

LAW & MOTION TENTATIVE RULINGS  
DEPARTMENT 5  
April 13, 2023  
8:30 a.m./1:30 p.m.

**1. AMANDA CARRILLO V. MICHAEL CROSBY**

**PFL20140974**

On August 31, 2022, Petitioner filed a Request for Order (RFO) seeking sole legal and sole physical custody of the parties' minor child. The RFO and additional documents were served via U.S. Mail on September 13<sup>th</sup>. Petitioner argues that she should have sole legal and sole physical custody of the minor due to pending child endangerment charges. The parties were referred to Child Custody Recommending Counseling (CCRC) and the matter was set to be heard on December 8<sup>th</sup>. At the conclusion of the Domestic Violence Restraining Order trial on October 14, 2022, the court granted Petitioner sole physical and custody of the minor.

Respondent filed his Responsive Declaration to Request for Order on October 10<sup>th</sup>, however, there is no Proof of Service on file for this document, so the court has not read or considered it.

Respondent attended CCRC on October 19<sup>th</sup>. Petitioner did not attend. As such, a single parent report was prepared with no recommendations made by the CCRC counselor. According to the CCRC report, Respondent is seeking supervised visitation.

Given that Petitioner did not appear at CCRC which was set as a result of her RFO, the court ordered parties to appear for hearing on December 8<sup>th</sup> at which time the court admonished Petitioner for not appearing at CCRC. The parties were re-referred to CCRC and ordered to attend separate appointments on February 24, 2023. Petitioner was informed that failure to participate this time may result in sanctions. A review hearing was set for the present date.

The parties attended CCRC as scheduled, and a report was issued wherein the CCRC counselor made several recommendations. CCRC also noted that the appointment of Barbara Newman as Minor's Counsel may be in the minor's best interest given the complexity of the matter at hand.

The court has reviewed the aforementioned filings and feels the recommendations contained in the CCRC report to be in the best interest of the minor. They are hereby adopted as the orders of the court. The court appoints Barbara Newman as Minor's Counsel. The no contact order issued by the court as part of its November 1, 2022 restraining order will be modified to allow contact between Respondent and the minor for purposes of reunification therapy only. Petitioner is to provide Respondent with the names of three reunification therapists no later than April 27<sup>th</sup>. Respondent is to choose one of the three and notify Petitioner's counsel no later than May 4<sup>th</sup>. If Petitioner is not represented then Respondent is to notify Minor's Counsel. The court is concerned that Petitioner's actions are re-traumatizing the child which is impacting his relationship with Respondent. As such, the parties are to equally split the cost of reunification therapy.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

April 13, 2023

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

A review hearing is set for August 3, 2023 at 8:30 a.m. in Department 5. The parties are to prepare supplemental declarations updating the court on the status of reunification therapy. Supplemental declarations are to be filed no later than 10 days prior to the hearing date.

**TENTATIVE RULING #1: THE RECOMMENDATIONS CONTAINED IN THE APRIL 3, 2023 CCRC REPORT ARE ADOPTED AS THE ORDERS OF THE COURT. THE COURT APPOINTS BARBARA NEWMAN, AS MINOR'S COUNSEL. THE NO CONTACT ORDER ISSUED BY THE COURT AS PART OF IT'S NOVEMBER 1, 2022 TEMPORARY RESTRAINING ORDER WILL BE MODIFIED TO ALLOW CONTACT BETWEEN RESPONDENT AND THE MINOR FOR PURPOSES OF REUNIFICATION THERAPY ONLY. PETITIONER IS TO PROVIDE RESPONDENT WITH THE NAMES OF THREE REUNIFICATION THERAPISTS NO LATER THAN APRIL 27<sup>TH</sup>. RESPONDENT IS TO CHOOSE ONE OF THE THREE AND NOTIFY PETITIONER'S COUNSEL NO LATER THAN MAY 4<sup>TH</sup>. IF PETITIONER IS NOT REPRESENTED THEN RESPONDENT IS TO NOTIFY MINOR'S COUNSEL. THE PARTIES ARE TO SPLIT EVENLY THE COST OF REUNIFICATION THERAPY. A REVIEW HEARING IS SET FOR AUGUST 3, 2023 AT 8:30 A.M. IN DEPARTMENT 5. THE PARTIES ARE TO PREPARE SUPPLEMENTAL DECLARATIONS UPDATING THE COURT ON THE STATUS OF REUNIFICATION THERAPY. SUPPLEMENTAL DECLARATIONS ARE TO BE FILED NO LATER THAN 10 DAYS PRIOR TO THE HEARING DATE. 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.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

April 13, 2023

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

**2. AMY BURSE V. DEWAYNE BURSE, JR.**

**PFL20170155**

Respondent filed a Request for Order (RFO) on February 7, 2023, requesting modification of child custody and parenting time orders as well as modification of child and spousal support orders. Respondent concurrently filed an Income and Expense Declaration. The court notes this is a post-judgment modification and service was made by mail. This service does not comply with Family Code section 215.

