

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 26, 2023

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

1. ALEAH MCNABB V. TYLER SWINNEY

22FL0507

On November 2, 2022, Petitioner filed a Request for Order (RFO) requesting the court rule on her request for private Child Custody Recommending Counseling (CCRC) or set aside the orders from October 13, 2022. Parties appeared for a hearing on October 13, 2022 and were able to reach a partial stipulation. The matter was continued for the parties to meet and confer and agree on a holiday schedule. The remainder of the tentative ruling was adopted as the court's order. In addition to the RFO, Petitioner filed a supporting declaration and a declaration of her attorney of record.

Proof of Electronic service on Respondent's Attorney of Record on November 14, 2022, was filed November 16, 2022. A second Proof of Service showed service by mail on Respondent's Attorney of Record on December 1st. Neither Proof of Service shows that the Notice of Posting Tentative Ruling issued by the Court was served with the RFO.

The RFO was originally set for January 19, 2022, but the parties stipulated to continue the hearing to January 26, 2022. The Court ordered the continuance on January 12, 2022.

No Response has been filed by the Respondent.

Petitioner's request is based on CCP Sec. 473(b). Petitioner's counsel states that it was his mistake not to have requested oral argument on the issue of possible referral of the parties to private CCRC. Counsel states that he assumed that he would be able to argue referral to private CCRC since Respondent's attorney had requested oral argument on other issues. The request for referral to CCRC is to attempt to resolve the parties' disagreement on where the minor should attend school.

Petitioner asserts that the issue of her request for referral to private CCRC was before the Court on October 13, 2022, and that the court's Tentative Ruling did not address the issue. However, this is not accurate. While Petitioner did raise the request for private CCRC in a Supplemental Declaration, the issue was not properly before the court and therefore, the tentative ruling did not address the issue.

Petitioner filed her original RFO on June 7, 2022, and the matter was set for hearing on August 11, 2022. The tentative ruling for August 11, 2022 was adopted as the court's order. Respondent's request for change of venue was denied and the parties were referred to CCRC with a review hearing set on October 13, 2022.

On September 2, 2022, Petitioner filed a Supplemental Declaration entitled "Request that Private CCRC be Ordered; Declaration in Support Thereof". Filing a Supplemental Declaration is not an appropriate manner of adding issues to a hearing that has already been set. The FL-300 is a Mandatory Use form and should have been utilized, perhaps in conjunction

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with an Order Shortening Time, to add the new issue to the subjects before the court for hearing on October 13, 2022. While Respondent filed a Reply Declaration to the Petitioner's declaration about Private CCRC, that does not allow the court to disregard that the issue was not properly raised by Petitioner.

The court finds the issue of referral to Private CCRC was not properly before the Court for the hearing of October 13, 2022. Petitioner's Request for Order for a ruling on the issue or to set aside also does not place the issue before the court, therefore, Petitioner's request is denied.

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

The Court orders the parties to appear for the limited purpose of finalizing a Holiday Visitation Schedule.

Tentative Ruling #1: THE PARTIES ARE ORDERED TO APPEAR TO ADDRESS SETTING A HOLIDAY SCHEDULE.

THE COURT DENIES THE PETITIONER'S REQUEST TO ADDRESS HER REQUEST FOR REFERRAL TO PRIVATE CCRC OR TO SET ASIDE THE ORDER MADE HEREIN ON OCTOBER 13, 2022. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS RULING SHALL REMAIN IN FULL FORCE AND EFFECT. THE RESPONDENT IS DIRECTED TO PREPARE 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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2. AMANDA ALESSANDRO V. JEREMY ALESSANDRO

PFL20200677

On September 22, 2022, parties stipulated to participating in a Family Code Section 3111 evaluation. The court accepted the parties' stipulation and adopted it as its order. The court set a review hearing for receipt of the 3111 evaluation for January 26, 2023.

The court has not received a 3111 evaluation report or any Supplemental Declarations from the parties. Therefore, the court continues the review hearing to receive the 3111 evaluation report.

