

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 9, 2023

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

2. DANIEL DUFFIN V. SANDRA BAROCIO V. KYLE KUZINICH AND AMANDA KUZINICH 22FL1191

Petitioners filed a Petition for Grandparent Visitation Pursuant to Family Code section 3104 on December 22, 2022. A Summons was issued on the same day. Petitioners concurrently filed a Request for Order (RFO) seeking Grandparent Visitation along with a Memorandum of Points and Authorities.

Respondent Kyle Kuzinich, Father¹, was personally served on January 5, 2023. Respondent Amanda Kuzinich, Mother², was served by mail with Notice and Acknowledgement of Receipt. However, the court notes, the address which Mother was purportedly served at is the same as Father's. Father, in his declaration, states that he believes Mother resides with Petitioners. The court also notes the Proof of Service indicates the mail was sent on January 4, 2023 and Mother signed the acknowledgement on the same date. The court is troubled by the Proof of Service to Mother and cannot find service to Mother has been effectuated.

Father filed his response to the petition on February 22, 2023. Concurrently therewith he filed a Responsive Declaration to Request for Order, Respondent's Memorandum of Points and Authorities in Opposition to Grandparent Visitation and Respondent's Declaration in Opposition to Petitioners' Request for Grandparent Visitation. All documents were mail served on Petitioners on February 21, 2023. There is no proof of service indicating service on Mother.

Petitioners seek grandparent visitation on an independent basis, pursuant to Family Code section 3104, rather than joinder in the existing family law case pursuant to Family Code section 3103. Petitioners state they have a longstanding relationship with each of the three children and continuing that relationship would be in their best interests. Specifically, Petitioners request the following: (1) Video and/or phone call with the children once per week; (2) Eight weekends per year with the children; (3) One 7-day vacation with the children each summer; and (4) An order that Father shall only withhold mail and gifts from the children which is sent by the Petitioners, after consulting with Petitioners and giving them a reason for the withholding. Petitioners note that a determination on a request for grandparent visitation should be made after an evidentiary hearing is held. They request a referral to Child Custody Recommending Counseling (CCRC) with the counselor to speak directly with the children who are mature enough for such a discussion.

Father objects to any visitation between Petitioners and the minors. Father has sole legal and sole physical custody of the minors; he notes that the custody orders did allow

¹ The parties are referred to herein by Father and Mother for ease of understanding, to humanize these proceedings, and as is customary in family law matters. No disrespect is intended. See *In Re Marriage of Smith* (1990) 225 Cal.App.3d 469, fn 1.

The court is also using Father and Mother for clarity, given there are co-Respondents

² See above

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Petitioner to attend reunification therapy sessions along with Mother but Mother no longer attends those sessions and Father does not know why. Father believes Petitioners' filing is an attempt to circumvent the court's orders regarding reunification therapy. Father disagrees with many of the allegations made by Petitioners as to the nature and extent of their relationship with the minors. He states that the minors do not want to see Petitioners and he does not believe Petitioners can adequately care for them.

Family Code section 3104 vests the court with discretionary authority to grant reasonable visitation rights to a grandparent upon the analysis of two prongs (1) the existence of "a preexisting relationship between the grandparent and the grandchild that has engendered a bond such that visitation is in the best interest of the child" and (2) balancing "the interest of the child in having visitation with the grandparent against the right of the parents to exercise their parental authority." Fam. Code §3104(a). To adequately address each of these factors the court feels the need for additional information and an evidentiary hearing are necessary. Accordingly, the parties are ordered to attend CCRC on 3/30/23 at 9:00 with Norman Labat. The children are to be interviewed by the CCRC counselor regarding each of their respective relationships with Petitioners unless, in CCRC's sole discretion, the CCRC counsel determines any of the children are too young to be interviewed. A trial setting conference is set for 4/19/23 at 1:15 in Department 5.

TENTATIVE RULING #2: THE PARTIES ARE ORDERED TO ATTEND CCRC ON 3/30/23 AT 9:00 WITH NORMAN LABAT THE CHILDREN ARE TO BE INTERVIEWED BY THE CCRC COUNSELOR REGARDING EACH OF THEIR RESPECTIVE RELATIONSHIPS WITH PETITIONERS UNLESS, IN CCRC'S SOLE DISCRETION, THE CCRC COUNSEL DETERMINES ANY OF THE CHILDREN ARE TOO YOUNG FOR SUCH A CONVERSATION. A TRIAL SETTING CONFERENCE IS SET FOR 4/19/23 AT 1:15 IN DEPARTMENT 5.

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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3. JOEL MADRIGAL V. GOLDEE MADRIGAL

PFL20150454

On December 21, 2022, parties stipulated to continue the January 19, 2023 hearing and re-refer the parties to Child custody Recommending Counseling (CCRC). The court adopted the parties' stipulation and rereferred the parties to CCRC for an appointment on January 18, 2023 and a review hearing date of March 9, 2023.

