

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 16, 2022

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

1. ASHLEY SPIEGLEBERG V. AUSTIN SUTTON

PFL20190367

Order to Show Cause for Contempt

On September 11, 2022, Respondent filed an ex parte application for emergency orders for the minor to be returned to his custody per the parties' June 16, 2022 stipulation. Respondent also requested Petitioner be held in contempt. On September 12, 2022, the court denied the contempt on an ex parte basis, but granted the ex parte as an order shortening time, and set the matter to join with Petitioner's RFO on October 6, 2022. The court ordered all prior orders to remain in full force and effect. Respondent filed the corresponding RFO and Order to Show Cause (OSC) for Contempt on September 12, 2022. Petitioner was personally served on September 13, 2022, with the RFO as well as the OSC for contempt.

On September 19, 2022, Respondent filed a second OSC and Affidavit for contempt. Petitioner was personally served the same day.

The parties were ordered to appear on all pending matters on October 6th. At that time the court appointed a public defender to represent Petitioner in the contempt/failure to comply hearing.

On December 22, 2022, Petitioner appeared with counsel and requested the Public Defender's Office be relived and the arraignment continued. The court relived the Public Defender and continued the matter to February 16, 2023.

The parties are ordered to appear for arraignment on the September 11, 2022 filed OSC.

Respondent filed a second OSC for Contempt on November 21, 2022, alleging Petitioner traveled out of state with the minor in violation of the parties' June 16, 2022 stipulation and order. Petitioner was personally served on November 25, 2022. The matter was originally set to be heard on February 9, 2023. On December 22, 2022, at the request of Petitioner, the court advanced the hearing and reset it for February 16, 2023, for judicial economy.

Parties are ordered to appear for arraignment on the November 21, 2022 filed OSC.

Child Custody and Parenting Time

On October 6, 2022, the court rereferred the parties to Child Custody Recommending Counseling (CCRC) for an appointment on October 26, 2022. The court directed that the child be made available to the Counselor at his request. The court ordered the parties to have joint legal custody with Petitioner having temporary sole physical custody. Petitioner was ordered to complete a hair follicle test for drugs and/or alcohol on or before October 20, 2022. The court set a review hearing date of December 22, 2022.

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On November 2, 2022, Petitioner submitted a Declaration with the test results from the hair follicle test. Respondent was served by mail on November 2, 2022. The test was negative for all substances, except marijuana.

The CCRC report was not filed until December 13, 2022 and not mailed to the parties until December 16, 2022. Therefore, the court continued the matter to join with the matter currently set for February 16, 2022 at 8:30 AM in Department 5.

The court has read and considered the December 13, 2022 filed CCRC report and finds the recommendations to be in the minor's best interest. The court adopts the recommendations as its orders.

Psychological Evaluation and Mental Health Treatment Compliance

Respondent filed a Request for Order (RFO) on November 28, 2022, requesting Petitioner undergo a psychological evaluation and be ordered to comply with her mental health treatment. Petitioner was served by mail on December 5, 2022. Respondent asserts Petitioner has a substantial history of mental health issues and therefore, the court should order a psychological evaluation. Respondent further asserts the court should order Petitioner to comply with her mental health treatment plan.

Petitioner filed a Responsive Declaration on February 1, 2023. Upon review of the court file, there is no Proof of Service showing Respondent was served. Therefore, the court cannot consider this document.

The court has read and considered the filings as set forth above. The court denies Respondent's request for a psychological evaluation. While Petitioner may have a history of mental health issues, Respondent has failed to establish the necessity of a psychological evaluation. As to Respondent's request Petitioner be ordered to remain in compliance with her mental health treatment, the court previously ordered Petitioner to maintain compliance with her mental health treatment on October 6, 2022. That order remains in full force and effect.

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 #1: PARTIES ARE ORDERED TO APPEAR FOR THE ARRAIGNMENT ON THE SEPTEMBER 11 AND NOVEMBER 21, 2022 FILED ORDERS TO SHOW CAUSE.