Petitioner filed a Responsive Declaration and Income and Expense Declaration on March 24, 2023. Petitioner objects to the requested orders as to custody and visitation. As to child support, Petitioner agrees to dropping the bonus schedule as proposed by Respondent. Petitioner also agrees to changing the additional daycare support. Petitioner does object to imputing her with additional income. Petitioner agrees to the termination of spousal support.

The Department of Child Support Services (DCSS) filed a Responsive Declaration on April 4, 2023. There is no Proof of Service for this declaration, and it is untimely.

The court finds good cause to proceed with Respondent's RFO despite the failure to comply with the noticing requirements of Family Code section 215, specifically because Petitioner has consented to modification of child support and spousal support orders. The court refers the parties to Child Custody Recommending Counseling (CCRC) for an appointment on 5/12/23 at 9:00 AM with Melinda Iremonger. Parties were not initially referred as they had been referred within the last six months, although the referral resulted in a single parent report. The court sets a further review hearing on 6/29/23 at 8:30 in Department 5.

The court reserves on the request to modify child support and will set a hearing on the child support calendar once the child custody and parenting plan issues have been resolved. The court reserves jurisdiction to retroactively modify child support to the date of the filing of the RFO.

The court grants Respondent's request to terminate spousal support with Petitioner's consent.

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 #2: THE COURT FINDS GOOD CAUSE TO PROCEED WITH RESPONDENT'S RFO DESPITE THE FAILURE TO COMPLY WITH THE NOTICING REQUIREMENTS OF FAMILY CODE SECTION 215, SPECIFICALLY BECAUSE PETITIONER HAS CONSENTED TO MODIFICATION OF CHILD SUPPORT AND SPOUSAL SUPPORT ORDERS. THE COURT REFERS THE PARTIES TO CHILD CUSTODY RECOMMENDING COUNSELING (CCRC) FOR AN APPOINTMENT ON 5/12/23 AT 9:00 AM WITH MELINDA IREMONGER. PARTIES WERE NOT INITIALLY REFERRED AS THEY HAD**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

April 13, 2023

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

**BEEN REFERRED WITHIN THE LAST SIX MONTHS, ALTHOUGH THE REFERRAL RESULTED IN A SINGLE PARENT REPORT. THE COURT SETS A FURTHER REVIEW HEARING ON 6/29/23 AT 8:30 IN DEPARTMENT 5. THE COURT RESERVES ON THE REQUEST TO MODIFY CHILD SUPPORT AND WILL SET A HEARING ON THE CHILD SUPPORT CALENDAR ONCE THE CHILD CUSTODY AND PARENTING PLAN ISSUES HAVE BEEN RESOLVED. THE COURT RESERVES JURISDICTION TO RETROACTIVELY MODIFY CHILD SUPPORT TO THE DATE OF THE FILING OF THE RFO. THE COURT GRANTS RESPONDENT'S REQUEST TO TERMINATE SPOUSAL SUPPORT WITH PETITIONER'S CONSENT. 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.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

April 13, 2023

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

**4. DEBRA STANLEY V. ROBERT STANLEY**

**PFL20210202**

Respondent moves for custody and visitation orders, the appointment of Minor's Counsel, and an order directing Petitioner to undergo a 730 evaluation. The Request for Order (RFO) was filed on January 19, 2023. There is no Proof of Service evidencing proper service of the RFO. On March 30<sup>th</sup>, Respondent filed and served Respondent's Supplemental Declaration re Child Custody and Visitation, and Declaration of Kristy Stanley.

Petitioner's Responsive Declaration to Request for Order was filed on April 3, 2023, followed by Notice of Untimely Filing of Respondent's Supplemental Declaration which was filed and served on April 10<sup>th</sup>. There is no Proof of Service evidencing service of Petitioner's Responsive Declaration to Request for Order.