Only Petitioner appeared for the January 18th CCRC appointment. As such, a single parent CCRC report was filed on January 19, 2023. Copies were mailed to the parties on January 23, 2023.

Parties appeared for a Mandatory Settlement Conference (MSC) on March 6, 2023 and stipulated to be rereferred to CCRC for an appointment on April 13, 2023 at 9:00 am with a review hearing on May 25, 2023 at 8:30 am. Parties also continued the trial currently set on the issues of custody and visitation, along with other issues, to July 11, 2023, with a further MSC on June 26, 2023.

The court confirms the dates selected by the parties on March 6, 2023. Parties are admonished that if they fail to appear for CCRC, the court may impose sanctions per the local rule. Any Supplemental Declarations must be filed with the court at least 10 days prior to the hearing.

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 #3: PARTIES ARE TO APPEAR FOR CCRC ON APRIL 13, 2023 AT 9:00 AM. FAILURE TO APPEAR BY EITHER PARTY MAY RESULT IN THE COURT IMPOSING SANCTIONS ON THAT PARTY. THE COURT SETS A FURTHER REVIEW HEARING ON MAY 25, 2023 AT 8:30 A.M. IN DEPARTMENT 5. ANY SUPPLEMENTAL DECLARATIONS ARE DUE AT LEAST 10 DAYS PRIOR TO THE HEARING DATE. THE COURT CONFIRMS THE MSC AND TRIAL DATES. 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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4. JULIE SCHUMANN V. JACOB SCHUMANN

22FL0361

This matter is before the court on the Request for Order (RFO) filed by Respondent on December 12, 2023. Respondent also filed a separate declaration in support of his RFO. Both the RFO and the declaration were served on Petitioner by mail on December 19, 2022 per the Proof of Service.

Petitioner filed a Responsive Declaration and an Income and Expense Declaration on February 14, 2023, both of which were served by mail on February 14, 2023 per the Proof of Service filed February 15, 2023.

Respondent's RFO requests an order that Petitioner submit to a vocational assessment by Robin Hammond, MS and for an award of sanctions per Family Code section 271 for Petitioner's prior opposition to previous requests for a vocational assessment.

Petitioner, in her Responsive Declaration, opposes the vocational assessment, opposes an award of sanctions, and requests an award of sanctions for again being put in a position to have to oppose the Respondent's requests. Petitioner asserts the request for a vocational evaluation is retaliatory to the court's December 1, 2022 order for Respondent to pay temporary spousal support.

The court notes that this case is set for Trial on July 25, 2023 and for Mandatory Settlement Conference (MSC) on June 26, 2023. The question of permanent Spousal Support will be before the court at trial which will require an assessment of the factors set forth in Family Code section 4320. Some of those factors, particularly Section 4320(a)(1) appear to apply to the circumstances of this case and make Respondent's request for a Vocational Assessment more relevant than it was in the court's determination of temporary spousal support. For that reason, the court grants Respondent's request.

Petitioner is to cooperate in scheduling an appointment with for assessment by Robin Hammond, MS. Arrangements should be made for the assessment to be conducted in time for the results to be available to both parties in advance of the pending MSC. Cost of the assessment shall be paid by Respondent, subject to reallocation at trial.

Both parties' requests for an award of Family Code section 271 are reserved to time of trial.

Respondent shall prepare the Findings and Order After Hearing consistent with this Ruling.

TENTATIVE RULING #2: THE COURT GRANTS RESPONDENT'S REQUEST FOR PETITIONER TO SUBMIT TO A VOCATIONAL ASSESSMENT. PETITIONER SHALL MAKE ARRANGEMENTS TO MEET WITH THE EVALUATOR SUCH THAT A REPORT CAN BE PREPARED IN ADVANCE OF THE

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MSC SET FOR JUNE 26, 2023. RESPONDENT SHALL PAY THE COSTS OF THE EVALUATION , SUBJECT TO REALLOCATION AT TRIAL. BOTH PARTIES' REQUESTS FOR AN AWARD OF FAMILY CODE SECTION 271 ARE RESERVED TO TIME OF TRIAL. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING CONSISTENT WITH THIS RULING.

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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6. JULIE TRIPSHA V. GEORGE TRIPSHA

22FL0886

Respondent filed a Request for Order (RFO) on October 20, 2022 requesting guideline temporary spousal support and Family Code section 2030 attorney's fees in the amount of \$20,000. Respondent concurrently filed an Income and Expense Declaration, as well as a Declaration in support of his request and Declaration of counsel. Petitioner was served on October 28, 2022.

Petitioner filed an Income and Expense Declaration on December 27, 2022. Respondent was served on December 22, 2022.