THE COURT ADOPTS THE RECOMMENDATIONS AS SET FORTH IN THE DECEMBER 13, 2022 FILED CCRC REPORT. THE COURT DENIES RESPONDENT'S REQUEST FOR A PSYCHOLOGICAL EVALUATION. WHILE PETITIONER MAY HAVE A HISTORY OF MENTAL HEALTH ISSUES, RESPONDENT HAS FAILED TO ESTABLISH THE NECESSITY OF A PSYCHOLOGICAL EVALUATION.

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AS TO RESPONDENT'S REQUEST PETITIONER BE ORDERED TO REMAIN IN COMPLIANCE WITH HER MENTAL HEALTH TREATMENT, THE COURT PREVIOUSLY ORDERED PETITIONER TO MAINTAIN COMPLIANCE WITH HER MENTAL HEALTH TREATMENT ON OCTOBER 6, 2022. THAT ORDER REMAINS IN FULL FORCE AND EFFECT. 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. 3.1308; LOCAL RULE 8.05.07.

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2. CARLA VOCATURA V. JOHN VOCATURA

22FL0074

On December 1, 2022, the parties appeared for a hearing on Petitioner's September 9, 2022 filed Request for Order (RFO). Parties reached a stipulation and the court rereferred the parties to Child Custody Recommending Counseling (CCRC) for an appointment on December 9, 2022 and a further review hearing on February 16, 2023.

Parties submitted a Judgment and Marital Settlement Agreement, which addressed all issues. The Judgment was signed by the court and filed on February 10, 2023. The court finds this has resolved the issues currently pending before the court. Therefore, the court drops this matter from calendar.

All prior orders remain in full force and effect.

TENTATIVE RULING #2: THE COURT DROPS THE MATTER FROM CALENDAR AS A JUDGMENT RESOLVING ALL ISSUES HAS BEEN FILED. 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 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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4. CHERYL HALL V. DAVID HALL

PFL20130493

Respondent filed a Request for Order (RFO) on October 7, 2022, requesting modification of post judgement spousal support. Thereafter, Respondent filed a Request to Reschedule the Hearing, based on his counsel's unavailability on the hearing date. The court granted the request to continue on December 23, 2022 and ordered Petitioner be served the moving papers on or before December 30, 2022. Petitioner was Personally served on January 4, 2023.

Petitioner filed a Responsive Declaration on February 2, 2023. Respondent was electronically served on February 2, 2023. Petitioner asserts she was not properly served with the RFO per the court's order on December 23, 2022, ordering Petitioner to be served no later than December 30, 2022. Petitioner requests the matter be continued to a long cause matter, as this is a complex matter requiring discovery and an evidentiary hearing.

It appears to the court, Petitioner is willing to waive the defect in notice, provided the matter be set for a long cause evidentiary hearing with ample time to propound discovery. The court finds this is a request to modify post-judgment spousal support which requires the court to take evidence on the Family Code Section 4320 factors. Therefore, the court orders parties to appear for the hearing to select Mandatory Settlement Conference and trial dates.

TENTATIVE RULING #4: PARTIES ARE ORDERED TO APPEAR TO SELECT MANDATORY SETTLEMENT CONFERENCE AND TRIAL DATES.

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5. CRYSTAL CORBETT V. SEAN CORBETT

PFL20110935

Respondent filed a Request for Order on November 28, 2022, requesting the court order the commencement of reunification therapy. Petitioner was personally served on December 29, 2022. Respondent asserts in his declaration that he is compliant with the court orders of April 21, 2022. He has completed 60 days of random testing with no positive results. Respondent sent Petitioner the names of three potential reunification therapists, and Petitioner has refused to select one, as Petitioner asserts Respondent is not compliant. Respondent requests the court order Petitioner to select one of the three reunification therapists provided, and for the minor and Respondent to start reunification therapy.

Petitioner filed a Responsive Declaration on February 8, 2023. Respondent was served electronically on February 8, 2023. This is a late filed Response, and the court will not consider it.

