

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 26, 2023

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

**16. COLLEEN WOOD V. GRAYSON WOOD**

**PFL20170856**

Petitioner filed an Order to Show Cause and Affidavit for Contempt on November 1, 2022 asserting Respondent was in violation of the parties' February 24, 2022 Judgment as well as the court September 1, 2022 orders. Upon review of the court file, there is a Proof of Unsuccessful Service filed on January 6, 2023, stating Respondent has not been personally served.

The court drops the matter from calendar as service as not been effectuated.

**TENTATIVE RULING #16: THE MATTER IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE.**

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

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**17. JOSEPH CARLISLE V. GINA CARLISLE**

**PFL20170803**

Respondent filed an Order to Show Cause and Affidavit for Contempt (OSC) on November 7, 2022, alleging 12 counts of contempt. Petitioner was personally served on November 14, 2022.

Parties are ordered to appear for arraignment.

**TENTATIVE RULING #17: PARTIES ARE ORDERED TO APPEAR FOR ARRAIGNMENT.**

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**18. JUANITA OCANAS V. RICHARD OCANAS**

**22FL0460**

On August 25, 2022, Respondent filed an ex parte request for temporary emergency custody orders. On August 26, 2022, the court granted Respondent's request in part and denied Respondent's request in part. The court ordered Respondent to have temporary sole physical custody of the minors. Petitioner shall have professionally supervised visitation two times per week for two hours each. The parties were referred to an emergency set Child Custody Recommending Counseling (CCRC) appointment on September 15, 2022 and a review hearing on October 6, 2022.

On August 26, 2022, Respondent filed a corresponding Request for Order (RFO) making the same requests to modify custody and visitation as set forth in the ex parte application. Petitioner was served electronically on August 25, 2022.

Both parties appeared for the CCRC appointment on September 15, 2022 and were able to reach an agreement, however, Respondent was unwilling to sign the agreement until he had reviewed it with his counsel.

On October 6, 2022, the court adopted its tentative ruling finding wherein the court adopted the agreement as set forth in the CCRC report. The court further found there was an ongoing criminal investigation in this matter which prevented the CCRC counselor from completing an interview with the minors, and therefore could not make further recommendations as to a parenting plan to the court. The court found good cause to rerefer the minors to be interviewed by the CCRC counselor and set a further review hearing. Parties were to attend a further CCRC appointment on December 7, 2022 and a review hearing on January 26, 2023.

Parties attended the CCRC appointment on December 7, 2022 and reached an agreement. A report was filed with the court on December 7, 2022 and was mailed to the parties on December 21, 2022.

Petitioner filed a Declaration on December 8, 2022. There is No Proof of Service showing Respondent was served with the Declaration and therefore, the court has not considered it.

The court has read and considered the agreement of the parties and finds the agreement to be in the best interest of the minors. The court adopts the parties' agreement as set forth in the December 7, 2022 CCRC report as its order.

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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**TENTATIVE RULING #18: THE COURT FINDS THE AGREEMENT TO BE IN THE BEST INTEREST OF THE MINORS. THE COURT ADOPTS THE PARTIES' AGREEMENT AS SET FORTH IN THE DECEMBER 7, 2022 CCRC REPORT AS ITS ORDER. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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

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**19. JUSTIN REEDY V. KAYLA MCKINNEY**

**PFL20180289**

On July 29, 2022, Petitioner filed a Request for Order (RFO) requesting, among other things, school selection orders. Respondent was served by mail on August 5, 2022. On August 16, 2022, Respondent filed an RFO requesting custody and visitation orders as well as an order regarding school selection. This RFO was properly served via U.S. mail on August 23rd. The parties were referred to Child Custody Recommending Counseling (CCRC) and a hearing on the RFO was set for October 13, 2022.

The July RFO came before the court for hearing on September 15, 2022. At that time the court noted the overlap in issues asserted by the July and August RFOs. The court then continued the issue of school selection to join with the October 13th hearing date.

