

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 21, 2024

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

1. APRIL LOCKHART V. DAVID MERCADO

PFL20200534

On May 24, 2024, Respondent filed a Request for Order (RFO). He filed his Income and Expense Declaration concurrently therewith. Both documents, along with all other required documents were electronically served on July 19th. Petitioner filed and served her Responsive Declaration to Request for Order on August 15, 2024. Respondent's Reply Declaration was filed and served on August 22nd.

Respondent brought his RFO requesting, among other things, sanctions in the amount of \$10,000 pursuant to Family Code § 271 and final decision-making authority. Petitioner opposed Respondent's requests and instead asked that she be granted final decision-making authority.

The parties appeared for the hearing on the RFO on August 29th at which time the court stayed the issue of Section 271 sanctions and continued it to the present date to allow Petitioner time to retain an attorney. The court also noted that it would address the issue of final decision-making authority at the continued hearing.

On October 18, 2024, Respondent filed a Declaration. The Proof of Service states that the declaration was electronically served the month prior on September 19th. Respondent filed an Income and Expense Declaration on October 28th though there is no Proof of Service for this document. Petitioner filed a Declaration on November 8th, however there is no Proof of Service for this document either. The court is unable to consider the unserved documents in making its ruling.

The court has reviewed the Declaration of Respondent and finds that its prior orders regarding final decision-making authority remain in the minor's best interest. Therefore, the court's prior orders in this regard remain in full force and effect.

Regarding the request for Section 271 sanctions, it does not appear that Petitioner has retained counsel therefore, the court is reissuing its prior tentative ruling as follows: Given Petitioner's misleading Income and Expense Declaration, the court does fine sanctions to be warranted. However, \$10,000, as requested by Respondent, is likely to create an unreasonable financial burden on Petitioner and as such the court is not inclined to award that amount. Instead, Petitioner is to pay Respondent \$1,000 as and for sanctions pursuant to Family Code § 271. This amount may be paid in one lump sum or in monthly increments of \$250 commencing on September 15th and continuing until paid in full

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(approximately 4 months). If any payment is missed or late, the entire amount shall become immediately due and payable with legal interest.

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

TENTATIVE RULING #1: THE COURT'S PRIOR ORDERS REGARDING FINAL DECISION-MAKING AUTHORITY REMAIN IN FULL FORCE AND EFFECT. PETITIONER IS TO PAY RESPONDENT \$1,000 AS AND FOR SANCTIONS PURSUANT TO FAMILY CODE § 271. THIS AMOUNT MAY BE PAID IN ONE LUMP SUM OR IN MONTHLY INCREMENTS OF \$250 COMMENCING ON SEPTEMBER 15TH AND CONTINUING UNTIL PAID IN FULL (APPROXIMATELY 4 MONTHS). IF ANY PAYMENT IS MISSED OR LATE, THE ENTIRE AMOUNT SHALL BECOME IMMEDIATELY DUE AND PAYABLE WITH LEGAL INTEREST. 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 PHONE CALL 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 PHONE CALL OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.

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2. ASHLEE NICOLE SCHMIDT V. JACOB SCHMIDT

22FL1154

On March 13, 2024, Petitioner filed an Ex Parte Application and Declaration for Orders and Notice requesting Respondent have professionally supervised visits for two weeks. She filed an Income and Expense Declaration the same day. The ex parte was denied and the matter was set for hearing on June 6th. It was later continued to August 29th. Petitioner filed her Request for Order (RFO) on March 18, 2024. The RFO seeks orders for custody and visitation, child support, and attorney's fees.

Respondent filed and served his Responsive Declaration to Request for Order on March 15, 2024. Respondent filed and served his Income and Expense Declaration on May 2, 2024.

Petitioner is requesting Respondent's visitation time be professionally supervised for up to 2 hours per week. She makes her request based on the two DUI arrests of Respondent that he failed to disclose during prior hearings on the issue of custody. She is asking that Respondent be ordered to enroll in, and complete, a course of alcohol/substance abuse counseling prior to any future modification to make the visits unsupervised. She is seeking guideline child support and attorney's fees and costs pursuant to Family Code 271.

Respondent is also requesting sole legal and sole physical custody of the minor with supervised visits to Petitioner. He makes his request on the basis that Petitioner was investigated by CPS at least six times, the most recent of which was in November of 2023. He consents to guideline child support, but he does not consent to Petitioner's request for attorney's fees. Respondent makes his own request for \$5,000 in attorney's fees pursuant to Family Code § 2030 and Family Code § 271. He also notes that there is a pending DCSS case and asks for the issue of child support to be heard in that matter.

At the August 29th hearing, the court dropped the issue of child support from calendar due to DCSS' involvement in the case and Petitioner's failure to serve them. Each party's request for Section 271 sanctions was denied, and Respondent's request for attorney's fees was denied. Respondent requested a re-referral to Child Custody Recommending Counseling (CCRC). The request was granted, the re-referral was made, and a review hearing was set for the present date.

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The parties attended CCRC on June 26th. A report with recommendations was prepared on November 7, 2024, it was mailed to the parties on November 8th. Neither party has filed a declaration in response to the CCRC report.

The court has reviewed the recommendations contained in the CCRC report and find them to be in the best interests of the minor therefore they are hereby recommended as the orders of the court.

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

TENTATIVE RULING #2: THE RECOMMENDATIONS CONTAINED IN THE NOVEMBER 7, 2024 CCRC REPORT ARE FOUND TO BE IN THE BEST INTERESTS OF THE MINOR AND ARE HEREBY ADOPTED AS THE ORDERS OF THE COURT.

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3. CHRIS MERENDA-AXTELL V. BILL AXTELL

PFL20190757

On August 28, 2024, Respondent filed a Request for Order (RFO) and his Income and Expense Declaration. There is no Proof of Service for these documents. Nonetheless, Petitioner filed her Responsive Declaration to Request for Order and her Income and Expense Declaration on October 31, 2024, thereby waiving any defect in service. Petitioner's responsive pleadings were mail served the same day as filing. Petitioner's Supplemental Declaration was filed and served on November 7, 2024.

Respondent filed his RFO requesting recalculation of child support based on the fact that he states he has had a significant reduction in income. Petitioner opposes the request arguing that there has been no change in circumstances sufficient to warrant a modification from the support orders of February 2024. Additionally, Petitioner notes that Respondent has incurred additional arrears, and she asks for an order directing Respondent to pay all arrears currently owed (\$8,251.37), with legal interest, no later than November 30, 2024. In the event the entire arrears are not paid as ordered, Petitioner is requesting an order directing Respondent to pay \$1000 per month in arrears until paid in full and an order allowing Petitioner to garnish Father's wages for the arrears. Finally, Petitioner is requesting sanctions pursuant to Civil Procedure § 177.5, Civil Procedure § 128.5 and Family Code § 271 in the total amount of \$6,500.

The court has reviewed the filings as outlined above and does not find a change in circumstances sufficient to warrant changing the current support order. As such, Respondent's RFO is denied.

Additionally, in light of the information gleaned from Respondent's bank and employment payroll records, the court finds that Respondent does have the ability to pay the entire amount of arrears forthwith. As such, Respondent is ordered to pay Petitioner the total arrears amount of \$8,251.37 no later than November 30, 2024. Should Respondent fail to pay the entire amount by the specified due date, Petitioner may garnish Respondent's wages in the amount of \$1,000 per month as and for payment toward the outstanding arrears amount. Interest will continue to accrue at the legal rate, on any amounts unpaid by November 30, 2024.