The court has read and considered the filings as set forth above. The court grants Respondent's request. Petitioner is to select one of the three proposed therapists on or before February 24, 2023. Once the therapist is selected, parties are to set up therapy at the first available appointment, but no later than March 24, 2023. The minor shall participate at a frequency and duration as directed by the therapist. The parties are to follow the therapist's recommendations.

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 #5: THE COURT GRANTS RESPONDENT'S REQUEST. PETITIONER IS TO SELECT ONE OF THE THREE PROPOSED THERAPISTS ON OR BEFORE FEBRUARY 24, 2023. ONCE THE THERAPIST IS SELECTED, PARTIES ARE TO SET UP THERAPY AT THE FIRST AVAILABLE APPOINTMENT, BUT NO LATER THAN MARCH 24, 2023. THE MINOR SHALL PARTICIPATE AT A FREQUENCY AND DURATION AS DIRECTED BY THE THERAPIST. THE PARTIES ARE TO FOLLOW THE THERAPIST'S RECOMMENDATIONS. 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

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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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6. DCSS V. BRANDON ROY (OTHER PARENT: SAMANTHA BRAHAM)

PFS20180084

Respondent filed a Request for Order (RFO) on December 1, 2022, requesting a modification of child support. DCCS and Other Parent were personally served on January 13, 2023.

DCSS filed a Responsive Declaration on January 24, 2023, requesting the matter be set on the child support calendar to be heard by the Child Support Commissioner, pursuant to Family Code Section 4251.

The court finds this matter involves DCSS and should be heard by the Child Support Commissioner pursuant to Family Code Section 4251. The court continues the matter to be heard by the child support Commissioner on April 10, 2023 at 8:30 AM in Department 5.

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

TENTATIVE RULING #6: THE COURT CONTINUES THE MATTER TO BE HEARD BY THE CHILD SUPPORT COMMISSIONER ON APRIL 10, 2023 AT 8:30 AM IN DEPARTMENT 5. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL 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. 3.1308; LOCAL RULE 8.05.07.

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7. JASON HARDOUIN V. JENAE NORELL

22FL0118

On November 21, 2022, Counsel for Respondent filed a Motion to be Relieved as Counsel. On December 6, 2022, Respondent filed a Substitution of Attorney. The court finds the Motion to be Relieved to moot and drops the matter from calendar.

TENTATIVE RULING #7: THE COURT FINDS THE MOTION TO BE RELIEVED TO MOOT AND DROPS THE MATTER FROM CALENDAR.

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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8. JEREMY KADERKA V. KEILEA CAMERON

22FL.788

Petitioner filed a Request for Order (RFO) on September 8, 2022 requesting the court make orders as to child custody and parenting time. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on October 5, 2022 and a review hearing on November 17, 2022. Respondent was served by mail on September 9, 2022. Petitioner is requesting the court order joint legal and physical custody of the minor.

Only Petitioner appeared for the CCRC appointment on October 5, 2022. As such a single parent CCRC report was filed with the court on October 5, 2022. A copy was mailed to the parties on October 6, 2022.

Petitioner filed a Supplemental Declaration on November 9, 2022. Respondent was served both electronically and by mail on November 9, 2022.

Respondent filed a Responsive Declaration on November 10, 2022. Petitioner was served electronically on November 8, 2022. Respondent has no objection to joint legal custody, but requests she have primary physical custody.

On November 30, 2022, parties stipulated to be rereferred to CCRC and set a new review hearing. The court adopted the parties' stipulation and rereferred the parties to CCRC for an appointment on December 28, 2022 and a review hearing on February 16, 2023.

Both parties attended CCRC on December 28, 2022. The parties were unable to reach any agreements. A report with recommendations was filed on February 2, 2023. A copy was mailed to the parties on February 3, 2023.

The court has read and considered the filings as outlined above. The court finds the recommendations as set forth in the February 2, 2023 CCRC report to be in the best interest of the minor. The court adopts the recommendations as its order.