All prior orders not in conflict with this order remain in full force and effect. Any Supplemental Declarations are due at least 10 days prior to the next hearing. Respondent shall prepare and file the Findings and Orders After Hearing.

TENTATIVE RULING #2: THE COURT CONTINUES THE 3111 EVALUATION REVIEW HEARING TO MARCH 30, 2023 AT 8:30 IN DEPARTMENT 5. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. ANY SUPPLEMENTAL DECLARATIONS ARE DUE AT LEAST 10 DAYS PRIOR TO THE NEXT HEARING. 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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3. CAMERON CALDWELL V. ALICIA CRECELIUS

PFL20210337

Petitioner filed a Request for Order (RFO) on November 2, 2022, requesting the court reconsider its October 13, 2022 ruling as new facts not available to Petitioner at the time of the ruling have come to light. Upon review of the court file, there is no Proof of Service showing Respondent was served.

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

TENTATIVE RULING #3: 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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4. CANDACE LAING V. JAMES S. LAING

PFL20140429

Petitioner filed a Request for Order (RFO) on October 31, 2022, seeking orders compelling Respondent to respond to Requests for Production of Documents, Set 2, and sanctions. Respondent filed a Responsive Declaration to Request for Order on January 13, 2023.

Discovery requests were served on July 2, 2022 thereby making responses due on or before August 11, 2022. On August 16th, having received no responses, Petitioner's counsel sent opposing counsel a meet and confer letter wherein he granted an extension of time to respond by August 22, 2022. Respondent again failed to provide responses. Petitioner again attempted to meet and confer and offered to extend the time to respond in exchange for Respondent agreeing to extend the time to file a motion to compel. Again, no response was received. Petitioner seeks monetary sanctions in the amount of \$2,000 pursuant to Code of Civil Procedure Section 2023.010.

According to Respondent, the discovery requests and meet and confer letters were served on Thomas Vannoord. Respondent had asked Mr. Vannoord to withdraw as counsel 8 years prior to the service of discovery. Respondent claims to have requested an extension but never heard back. He intends to fully comply with discovery prior to the date of the hearing.

"A party to whom a demand for inspection, copying, testing, or sampling has been directed shall respond separately to each item or category of item by any of the following:" (1) a statement that the party will comply, (2) a statement that the party lacks the ability to comply, or (3) an objection to the demand or request made. Cal. Civ. Pro. §2031.210. Where a party fails to provide timely responses the party to whom the discovery was directed waives "any objection...including one based on privilege or on the protection of work product..." Cal Civ. Pro. §2031.300(a).

"The court may impose a monetary sanction ordering that one engaging in the misuse of the discovery process...pay the reasonable expenses, including attorney's fees, incurred by anyone as a result of that conduct...If a monetary sanction is authorized by any provision of this title, the court *shall* impose that sanction unless it 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. 2023.030(a)(emphasis added) & 2023.020. Misuse of the discovery process includes, but is not limited to, failing to respond or submit to an authorized method of discovery. Cal. Civ. Pro. § 2023.010. Serving requests for production of documents is a well-established authorized form of discovery. Cal. Civ. Pro. § 2031.210. A party requesting sanctions for reasonable expenses that were incurred as a result of discovery abuse must already be liable for those expenses before the court can award the costs as sanctions. See *Tucker v.*

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Pacific Bell Mobile Servs., 186 Cal. App. 4th 1548 (2010) (anticipated costs for future deposition could not be included in award of sanctions).

The Civil Discovery Act is clear, requests for production of documents are an authorized form of discovery and each party is required to provide code compliant responses to properly served discovery requests. It appears both parties are in agreement on this fact as Respondent concedes he intends to serve discovery responses. As such, Petitioner's RFO is granted. Respondent is ordered to provide full and complete responses, without objections, to Requests for Production of Documents, Set 2, on or before February 9, 2023.