Petitioner filed an "Updating Declaration" on March 3, 2023. Respondent was served on March 3, 2023. Whether this is a Supplemental Declaration or a Responsive Declaration, the court finds it to be late filed and therefore, has not considered it.

The court further finds Respondent's Income and Expense Declaration to be out of date.

On January 10, 2023, by agreement of the parties, the court continued the hearing on the request for spousal support and attorney's fees, as well as, set a review hearing for custody and parenting plan step-up for March 9, 2023.

The court on its own motion, for judicial economy, continues this matter to join with the Motion to be relieved currently set for April 27, 2023. The court continues to reserve jurisdiction on the request for guideline temporary spousal support and Family Code section 2030 attorney's fees to the date of the filing of the RFO. All prior orders as to custody and parenting time remain in full force and effect. Respondent is admonished, that failure to abide by the court's orders may result in contempt changes and violations of the restraining order are potentially a misdemeanor, punishable by up to one year in jail.

Parties are ordered to file and serve updated Income and Expense Declarations at least 10 days prior to the next hearing. Any Supplemental Declarations are due at least 10 days prior to the next hearing.

TENTATIVE RULING #6: THE COURT ON ITS OWN MOTION, FOR JUDICIAL ECONOMY, CONTINUES THIS MATTER TO JOIN WITH THE MOTION TO BE RELIEVED CURRENTLY SET FOR APRIL 27, 2023 AT 8:30 IN DEPARTMENT 5. THE COURT CONTINUES TO RESERVE JURISDICTION ON THE REQUEST FOR GUIDELINE TEMPORARY SPOUSAL SUPPORT AND FAMILY CODE SECTION 2030 ATTORNEY'S FEES TO THE DATE OF THE FILING OF THE RFO. ALL PRIOR ORDERS AS TO CUSTODY AND PARENTING TIME REMAIN IN FULL FORCE AND EFFECT. RESPONDENT IS ADMONISHED, THAT FAILURE TO ABIDE BY THE COURT'S ORDERS MAY RESULT IN CONTEMPT CHANGES AND VIOLATIONS OF THE RESTRAINING ORDER ARE A POTENTIALLY A MISDEMEANOR, PUNISHABLE BY UP TO ONE YEAR IN JAIL. PARTIES ARE

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ORDERED TO FILE AND SERVE UPDATED INCOME AND EXPENSE DECLARATIONS AT LEAST 10 DAYS PRIOR TO THE NEXT HEARING. ANY SUPPLEMENTAL DECLARATIONS ARE DUE AT LEAST 10 DAYS PRIOR TO THE NEXT 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. KEVIN SATHER V. KARA SATHER

PFL20150730

On January 10, 2023, Petitioner filed a Request for Order (RFO) requesting modification of permanent spousal support. Petitioner concurrently filed a Memorandum of Points and Authorities as well as an Income and Expense Declaration. Respondent was personally served on January 13, 2023. Petitioner asserts there has been a change in circumstances which warrants the court reassessing the Family Code section 4320 factors. Petitioner requests spousal support be set at \$0.

Respondent filed a Responsive Declaration on February 22, 2023. Respondent filed an Income and Expense Declaration on February 24, 2023. Petitioner was served electronically and by mail on February 23, 2023. Respondent objects to Petitioner's requested modification to spousal support.

The court must set an evidentiary hearing to receive evidence on the Family Code section 4320 factors, which it must weigh prior to making a post judgment modification of spousal support. The court orders the parties to appear for purposes of selecting Mandatory Settlement and Trial Dates.

TENTATIVE RULING #7: PARTIES ARE ORDERED TO APPEAR.

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8. KRISTOPHER JOHNSON V. BRANDY ROA

22FL0787

Petitioner filed a Request for Order (RFO) on December 9, 2022, requesting modification of child support. Petitioner concurrently filed an Income and Expense Declaration. The hearing was originally set for January 23, 2023. Respondent was served by mail with address verification on December 14, 2022.

On January 20, 2023, the court granted Respondent's request to continue the hearing as she had recently retained counsel. The matter was continued to March 9, 2023, with the court reserving jurisdiction to retroactively modify child support to the date of the filing of the RFO.

On January 25, 2023, Petitioner filed an amended RFO adding a request for Family Code section 2030 attorney's fees in the amount of \$5,000. Respondent was served with the amended RFO by mail on January 26, 2023.

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

The court orders parties to appear for the hearing.

TENTATIVE RULING #8: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.

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9. MANDY ANDERSON V. JEREMY ANDERSON

PFL20190451

Respondent seeks orders to change child support, spousal support, and an order directing Petitioner to pay for her own healthcare and that of the children. Respondent filed his Request for Order (RFO), Declaration of Jeremy Anderson in Support of Respondent's Request for Order, and his Income and Expense Declaration on December 19, 2022. All of the aforementioned were mail served on December 23rd. Respondent served and filed an updated Income and Expense Declaration on February 8th and 9th respectively.