All prior orders not in conflict with this order remain in full force and effect. Petitioner shall prepare the Judgment.

TENTATIVE RULING #8: THE COURT FINDS THE RECOMMENDATIONS AS SET FORTH IN THE FEBRUARY 2, 2023 CCRC REPORT TO BE IN THE BEST INTEREST OF THE MINOR. THE COURT ADOPTS THE RECOMMENDATIONS AS ITS ORDER. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE THE JUDGMENT.

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

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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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9. KIMBERLY CLINE V. MICHAEL CLINE

PFL20120356

On February 2, 2023, the parties appeared for a hearing to select Mandatory Settlement Conference and trial dates. The court affirmed its prior order for the parties to participate in an Evidence Code Section 730 evaluation. The court found it did not have enough information before it to determine when the 730 evaluation would be completed and therefore set a further hearing on February 16, 2023. Parties were directed to reach out to the evaluator to determine when the report could be anticipated to be completed. Additionally, the court needed to determine if trial matters scheduled to take more than three days would still be heard in Department 5.

There have been no additional filings in this matter.

Parties are ordered to appear with an update to the court and to select Mandatory Settlement and Trial Dates.

TENTATIVE RULING #9: PARTIES ARE ORDERED TO APPEAR.

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10. SANDRA GRANADE V. TIMOTHY GRANADE

PFL20190133

Petitioner requests an order amending a clerical error in the judgment filed on October 27, 2022, as well as Section 271 sanctions. The Request for Order (RFO) was filed on January 17, 2023 and served on January 18th. Respondent filed and served his Responsive Declaration on February 3, 2023. Petitioner filed her Reply Declaration on February 8th.

Correction of Judgment

Petitioner's RFO stems from a judgment that was prepared by her counsel and adopted by the court on October 27, 2022. In preparing the judgment, Counsel inadvertently missed unchecking a box on the form labeled "Spousal or Domestic Partner Support Factors Under Family Code Section 4320 – Attachment." The error resulted in the checking of the box indicating that Petitioner is self-supporting. However, the court found that this was not the case. Petitioner points to the fact that the court ordered permanent spousal support and issued a Gavron Warning. Both of which are inconsistent with a finding of her being self-supporting.

Respondent opposes the motion arguing that he is simply advocating for the enforcement of the judgment that was agreed upon by the parties. He claims to have done nothing wrong and sanctions are not warranted. According to Respondent, the checking of the box indicating that Petitioner is self-supporting constitutes a "substantive, material, bargained-for term in the judgment" and to change the judgment would be to deny him of his due process. Responsive Dec'l, Feb. 3, 2023. P.2:26. He argues further that this does not constitute a clerical error as it is not an error in transcribing numbers, arithmetic or the incorrect assembly of documents or spelling errors.

Civil Procedure Section 473(b) governs the circumstances in which a party may be relieved of the terms of a judgment in instances of mistake, inadvertence, or excusable neglect. Cal. Civ. Pro. § 473(b). The statute addresses instances in which relief is mandatory as well as circumstances giving rise to discretionary relief. The circumstances at hand fall within the discretionary provisions of the statute. *See Las Vegas Land & Development Co., LLC v. Wilkie Way, LLC*, 219 Cal. App. 4th 1086 (2013) (Mandatory provisions of Section 473(b) apply only to defaults). Thus, the court turns to the discretionary relief requirements of 473(b).

"The court may, upon any terms as may be just, relieve a party or his or her legal representative from a judgment, dismissal, order, or other proceeding taken against him or her through his or her mistake, inadvertence, surprise, or excusable neglect." Cal. Civ. Pro. § 473(b). To obtain relief under Section 473(b), the moving party must do so within a reasonable time and must provide a copy of the pleading proposed to be filed. *Id.*

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Generally speaking, "...the discretionary relief provision of Section 473 only permits relief from attorney error 'fairly imputable to the client, i.e., mistakes anyone could have made.' [Citations]." *Zamora v. Clayborn Contracting Group, Inc.*, 28 Cal. 4th 249 (2002) *citing* *Garcia v. Hejmadi*, 58 Cal. App. 4th 674, 682 (1997). Here, Petitioner's counsel made a mistake in checking, or failing to uncheck, the specified box. An error which clearly can be imputed to any laymen. The court is not convinced and Respondent cites no law to support his assertion that a clerical error under Section 437 is limited only to the transcribing of numbers, arithmetic or spelling errors, or incorrectly assembling documents. In fact, the error at hand rested not only with counsel but with the court's oversight in signing a judgment that did not correctly reflect the court's orders.

