUSS THE REQUESTED SEEK WORK ORDER, THE FOAH, AND BOTH REQUESTS FOR ATTORNEY'S FEES. HEARING ON THIS MATTER WILL BE HELD ON DECEMBER 1ST AT 8:30 A.M. IN DEPARTMENT 5.

All matters where there is a request for oral argument or an order to appear will be heard on the law and motion calendar at 8:30 a.m. on December 1, 2022, either in person or by zoom appearance unless otherwise notified by the court.

On May 25, 2022, Respondent filed a Request for Order (RFO) requesting the following orders: (1) Respondent's visitation with the minor be increased via a step-up plan as described in the proposed custody and visitation plan attached to the RFO; (2) Custody exchanges in Virginia take place at the Dairy Queen in Appomattox or other neutral locations; (3) That the minor attend Respondent's wedding on June 1 and 2 of 2022; (4) That the minor's stepmother, Dana, not be present at custody exchanges, visitations, or appointments where Respondent is also present with the minor; (5) That only Petitioner communicate with Respondent via talkingparents.com; (6) That the parties shall ensure that extended family, relatives, friends, significant others, or step-children do not make disparaging remarks about the other parent in the child's presence or within earshot, including texts, social media posts, photos, gestures, or any other content or communication to which the minor is exposed either directly or indirectly; (7) That Petitioner be ordered to take the minor to all scheduled mental healthcare appointments, follow mental healthcare provider's recommendations regarding the scheduling of appointments, and immediately reschedule any missed appointments; (8) That Petitioner will not send the minor on vacation alone without the written agreement of Respondent and that the minor will not be sent or taken to visit with Respondent's brother, Ian; (9) That the minor be ordered to be vaccinated for COVID-19; (10) That the minor be interviewed by the CCRC mediator in person; (11) That the Petitioner provide copies of all of the minor's school pictures to Respondent; (12) That the phone Respondent purchased for the minor be returned to Respondent and that Respondent be permitted to cancel the phone line associated with it; and (13) Guideline child support be modified.

The parties attended Child Custody Recommending Counseling (CCRC) on July 7, 2022, during which they were able to reach several agreements including maintaining joint legal custody and implementing a step-up plan to provide for increasing visitation between Respondent and the minor. The parties also agreed to exchanges being held at the Dairy Queen in Appomattox, VA and that Dana will not be present at exchanges. They agreed to a no negative comments provision, to respect the minor's wishes to be vaccinated against COVID-19, and they agreed to the return of the minor's phone.

Petitioner and Minor's Counsel each filed their respective responses to the RFO, and Respondent filed a Supplemental Declaration of Respondent Allison Boring in response to the CCRC report. The parties were largely in agreement with the CCRC report, but Respondent did ask the court to address when the step-up plan would commence. The parties were ordered to appear for hearing on August 18th.

At the hearing the court made rulings on all issues and ordered the step-up plan to commence on September 16th. The parties were ordered to return to court on November 17th to review the progress of the step-up plan and decide if moving to step two is warranted.

On September 7th the parties filed a Stipulation and Order Regarding Child Support and 11/17/22 Hearing. The stipulation was signed and became the order of the court the same day. The stipulation noted that Respondent requested guideline child support in the RFO but the issue was inadvertently overlooked by both parties and the court; as such, no child support orders were made. The parties stipulated to add the issue of child support to the November 17th hearing date and allow the court to rule on the issue retroactively back to the date of filing (May 25, 2022). The parties agreed to file updated Income and Expense Declarations no later than 10 days prior to the hearing date.

As stipulated, Petitioner filed his Income and Expense Declaration as well as a document entitled Update to the Court Re Child Support and Uninsured Medical Reimbursement. The documents were filed on October 18th, and served the day prior on October 17th. The court has not received any filings from Respondent or Minor's Counsel.

According to Petitioner, Respondent has stopped paying child support because she has lost her job. He claims she is employable but has chosen not to seek work. Petitioner requests a seek work order as well as an order directing Petitioner to pay an arrears amount of \$5,282.26. He is also requesting \$1,381.14 for Respondent's half of uninsured medical expenses for the minor. Finally, he asks the court to make its support order based on Respondent's ability to earn.

The court notes that the Income and Expense Declaration it has on file from Respondent is dated May 25, 2022. The court is in need of an updated declaration from Respondent in order to rule on the issue. Respondent is ordered to file and serve an updated Income and Expense Declaration forthwith.

The parties are ordered to appear to discuss the status of visitations between the minor and Respondent and to determine if a move to step two is warranted and to discuss the issue of child support.

TENTATIVE RULING #8: THE PARTIES ARE ORDERED TO APPEAR FOR HEARING ON DECEMBER 1ST AT 8:30 A.M. IN DEPARTMENT 5 TO DISCUSS THE STATUS OF VISITATIONS BETWEEN THE MINOR AND RESPONDENT AND TO DETERMINE IF A MOVE TO STEP TWO IS WARRANTED AND TO DISCUSS THE ISSUE OF CHILD SUPPORT AS THE COURT IS IN NEED OF AN UPDATED INCOME AND EXPENSE DECLARATION FROM RESPONDENT. RESPONDENT IS ORDERED TO FILE AND SERVE AN UPDATED INCOME AND EXPENSE DECLARATION FORTHWITH.

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.

All matters where there is a request for oral argument or an order to appear will be heard on the law and motion calendar at 8:30 a.m. on December 1, 2022, either in person or by zoom appearance unless otherwise notified by the court.