The El Dorado County Department of Child Support Services (DCSS) filed a Responsive Declaration to Request for Order on February 22, 2023. Petitioner filed and served her Responsive Declaration to Request for Order and her Income and Expense Declaration on February 24, 2023. Her Responsive Declaration and her Income and Expense Declaration were served on DCSS on February 28, 2023. Respondent was served on February 24, 2023.

Respondent filed Respondent's Supplemental Declaration in Support of Request for Orders on March 3, 2023. The court finds this to be late filed pursuant to Civil Procedure section 1005(b) which states all reply papers are to be filed at least five court days before the hearing date. Section 12c states, "[w]here any law requires an act to be performed no later than a specified number of days before a hearing date, the last day to perform that act shall be determined by counting backward from the hearing date, *excluding the day of the hearing* as provided by Section 12." Cal. Civ. Pro. § 12c. Section 1005(b) in conjunction with Section 12c would have made the last day for filing Respondent's Supplemental Declaration on March 2nd. Therefore it is late filed and has not been considered by the court.

According to Respondent, the child and spousal support orders were issued on July 7, 2022 were based on his income as the Director of E-Commerce at Truepill, Inc. However, as of July 1, 2022, his position was terminated. He has been actively searching for a job but has been unsuccessful in doing so. He now seeks an order decreasing the child and spousal support orders on the basis that he will be filing for unemployment which he expects to pay approximately \$450 per week. Additionally, his request for Petitioner to obtain and pay for her own medical insurance as well as the insurance for the children stems from the fact that the cost of the COBRA insurance he received when laid off increased to \$2,457 as of January 1, 2023. He is willing to resume coverage for the children as soon as he obtains new employment.

Respondent argues that Petitioner is a physical therapist who works only part time and has not made any sincere effort to become self-supporting, despite her ability to do so.

In his declaration Respondent requests a modification to the winter break schedule. Respondent notes that under the current schedule he is to have the children until 12/24 on even years and Petitioner to have them the remainder of the winter break. The schedule is vice

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versa on odd years. Last year the children did not get out of school until 12/23 so he was unable to spend any time with them and Petitioner refused to modify the schedule. Respondent now requests winter break to be split evenly. On even years, he would like to have the children for the first half of break and Petitioner to have the second half. Vice versa on odd years.

Petitioner is opposed to the modification of support. Petitioner requests Respondent be ordered to immediately pay support arrears in full plus interest to Petitioner. Petitioner also requests imputation of income and a seek work order for Respondent. Petitioner requests Respondent submit to a Vocational evaluation, at his costs if he is unable to secure employment within 30 days. Petitioner also requests Respondent continue to pay for the minors' and Petitioner's health insurance.

TENTATIVE RULING #9: RESPONDENT'S REQUEST FOR UPDATED CHILD SUPPORT ORDERS IS CONTINUED TO 3/27/23 TO BE HEARD ON THE DCSS CALENDAR. PARTIES ARE ORDERED TO APPEAR ON THE REMAINING ISSUES.

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10. MARK JOHNSON V. ROXANNE JOHNSON

22FL0611

This matter is back before the Court following the hearing on December 15, 2022. At the previous hearing, the Court addressed Temporary Spousal Support and issues related to sale of the marital residence.

The Court set Temporary Spousal Support, reserving jurisdiction to retroactively modify spousal support to the date of Respondent's request (October 17, 2022). Additionally, the Court ordered the parties to file and serve new Income and Expense Declarations and Supplemental Declarations 10 days prior to the pending hearing date.

Regarding the Marital Residence, the Court ordered the parties to list the property on MLS for a minimum of 30 days and to accept reasonable offers. If no offer were made, the pending offer may be considered. The parties were ordered to meet and confer to select a listing agent, to discuss issues needing to be remedied prior to listing, and to set a time for Respondent to retrieve her personal property. Proof of insurance on the home was ordered to be provided forthwith. The orders of this Court of September 15, 2022 make it clear that it is Petitioner who is to re-insure the home and provide proof of having done so.

Petitioner filed an Income and Expense Declaration on December 22, 2022. The same was served by mail on the Respondent's Counsel on December 22, 2022 per the Proof of Service by Mail filed that same day. Petitioner filed a Declaration regarding proof of insurance on February 15, 2023, which was served by mail on Respondent's Counsel that same day per the Proof of Service by Mail also filed February 15, 2023.

Respondent filed an Income and Expense and a Supplemental Declaration on March 1, 2023 which were personally served on Respondent's Counsel on February 27, 2023 per the Proof of Personal Service also filed on March 1, 2023. As Respondent's filings were late, the Court has not considered them.