In addition to the arrears amount orders, the court is ordering sanctions against Respondent in the amount of \$5,000. Sanctions are being ordered pursuant to Family Code § 271. Given that the court is awarding sanctions under Section 271, the court is not inclined to award additional sanctions at this time however, Respondent is admonished

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that further failures to be forthcoming and truthful with the court will result in additional sanctions. Sanctions are to be paid directly to Petitioner's attorney in the amount of \$500 per month commencing on December 1, 2024 and continuing until paid in full (approximately 10 months). If any payment is missed or late, the entire amount shall become immediately due and payable. Respondent may, at his discretion, make one lump sum payment of the entire amount.

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

TENTATIVE RULING #3: RESPONDENT'S RFO IS DENIED AS THERE IS NO CHANGE IN CIRCUMSTANCES SUFFICIENT TO WARRANT A CHANGE IN THE SUPPORT ORDER. RESPONDENT IS ORDERED TO PAY PETITIONER THE TOTAL ARREARS AMOUNT OF \$8,251.37 NO LATER THAN NOVEMBER 30, 2024. SHOULD RESPONDENT FAIL TO PAY THE ENTIRE AMOUNT BY THE SPECIFIED DUE DATE, PETITIONER MAY GARNISH RESPONDENT'S WAGES IN THE AMOUNT OF \$1,000 PER MONTH AS AND FOR PAYMENT TOWARD THE OUTSTANDING ARREARS AMOUNT. INTEREST WILL CONTINUE TO ACCRUE AT THE LEGAL RATE, ON ANY AMOUNTS UNPAID BY NOVEMBER 30, 2024. IN ADDITION TO THE ARREARS AMOUNT ORDERS, THE COURT IS ORDERING SANCTIONS AGAINST RESPONDENT IN THE AMOUNT OF \$5,000. SANCTIONS ARE BEING ORDERED PURSUANT TO FAMILY CODE § 271. GIVEN THAT THE COURT IS AWARDING SANCTIONS UNDER SECTION 271, THE COURT IS NOT INCLINED TO AWARD ADDITIONAL SANCTIONS AT THIS TIME HOWEVER, RESPONDENT IS ADMONISHED THAT FURTHER FAILURES TO BE FORTHCOMING AND TRUTHFUL WITH THE COURT WILL RESULT IN ADDITIONAL SANCTIONS. SANCTIONS ARE TO BE PAID DIRECTLY TO PETITIONER'S ATTORNEY IN THE AMOUNT OF \$500 PER MONTH COMMENCING ON DECEMBER 1, 2024 AND CONTINUING UNTIL PAID IN FULL (APPROXIMATELY 10 MONTHS). IF ANY PAYMENT IS MISSED OR LATE, THE ENTIRE AMOUNT SHALL BECOME IMMEDIATELY DUE AND PAYABLE. RESPONDENT MAY, AT HIS DISCRETION, MAKE ONE LUMP SUM PAYMENT OF THE ENTIRE AMOUNT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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4. DAVID STEVEN MERCADO V. APRIL LOCKHART

PFL20180104

Petitioner filed an Order to Show Cause and Affidavit for Contempt (OSC) on April 25, 2023. After several continuances, Respondent was found guilty of count #4 of contempt on July 23, 2024. Concurrently with his request for an OSC, Petitioner also requested attorney's fees. The court continued the issue of attorney's fees to the present date. Respondent was ordered to file a complete Income and Expense Declaration.

Petitioner filed another OSC on July 5, 2024. It was personally served on August 26th.

The parties appeared before the court on September 19th for arraignment on the OSC and a hearing on the issue of attorney's fees. Respondent requested a continuance on all issues and the court granted the request, setting the matter to be heard on the present date. Respondent was once again ordered to file and serve his Income and Expense Declaration. The court reserved jurisdiction on the issue of attorney's fees and on the issue of sanctions pursuant to Family Code § 271.

Respondent filed her Income and Expense Declaration on November 8th, however there is no Proof of Service for this document.

The parties are ordered to appear for the hearing and for the arraignment on Petitioner's July 5th OSC.

TENTATIVE RULING #4: THE PARTIES ARE ORDERED TO APPEAR FOR THE HEARING AND FOR ARRAIGNMENT ON PETITIONER'S JULY 5TH OSC.

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5. GEORGIA WANLAND V. DONALD WANLAND

PFL20190812

Petitioner filed a Request for Order (RFO) on August 27, 2024, requesting clarification of the court's order after hearing. Respondent was served electronically on August 27, 2024. Petitioner is seeking clarification of the arrears orders made on July 29, 2024.

Respondent filed an Opposition to the RFO on November 14, 2024. There is no Proof of Service for this document and therefore, the court cannot consider it. Further, the court finds this to be untimely filed.

The court has read and considered the filings as outlined above. The court does not find that clarification is needed. The court's orders regarding temporary spousal support arrears in its ruling are clear. The court is making no findings or orders as to whether Respondent has complied with the orders for temporary support, and therefore there are arrears other than what is set forth in the ruling owing, as there is currently a pending contempt action against Respondent.

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

TENTATIVE RULING #5: THE COURT DOES NOT FIND THAT CLARIFICATION IS NEEDED. THE COURT'S ORDERS REGARDING TEMPORARY SPOUSAL SUPPORT ARREARS IN ITS RULING ARE CLEAR. THE COURT IS MAKING NO FINDINGS OR ORDERS AS TO WHETHER RESPONDENT HAS COMPLIED WITH THE ORDERS FOR TEMPORARY SUPPORT, AND THEREFORE THERE ARE ARREARS OTHER THAN WHAT IS SET FORTH IN THE RULING OWING, AS THERE IS CURRENTLY A PENDING CONTEMPT ACTION AGAINST RESPONDENT. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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**THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE
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6. KAYLA BURGESS V. KYLE BURGESS

23FL0919

On August 28, 2024, Respondent filed a request for Temporary Emergency (Ex Parte) Orders and a Request for Order (RFO). The requests were denied on an ex parte basis as the court found there were no exigent circumstances. The RFO was then set to be heard on the present date. He filed his Income and Expense Declaration on September 5th. The RFO, the Income and Expense Declaration and all other required documents were mail served on September 5th. Petitioner has not filed a Responsive Declaration to Request for Order.

Respondent filed his RFO making the following requests: (1) The court order the parties to ensure that the children are not exposed to Justin Hartman until Mr. Hartman reaches at least 30 days of sobriety; (2) The court order the parties not to permit anyone to become intoxicated in front of or around the children; (3) The court order the parties not to expose the children to anyone detoxing from drugs and/or alcohol; (4) The court order that if either party is unable to follow any of the aforementioned, he/she immediately notify the other party and turn over the children to the other party's care until all of the aforementioned can be complied with.

Where a party fails to timely file opposition papers the court, in its discretion, may treat said failure "as an admission that the motion or other application is meritorious." El Dorado County, Local Rule 7.10.02(C). Here, it appears the RFO was timely and properly served on Petitioner. She had notice of the pending requests chose not to file an opposition to the RFO. As such, the court finds good cause to treat his failure to do so as an admission that the claims made in the RFO are meritorious.