Respondent opposes the request for sanctions on the basis that discovery was served on his previous attorney and he had requested that attorney withdraw. The court does not have a substitution of attorney form substituting out Mr. Van Noord as attorney of record for Respondent. Thus, Petitioner's having served the discovery and meet and confer letters on Mr. Van Noord was reasonable if they had not been given notice of the substitution. Respondent does not explain how he came to know of the outstanding discovery, why Mr. Van Noord never informed Petitioner that he could not accept service, and when Respondent requested an extension of time to respond to discovery. That said, it does appear that Respondent's failure to respond was due to a mistake on his part or the part of his previous counsel for not informing the court and opposing counsel of the attorney withdrawal. As such, Petitioner's request for sanctions is denied.

TENTATIVE RULING #4: PETITIONER'S RFO IS GRANTED. RESPONDENT IS ORDERED TO PROVIDE FULL AND COMPLETE RESPONSES, WITHOUT OBJECTIONS, TO REQUESTS FOR PRODUCTION OF DOCUMENTS, SET 2, ON OR BEFORE FEBRUARY 9, 2023. PETITIONER'S REQUEST FOR SANCTIONS IS DENIED.

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

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5. CATHERYN WADMAN V. MAX WADMAN

21FL0116

Petitioner filed a request for emergency ex parte orders modifying child custody and parenting time on November 1, 2022. The court denied the ex parte request on November 2, 2022. Petitioner filed a Request for Order (RFO) on November 2, 2022, requesting modification of child custody and parenting time orders. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on November 28, 2022 and a review hearing on January 26, 2023. Upon review of the court file, there is no Proof of Service showing Respondent was properly served with the RFO and referral to CCRC.

Nevertheless, both parties appeared for the CCRC appointment on November 28, 2022. The parties were unable to reach any agreements. A report with recommendations was filed on January 12, 2023. A copy of the report was mailed to the parties on January 13, 2023.

Respondent has not filed a Responsive Declaration.

The court finds good cause to proceed with the matter. The court has read and considered the CCRC report and finds the recommendation to be in the best interest of the minor. The court adopts the recommendation as its order. All prior orders as to child custody and parenting time remain in full force and effect.

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

TENTATIVE RULING #5: ALL PRIOR ORDERS 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 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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#6, #6a, #13 CHRISTOPHER STARR/LEILANI STARR

21FL0079, 21FL0154, 21FL0121

This matter is before the court on two RFOs, one filed by each party. Father's moving papers were filed in case #21FL0079 (Christopher Starr v. Leilani Starr). Mother's moving papers were filed in case #21FL0121 (Leilani Starr v. Christopher Starr). The Court is using "Father" and "Mother" to refer to the parties instead of "Petitioner" and "Respondent" for the sake of clarity as Father is the Petitioner in two of the parties' cases and Mother is the Petitioner in the third case. Father filed his RFO on November 1, 2022, and Mother filed her RFO on November 22, 2022. Each party filed an ex parte emergency request prior to the filing of their respective RFOs

Father's emergency requests were filed October 31, 2022, and the Court issued Temporary Emergency Orders on November 1, 2022. The Temporary Emergency Orders grant Father Sole Physical and Legal Custody of the parties' children subject to Mother's parenting time 2 times per week for 2 hours each visit. Mother's visits are to be professionally supervised. The Court granted Father exclusive temporary possession of the Dodge Durango. The court reserved jurisdiction on Father's request for Mother to undergo psychological testing.

Father's RFO raised the same requests as set forth in His ex parte application except that the request for Mother to undergo psychological testing was not raised in the RFO.

Mother's ex parte request was filed November 9, 2022. Her requests were denied. Mother's RFO requests that the parties have joint legal and joint physical custody of the minors and reinstatement of the prior custody and parenting time orders made by this court on October 6, 2022 (a step-up plan for Mother). Mother also requested exclusive possession of the GMC Truck and that Father be compelled to provide his preliminary disclosures and for sanctions for failing to have done so.