The Court has reviewed the "Proof of Insurance" submitted by the Petitioner and finds that it is not proof of his having reinstated homeowner's insurance but is rather proof of insurance put in place by the mortgage lender to protect its security interest in the property. It is insurance put in place because the Parties' coverage has lapsed.

The Court notes that the parties were ordered to accomplish six tasks and provide the Court Declarations setting forth their progress in advance of this hearing. It appears to the Court that nothing has been accomplished.

The Court reiterates its orders of December 15, 2022, continues the hearing to April 20, 2023 and orders the parties to file and serve Supplemental Declarations concerning compliance with this Court's orders by April 5, 2023.

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Petitioner is ordered to prepare Findings and Orders consistent with the Ruling.

TENTATIVE RULING #10: ON ITS OWN MOTION, THE COURT CONTINUES THIS HEARING TO APRIL 20, 2023 AT 8:30 A.M. IN DEPARTMENT 5. THE ORDERS PREVIOUSLY MADE ON DECEMBER 15, 2022 ARE REITERATED. THE PARTIES ARE TO FILE AND SERVE SUPPLEMENTAL DECLARATIONS CONCERNING COMPLIANCE WITH THE ORDERS MADE HEREIN ON DECEMBER 15, 2022 BY APRIL 05, 2022. THE PETITIONER IS ORDERED TO PREPARE 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. MARY MCQUINN V. MICHAEL MCQUINN

PFL20170332

Respondent filed a Request for Order (RFO) on November 16, 2022, requesting modification of the child custody, parenting time, and a holiday schedule. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on December 14, 2022 and a review hearing on February 2, 2023. Petitioner and Minors' Counsel were served on November 16, 2022. Respondent requests the court order a holiday and summer break schedule as set forth in his declaration, as well as order scheduled phone contact between Respondent and the minors. Respondent requests the court order the parties to communicate via the talkingparents.com application and that neither party make disparaging remarks about the other parent, other parent's relationships, other parent's home, or other parent's political opinions in front of the minors.

Parties attended CCRC on December 14, 2022, however, were unable to reach any agreements. A report was filed on January 12, 2023. Copies were mailed to the parties on January 17, 2023.

Petitioner filed and served a Responsive Declaration on January 11, 2023. Petitioner objects to Respondent's requested modifications, except for using talkingparents.com for all communication about the minors and that neither party make disparaging remarks about the other in the minors' presence.

On January 30, 2023, parties filed a Stipulation and Order to continue the February 2, 2023 hearing to March 9, 2023.

Minors' Counsel filed a Statement of Issues and Contentions on February 21, 2023. Parties were served on February 20, 2023. Minors' Counsel agrees with Respondent maintaining frequent contact with the minors and agrees with the CCRC recommendation for monthly visitation in California as set forth. Minors' Counsel cautions, that should Respondent fail to consistently visit on a monthly basis prior to the summer break, that traveling to George could have a severe negative emotional impact on the minors. Minors' Counsel requests Respondent have a two week block of parenting time after the summer school session for Aiden, from approximately July 9-July 23. Minors' Counsel requests the court set a review hearing to determine if another visit take place in Georgia. Minors' Counsel also requests Respondent have three phone calls per week, with a set schedule and time, and that the calls not be monitored by Petitioner or any other third party. Minors' Counsel agrees the parties should use talkingparents.com for all communication about the minors. Minors' Counsel further recommends the minors continue with individual counseling and they have an appointment with their therapist within 48 hours of returning from parenting time with Respondent. Minors' Counsel agrees with the recommendation for Petitioner to participate in a parenting class or therapeutic services to ensure healthy boundaries and appropriate

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discipline. Finally, Minors' Counsel agrees with the recommendation as to the holiday schedule as set forth in the CCRC report.

Petitioner filed a Supplemental Declaration on February 24, 2023. Parties were served on February 24, 2023. Petitioner requests Respondent not have parenting time outside California until he has demonstrated six months of consistent monthly visitation. Petitioner also requests the exchanges occur at 5:00 pm on Fridays at the Placerville Police station. Petitioner agrees with Minors' Counsel regarding summer break, however, requests Respondent's parenting time be limited to 10 days. Petitioner requests the phone calls be limited to Tuesdays and Thursdays at 6:30 pm Pacific Standard Time. Petitioner agrees not to monitor the calls, but states the minors have difficulty maintaining the phone calls and will often set the phone down and walk away or hang up. Petitioner requests the phone calls with Respondent be through the talkingparents.com application. Petitioner agrees to use the talkingparents.com application for communication about the minors. Petitioner agrees with the recommendation as to the minors counseling. Petitioner agrees to participate in a parenting class. Petitioner objects to the holiday schedule as set forth, specifically the Spring Break visit in Georgia. Petitioner makes additional requests regarding CCRC and Minors' Counsel speaking with the minors' therapist prior to a review hearing, even if Respondent does not authorize the communication. Petitioner also requests the court order Respondent to participate in co-parenting counseling as previously ordered while he is visiting in California. Petitioner requests the court order Respondent shall be responsible for all costs associated with travel for visitation, including Respondent's travel to California.