Given Petitioner's failure to oppose the RFO, and in light of the information in Respondent's moving papers, the court does find the requests to be in the best interests of the children. Therefore, the court orders the following: (1) The parties are ordered to ensure that the children are not exposed to Justin Hartman until Mr. Hartman reaches at least 30 days of sobriety; (2) The parties are ordered to ensure that no one becomes intoxicated in front of or around the children; (3) The parties are ordered to ensure that the children are not exposed to anyone detoxing from drugs and/or alcohol; (4) If either party is unable to follow any of the aforementioned, he/she immediately notify the other party and turn over the children to the other party's care until all of the aforementioned can be complied with.

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

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TENTATIVE RULING #6: THE COURT FINDS THE FOLLOWING TO BE IN THE BEST INTERESTS OF THE CHILDREN AND THEREFORE MAKES THE FOLLOWING ORDERS: (1) THE PARTIES ARE ORDERED TO ENSURE THAT THE CHILDREN ARE NOT EXPOSED TO JUSTIN HARTMAN UNTIL MR. HARTMAN REACHES AT LEAST 30 DAYS OF SOBRIETY; (2) THE PARTIES ARE ORDERED TO ENSURE THAT NO ONE BECOMES INTOXICATED IN FRONT OF OR AROUND THE CHILDREN; (3) THE PARTIES ARE ORDERED TO ENSURE THAT THE CHILDREN ARE NOT EXPOSED TO ANYONE DETOXING FROM DRUGS AND/OR ALCOHOL; (4) IF EITHER PARTY IS UNABLE TO FOLLOW ANY OF THE AFOREMENTIONED, HE/SHE IMMEDIATELY NOTIFY THE OTHER PARTY AND TURN OVER THE CHILDREN TO THE OTHER PARTY'S CARE UNTIL ALL OF THE AFOREMENTIONED CAN BE COMPLIED WITH. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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7. KELLY SPENCER V. MATTHEW SPENCER

23FL0529

On August 15, 2024, Petitioner filed a Request for Order (RFO) for the sale of the family residence. The RFO was served, along with all other required documents, on September 3rd. Respondent has not filed a Responsive Declaration to Request for Order.

Where a party fails to timely file opposition papers the court, in its discretion, may treat said failure “as an admission that the motion or other application is meritorious.” El Dorado County, Local Rule 7.10.02(C). Here, it appears the RFO was timely and properly served on Respondent. He had notice of the pending requests and chose not to file an opposition to the RFO. As such, the court finds good cause to treat his failure to do so as an admission that the claims made in the RFO are meritorious.

In light of the above, the residence located at 3265 Sandhurst Cr., Cameron Park, CA shall be listed forthwith. Petitioner shall choose a listing agent, other than herself. The proceeds from the sale are to be placed into Petitioner’s attorney’s trust account pending distribution upon written agreement of the parties or further court order.

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

TENTATIVE RULING #7: IN LIGHT OF THE ABOVE, THE RESIDENCE LOCATED AT 3265 SANDHURST CR., CAMERON PARK, CA SHALL BE LISTED FORTHWITH. PETITIONER SHALL CHOOSE A LISTING AGENT, OTHER THAN HERSELF. THE PROCEEDS FROM THE SALE ARE TO BE PLACED INTO PETITIONER’S ATTORNEY’S TRUST ACCOUNT PENDING DISTRIBUTION UPON WRITTEN AGREEMENT OF THE PARTIES OR FURTHER COURT ORDER. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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8. STEPHEN CASS V. PAMELA CASS

24FL0586

Respondent filed a Request for Order (RFO) requesting spousal support and attorney's fees on August 28, 2024. Respondent concurrently filed an Income and Expense Declaration. Petitioner was served by mail on August 28, 2024. Respondent is requesting temporary guideline spousal support. Respondent states there is a DissoMaster attached, however, the court was unable to locate it. Respondent is also seeking \$15,000 in Family Code section 2030 attorney's fees.

Petitioner filed a Responsive Declaration on November 19, 2024. Respondent was served on November 19, 2024. The court finds this to be late filed and will not consider it. Further, Petitioner has not filed an Income and Expense Declaration.

Respondent filed an Objection and Motion to Strike Petitioner's Responsive Declaration as well as a request for sanctions on November 19, 2024. Petitioner was personally served on November 19th.

The court notes both parties have filed requests for Domestic Violence Restraining Orders, which are currently pending. The court finds the results of the requests will impact the court's ruling on the request for spousal support as well as for attorney's fees. As such, the court on its own motion continues the request to join with the trial currently set for February 26, 2025 at 8:30 AM in Department 8. The court reserves jurisdiction on Respondent's request for spousal support and attorney's fees retroactively to the date of the filing of the RFO. The court also reserves on Respondent's request for sanctions until the time for trial. The court orders Petitioner to file and serve an Income and Expense Declaration at least 10 days prior to the 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 #8: THE COURT NOTES BOTH PARTIES HAVE FILED REQUESTS FOR DOMESTIC VIOLENCE RESTRAINING ORDERS, WHICH ARE CURRENTLY PENDING. THE COURT FINDS THE RESULTS OF THE REQUESTS WILL IMPACT THE COURT'S RULING ON THE REQUEST FOR SPOUSAL SUPPORT AS WELL AS FOR ATTORNEY'S FEES. AS SUCH, THE COURT ON ITS OWN MOTION CONTINUES THE REQUEST TO JOIN WITH THE TRIAL CURRENTLY SET FOR FEBRUARY 26, 2025 AT 8:30 AM IN DEPARTMENT 8. THE COURT RESERVES JURISDICTION ON RESPONDENT'S REQUEST FOR SPOUSAL SUPPORT AND ATTORNEY'S FEES RETROACTIVELY TO THE DATE OF THE FILING OF THE

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RFO. THE COURT ALSO RESERVES ON RESPONDENT'S REQUEST FOR SANCTIONS UNTIL THE TIME FOR TRIAL. THE COURT ORDERS PETITIONER TO FILE AND SERVE AN INCOME AND EXPENSE DECLARATION AT LEST 10 DAYS PRIOR TO THE 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.

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9. SVETLANA PROTSYUK V. OLEG PROTSYUK

23FL0358

On March 20, 2024, Respondent filed a Request for Order (RFO) seeking to compel discovery responses and monetary sanctions. The RFO was served along with all other required documents on March 27, 2024. On October 7, 2024, Petitioner filed and served a Declaration of Sean Musgrove. On October 24, 2024, Petitioner filed and served a Declaration of Svetlana Protsyuk.

On March 21, 2024, Petitioner also filed a Motion to Compel and request for attorney's fees. Respondent filed and served a Responsive Declaration to Request for Order and an Income and Expense Declaration on November 6th, and a Trial Setting Conference Statement Per CRC 5.83 (C)(7) on November 8th.

Petitioner filed and served a Trial Setting Conference Statement Per CRC 5.83(C)(7) on November 5th.

Respondent's March 20, 2024 RFO

On January 11, 2024, Respondent served Petitioner with Form Interrogatories, Set One, and Demand for Production and Inspection of Documents and Things, Set One. Verified responses were therefore due on February 12, 2024. On February 22, 2024, Petitioner emailed unverified responses. As of the date of filing the RFO, Respondent had not yet received verifications to the discovery. Respondent moves for an order compelling verified responses, without objections, to Form Interrogatories, Set One and Demand for Production of Documents, Set One, as well as discovery sanctions in the amount of \$10,000. Respondent has not provided any justification for the amount of sanctions requested.