In Petitioner's July RFO he requested the court order Respondent to select three of the four schools she proposed in her April 25, 2022 declaration, which were Natomas Station, Sandra J. Gallardo, Silva Valley, and Oak Meadow, and present them to Petitioner. Petitioner notes that during the May 12th hearing he was ordered to present three schools to Respondent. According to Petitioner it was the court's intent to have each parent choose three schools.

In Respondent's RFO, she requests the following: (1) Modify the current joint legal custody order to sole legal custody for Respondent; (2) Grant Respondent primary custody and award Respondent custody from Monday after school until Friday before school and Petitioner custody from Friday after school until Monday before school every week, except Respondent to have every fifth weekend; (3) Order Petitioner not to enroll the minor into transitional kindergarten at a Parochial school or any school as he is in contempt of court. Respondent maintains that she provided a list of four schools for the parties to utilize in choosing a school. Petitioner was then ordered to choose three of the four, with at least one midway between the parties. Respondent states that Petitioner has refused to do so.

On September 1st, Petitioner filed his Responsive Declaration to the RFO. He followed that with Petitioner's Supplemental Declaration on Midway Points which was filed on September 9th and then an amended version of this document on September 22nd. Petitioner asked the court to deny Respondent's requests and continue the current custody arrangement or grant Petitioner sole legal and primary physical custody of the child with Petitioner's parenting time from Sunday at 6:30 through Friday after school, remove the requirement to consent to religious activities/institutions from the legal custody orders, Order the minor's Medi-Cal coverage to be moved to Petitioner's case in Sacramento County and/or specify play therapy through Sac County – Pacific Clinics. Petitioner also requested that the court modify its previous order so that each parent will be required to select three schools between the residences of the parties, one of which must be midway. He asked that the court keep the

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exchange location at the Rancho Cordova Police Department instead of changing it per Respondent's request since she voluntarily chose to move.

The parties attended CCRC on September 9th and a report was issued on September 27th. The parties were unable to reach any agreements at CCRC but the mediator did recommend that the minor attend a Montessori or public school near Respondent, she also recommended Petitioner to have only supervised visits with the minor twice per week for two hours on each visit, and Respondent to have sole legal custody.

Petitioner filed a declaration in response to the CCRC report on October 10th. Proof of Service indicates it was served by mail on Respondent on October 7, 2022, which was untimely of the October 13, 2022 hearing.

On October 13, 2022, the parties appeared for the hearing and requested the matter be continued to join with the RFO set for November 3, 2022. The court continued the matter and stayed its tentative ruling pending the next hearing date.

Petitioner filed an RFO on August 31, 2022 requesting a change of venue to Sacramento County. Proof of Service shows Respondent was served by mail on October 7, 2022. The Department of Child Support Services was not provided notice. Petitioner requests the case be transferred to Sacramento County as neither party resides in El Dorado County. Petitioner has resided in Sacramento County for 13 years. Respondent recently relocated to Roseville, in Placer County. Petitioner requests both the family law case (Case number PFL20180289) and the child support (Case number PFS20180159) be transferred to Sacramento County.

On November 3, 2022, parties appeared for the hearing. Petitioner requested a continuance. The court granted the request to continue and stayed the tentative ruling pending the next hearing.

Petitioner filed a Declaration on December 20, 2022 clarifying his request to transfer venue of the cases. Respondent was personally served on December 27, 2022. Petitioner agrees with the Department of Child Support's position that the Child Support case cannot be transferred as Respondent is receiving assistance through El Dorado County. Petitioner renews his request to transfer the Family Law case to Sacramento County.

Respondent filed a Responsive Declaration to the request to change venue on January 11, 2023. Petitioner and the Department of Child Support Services were served on January 11, 2023. Respondent consents to a change of venue of the Child Support case (PFS20180159) only, as she is currently residing in Placer County and receiving benefits in Placer County. Respondent requests the Child Support case be transferred to Placer County pursuant to Family Code Section 17400(n)(1). Respondent notes, that while Petitioner is requesting a change of

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venue as to both the Family Law case and Child Support case, he only filed the request to change venue in the Family Law case number, which is improper.