The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on February 24<sup>th</sup>. The CCRC appointment was rescheduled to the 23<sup>rd</sup> due to the unavailability of the CCRC counselor. Respondent did not appear at the appointment and a single parent report was prepared. The CCRC counselor surmised that Respondent was unaware of the new date for the appointment.

The parties are re-referred to CCRC with an appointment on 5/3/23 at 1:00 PM with Norman Labat. The hearing on the RFO is continued to 6/29/23 at 8:30 a.m. in Department 5. Respondent is ordered to file a Proof of Service for the RFO paperwork. Petitioner is ordered to file a Proof of Service for the Responsive Declaration to Request for Order. Proof of Service filings as well as supplemental declarations are to be filed no later than 10 days prior to the hearing date.

**TENTATIVE RULING #4: THE PARTIES ARE RE-REFERRED TO CCRC WITH AN APPOINTMENT ON 5/3/23 AT 1:00 PM WITH NORMAN LABAT. THE HEARING ON THE RFO IS CONTINUED TO 6/29/23 AT 8:30 A.M. IN DEPARTMENT 5. RESPONDENT IS ORDERED TO FILE A PROOF OF SERVICE FOR THE RFO PAPERWORK. PETITIONER IS ORDERED TO FILE A PROOF OF SERVICE FOR THE RESPONSIVE DECLARATION TO REQUEST FOR ORDER. PROOF OF SERVICE FILINGS AS WELL AS SUPPLEMENTAL DECLARATIONS ARE TO BE FILED NO LATER THAN 10 DAYS PRIOR TO THE HEARING DATE.**

**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**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

April 13, 2023

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

**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  
April 13, 2023  
8:30 a.m./1:30 p.m.

**5. ERIC STONER V. JESSICA STONER**

**PFL20210279**

The parties appeared for Mandatory Settlement Conference on November 28, 2022, at which time they were ordered to attend Child Custody Recommending Counseling (CCRC). The CCRC appointment was set to take place on March 3, 2023, and a review hearing was set for the present hearing date.

The parties attended CCRC as scheduled, and a report was prepared and mailed to the parties on April 3<sup>rd</sup>. Neither party has filed a response to the CCRC report.

The court has reviewed the contents of the CCRC report and finds the recommendations contained therein to be in the best interest of the minors. As such, the recommendations of the April 2, 2023 CCRC report are hereby made the orders of the court. All prior orders not in conflict with this order are to remain in full force and effect.

**TENTATIVE RULING #5: THE RECOMMENDATIONS OF THE APRIL 2, 2023 CCRC REPORT ARE HEREBY MADE THE ORDERS OF THE COURT. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER ARE TO REMAIN IN FULL FORCE AND EFFECT. PETITIONER IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

April 13, 2023

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

**6. GARREN J. BRATCHER V. EMMALEIGH BRATCHER**

**PFL20140350**

On June 6, 2022, Respondent filed a Request for Order (RFO) seeking sole physical and legal custody of the minor children and no visitation with Petitioner. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on July 7, 2022. A hearing on the issue was set for August 25, 2022.

The parties attended CCRC as scheduled, however, the CCRC report was not issued until August 16, 2022 and not mailed to the parties until August 18, 2022. To allow the parties time to review and respond to the CCRC report, the court continued the matter to October 6th for a review of the CCRC report and ruling on the RFO.

On October 6, 2022, after reviewing the filings of the parties, as well as the recommendations of the CCRC report, the court adopted the recommendations contained in the CCRC report as the order of the court with the following modifications: (1) The parties are to have joint legal custody of the minor children; (2) Petitioner is to have primary physical custody of the minor R.B.; (3) Respondent is to have supervised visitation with R.B. at least once per week for 2 hours per visit; (4) Respondent is to have primary physical custody of the minor E.B.; (5) Petitioner is to have supervised visits with the minor E.B. at least once per week for a period of 2 hours per visit; (6) Both parties shall exert every effort to maintain free and unhampered phone, text, or videoconference contact between the children and the other party, and shall foster a feeling of affection between them and the other party. The court set a review hearing for January 12, 2023. The court directed that Supplemental Declarations were to be filed at least 10 days prior to the next hearing.