The request of each party regarding custody and parenting time prompted the setting of a CCRC appointment on November 18, 2022, with CCRC counsellor Melinda Iremonger.

There are no Proofs of Service in either file showing that either party has served their RFO on the other. There are no Responsive Declarations filed by either party in opposition to the other's RFO. However, the court deems that each party's RFO stands as opposition to the other party's RFO on the issues of custody and parenting time of the parties' minors.

The court, therefore, finds that the issues of exclusive possession of the GMC Truck and the Dodge Durango are not properly before the court. The Temporary Emergency Order granting Father exclusive possession of the Dodge Durango shall lapse effective January 26, 2023. Mother's request regarding disclosure and for sanctions is not properly before the court

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and Father's request for an order that Mother undergo a psychological evaluation is also not properly before the court. These matters are all dropped from the hearing.

The parties attended CCRC as scheduled but did not reach an agreement. The CCRC counsellor submitted a report with recommendations to the court on December 6, 2022. Copies of the CCRC report were mailed by the Court to Mother, Father, and Father's attorney on December 21, 2022 per proof of service filed that date. The court has read and considered the CCRC report and finds that the recommendations are in the minors' best interests. Though the court has found that Father's request for Mother to undergo a psychological evaluation is not properly before the court, the court has concerns about Mother's mental health and so adds an additional component to the CCRC report that Mother participate in individual therapy and execute releases to allow her therapist to communicate with LS's therapist, the reunification therapist and the court's CCRC counsellor.

The court, on its own motion, orders all three of these cases consolidated. Case #21FL0124 is designated as the lead case and all future filings shall be filed using Case #21FL0124.

All prior orders not in conflict with this report shall remain in full force and effect. Father is directed to prepare a Findings and Order After Hearing consistent with this ruling.

TENTATIVE RULING #s 6,6a,13: THE COURT FINDS THAT THE CCRC RECOMMENDATIONS IN THE REPORT OF December 06, 2022 ARE IN THE BEST INTERESTS OF THE PARTIES' CHILDREN AND SO ADOPTS THEM AS THE ORDERS OF THE COURT. THE COURT ADDITIONALLY ORDERS THAT MOTHER SHALL PARTICIPATE IN INDIVIDUAL THERAPY AND SHALL EXECUTE RELEASES TO ALLOW HER THERAPIST TO COMMUNICATE WITH THE COURT'S CCRC COUNSELOR, THE PARTIES' REUNIFICATION THERAPIST AND THE PARTIES' DAUGHTER'S THERAPIST. ALL OTHER ISSUES RAISED BY THE PARTIES' RESPECTIVE RFOS ARE DROPPED FROM CALENDAR. CASES 21FL0079, 21FL0124, AND 21FL0121 ARE CONSOLIDATED. CASE 21FL0124 IS DESIGNATED AS THE LEAD CASE AND ALL FUTURE FILINGS SHALL BE MADE IN THAT CASE. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER SHALL REMAIN IN FULL FORCE AND EFFECT. FATHER IS DIRECTED TO PREPARE A 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 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

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**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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7. GLORIA DELGADILLO V. CAROLOS DELGADILLO BRIONES

21FL0154

Counsel for Respondent filed a Motion to be Relieved on October 26, 2022. Respondent was served on November 9, 2022. Upon review of the court file there is no Proof of Service showing Petitioner was served with the Motion to be Relieved.

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

TENTATIVE RULING #7: 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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8. GRAYSON HOWARD V. NATALIE PETERSON

PFL20210468

On October 20, 2022, the parties appeared for a hearing on Petitioner's June 28, 2022 filed Request for Order (RFO). Following arguments, the court adopted its tentative ruling with modifications as well as additional orders. At the parties' request the matter be set for a review of progress in the step-up plan.

Respondent filed a Supplemental Declaration on January 12, 2023. Respondent asserts Petitioner has not complied with the court's orders for third parties' presence during Petitioner's parenting time. Respondent also states counseling for the minors has not commenced as of January 12, 2023, as the counseling center is waiting authorization from Kaiser.