Petitioner filed a declaration from her current attorney which indicates that verifications to the discovery responses were found in the client file which was maintained by the prior handling attorney. Additionally, Petitioner has been served with Form Interrogatory requests which are identical to the ones at issue in the pending RFO. Given the existence of the verifications and the pending discovery requests, Petitioner asks the court to deem the issue of the missing verifications resolved. While the verifications provided to the court are unsigned, Petitioner maintains that she believes she signed them on or around May 13, 2024.

The party to whom interrogatories have been propounded shall respond in writing, under oath, within 30 days of the date of service of the requests. See Cal. Civ. Pro. §

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2030.210(a); See *also* Cal. Civ. Pro. § 2030.260. Verified responses to requests for production of documents are likewise due within 30 days of the date of service. Cal. Civ. Pro. § 2031.300(a). Where a party fails to provide timely responses, the party “waives any objection...including one based on privilege or on the protection of work product.” *Id.*; Cal. Civ. Pro. § 2030.290(a). The requirement for verified responses has been found to be so imperative to the discovery process that it has been repeatedly found that “unverified response is tantamount to no response at all.” See *Appleton v. Sup. Ct.*, 206 Cal. App. 3d 632 (2014).

Here, discovery responses were due on February 12th however unverified responses were not served until February 22nd. If the responses had at least been timely, they could have served to preserve the objections, however, they were not. Therefore, at the time the responses were served the objections had already been waived. The fact that Petitioner signed verifications in May, and they were possibly served sometime thereafter is irrelevant. As such, Respondent’s Motion to Compel is granted. Petitioner is ordered to serve full and complete verified responses, without objections, no later than December 20, 2024.

Regarding the request for monetary sanctions, sanctions for are mandatory for one who “unsuccessfully *makes or opposes* a motion to compel a response...unless [the court] finds that one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust” Cal. Civ. Pro. §2030.290 (interrogatories) & § 2031.300(c)(requests for production). In all other circumstances, the imposition of discovery sanctions is permissive. See Cal. Civ. Pro. § 2023.030 (the court *may* impose monetary sanctions for misuse of the discovery process). Conduct subject to discretionary sanctions includes, but is not limited to, “[f]ailing to respond or submit to an authorized method of discovery.” Cal. Civ. Pro. § 2023.010(d).

Where sanctions are awarded, the amount imposed is to include “...the reasonable expenses, including attorney’s fees, incurred by anyone as a result of...” the conduct of the party subject to sanction. Cal. Civ. Pro. 2023.030(a) & 2023.020. A party requesting sanctions must establish that the amount requested is reasonable, was incurred as a result of discovery abuse, and the requesting party must already be liable for those expenses before the court can award the costs as sanctions. See *Tucker v. Pacific Bell Mobile Servs.*, 186 Cal. App. 4th 1548 (2010) (anticipated costs for future deposition could not be included in award of sanctions). Notwithstanding the foregoing, the court is obligated to “...impose a one-thousand-dollar (\$1,000) sanction, payable to the requesting

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party..." if the court finds that the noncompliant party did not respond in good faith to a request for production of documents, or failed to make a reasonable good faith attempt to informally resolve a discovery dispute. Cal. Civ. Pro. § 2023.050(a).

Here, Petitioner did not oppose the Motion to Compel, therefore discovery sanctions are left to the discretion of the court. The court does find that Petitioner failed to timely comply with her discovery obligations and therefore failed to comply with an authorized form of discovery. This failure did result in some level of attorney's fees incurred by Respondent. However, Respondent has failed to establish the reasonableness of the requested \$10,000 in sanctions and failed to provide any connection between that amount and the amount of attorney's fees incurred. Therefore, the court is only granting the \$1,000 in sanctions for failure to comply with the requests for production of documents. This amount is to be paid directly to Respondent's attorney. It may be paid in one lump sum or in monthly increments of \$250 commencing on December 1, 2024 and continuing thereafter until paid in full. If any payment is missed or late, the entire amount shall become immediately due and payable.

Petitioner's March 21, 2024 RFO

On January 4, 2024, Petitioner served Respondent with Request for Production of Documents, Set One. Responses were received on January 31, 2024 though request numbers 5, 7, and 8 were objected to and responsive documents were not included. A meet and confer letter was sent on March 18, 2024. Petitioner is requesting \$1,260 in discovery sanctions, this accounts for three hours of attorney time at \$400 per hour and a \$60 filing fee.

Respondent opposes the motion, arguing that he has turned over all documents in his possession, custody and control which are responsive to request numbers 5, 7, and 8.

On receipt of responses to requests for production of documents, the requesting party may move for an order compelling further responses where the initial production is not in compliance with the Civil Discovery Act. Cal. Civ. Pro. § 2031.310. A motion to compel further responses shall (1) be filed and served within 45 days of the date the responses were served (Cal. Civ. Pro. §2031.310(c)); (2) be accompanied by a meet and confer declaration (Cal. Civ. Pro. § 2031.310(b)(2)), and (3) include a separate statement which complies with California Rules of Court rule 3.1345.

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Here, Petitioner's motion fails to comply with two of the three of the aforementioned requirements. First, the motion is untimely. Respondent served responses on January 31st, which made March 15th last day for filing the motion. The motion before the court was not filed until March 25th.

In addition to the untimeliness, this motion lacks the requisite separate statement setting forth the request, the response, and the reasons the response is deficient. While Petitioner attaches the meet and confer letter and gives a summary of documents she feels are missing from the responses, this is not in conformance with Rule 3.1345. The separate statement must include, among other things, the following information for each discovery request such that the reader need not refer to any other pleading: "(1) The text of the request...; (2) The text of each response, answer, or objection and any further responses or answers; (3) A statement of the factual and legal reasons for compelling further responses, answers, or production as to each matter in dispute..." Cal. Rule Ct. 3.1345(c). Petitioner's summary of the alleged deficiencies does not provide the requisite information needed for the court to rule on the motion.

Given the abovementioned procedural deficiencies, the motion to compel and request for sanctions are denied. Even if the court had reached the issue on the merits, the motion would have been denied as it does appear the responses given were code compliant.

Trial Setting

On June 14, 2024, Respondent filed a Request for Order (RFO) requesting modification multiple orders including child custody and parenting time, child and temporary guideline spousal support, property control, to hold gold, silver, coins, and cash in a safety deposit box, and for the proceeds from the inverse condemnation of the property in South Carolina to be placed in trust pending final division of assets. The parties appeared for the hearing on the RFO on September 12, 2024 at which time orders were made regarding all issues. The court set a trial setting conference on the issues regarding the sale of the property, custody and visitation, and control over items in the safety deposit box.

Given the ongoing discovery between the parties, and the pending RFOs set on January 23, 2025, it does not appear that these issues are ready to be set for trial therefore, the court is vacating the trial setting conference.