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

1. The Legal Custody recommendations of the CCRC report are adopted as-is.
2. Parenting Time shall be as follows:
 - a. Father shall have the third weekend of each month in California from Friday after school at 3:00pm to Sunday at 6:00pm.
 - b. During summer break Father shall have a two week visit with the children from July 9th through July 23rd. The visit is to take place in Georgia.
3. Holiday Schedule
 - a. The court declines to implement the holiday schedule pending further review hearing on September 7, 2023.
4. Transportation for Parenting Time provisions are adopted as stated.
5. Additional Provisions are adopted as stated except for the provisions regarding phone contact between the parties and the children.
6. Phone contact shall be as follows:

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- a. The custodial parent must make the children available for scheduled telephone or video call contact every Monday, Thursday, and Saturday at 6:30 Pacific Time.
 - b. Neither Mother nor Father nor any other third party can listen to, monitor, or interfere with the calls.
7. Review Hearing
- a. The court sets a review hearing for September 7, 2023 at 8:30am in Department 5 to review the children's visit with Father and determine whether or not future visits in Georgia would be in the best interest of the children. Parties are to file and serve declarations updating the court on the status of the visit no later than 10 days prior to the hearing date.

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 LEGAL CUSTODY RECOMMENDATIONS OF THE CCRC REPORT ARE ADOPTED AS SET FORTH. PARENTING TIME SHALL BE AS FOLLOWS: FATHER SHALL HAVE THE THIRD WEEKEND OF EACH MONTH IN CALIFORNIA FROM FRIDAY AFTER SCHOOL AT 3:00PM TO SUNDAY AT 6:00PM. DURING SUMMER BREAK FATHER SHALL HAVE A TWO WEEK VISIT WITH THE CHILDREN FROM JULY 9TH THROUGH JULY 23RD. THE VISIT IS TO TAKE PLACE IN GEORGIA. HOLIDAY SCHEDULE: THE COURT DECLINES TO IMPLEMENT THE HOLIDAY SCHEDULE PENDING FURTHER REVIEW HEARING ON SEPTEMBER 7, 2023. TRANSPORTATION FOR PARENTING TIME PROVISIONS ARE ADOPTED AS STATED. ADDITIONAL PROVISIONS ARE ADOPTED AS STATED EXCEPT FOR THE PROVISIONS REGARDING PHONE CONTACT BETWEEN THE PARTIES AND THE CHILDREN. PHONE CONTACT SHALL BE AS FOLLOWS: THE CUSTODIAL PARENT MUST MAKE THE CHILDREN AVAILABLE FOR SCHEDULED TELEPHONE OR VIDEO CALL CONTACT EVERY MONDAY, THURSDAY, AND SATURDAY AT 6:30 PACIFIC TIME. NEITHER MOTHER NOR FATHER NOR ANY OTHER THIRD PARTY CAN LISTEN TO, MONITOR, OR INTERFERE WITH THE CALLS. REVIEW HEARING THE COURT SETS A REVIEW HEARING FOR SEPTEMBER 7, 2023 AT 8:30AM IN DEPARTMENT 5 TO REVIEW THE CHILDREN'S VISIT WITH FATHER AND DETERMINE WHETHER OR NOT FUTURE VISITS IN GEORGIA WOULD BE IN THE BEST INTEREST OF THE CHILDREN. PARTIES ARE TO FILE AND SERVE DECLARATIONS UPDATING THE COURT ON THE STATUS OF THE VISIT NO LATER THAN 10 DAYS PRIOR TO THE HEARING DATE. 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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 9, 2023

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

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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 9, 2023

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

12. PAUL CHARNOW V. NANCY CHARNOW

22FL0103

This matter is before the Court on Requests for Orders filed by each party. Petitioner filed his RFO seeking child support on September 13, 2022 and was given a hearing date of November 10, 2022. Respondent filed her RFO on October 05, 2022 seeking Temporary Spousal Support and orders for partial distribution of the proceeds of the sale of the marital residence and was given a hearing date of December 22, 2022.

On its own motion the Court continued the hearing of November 10, 2022 to coincide with the hearing assigned to Respondent's RFO, December 22, 2022. On December 20, 2022 the Court, per stipulation of the parties, continued the hearing on both matters to March 9, 2023. Neither the minutes of November 10, 2022 nor the stipulation of the parties of December 20, 2022 specifically reserved retroactivity in continuing the matters.