Petitioner has not filed a Supplemental Declaration.

The court finds the current orders remain in the minors' best interests. All prior orders remain in full force and effect. The court admonishes Petitioner, that failure to abide by the court's orders may result in a contempt motion and/or modification of custody and parenting time orders. The court is also concerned with the lack of movement towards the minors' participation in therapeutic services. While the court understands parties are waiting on the authorization from Kaiser, there needs to be more follow through by the parties to ensure the authorization is timely. The court sets a further review hearing in 90 days to ensure the minors' participation in therapy and review of the step-up plan.

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 #8: THE COURT FINDS THE CURRENT ORDERS REMAIN IN THE MINORS' BEST INTERESTS. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. THE COURT ADMONISHES PETITIONER, THAT FAILURE TO ABIDE BY THE COURT'S ORDERS MAY RESULT IN A CONTEMPT MOTION AND/OR MODIFICATION OF CUSTODY AND PARENTING TIME ORDERS. THE PARTIES ARE TO FOLLOW UP WITH KAISER TO ENSURE THE AUTHORIZATION OF THERAPY FOR THE MINORS IS TIMELY. THE COURT SETS A FURTHER REVIEW HEARING ON APRIL 20, 2023 AT 8:30 AM IN DEPARTMENT 5 TO ENSURE THE MINORS' PARTICIPATION IN THERAPY AND REVIEW OF THE STEP-UP PLAN. 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 TELEPHONE TO THE COURT AT (530) 621-6725 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL.

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9. JESSICA ETHLEEN ORMAN V. HARLAND WADE HARMON

PFL20180755

Respondent filed a Request for Order (RFO) on November 1, 2022, requesting the court stay “on tentative ruling #6 until Respondent is able to respond to motion and until Respondent’s direct appeal has been decided...” Petitioner was served by mail on January 2, 2023.

Respondent asserts the 10-year Criminal Protective Order (CPO) restricting his contact with the minors is currently being appealed. Respondent is requesting additional time to appoint counsel. Additionally, Respondent is prohibited from leaving California, and states his legal papers are in Oregon.

Petitioner has not filed a Responsive Declaration.

The court finds this is akin to a motion for reconsideration. Respondent has failed to set forth and new or different facts or law which would allow the court to grant a motion for reconsideration. Respondent disagreeing with the court’s orders is not grounds for reconsideration. Respondent had an opportunity to request oral argument after reviewing the tentative ruling issued on October 27, 2022. Respondent failed to follow the Local Rules and California Rules of Court. The Local Rules and California Rules of Court are applicable to all parties in court proceedings and ensure the court process is equitable to all. To allow Respondent leeway to “bend” the rules in his favor because he is appearing in persona propria would defeat the purpose of the Local Rule and California Rules of Court. The court’s tentative ruling was adopted as the order of the court on October 27, 2022. Respondent has not provided any new or different facts or law that was not available to him at the time of the hearing. Therefore, the court declines to reconsider the October 27, 2022 ruling.

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

TENTATIVE RULING #9: THE COURT DENIES RESPONDENT’S REQUEST TO STAY THE OCTOBER 27, 2022 TENTATIVE RULING. THE TENTATIVE RULING BECAME THE ORDER OF THE COURT ON OCTOBER 27, 2022. THE COURT FINDS RESPONDENT’S REQUEST TO BE AKIN TO A MOTION FOR RECONSIDERATION. THE COURT DENIES THE REQUEST FOR RECONSIDERATION AS RESPONDENT HAS FAILED TO ASSERT ANY NEW OR DIFFERENT FACTS OR LAW THAT WAS NOT AVAILABLE TO HIM AT THE TIME OF THE HEARING. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

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

10. JESUS NEGRON FLORES V. ALEXANDRA WASHBURN

PFL20200647

Respondent filed an Order to Show Cause and Affidavit for Contempt (OSC) on September 14, 2022. The OSC was properly served via personal service on September 26, 2022. Respondent alleges Petitioner has repeatedly failed to comply with numerous court orders for the parties to participate in co-parenting counseling. The parties were ordered to appear for arraignment on November 3, 2022.