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

TENTATIVE RULING #9: RESPONDENT'S MOTION TO COMPEL IS GRANTED. PETITIONER IS ORDERED TO SERVE FULL AND COMPLETE VERIFIED RESPONSES, WITHOUT OBJECTIONS, NO LATER THAN DECEMBER 20, 2024. THE COURT IS GRANTING \$1,000 IN SANCTIONS FOR FAILURE TO COMPLY WITH THE REQUESTS FOR PRODUCTION OF DOCUMENTS. THIS AMOUNT IS TO BE PAID DIRECTLY TO RESPONDENT'S ATTORNEY. IT MAY BE PAID IN ONE LUMP SUM OR IN MONTHLY INCREMENTS OF \$250 COMMENCING ON DECEMBER 1, 2024 AND CONTINUING THEREAFTER UNTIL PAID IN FULL. IF ANY PAYMENT IS MISSED OR LATE, THE ENTIRE AMOUNT SHALL BECOME IMMEDIATELY DUE AND PAYABLE. PETITIONER'S MARCH 21, 2024 REQUEST FOR ORDER IS DENIED. THE TRIAL SETTING CONFERENCE IS VACATED. 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 PHONE CALL 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 PHONE CALL OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.

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10. TRAVIS BASKINS V. DESTINEE BASKINS

PFL20200285

On August 26, 2024 Respondent filed a Request for Order (RFO) seeking custody and visitation orders. It was electronically served the same day however there was no Notice of Tentative Ruling or blank Responsive Declaration to Request for Order served. This is a post-judgment request for modification of custody orders and therefore it was required to be personally served on Petitioner. Nonetheless, Petitioner filed and served a Responsive Declaration to Request for Order on November 7th thereby waiving any defect in service.

Respondent filed her RFO identifying several issues the parties have had with coparenting. She is requesting a referral to Child Custody Recommending Counseling (CCRC) so the parties can attempt to resolve the issues. If the parties cannot reach an agreement, she is requesting full legal custody and primary physical custody with only supervised visits to Petitioner.

Petitioner opposes Respondent's requests to return to mediation and for sole legal custody. Instead, he asks that the parties be ordered to attend co-parenting counseling. He notes that the parties reached a settlement agreement on July 31, 2024.

Given that the parties reached their settlement agreement on July 31st and Respondent filed her RFO less than a month after that, the court is not inclined to refer the parties to CCRC. Likewise, the court does not see grounds to award Respondent sole legal or primary physical custody with supervised visits to Petitioner. Those requests are denied. The parties are ordered to comply with the terms of the August 29, 2024 judgment. Additionally, the parties are ordered to attend co-parenting counseling. The parties are ordered to equally share in the cost of co-parenting counseling.

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

TENTATIVE RULING #10: RESPONDENT'S REQUEST FOR SOLE LEGAL AND PRIMARY PHYSICAL CUSTODY WITH SUPERVISED VISITS TO PETITIONER ARE DENIED. RESPONDENT'S REQUEST FOR A REFERRAL TO CCRC IS DENIED. THE PARTIES ARE ORDERED TO PARTICIPATE IN CO-PARENTING COUNSELING AND QUEALLY SHARE THE COST THEREOF. 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

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BY PHONE CALL 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 PHONE CALL OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.

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11. ZACHARY MOODY V. SAMANTHA ESCOBAR

23FL0805

On August 28, 2024, Petitioner filed a Request for Order (RFO) seeking custody orders. The RFO was mail served on August 30th. Respondent filed her Responsive Declaration to Request for Order on November 6, 2024. It was electronically served the same day. Petitioner has not filed a Reply Declaration.

Petitioner filed his RFO asking the court to terminate its prior order permitting the children to temporarily reside with Respondent in the Colfax area as no move away order has been granted. Respondent opposes the request, arguing that she has already obtained housing in El Dorado County and Petitioner is aware of this.

Given that Respondent has moved back to El Dorado County, the court finds the request made in the RFO to be moot and therefore the RFO is denied.

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

TENTATIVE RULING #11: THE COURT FINDS THE REQUEST MADE IN PETITIONER'S RFO TO BE MOOT AND THEREFORE THE RFO IS DENIED. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY PHONE CALL 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 PHONE CALL OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.

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13. BRENNAN ALBERT V. MEGAN MCCALL

24FL0603

Petitioner filed a Petition for Custody and Support on June 13, 2024. A summons was issued the same day. Petitioner concurrently filed an ex parte application for emergency orders. On June 14, 2024, the court denied the ex parte request due to the failure to serve Respondent with the Petition and summons, as well as for failing to plead sufficient facts to warrant the granting of ex parte orders. Petitioner filed a Request for Order (RFO) requesting child custody orders on June 14, 2024. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on July 22, 2024, and a review hearing on September 12th.

Upon review of the court file, there is no Proof of Service showing Respondent was properly served with the Petition, Summons, RFO, referral to CCRC and other necessary documents. However, Respondent filed a Response to the Petition and a Responsive Declaration on August 22, 2024. Petitioner was served on August 15th and 22nd. Neither raise an objection to service, therefore, the court deems the issue waived.

Only Petitioner appeared for CCRC on July 22nd. In her Responsive Declaration, Respondent states she was unable to attend due to her work obligations.

On September 12, 2024, the court rereferred the parties to CCRC for an appointment on October 3, 2024 and a further review hearing on November 21st. Notice was mailed to the parties. The court admonished the parties that should either party fail to appear for the CCRC appointment, the court may impose sanctions.

Neither party appeared for the October 3, 2024 CCRC appointment. Therefore, the court drops the matter from calendar.

All prior orders remain in full force and effect.

TENTATIVE RULING #13: THE MATTER IS DROPPED FROM CALENDAR DUE TO BOTH PARTIES' FAILURE TO APPEAR AT CCRC. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY PHONE CALL 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

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A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY PHONE CALL OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.

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14. CARRIE BRIGGS V. KENNY BRIGGS

24FL0136

Petitioner filed a Request for Order (RFO) on September 12, 2024 requesting the court make property control and move out orders. Upon review of the court file, there is no Proof of Service showing Respondent was served with the RFO.

The matter is dropped from calendar due to the lack of proper service.

TENTATIVE RULING #14: THE MATTER IS DROPPED FROM CALENDAR DUE TO THE 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 PHONE CALL 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 PHONE CALL OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.

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15. CHELSY ROMERO V. ROBERT ROMERO

PFL20190274

Respondent filed a Request for Order (RFO) on August 30, 2024, requesting a modification of child custody orders. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on September 30, 2024, and a review hearing on November 21st. Proof of Service shows Petitioner was mail served on September 3, 2024. The court notes this is a post-judgment request for modification, and as such, compliance with Family Code section 215 is required. Although the Proof of Service indicates an FL-334 for Address Verification was completed, upon review of the court file, it has not been filed. Further, the Proof of Service does not show Petitioner was served with a blank FL-320 as required.

Both parties appeared at the September 30th CCRC appointment and were unable to reach any agreements. A report with recommendations was filed with the court on November 12, 2024, and mailed to the parties the same day.

Petitioner has not filed a Responsive Declaration.

The court has read and considered the filings as indicated above. The court finds good cause to proceed with the hearing, despite the defects in service, as Petitioner appeared and fully participated in CCRC. The court finds the recommendations as set forth in the November 12th CCRC report are in the best interest of the minor. The court adopts the recommendations as its orders.