Respondent filed a Supplemental Declaration on January 4, 2022. Petitioner was served electronically on January 3, 2023. Respondent argued in her Declaration that Petitioner has failed to provide proof of enrollment of the minor R.B. in counseling services. She states Petitioner has not allowed anyone other than himself to supervise visits between Respondent and the minor. Respondent further asserts Petitioner will only allow the visits to take place at his home. This has resulted in Respondent not being able to visit the minor. Respondent requested the court designate the maternal grandmother as a visitation supervisor. Respondent also stated Petitioner has prevented her from having free and unhampered phone, text, or videoconference contact with the minor. Petitioner has made no effort to contact or see the minor E.B. according to Respondent. Respondent requests the court order the parties to cooperate and agree on the designation of a supervisor, that visits be extended to four hours each given the travel time between the parties, that the minor R.B. be assessed for counseling services within 14 days and to follow the recommendations of the therapist, and Petitioner not be allowed to monitor or interfere with Respondent's phone/video contact with the minor.

Petitioner did not file a Supplemental Declaration.



LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

April 13, 2023

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

At the January 10<sup>th</sup> review hearing the court ordered as follows: The minor R.B. is to be assessed for counseling services on or before February 2, 2023. If the recommendation is for additional counseling services, the minor shall attend at a frequency and duration as directed by the therapist. The court affirms the prior orders as to visitation with the following modification, visits are to take place in a neutral location, the maternal grandmother may supervise visits. The visits shall be a minimum of three hours. Petitioner shall allow free and unhampered phone, text, or videoconference contact between the minor and Respondent, and shall foster a feeling of affection between them and the other party. The court set a review hearing for the present date and ordered parties to file supplemental declarations no later than 10 days prior to the hearing date. If declarations are not filed the court will drop the matter from calendar.

On April 3<sup>rd</sup> Respondent filed a Declaration of her own as well as one of Sandra Castro. There is no Proof of Service on file evidencing the service of either declaration. Accordingly, the court has not read or considered them.

Having received no new information to be considered, the matter is dropped from calendar. All prior orders remain in full force and effect.

**TENTATIVE RULING #6: THE MATTER IS DROPPED FROM CALENDAR. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT.**

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LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

April 13, 2023

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

**7. JONATHAN J. CHURAN V. KRISTI L.G. CHURAN**

**22FL1093**

Respondent filed a Request for Order (RFO) on January 27, 2023, seeking support and property control orders as well as attorney's fees. It was mail served on March 7<sup>th</sup>. Her Income and Expense Declaration was not filed until April 3<sup>rd</sup>, which is after Petitioner filed his Responsive Declaration to Request for Order on March 30<sup>th</sup>.

Respondent filed her Reply Declaration and Declaration of Attorney and Points and Authorities in Support of Request for Order on April 10<sup>th</sup>. The court finds these documents 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 reply papers April 6<sup>th</sup>. Accordingly, the late filed documents have not been read or considered.

Respondent requests exclusive use, possession and control of the property located at 3225 Cambridge Rd, in Cameron Park. Respondent agrees to pay the mortgage on the property after Petitioner has moved out. Until then, she requests Petitioner be ordered to pay the mortgage on time and in full. She asks that the court set a date certain for Petitioner's move. Additionally, she asks for guideline child and spousal support as well as \$5,000 in attorney's fees.

Petitioner asks the court to deny the request for attorney's fees and property control. He points to the fact that Respondent could not identify any instances of hostility between the parties. Instead, he states they largely ignore one another and as such, there is no good cause to award Respondent exclusive use and control of the home. Further, he points to the fact that Respondent can stay with her parents if the current living situation is not acceptable to her. Petitioner states he has no such option.

Regarding attorney's fees, Petitioner asks the court to recognize the decreased disparity in income after child and spousal support orders are put in place. Further, while he notes Petitioner may have paid a \$5,000 retainer, he finds it unlikely she has actually incurred that amount in fees to date. Instead, he believes negotiations between the parties will be fruitful in resolving much of the possible litigation anticipated by Respondent.

The court cannot award spousal support while the parties are residing together, and child support cannot be awarded without an agreed upon timeshare. Further, an award of exclusive use, possession and control of the home cannot be made without determining who will act as the custodial parent. It is unclear from the briefs as to whether or not the parties

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

April 13, 2023

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

have agreed upon the outstanding custodial issues. The parties are ordered to appear to provide the court with additional information.

**TENTATIVE RULING #7: THE PARTIES ARE ORDERED TO APPEAR TO PROVIDE THE COURT WITH ADDITIONAL INFORMATION.**

LAW & MOTION TENTATIVE RULINGS  
DEPARTMENT 5  
April 13, 2023  
8:30 a.m./1:30 p.m.