Petitioner and her counsel appeared on November 3, 2022. Respondent failed to appear. The court continued the arraignment to January 26, 2023, issued a Bench Warrant for Respondent and stayed the bench warrant pending the January 26, 2023 hearing.

Petitioner filed a Notice of Continued Hearing on December 28, 2022. Respondent was personally served the Notice of Continued Hearing on December 8, 2022. The court notes this was prior to the Notice being filed, and therefore, Respondent was not served a filed endorsed copy of the Notice, however, the court finds notice to be proper.

Parties are ordered to appear for the arraignment.

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

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DEPARTMENT 5

January 26, 2023

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

11. JUSTIN HALLOCK V. DEBRA HALLOCK

PFL20200781

Respondent filed a Request for Order (RFO) on October 31, 2022, requesting the court reconsider its October 20, 2022 orders or in the alternative, a request to modify child custody or set the issue for trial. The parties are currently set for a contested matter on March 7, 2023 on the issue of support overpayment/reimbursements. Respondent is also requesting modification of guideline child support. Petitioner was served on November 7, 2022. Respondent filed a Memorandum of Points and Authorities on December 23, 2022. Petitioner was served on December 22, 2022. Respondent has not filed an Income and Expense Declaration since October 19, 2022.

Respondent asserts her due process was not appropriately considered as the court did not consider her supplemental declaration for the October 20, 2022 hearing. The court notes, Respondent's Supplemental Declaration was filed on October 19, 2022, and therefore, not timely. Respondent also asserts her due process rights were not fully considered, as the court would not hear oral argument on October 20, 2022, as proper notice had not been provided. Respondent asserts her Supplemental Declaration was fax filed on October 14, 2022, but due to an error in the court's processing system was not filed until October 19, 2022. Respondent's counsel provided notice of the request for oral to opposing counsel via email, which the court notes is not a form of acceptable notice pursuant to the local rules or California Rules of Court. Respondent requests the court set aside the October 20, 2022 orders pursuant to Code of Civil Procedure 473, due to counsel's mistaken belief that email notice of the request for oral argument was proper.

Petitioner filed a Responsive Declaration and Income and Expense Declaration on January 11, 2023. Respondent was served by overnight delivery on January 10, 2023. Petitioner objects to Respondent's requests. Petitioner requests the court maintain the current child custody orders and child support orders. Petitioner asserts the request to set aside the October 20, 2022 orders should be denied, as Respondent's Supplemental Declaration was late, even if it had been filed on October 14, 2022. Petitioner further asserts the notice of the request for oral argument was improper and therefore, the orders should not be set aside. Petitioner argues Respondent's actions were not excusable neglect. Petitioner states a mistake or neglect regarding procedure is not a mistake or neglect that warrants setting aside an order of this magnitude. Petitioner asserts the current parenting plan is working and should be maintained, as it remains in the minors' best interests.

The court has read and considered the filings as set forth above. The court denies Respondent's request to set aside the October 20, 2022 orders. Respondent has failed to set forth and new or different facts or law which would allow the court to grant a motion for reconsideration. Respondent disagreeing with the court's orders is not grounds for

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DEPARTMENT 5

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

reconsideration. Respondent had an opportunity to request oral argument after reviewing the tentative ruling issued on October 19, 2022. Respondent failed to follow the Local Rules and California Rules of Court. The Local Rules and California Rules of Court are applicable to all parties in court proceedings and ensure the court process is equitable to all. To allow Respondent leeway to “bend” the rules would defeat the purpose of the Local Rule and California Rules of Court.