Petitioner filed a Supplemental Declaration on January 13, 2023. Parties were personally served on January 12, 2023.

Petitioner filed an additional Declaration on January 18, 2023. Respondent and DCSS were served on January 18, 2023. The court finds these filings to be untimely and therefore, has not considered them.

The court has reviewed the above referenced filings of the parties as well as the CCRC report. The court finds and orders the following, which the court believes is in the best interest of the minor:

The court adopts the recommendations of the CCRC report with the following modifications:

Respondent shall have sole legal custody of the minor.

The parties shall have joint physical custody; Petitioner shall have parenting time from Friday at 4:30 pm until Sunday at 6:00 pm the 1st, 2nd, 3rd, and 5th weekend. Respondent will have the minor all other times and every 4th weekend of the month. The exchanges shall take place at the Sacramento County Sheriff's Office located at 4510 Orange Grove Avenue, Sacramento, CA 95641.

The court maintains the holiday schedule.

Petitioner's request for an order changing the minor's Medi-Cal coverage to Sacramento County and/or an order specifying play therapy through Sacramento County – Pacific Clinics is denied without prejudice as it is not properly before the court. Petitioner makes his request in his declaration responding to the RFO. While the responding party may request relief related to the orders requested in the moving papers, unrelated relief must be sought by scheduling a separate hearing and filing a separate FL-300 form. Cal. Rule Ct. Section 5.92(g)(2).

The court denies Petitioner's request to change venue to Sacramento County. Family Code Section 17400 provides that venue for an action or proceeding involving a local child support agency "shall be in the superior court in the county that is currently expending public assistance." Cal. Fam. Code Section 17400(n)(1)(A). "If public assistance is not currently being expended then venue shall be in the superior court in the county where the child who is entitled to current support reside or is domiciled." Cal. Fam. Code Section 17400(n)(1)(B). Petitioner is requesting a change of venue based on the assertion that neither of the parties, nor the minor, reside in El Dorado County. Respondent is currently receiving public assistance

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through Placer County. Therefore, the court finds as to the child support case (PFS20180159) Placer County is the appropriate venue. The court grants the request to change venue of the child support case to Placer County. Next as to the family law case, Petitioner has not provided sufficient grounds upon which the court should grant his request. (CCP §§ 397, 397.5.) There are numerous issues pending before this court. Therefore, the motion is denied without prejudice.

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 #18: RESPONDENT SHALL HAVE SOLE LEGAL CUSTODY OF THE MINOR. THE PARTIES SHALL HAVE JOINT PHYSICAL CUSTODY; PETITIONER SHALL HAVE PARENTING TIME FROM FRIDAY AT 4:30 PM UNTIL SUNDAY AT 6:00 PM THE 1ST, 2ND, AND 5TH WEEKEND. RESPONDENT WILL HAVE THE MINOR ALL OTHER TIMES AND EVERY 4TH WEEKEND OF THE MONTH. THE EXCHANGES SHALL TAKE PLACE AT THE SACRAMENTO COUNTY SHERIFF'S OFFICE LOCATED AT 4510 ORANGE GROVE AVENUE, SACRAMENTO, CA 95641. THE COURT MAINTAINS THE HOLIDAY SCHEDULE. PETITIONER'S REQUEST FOR AN ORDER CHANGING THE MINOR'S MEDI-CAL COVERAGE TO SACRAMENTO COUNTY AND/OR AN ORDER SPECIFYING PLAY THERAPY THROUGH SACRAMENTO COUNTY – PACIFIC CLINICS IS DENIED WITHOUT PREJUDICE AS IT IS NOT PROPERLY BEFORE THE COURT. PETITIONER MAKES HIS REQUEST IN HIS DECLARATION RESPONDING TO THE RFO. HOWEVER, WHILE THE RESPONDING PARTY MAY REQUEST RELIEF RELATED TO THE ORDERS REQUESTED IN THE MOVING PAPERS, UNRELATED RELIEF MUST BE SOUGHT BY SCHEDULING A SEPARATE HEARING AND FILING A SEPARATE FL-300 FORM. CAL. RULE CT. SECTION 5.92(G)(2). THE COURT DENIES PETITIONER'S REQUEST TO CHANGE VENUE TO SACRAMENTO COUNTY. THE COURT GRANTS THE CHANGE OF VENUE TO PLACER COUNTY. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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