Errors made by the court are apportioned into two categories, clerical errors, and judicial errors. "'Clerical' errors are, generally speaking, those errors, mistakes, or omissions which are not the result of the judicial function. Mistakes of the court are not necessarily judicial errors. The distinction between a 'clerical' error and a 'judicial' one does not depend so much upon the person making the error as upon whether it was the deliberate result of judicial reasoning and determination." *Smith v. Smith*, 115 Cal. App. 2d 92, 99 (1952). "Inadvertence of a judge in signing a judgment or decree which does not correctly embody or carry out the judgment or decree as previously judicially ordered is a clerical, rather than a judicial error, which on being called to the attention of the court may be corrected by a nunc pro tunc order." *Wilson v. Wilson*, 88 Cal. App. 2d 382, 384 (1948); *See also* *Hansen v. Hansen*, 93 Cal. App. 2d 568 (1949) (Judge ordered spousal support terminated upon the wife's remarriage but the decree prepared by wife's attorney failed to provide as such. This was deemed a clerical error which could be correct on the motion of husband).

Similar to the matter of *Hansen v. Hansen*, the court's ruling clearly indicated one thing, but the judgment prepared by the parties did not reflect that ruling. The court would not have issued a Gavron Warning and ordered spousal support had it made a finding that Petitioner was self-supporting. In fact, given that Respondent's own draft of the judgment did not have the subject box checked, indicates that he was aware the court made no such ruling. Moreover, Respondent can hardly call this a bargained for term when he did not so much as bring it to the attention of Petitioner but instead only states that he and his counsel discussed it within earshot of Petitioner and her attorney.

Allowing the judgment to remain as-is would result in internal inconsistencies in the document itself. In order to ensure that the judgment accurately reflects the court's ruling, and given that this was a clerical error by counsel and an oversight by the court, the court finds good cause to grant the motion and amend the judgment.

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Family Code Section 271 Sanctions

Petitioner requests sanctions in the amount of \$2,250 for Respondent and his attorney's failure to confer on the proposed correction and their attempt to use the clerical error to their advantage by requesting the termination of spousal support based on the error in the judgment. Likewise, Respondent is also requesting sanctions in the amount of \$1,200 for the attorney's fees he incurred in opposing the present motion. Counsel for Respondent expects to charge an additional hour to prepare for and attend oral argument on this matter. His billable rate is \$400 per hour.

Family Code Section 271 which states in pertinent part, "...the court may base an award of attorney's fees and costs on the extent to which the conduct of each party or attorney furthers or frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation by encouraging cooperation of the parties..." Fam. Code § 271(a). Under the circumstances, it appears Respondent and his counsel engaged in unwarranted litigation tactics in an effort to take advantage of opposing counsel's clerical error and misrepresent to the court what its clear findings were at trial. It is inarguable that if the court had made a finding that Petitioner was self-supporting there would have been no spousal support order made and Respondent, had he honestly believed the court made such a finding, would have argued to the court the clear inconsistencies in the rulings. Such was not the case. Moreover, had Respondent honestly believed the court made a finding of self-support, he would have checked that box in his own proposed judgment. Respondent's deceptive practices are exactly of the type that Section 271 is to protect against. As such, Respondent is ordered to pay Petitioner \$1,125 as and for Family Code Section 271 sanctions. Payment is to be made no later than March 2, 2023.