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 #15: THE COURT FINDS GOOD CAUSE TO PROCEED WITH THE HEARING, DESPITE THE DEFECTS IN SERVICE, AS PETITIONER APPEARED AND FULLY PARTICIPATED IN CCRC. THE COURT FINDS THE RECOMMENDATIONS AS SET FORTH IN THE NOVEMBER 12TH CCRC REPORT ARE IN THE BEST INTEREST OF THE MINOR. THE COURT ADOPTS THE RECOMMENDATIONS AS ITS ORDERS. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY PHONE CALL 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*

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16. CHRISTOPHER STARR V. LEILANI STARR

21FL0124

Petitioner filed a Request for Order (RFO) with an Order Shorteing Time (OST) on October 18, 2023, along with a Memorandum of Points and Authorities and Declaration of Counsel. The court granted the OST and set the RFO to be heard the same day parties were scheduled to appear for trial, October 27, 2023.

On October 27, 2023, the parties appeared for trial. Respondent's counsel informed the court and opposing party that Respondent had filed for bankruptcy and the proceedings were automatically stayed. The court continued the hearing on the RFO and set a further trial for February 1, 2024. That hearing was again continued due to the pending bankruptcy.

The court finds the bankruptcy proceedings have concluded and the matter may now proceed forward.

As to Petitioner's RFO requesting a motion to compel, the court finds the RFO to be untimely. Petitioner filed the RFO on October 18, 2023, which was less than 15 days prior to trial. Further, the trial in this matter is continuing, in that the court has already taken testimony and received evidence. The trial was set by the court to take further testimony on limited issues. No one requested to reopen discovery, and therefore, the court finds that discovery remains closed and the RFO was untimely. The RFO is denied.

Parties are ordered to appear to select new trial dates for the continuing trial on the remaining issues.

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 #16: PARTIES ARE ORDERED TO APPEAR TO SELECT FURTHER TRIAL DATES.

THE OCTOBER 18, 2023 RFO IS DENIED AS UNTIMELY. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY PHONE CALL 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*

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17. DANIEL JAIME V. CASEY JAIME

24FL0952

Petitioner filed a Petition to Register an Out of State Custody Order on September 10, 2024. Respondent was personally served on October 10, 2024.

Petitioner filed a Request for Order (RFO) on September 10, 2024, requesting a modification of child custody, parenting plan, child support, and a UCCJEA conference to verify California is the home state for the minors. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on October 10, 2024, and a review hearing on November 21st. Petitioner failed to concurrently file an Income and Expense Declaration. Proof of Service shows Respondent was personally served on October 10th.

Because of the defect in service, only Petitioner was able to participate in the October 10, 2024 CCRC appointment. As such, a single parent report with no recommendations was filed with the court on October 10th and mailed to the parties the same day.

Petitioner filed an Income and Expense Declaration on October 15, 2024. Proof of Service shows Respondent was electronically served on October 9, 2024.

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

The court orders parties to appear for the hearing.

TENTATIVE RULING #17: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.

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18. DCSS V. KEVIN CONNER (OTHER PARENT: BROOKE ROSEN) PFS20140211

Other Parent filed a Request for Order (RFO) on August 14, 2024, requesting modification of child custody and parenting plan orders. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on October 2, 2024, and a review hearing on November 21st. Proof of Service shows Respondent was personally served on August 24, 2024. The Proof of Service does not show Respondent was served with a blank FL-320 as required. There is no Proof of Service showing Petitioner was served.

Only Other Parent appeared for the CCRC appointment. As such a single parent report without recommendations was filed with the court on October 15, 2024 and mailed to the parties on October 17, 2024.

Parties are ordered to appear for the hearing.

TENTATIVE RULING #18: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.

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19. JACOB CLARK V. NICHOLE ROEMER-CLARK

24FL0798

Petitioner filed a Request for Order (RFO) on September 9, 2024, requesting child custody orders. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on October 3, 2024, and a review hearing on November 21st. Upon review of the court file, there is no Proof of Service showing Respondent was properly served.

Respondent filed an ex parte application for emergency orders on September 9, 2024. Petitioner filed a Responsive Declaration on September 10, 2024. On September 10, 2024, the court denied the ex parte request and confirmed the previously set CCRC appointment and review hearing.

Respondent filed a Responsive Declaration on September 23, 2024. Petitioner was mail served on September 24, 2024. Respondent does not raise the issue of lack of service in her Declaration, therefore, the court deems it to be waived.

Both parties attended CCRC on October 3, 2024 and reached a full agreement. A report memorializing the parties' agreement was filed with the court on October 4, 2023, and mailed to the parties on the same day.

The court has read and considered the filings and outlined above. The court finds the parties' agreement as set forth in the October 4, 2024 CCRC report to be in the minor's best interest. The court adopts the agreement as its order.

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

TENTATIVE RULING #19: THE COURT FINDS THE PARTIES' AGREEMENT AS SET FORTH IN THE OCTOBER 4, 2024 CCRC REPORT TO BE IN THE MINOR'S BEST INTEREST. THE COURT ADOPTS THE AGREEMENT AS ITS ORDER. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDER 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 PHONE CALL 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 PHONE CALL OR IN PERSON BY 4:00 P.M. ON

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**THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE
8.05.07.**

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

20. JENNIFER IIDA V. KAY IIDA

24FL0376

Petitioner filed a Request for Order seeking child and spousal support as well as attorney's fees on September 10, 2024. Petitioner concurrently filed an Income and Expense Declaration. Respondent was mail served on September 11, 2024. Petitioner is seeking guideline child and spousal support. Petitioner is requesting \$10,000 in attorney's fees pursuant to Family Code section 2030.

On September 16, 2024, Petitioner filed another RFO. This time requesting permission to issue a subpoena to access a safe. Upon review of the court file, there is no Proof of Service showing this RFO was properly served on Respondent. As such it is dropped from calendar.

On October 11, 2024, Respondent filed a RFO requesting child custody and parenting plan orders. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on November 4, 2024, and a review hearing on January 23, 2025. Petitioner was mail served on October 14, 2024.

Respondent filed another RFO along with an Order Shortening Time (OST) on October 11, 2024. On October 14, 2024, the court granted the OST and set the RFO to join with the other RFOs set on November 21, 2024. Respondent concurrently filed an Income and Expense Declaration. Petitioner was mail served on October 14, 2024. Respondent requests the court allow him to continue to pay the mortgage at the former marital home, and that he receives a credit for the payment to offset the child and spousal support obligations. Respondent requests the court order Petitioner to pay the utilities for the residence. Respondent also requests the home be sold pendente lite; with Respondent to propose the name of three listing agents with Petitioner to select one of the three. Upon the sale of the home, Respondent requests \$100,000 of the net sale proceeds be placed in either party's attorney trust. Respondent requests a seek work order, to impute Petitioner with full time minimum wage income, order Petitioner to participate in a vocational evaluation, and reserved the modification of support retroactively pending the outcome of the vocational evaluation. Respondent is requesting Petitioner be ordered to pay her own cell phone bill. Respondent will continue to provide cell phone service to the minors.

Petitioner filed a Responsive Declaration to the OST and RFO on October 11, 2024. Upon review of the court file, there is no Proof of Service for this document, however, Respondent has filed a Reply Declaration which addresses the Responsive Declaration filed on October 11, 2024 and does not raise the issue of service. Therefore, the court

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deems it to have been waived and will consider it. Petitioner objects to Respondent's requested orders.