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**20. PATRICIA DAVEY V. CHARLES DAVY**

**PFL20200494**

Parties appeared for a hearing on November 3, 2022 regarding Child Support. The parties reached a stipulation; Respondent to pay guideline child support of \$1,440 per month effective March 1, 2022. Payments due on the first of each month, with the first payment due on December 1, 2022. The court reserved jurisdiction on the issue of arrears and continued the hearing to determine arrears to January 26, 2023. The court ordered the clerk to provide notice to the Department of Child Support Services (DCSS) regarding the hearing on the arrears calculation and payment plan.

Petitioner filed an updated Income and Expense Declaration on November 3, 2022. Respondent and DCSS were served by mail on November 3, 2022.

There have been no additional filings in this matter.

Parties are ordered to appear for the hearing.

**TENTATIVE RULING #20: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.**

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

**21. ROBERT COITE V. MARY LONG**

**PFL20200620**

Respondent filed a Request for Order (RFO) on November 1, 2022, requesting the court modify the custody and parenting plan orders. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on November 30, 2022 and a review hearing on January 26, 2023. Petitioner was served by mail on November 11, 2022.

Respondent is requesting joint legal custody with sole physical custody. Respondent is requesting Petitioner's parenting time be supervised and that he enroll in, and complete, a parenting course. Respondent asserts in her declaration that Petitioner has been overly aggressive in his discipline of the minor and has placed the minor in unsafe situations. Respondent states the minor is not safe in Petitioner's home.

Parties attended CCRC on November 30, 2022. The CCRC counselor also met with the minor and interviewed collateral contacts. The parties were unable to reach any agreements. A report with recommendations was filed with the court on December 29, 2022. A copy of the report was mailed to the parties on January 6, 2023.

Petitioner filed a Reply to the CCRC report on January 17, 2023. Respondent was served by overnight service on January 16, 2023. Petitioner request the court adopt the recommendations in the CCRC report in their entirety.

The court has read and considered the filings as outlined above. The court adopts the recommendations as set forth in the December 29, 2022 CCRC report. All prior orders remain in full force and effect. The parties shall use a week on/week off parenting plan with exchanges to take place on Monday. The parties shall use the talkingparents.com or similar application for all communication about the minor. The parties are to enroll and participate in co-parenting counseling. They shall attend at a frequency and duration as recommended by the licensed clinician. The minor shall continue to participate in individual therapy and the parties shall follow the recommendations of the therapist.

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 #21: THE COURT ADOPTS THE RECOMMENDATIONS AS SET FORTH IN THE DECEMBER 29, 2022 CCRC REPORT. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. THE PARTIES SHALL USE A WEEK ON/WEEK OFF PARENTING PLAN WITH EXCHANGES TO TAKE PLACE ON MONDAY. THE PARTIES SHALL USE THE TALKINGPARENTS.COM OR SIMILAR APPLICATION FOR ALL COMMUNICATION ABOUT THE MINOR. THE PARTIES ARE TO ENROLL AND PARTICIPATE IN CO-PARENTING COUNSELING. THEY SHALL ATTEND AT A FREQUENCY AND DURATION AS RECOMMENDED BY THE LICENSED CLINICIAN. THE MINOR SHALL CONTINUE TO PARTICIPATE IN INDIVIDUAL THERAPY AND THE PARTIES SHALL FOLLOW THE**

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**RECOMMENDATIONS OF THE THERAPIST. 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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