The court grants Respondent’s request to add these issues to the evidentiary hearing currently set for March 7, 2022. The custody orders made on October 20, 2022 were not final orders and therefore, the court must consider the best interests of the minors. The court notes the parties have been to Child Custody Recommending Counseling (CCRC) twice in the last six months. The minors were interviewed during the most recent appointment in September. The parties’ positions remain unchanged from September, with Petitioner requesting the current plan remain in place and Respondent requesting an additional overnight each week, with the parties exchanging every three days. The court does not find good cause to rerefer the parties to CCRC. The court also sets Respondent’s request to modify child support to join the matters set for evidentiary hearing set for March 7, 2023. The court reserves jurisdiction to modify child support to the date of the filing of the RFO.

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 #11: THE COURT DENIES RESPONDENT’S REQUEST TO SET ASIDE THE OCTOBER 20, 2022 ORDERS FOR THE REASONS SET FORTH ABOVE. THE COURT GRANTS RESPONDENT’S REQUEST TO ADD THESE ISSUES TO THE EVIDENTIARY HEARING CURRENTLY SET FOR MARCH 7, 2022. THE COURT DOES NOT FIND GOOD CAUSE TO REREFER THE PARTIES TO CCRC. THE COURT ALSO SETS RESPONDENT’S REQUEST TO MODIFY CHILD SUPPORT TO JOIN THE MATTERS SET FOR EVIDENTIARY HEARING SET FOR MARCH 7, 2023. THE COURT RESERVES JURISDICTION TO MODIFY CHILD SUPPORT TO THE DATE OF THE FILING OF THE RFO. 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

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**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.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 26, 2023

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

15. TARA ANN GRUDIN V. KEVIN GRUDIN

PFL20190049

On October 13, 2022, the court adopted its tentative ruling, ordering Step 2 and Step 3 of the step-up parenting plan to proceed. The court set a review hearing for January 23, 2023 for further review of the parenting plan. The court continued Respondent's request to modify child support and found Respondent had failed to comply with the local rules when filing his Income and Expense Declaration, as it does not include a profit and loss statement for the last 12 month and does not include the necessary tax returns. The court continued Respondent's request to modify child support to January 26, 2023. Updated Income and Expense Declarations which complied with the local rules were ordered to be served at least 10 days prior to the next hearing date. The court admonished that failure to comply with the local rules may result in the court ordering sanctions. The court reserved jurisdiction to retroactively modify child support to the date of the step-up to Step 3 (winter break 2022).

Petitioner filed a Supplemental Declaration as well as a Declaration of Counsel and updated Income and Expense Declaration on January 11, 2023. Respondent was served by mail and electronically on January 10, 2023. Petitioner states the parenting plan has been progressing well and agrees to moving to a 50/50 parenting plan with exchanges on Fridays. Petitioner requests the court adopt the holiday plan with modifications. Petitioner has submitted an amended holiday plan as Exhibit A. Petitioner also requests the court modify the parenting plan as to the minor's birthday with the parties alternating an odd/even schedule. Petitioner requests the court deny Respondent's request to modify child support as Respondent has failed to comply with the local rules as well as the court's orders. On August 4, 2022, the court granted Petitioner's request to order Respondent to provide complete responses to her motion to compel and imposed sanctions of \$1,200 against Respondent. Petitioner asserts Respondent has not provided complete answers and has failed to pay the sanctions. Petitioner states Respondent has again failed to comply with court orders, specifically the October 13, 2022 orders that parties file and serve updated Income and Expense Declarations, that comply with the local rules, at least 10 day prior to the January 26, 2022 hearing. Petitioner further asserts modification of the child support order is inappropriate as Respondent has misrepresented his income. Petitioner requests the court issue a Judgment for the \$1,200 in sanctions as Respondent has failed to pay the sanctions as ordered. Petitioner requests the court order additional sanctions pursuant to Family Code section 271 for Respondent's failure to comply with the court's order to provide verified and complete responses to Petitioner's discovery requests and for further failures to comply with the court's orders.