Respondent filed a Responsive Declaration October 11, 2024. Petitioner was served by mail on October 14, 2024. Respondent consents to guideline child and spousal support in the amount of \$4,047 per month. Respondent states there is an included DissoMaster as an exhibit, however, no such exhibit is attached. Respondent requests be given a monthly credit of \$3,224.78 for the monthly mortgage payment which he pays monthly. Respondent objects to Petitioner's request for Family Code section 2030 attorney's fees. Respondent asserts Petitioner is working and has access to funds to pay for counsel.

Respondent filed a Reply Declaration on November 1, 2024. Petitioner was electronically served on November 1st.

The court has read and considered the filings as outlined above. The court makes the following findings and orders.

Petitioner's RFO

As to child support, the court is utilizing the parties Income and Expense Declarations that were filed as set forth above. The court grants Respondent's request to impute Petitioner with income. The court find Petitioner has the ability and opportunity to work. The court imputes full time minimum wage income of \$16 per hour to Petitioner. The court finds guideline child support to be \$2,972 per month (see attached DissoMaster). The court orders Respondent to pay Petitioner \$2,972 per month as and for child support effective September 15, 2024, and payable on the 15th of each month until further order of the court or termination by operation of law.

The court finds guideline temporary spousal support to be \$1,767 per month (see attached DissoMaster). The court orders Respondent to pay Petitioner \$1,767 per month as and for temporary guideline spousal support effective September 15, 2024 and payable on the 15th of each month until further order of the court or termination by operation of law.

The court finds the total support order to be \$4,739 per month. The court further finds that the above order results in an arrears balance of \$14,217 for the months of September through November. The court is deducting \$9,674.34 from the arrears balance as a credit for September through November, as Respondent has been paying the mortgage. The remaining arrears balance is \$4,542.66. The court is ordering Respondent to pay Petitioner \$378.55 per month as and for arrears effective December 1, 2024 and

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payable on the first of each month until paid in full (approximately 12 months). If there is any missed or late payment, the full amount is due and owing with legal interest.

The court also finds Respondent routinely earns overtime. The court has included an overtime table. For any income Respondent earns over the monthly base about on \$10,364 Respondent to use the overtime table to true up the support payments. Respondent shall include the overtime true up on the first of each month for the prior month.

The court reserves jurisdiction to retroactively modify both child and temporary guideline spousal support to September 15, 2024.

Regarding the 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. In the face of a request for attorney's fees and costs, the court is to make findings on "whether there is a disparity in access to funds to retain counsel, and whether one party is able to pay for legal representation of both parties." Fam. Code § 2030(a)(2).

Family Code section 2032 works in tandem with Section 2030 to ensure that any award of costs and fees is just and reasonable. Fam. Code § 2032. "In determining what is just and reasonable under the relative circumstances, the court shall 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." *Id.* at (b). Financial resources are only one factor to be considered though. *Id.* 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).

After the support orders made herein, the court finds Respondent does not have the ability to pay for both his counsel as well as Petitioner's counsel. Therefore, the court denies the request for Family Code section 2030 attorney's fees.

Respondent's RFO

The court denies Respondent's request to offset support with the mortgage payment. Respondent is ordered to make the full support payment and Petitioner is ordered to pay the mortgage and the utilities. Respondent's request to no longer pay

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Petitioner's cell phone bill is granted. The court is unaware of any requirement through the ATROS which require Respondent to continue to pay for Petitioner's cell phone service.

The court is reserving on the request for a seek work order. The court grants Respondent's request for a vocational evaluation. Petitioner is to participate in a vocational evaluation. Respondent shall be responsible for the costs, subject to reallocation.

Respondent's request to sell the former marital residence is denied. While Family Code section 2108, allows the court to order the sale of the former marital residence pendente lite, Respondent has failed to set forth any grounds upon which the court could order the sale. It does not appear that the home is not in danger of foreclosure and Respondent has not set forth any risks to the asset.

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

TENTATIVE RULING #20: AS TO CHILD SUPPORT, THE COURT IS UTILIZING THE PARTIES INCOME AND EXPENSE DECLARATIONS THAT WERE FILED AS SET FORTH ABOVE. THE COURT GRANTS RESPONDENT'S REQUEST TO IMPUTE PETITIONER WITH INCOME. THE COURT FIND PETITIONER HAS THE ABILITY AND OPPORTUNITY TO WORK. THE COURT IMPUTES FULL TIME MINIMUM WAGE INCOME OF \$16 PER HOUR TO PETITIONER. THE COURT FINDS GUIDELINE CHILD SUPPORT TO BE \$2,972 PER MONTH (SEE ATTACHED DISSOMASTER). THE COURT ORDERS RESPONDENT TO PAY PETITIONER \$2,972 PER MONTH AS AND FOR CHILD SUPPORT EFFECTIVE SEPTEMBER 15, 2024, AND PAYABLE ON THE 15TH OF EACH MONTH UNTIL FURTHER ORDER OF THE COURT OR TERMINATION BY OPERATION OF LAW.

THE COURT FINDS GUIDELINE TEMPORARY SPOUSAL SUPPORT TO BE \$1,767 PER MONTH (SEE ATTACHED DISSOMASTER). THE COURT ORDERS RESPONDENT TO PAY PETITIONER \$1,767 PER MONTH AS AND FOR TEMPORARY GUIDELINE SPOUSAL SUPPORT EFFECTIVE SEPTEMBER 15, 2024 AND PAYABLE ON THE 15TH OF EACH MONTH UNTIL FURTHER ORDER OF THE COURT OR TERMINATION BY OPERATION OF LAW.

THE COURT FINDS THE TOTAL SUPPORT ORDER TO BE \$4,739 PER MONTH. THE COURT FURTHER FINDS THAT THE ABOVE ORDER RESULTS IN AN ARREARS BALANCE OF \$14,217 FOR THE MONTHS OF SEPTEMBER THROUGH NOVEMBER. THE COURT IS DEDUCTING \$9,674.34 FROM THE ARREARS BALANCE AS A CREDIT FOR SEPTEMBER

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THROUGH NOVEMBER, AS RESPONDENT HAS BEEN PAYING THE MORTGAGE. THE REMAINING ARREARS BALANCE IS \$4,542.66. THE COURT IS ORDERING RESPONDENT TO PAY PETITIONER \$378.55 PER MONTH AS AND FOR ARREARS EFFECTIVE DECEMBER 1, 2024 AND PAYABLE ON THE FIRST OF EACH MONTH UNTIL PAID IN FULL (APPROXIMATELY 12 MONTHS). IF THERE IS ANY MISSED OR LATE PAYMENT, THE FULL AMOUNT IS DUE AND OWING WITH LEGAL INTEREST.

THE COURT ALSO FINDS RESPONDENT ROUTINELY EARNS OVERTIME. THE COURT HAS INCLUDED AN OVERTIME TABLE. FOR ANY INCOME RESPONDENT EARNS OVER THE MONTHLY BASE ABOUT ON \$10,364 RESPONDENT TO USE THE OVERTIME TABLE TO TRUE UP THE SUPPORT PAYMENTS. RESPONDENT SHALL INCLUDE THE OVERTIME TRUE UP ON THE FIRST OF EACH MONTH FOR THE PRIOR MONTH.

THE COURT RESERVES JURISDICTION TO RETROACTIVELY MODIFY BOTH CHILD AND TEMPORARY GUIDELINE SPOUSAL SUPPORT TO SEPTEMBER 15, 2024.