The parties submitted two successive stipulations, one on December 22, 2022 and the next on January 18, 2023 addressing the various requests for partial distribution of the proceeds of the sale of the Marital Residence. The Court signed each stipulation, converting them into orders of the Court, and not having been advised otherwise, the Court deems the issues concerning partial distribution of the proceeds to have been resolved for the interim. This is consistent with the assertion of the Petitioner in his Supplemental Declaration filed March 1, 2023.

This leaves pending the Petitioner's request for Child Support and the Respondent's request for Temporary Spousal Support. Assuming retroactivity, the Petitioner's request could be made effective September 13, 2022 and that of the Respondent October 05, 2022. The pleadings agree that the Respondent will be paying Child Support, but that she will also be receiving Spousal Support. Rather than have the competing orders start at different dates, though within three weeks of each other, the Court determines a start date for each as November 1, 2022.

Petitioner filed an Income and Expense Declaration On September 13, 2022. He filed a subsequent Income and Expense Declaration on January 24, 2023. Though the Petitioner suffered a loss of employment, his subsequent employer is paying him the same amount as his prior employer was.

Respondent filed an Income and Expense Declaration on October 5, 2022 and a subsequent one on February 10, 2023. The more recent Income and Expense Declaration reflects higher average monthly income though there has been no change in employment over the span of time reflected.

The Court has used the information provided in the more recent Income and Expense Declarations and finds that Petitioner's gross monthly income to be \$9,165 from his main

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 9, 2023

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

employment plus \$891 per month in self-employment. He is entitled to a credit for Health insurance payments of \$720 per month. The Respondent has gross monthly income of \$6,873 per month combining her base salary and overtime pay. She is entitled to a credit for Health Insurance payments of \$178 per month.

The attached DissoMaster, yields Child Support payable by Respondent of \$995 per month. Temporary Spousal Support payable by Petitioner of \$175 per month. This Creates a net of \$820 per month from Respondent to Petitioner. The Court orders that Respondent pay to Petitioner as and for child support (less Temporary Spousal Support) \$820 per month beginning November 1, 2022 and the first day of each month thereafter, until further order of the Court.

The court finds this order results in an arrears balance of \$4,100 which the Court orders payable at the rate of \$120 per month beginning April 15, 2023 and the 15th day of each month thereafter until paid in full. If there is any missed payment, the full amount is due with legal interest.

All prior orders not modified by this order shall remain in full force and effect. The Petitioner is ordered to prepare and submit a Findings and Order After Hearing consistent with this ruling.

TENTATIVE RULING #12: THE COURT ORDERS THAT RESPONDENT PAY TO PETITIONER AS AND FOR CHILD SUPPORT (LESS TEMPORARY SPOUSAL SUPPORT) \$820 PER MONTH BEGINNING NOVEMBER 1, 2022 AND THE FIRST DAY OF EACH MONTH THEREAFTER, UNTIL FURTHER ORDER OF THE COURT. THE COURT FINDS THIS ORDER RESULTS IN AN ARREARS BALANCE OF \$4,100 WHICH THE COURT ORDERS PAYABLE AT THE RATE OF \$120 PER MONTH BEGINNING APRIL 15, 2023 AND THE 15TH DAY OF EACH MONTH THEREAFTER UNTIL PAID IN FULL. IF THERE IS ANY MISSED PAYMENT, THE FULL AMOUNT IS DUE WITH LEGAL INTEREST. ALL PRIOR ORDERS NOT MODIFIED BY THIS ORDER SHALL REMAIN IN FULL FORCE AND EFFECT. THE PETITIONER IS ORDERED TO PREPARE AND SUBMIT A FINDINGS AND ORDER AFTER HEARING CONSISTENT WITH THIS RULING.

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.

ATTORNEY (NAME AND ADDRESS): EDC Court California ATTORNEY FOR: Father	TELEPHONE NO: Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
DISSOMASTER REPORT 2023, Monthly	CASE NUMBER:

Input Data	Father	Mother	Guideline (2023)	Cash Flow Analysis	Father	Mother
Number of children	1	0	Nets (adjusted)	Guideline		
% time with Second Parent	0%	0%	Father	6,674	Payment (cost)/benefit	837 (831)
Filing status	Single	HH/MLA	Mother	5,319	Net spendable income	7,495 4,498
# Federal exemptions	2*	1*	Total	11,993	% combined spendable	62.5% 37.5%
Wages + salary	9,165	6,873	Support (Nondeductible)		Total taxes	2,662 1,376
401(k) employee contrib	0	0	CS Payor	Mother	Comb. net spendable	11,993
Self-employment income	891	0	Presumed	(995)	Proposed	
Other taxable income	0	0	Basic CS	(995)	Payment (cost)/benefit	837 (831)
Short-term cap. gains	0	0	Add-ons	0	Net spendable income	7,495 4,498
Long-term cap. gains	0	0	Presumed Per Kid		NSI change from gdl	0 0
Other gains (and losses)	0	0	Child 2	(995)	% combined spendable	62.5% 37.5%
Ordinary dividends	0	0	SS Payor	Father	% of saving over gdl	0% 0%
Tax. interest received	0	0	Alameda	175	Total taxes	2,662 1,376
Social Security received	0	0	Total	(820)	Comb. net spendable	11,993
Unemployment compensation	0	0	Proposed, tactic 9		Percent change	0.0%
Operating losses	0	0	CS Payor	Mother	Default Case Settings	
Ca. operating loss adj.	0	0	Presumed	(995)		
Roy, partnerships, S corp, trusts	0	0	Basic CS	(995)		
Rental income	0	0	Add-ons	0		
Misc ordinary tax. inc.	0	0	Presumed Per Kid			
Other nontaxable income	0	0	Child 2	(995)		
New-spouse income	0	0	SS Payor	Father		
SS paid other marriage	0	0	Alameda	175		
CS paid other relationship	0	0	Total	(820)		
Adj. to income (ATI)	0	0	Savings	0		
Ptr Support Pd. other P'ships	0	0	No releases			
Health insurance	720	178				
Qual. Bus. Inc. Ded.	0	0				
Itemized deductions	0	0				
Other medical expenses	0	0				
Property tax expenses	0	0				
Ded. interest expense	0	0				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
State sales tax paid	0	0				
Required union dues	0	0				
Cr. for Pd. Sick and Fam. L.	0	0				
Mandatory retirement	0	0				
Hardship deduction	0*	0*				
Other gdl. adjustments	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	0				



LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 9, 2023

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

13. SCOTT BLISH V. CLORISA BLISH

PFL20170692

Respondent filed a Request for Order (RFO) on December 22, 2022, requesting the court order the Department of Child Support Services (DCSS) conduct an audit to determine arrears owed to Respondent for child support, and that a portion of the arrears be offset by the equalizing payment Respondent owes Petitioner. Petitioner was served by mail and electronically on January 4, 2023. DCSS was served by mail on January 4, 2023.

The court finds this is a matter involving DCSS and therefore, pursuant to Family Code section 4251, the court continues the matter to be heard by the Child Support Commissioner on 3/27/23 at 8:30 AM in Department 5.

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 #13: THE COURT FINDS THIS IS A MATTER INVOLVING DCSS AND THEREFORE, PURSUANT TO FAMILY CODE SECTION 4251, THE COURT CONTINUES THE MATTER TO BE HEARD BY THE CHILD SUPPORT COMMISSIONER ON 3/27/23 AT 8:30 AM IN DEPARTMENT 5. 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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 9, 2023

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

14. TAVIA STEPHEN V. WILLIAM FAGUNDES, III

22FL1075

On December 23, 2022, Petitioner appeared for the hearing on her request for a Domestic Violence Restraining Order. The court granted her request and issued a Domestic Violence Restraining Order as well as made temporary custody orders, granting Petitioner sole legal and physical custody and Respondent supervised parenting time. The court referred the parties to Child Custody Recommending Counseling (CCRC) for an appointment on January 9, 2023 and a review hearing on March 9, 2023. The court ordered parties to file and serve Income and Expense Declarations at least 10 days prior to the March 9, 2023 hearing date.

Respondent was served with the referral to CCRC both electronically on December 28, 2022, and by mail on December 23, 2022.

Only Petitioner appeared for CCRC on January 9, 2023. As such a single parent report was filed on January 10, 2023. A copy of the report was mailed to the parties on January 10, 2023.

Petitioner's former counsel filed a Declaration in Support of Petitioner's Request for Attorney's Fees on March 1, 2023. The court finds this Declaration to be untimely, and therefore will not consider it.

Neither party has filed an Income and Expense Declaration.

Family Code section 6344(b) allows "[i]n any action in which the petitioner is the prevailing party and cannot afford to pay for the attorney's fees and costs, the court shall, if appropriate based on the parties' respective abilities to pay, order that the respondent pay petitioner's attorney's fees and costs for commencing and maintaining the proceeding. Whether the respondent shall be ordered to pay attorney's fees and costs for the prevailing petitioner, and what amount shall be paid, shall be determined based upon (1) the respective incomes and needs of the parties, and (2) any factors affecting the parties' respective abilities to pay."

It is unclear to the court if Respondent was provided notice of the hearing on the request for attorney's fees and the order to file and serve an Income and Expense Declaration. The court notes, the DV-130, order after hearing does not note a hearing on the request for attorney's fees, and the minute order from December 23, 2023 is silent as to that request. As such, the court denies Petitioner's request for attorney's fees without prejudice.

All prior orders remain in full force and effect.

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 9, 2023

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

TENTATIVE RULING #14: PETITIONER'S REQUEST FOR ATTORNEY'S FEES IS DENIED WITHOUT PREJUDICE. 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.