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DEPARTMENT 5

January 26, 2023

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

Respondent filed a Declaration on January 18, 2023. The Proof of Service filed on January 19, 2023, states personal service was made on January 18, 2023, at 2250 E Bidwell Street #100 Folsom CA, 95630. The court notes the Proof of Service does not state who was served at this address. The court further notes, this is not the correct address for Petitioner's Counsel, as her address is 2250 E. Bidwell Street, Suite 120, Folsom, CA 95630. Therefore, the court finds the Proof of Service to be deficient, and as such, the court cannot consider Respondent's Declaration.

Respondent has not filed an updated Income and Expense Declaration.

The court has read and considered the filings as set forth above. The parties shall move to a week on/week off schedule with exchanges to occur on Friday. The court adopts the proposed holiday schedule as set forth in Petitioner's Exhibit A, including the proposed birthday schedule. Petitioner shall prepare and file a Writ of Execution and Memorandum of Costs to collect the sanctions award. The court denies Respondent's request to modify child support. Once again, Respondent has failed to comply with the local rules and the court's October 13, 2022 order to file and serve an updated and complete Income and Expense Declaration at least 10 days prior to the hearing. The Declaration Respondent filed, which did not include an updated FL-150, was not timely and cannot be considered by the court as it was not properly served. The court grants Petitioner's request for Family Code section 271 sanctions in the amount of \$600 for Respondent's failure to comply with court orders as to the August 4, 2022 sanctions, the failure to comply with the court's August 4, 2022 order as to Petitioner's discovery requests, and the failure to comply with the court's October 13, 2022 order to file an updated Income and Expense Declaration (FL-150) which complies with the local rules. Respondent shall pay Petitioner \$600 as and for Family Code section 271 sanctions on or before February 16, 2023.

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 #15: THE PARTIES SHALL MOVE TO A WEEK ON/WEEK OFF SCHEDULE WITH EXCHANGES TO OCCUR ON FRIDAY. THE COURT ADOPTS THE PROPOSED HOLIDAY SCHEDULE AS SET FORTH IN PETITIONER'S EXHIBIT A, INCLUDING THE PROPOSED BIRTHDAY SCHEDULE. PETITIONER SHALL PREPARE AND FILE A WRIT OF EXECUTION AND MEMORANDUM OF COSTS TO COLLECT THE SANCTIONS AWARD. THE COURT DENIES RESPONDENT'S REQUEST TO MODIFY CHILD SUPPORT. ONCE AGAIN, RESPONDENT HAS FAILED TO COMPLY WITH THE LOCAL RULES AND THE COURT'S OCTOBER 13, 2022 ORDER TO FILE AND SERVE AN UPDATED AND COMPLETE INCOME AND EXPENSE DECLARATION AT LEAST 10 DAYS PRIOR TO THE HEARING. THE DECLARATION RESPONDENT FILED, WHICH DID NOT INCLUDE AN UPDATED FL-150, WAS NOT TIMELY AND CANNOT BE CONSIDERED BY THE

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DEPARTMENT 5

January 26, 2023

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

COURT AS IT WAS NOT PROPERLY SERVED. THE COURT GRANTS PETITIONER'S REQUEST FOR FAMILY CODE SECTION 271 SANCTIONS IN THE AMOUNT OF \$600 FOR RESPONDENT'S FAILURE TO COMPLY WITH COURT ORDERS AS TO THE AUGUST 4, 2022 SANCTIONS, THE FAILURE TO COMPLY WITH THE COURT'S AUGUST 4, 2022 ORDER AS TO PETITIONER'S DISCOVERY REQUESTS, AND THE FAILURE TO COMPLY WITH THE COURT'S OCTOBER 13, 2022 ORDER TO FILE AN UPDATED INCOME AND EXPENSE DECLARATION (FL-150) WHICH COMPLIES WITH THE LOCAL RULES. RESPONDENT SHALL PAY PETITIONER \$600 AS AND FOR FAMILY CODE SECTION 271 SANCTIONS ON OR BEFORE FEBRUARY 16, 2023. 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 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.