TENTATIVE RULING #10: PETITIONER'S REQUEST FOR ORDER IS GRANTED. RESPONDENT IS ORDERED TO PAY PETITIONER \$1,125 AS AND FOR FAMILY CODE SECTION 271 SANCTIONS. PAYMENT IS TO BE MADE NO LATER THAN MARCH 2, 2023. PETITIONER IS TO 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. 3.1308; LOCAL RULE 8.05.07.

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11. SARAH LEAHY V. ALEXANDER LEAHY

PFL20190491

Respondent filed a Request for Order (RFO) on November 28, 2022, requesting modification of child custody and parenting plan orders as well as an order for an Evidence Code Section 730 or Family Code Section 3111 evaluation. Parties were referred to CCRC for an appointment on December 28, 2022 and a review hearing on February 16, 2023. Petitioner was personally served on December 6, 2022.

Respondent requests the court order joint legal as well as joint physical custody. Respondent requests a week on/week off schedule. Respondent also requests the court order parties to participate in an Evidence Code Section 730 or Family Code Section 3111 custody evaluation with Dr Roeder. Respondent states he is willing to pay for the evaluation subject to the court reserving jurisdiction to reallocate the costs.

Parties attended CCRC on December 28, 2022 and were unable to reach any agreements. A report was filed with the court on February 2, 2023. A copy was mailed to the parties on February 2, 2023.

Petitioner filed a Responsive Declaration on February 2, 2023. Respondent was personally served on February 2, 2023. Petitioner objects to Respondent's requests. She requests the court order Respondent's parenting time be reduced, make orders for a holiday schedule, and deny the request for the 730/3111 evaluation. Petitioner also requests the parties not be ordered to participate in co-parenting as the parties have previously participated and it has not been successful.

Respondent filed a Reply to CCRC declaration on February 9, 2023. Petitioner was served by mail and electronically on February 9, 2023. Respondent requests that if the court were to adopt the recommendations of the CCRC report, that several modifications be made regarding exchange time and location; the parties be ordered to use the talkingparents.com or similar application for all non-emergency communication about the minor; parties be ordered into a co-parenting class forthwith; make corrections to the CCRC report; and requests as to childcare providers.

The court has read and considered the filings as set forth above. The court finds the recommendations as set forth in the CCRC report to be in the best interest of the minor. The court orders the parties to participate in a Family Code Section 3111 evaluation. Respondent shall pay the costs of the evaluation. Dr. Eugene Roeder will conduct the evaluation. The court reserves on Petitioner's request as to the holiday schedule pending the return on the evaluation. The parties are to use the talkingparents.com or similar application for all non-emergency communication about the minor. The court denies Respondent's request to

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DEPARTMENT 5

February 16, 2022

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

“correct errors” in the CCRC report. The court orders parties to complete a co-parenting class and provide the court a certificate of completion prior to the next hearing.

The court sets a further review hearing in 120 days to review the Family Code Section 3111 report. Supplemental Declarations are due at least 10 days prior to the next hearing

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 HAS READ AND CONSIDERED THE FILINGS AS SET FORTH ABOVE. THE COURT FINDS THE RECOMMENDATIONS AS SET FORTH IN THE CCRC REPORT TO BE IN THE BEST INTEREST OF THE MINOR. THE COURT ORDERS THE PARTIES TO PARTICIPATE IN A FAMILY CODE SECTION 3111 EVALUATION. RESPONDENT SHALL PAY THE COSTS OF THE EVALUATION. DR. EUGENE ROEDER WILL CONDUCT THE EVALUATION. THE COURT RESERVES ON PETITIONER’S REQUEST AS TO THE HOLIDAY SCHEDULE PENDING THE RETURN ON THE EVALUATION. THE PARTIES ARE TO USE THE TALKINGPARENTS.COM OR SIMILAR APPLICATION FOR ALL NON-EMERGENCY COMMUNICATION ABOUT THE MINOR. THE COURT DENIES RESPONDENT’S REQUEST TO “CORRECT ERRORS” IN THE CCRC REPORT. THE COURT ORDERS PARTIES TO COMPLETE A CO-PARENTING CLASS AND PROVIDE THE COURT A CERTIFICATE OF COMPLETION PRIOR TO THE NEXT HEARING. THE COURT SETS A REVIEW HEARING ON JUNE 22, 2023 AT 8:30 AM IN DEPARTMENT 5. TO REVIEW THE FAMILY CODE SECTION 3111 REPORT. SUPPLEMENTAL DECLARATIONS ARE DUE AT LEAST 10 DAYS PRIOR TO THE NEXT HEARING. 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. 3.1308; LOCAL RULE 8.05.07.