THE COURT DENIES RESPONDENT'S REQUEST TO OFFSET SUPPORT WITH THE MORTGAGE PAYMENT. RESPONDENT IS ORDERED TO MAKE THE FULL SUPPORT PAYMENT AND PETITIONER IS ORDERED TO PAY THE MORTGAGE AND THE UTILITIES. RESPONDENT'S REQUEST TO NO LONGER PAY PETITIONER'S CELL PHONE BILL IS GRANTED. THE COURT IS UNAWARE OF ANY REQUIREMENT THROUGH THE ATROS WHICH REQUIRE RESPONDENT TO CONTINUE TO PAY FOR PETITIONER'S CELL PHONE SERVICE.

THE COURT IS RESERVING ON THE REQUEST FOR A SEEK WORK ORDER. THE COURT GRANTS RESPONDENT'S REQUEST FOR A VOCATIONAL EVALUATION. PETITIONER IS TO PARTICIPATE IN A VOCATIONAL EVALUATION. RESPONDENT SHALL BE RESPONSIBLE FOR THE COSTS, SUBJECT TO REALLOCATION.

RESPONDENT'S REQUEST TO SELL THE FORMER MARTIAL RESIDENCE IS DENIED. WHILE FAMILY CODE SECTION 2108, ALLOWS THE COURT TO ORDER THE SALE OF THE FORMER MARITAL RESIDENCE PENDENTE LITE, RESPONDENT HAS FAILED TO SET FORTH ANY GROUNDS UPON WHICH THE COURT COULD ORDER THE SALE. IT DOES NOT APPEAR THAT THE HOME IS NOT IN DANGER OF FORECLOSURE AND RESPONDENT HAS NOT SET FORTH ANY RISKS TO THE ASSET.

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ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE THE FINDINGS AND ORDERS AFTER HEARING FOR BOTH RFOS.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY PHONE CALL 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 PHONE CALL OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.

ATTORNEY (NAME AND ADDRESS): California		TELEPHONE NO:	Superior Court Of The State of California, County of
ATTORNEY FOR: Father			COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
Father Monthly Overtime Wages Report 2024 Monthly		CASE NUMBER:	

"R" denotes that Father is a recipient for the corresponding support

"CS%" is the percentage of Overtime paid as additional Child Support

"SS%" is the percentage of Overtime paid as additional Spousal Support

Total columns indicate the Total support due, support on reported income plus the incremental support due on additional income.

Father's Gross Overtime	Basic CS%	Basic CS	Alameda SS%	Alameda SS	Total Basic CS	Total SS	Total Support CS+SS
0	0.00	0	0.00	0	2,972	1,767	4,740
100	13.04	13	16.23	16	2,985	1,784	4,769
200	13.01	26	16.20	32	2,998	1,800	4,798
300	12.92	39	16.10	48	3,011	1,816	4,827
400	12.87	51	16.06	64	3,024	1,832	4,855
500	12.84	64	16.03	80	3,036	1,848	4,884
600	12.82	77	16.01	96	3,049	1,864	4,913
700	12.80	90	16.00	112	3,062	1,879	4,941
800	12.79	102	15.99	128	3,074	1,895	4,970
900	12.78	115	15.99	144	3,087	1,911	4,998
1,000	12.76	128	15.99	160	3,100	1,927	5,027
1,100	12.75	140	15.98	176	3,112	1,943	5,056
1,200	12.75	153	15.98	192	3,125	1,959	5,084
1,300	12.74	166	15.98	208	3,138	1,975	5,113
1,400	12.73	178	15.98	224	3,150	1,991	5,142
1,500	12.72	191	15.98	240	3,163	2,007	5,170
1,600	12.71	203	15.98	256	3,176	2,023	5,199
1,700	12.71	216	15.99	272	3,188	2,039	5,227
1,800	12.70	229	15.99	288	3,201	2,055	5,256
1,900	12.69	241	15.99	304	3,213	2,071	5,285
2,000	12.69	254	15.99	320	3,226	2,087	5,313



ATTORNEY (NAME AND ADDRESS): <div style="text-align: center;">California</div>	TELEPHONE NO:	Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
ATTORNEY FOR: Father		
DISSOMASTER REPORT 2024, Monthly		CASE NUMBER:

Input Data	Father	Mother	Guideline (2024)	Cash Flow Analysis	Father	Mother
Number of children	0	2	Nets (adjusted)	Guideline		
% time with Second Parent	3%	0%	Father	10,364	Payment (cost)/benefit	(4,740) 4,740
Filing status	MFJ->	<-MFJ	Mother	2,773	Net spendable income	5,624 7,513
# Federal exemptions	1*	3*	Total	13,137	% combined spendable	42.8% 57.2%
Wages + salary	7,653	0	Support (Nondeductible)	Total taxes	2,058	0
401(k) employee contrib	0	0	CS Payor	Father	Comb. net spendable	13,137
Self-employment income	0	0	Presumed	2,972	Proposed	
Other taxable income	5,344	0	Basic CS	2,972	Payment (cost)/benefit	(4,740) 4,740
Short-term cap. gains	0	0	Add-ons	0	Net spendable income	5,624 7,513
Long-term cap. gains	0	0	Presumed Per Kid		NSI change from gdl	0 0
Other gains (and losses)	0	0	Child 1	1,142	% combined spendable	42.8% 57.2%
Ordinary dividends	0	0	Child 2	1,830	% of saving over gdl	0% 0%
Tax. interest received	0	0	SS Payor	Father	Total taxes	2,058 0
Social Security received	0	0	Alameda	1,767	Comb. net spendable	13,137
Unemployment compensation	0	0	Total	4,739	Percent change	0.0%
Operating losses	0	0	Proposed, tactic 9		Default Case Settings	
Ca. operating loss adj.	0	0	CS Payor	Father		
Roy, partnerships, S corp, trusts	0	0	Presumed	2,972		
Rental income	0	0	Basic CS	2,972		
Misc ordinary tax. inc.	5,344	0	Add-ons	0		
Other nontaxable income	0	2,773	Presumed Per Kid			
New-spouse income	0	0	Child 1	1,142		
SS paid other marriage	0	0	Child 2	1,830		
CS paid other relationship	0	0	SS Payor	Father		
Adj. to income (ATI)	0	0	Alameda	1,767		
9.3% elective PTE payment	0	0	Total	4,739		
Ptr Support Pd. other P'ships	0	0	Savings	0		
Health Insurance	575	0	Mother	0		
Qual. Bus. Inc. Ded.	0	0	Father	0		
Itemized deductions	0	0	No releases			
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				
Mandatory retirement	0	0				
Hardship deduction	0*	0*				
Other gdl. adjustments	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	0				



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21. JUSTIN SIMARRO V. YAJAIRA SIMARRO

PFL20200099

On May 20, 2024, the court conducted an evidentiary hearing on the Order to Show Cause and Affidavit for Contempt (OSC) filed by Respondent. Counsel for Petitioner requested the matter be continued and set back on the law and motion calendar. The court granted the continuance and set a further hearing on November 21, 2024 at 1:30 PM in Department 5. The court admonished Petitioner that the monthly payments of \$231 are due on the 1st of each month and late if not paid by the 5th. There was an outstanding balance of \$3,696 due.

Neither party has filed a Supplemental Declaration.

The court orders parties to appear.

TENTATIVE RULING #21: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.