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12. URZA KHURSAND V. YAMA KHURSAND

PFL20180089

On April 29, 2022, Respondent filed a Request for Order (RFO). The RFO was served via U.S. Mail on May 10, 2022. On June 30, 2022, Respondent filed a Declaration of Yama Khursand Re: Modification of Custody and a Declaration of Wallace Francis Re: Modification of Custody, both of which are in support of Respondent's RFO and both of which were served electronically.

On July 6, 2022, Petitioner filed and served her Responsive Declaration to Request for Order. Minor's Counsel filed her Statement of Issues and Contentions and Request for Orders on July 11, 2022, which had been served the day prior on July 10, 2022.

Respondent's RFO asked the court to institute a 2-2-4 schedule with a graduated step-up plan to 50/50 physical custody, or a schedule recommended by a child custody evaluator, for the youngest minor. Additional orders requested in the RFO were as follows: (1) the court to order a complete child custody evaluation under Family Code section 3111; (2) Remove Donelle Anderson as therapist and Barbara Newman as Minors' Counsel and appoint neutral, unbiased individuals for those roles; (3) Respondent to attend graduation. The RFO was set to be heard on August 11th.

At the August 11th hearing the court ruled on all matters including ordering the parties to participate in a Family Code Section 3111 evaluation with an Evidence Code Section 730 component. All parties were ordered to cooperate in the evaluation. Respondent was ordered to pay the cost of the evaluation but the court reserved jurisdiction to reallocate the costs of the 3111 evaluation. Finally, the court noted the overlap in issues between the 3111/730 evaluation and the trial date which was previously set for August 11th. The court vacated the August 11th trial date and set a review hearing for November 10th to review the 3111/730 report and choose new trial dates.

On October 6th the parties stipulated to appoint Jacqueline Singer as the 3111/730 evaluator.

Minors' Counsel filed a Statement of Issues and Contentions on February 7, 2023. Parties were served by mail and electronically on February 7, 2023. Minors' Counsel states the parties have not yet begun the evaluation process. Minors' Counsel requests the current orders remain in full force and effect. Minors' Counsel further requests the court order Respondent secure any and all weapons in a safe. Finally, Minors' Counsel requests the parties put the matter back on calendar if they do not agree with the recommendations of the 3111 evaluation.

Neither party has filed a Supplemental Declaration.

The court continues the matter to June 22, 2023 at 8:30 AM in Department 5 in order to ensure the evaluator has sufficient time to conduct her evaluation and complete the report and to choose new trial dates. Respondent is admonished to properly secure all firearms and weapons. The court continues to reserve jurisdiction on the reallocation of costs of the 3111 evaluation.

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 16, 2022

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

TENTATIVE RULING #12: THE COURT CONTINUES THE MATTER TO JUNE 22, 2023 AT 8:30 AM IN DEPARTMENT 5 IN ORDER TO ENSURE THE EVALUATOR HAS SUFFICIENT TIME TO CONDUCT HER EVALUATION AND COMPLETE THE REPORT AND TO CHOOSE NEW TRIAL DATES. RESPONDENT IS ADMONISHED TO PROPERLY SECURE ALL FIREARMS AND WEAPONS. THE COURT CONTINUES TO RESERVE JURISDICTION ON THE REALLOCATION OF COSTS OF THE 3111 EVALUATION. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. RESPONDENT TO 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. 3.1308; LOCAL RULE 8.05.07.