**8. KIMBERLY DEVAUGHN V. MARK B. DEVAUGHN**

**PFL20180127**

The present review hearing is to assess the minor's progress in becoming accustomed to Stephanie Stilley and discuss the status of reunification therapy between the minor and Respondent. Currently Petitioner has temporary sole legal and physical custody. On October 23, 2022, Respondent's request to begin supervised visits was denied, but Petitioner was ordered to contact Stephanie Stilley to complete the intake process for reunification therapy. The parties were ordered to equally share the cost of Ms. Stilley's fees. Ms. Stilley was to consult with the minor's individual therapist but ultimately the progression of the reunification process was to be determined by Ms. Stilley.

The matter was set for a review hearing on January 5<sup>th</sup>. Petitioner and Minor's Counsel both filed declarations requesting the matter be continued. Respondent filed a declaration requesting the following orders: (1) Joint legal custody; (2) Supervised visitation at Family Time in Cameron Park, and paternal grandparents may attend; (3) Supervised phone calls/video calls; (4) Respondent and paternal grandparents may attend the minor's public extracurricular activities; (5) Sanctions against Petitioner that are just and reasonable under the circumstances. Respondent maintains that despite the court order requiring the parties to share the costs of reunification with Ms. Stilley, Petitioner refused to pay her portion which caused the process to drag out until December when Respondent finally agreed to pay the remaining balance.

The court continued the January 5<sup>th</sup> review hearing to the present date and admonished Petitioner for her failure to pay her portion of Ms. Stilley's fees and directed her not to delay or hinder the reunification process. The court continued to reserve jurisdiction on Respondent's request for sanctions. The parties were ordered to file updated declarations no later than 10 days prior to the hearing date. Minor's Counsel filed and served her Statement of Issues and Contentions and Requests for Orders on April 3<sup>rd</sup>. Petitioner served her Declaration on March 31<sup>st</sup> and filed it on April 3<sup>rd</sup>. Respondent has not filed an updated declaration.

According to Minor's Counsel, the minor is adjusting well to his visits with Ms. Stilley but he is adamant that he does not want any contact with Respondent. Minor's Counsel requests the reunification process be discontinued at this time but the minor to continue individual therapy. She does not feel it is in the minor's best interest to force reunification.

Petitioner enumerates her efforts to diligently move the reunification process forward however, she too states that the minor has expressed his desire to not have any contact with Respondent. Petitioner makes the following requests: (1) Suspension of reunification therapy; (2) Consideration of Petitioner's objections to Mr. Musgrove's Findings and Orders After Hearing (FOAH) for the January 5<sup>th</sup> hearing. Specifically, she would like the FOAH to expressly state that Respondent's requests for joint legal custody, supervised visitation at Family Time in Cameron Park, supervised visitation with paternal grandparents, supervised phone calls and

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

April 13, 2023

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

video calls, and Respondent and Paternal grandparents at the minor's extracurricular activities are all denied.

To begin with, regarding the FOAH, Mr. Musgrove's draft correctly indicated that the court had not ruled on Respondent's requests for custody and visitation orders. The court continued the hearing on all matters to the present date. That said, now that the court has received additional information regarding the status of the reunification process, Respondent's requests can be addressed.

Respondent's requests for (1) Joint legal custody; (2) Supervised visitation at Family Time in Cameron Park, and paternal grandparents may attend; (3) Supervised phone calls/video calls; (4) Respondent and paternal grandparents may attend the minor's public extracurricular activities, are all denied. It is apparent from the filings that the minor has not yet reached a place where he is ready to have contact of any kind with Respondent. At the October 13, 2022 hearing, the court indicated that Ms. Stilley is to solely determine the reunification process. It appears from Minor's Counsel's report that Ms. Stilley notes the minor is adamant about his desire to have no contact with Respondent. As such, the court is of the opinion that reunification therapy is not in the minor's best interest at this time. The reunification process is to be discontinued. The minor is to remain in individual therapy and all prior orders remain in full force and effect. The court continues to reserve on Respondent's request for sanctions.

**TENTATIVE RULING #8: RESPONDENT'S REQUESTS FOR (1) JOINT LEGAL CUSTODY; (2) SUPERVISED VISITATION AT FAMILY TIME IN CAMERON PARK, AND PATERNAL GRANDPARENTS MAY ATTEND; (3) SUPERVISED PHONE CALLS/VIDEO CALLS; (4) RESPONDENT AND PATERNAL GRANDPARENTS MAY ATTEND THE MINOR'S PUBLIC EXTRACURRICULAR ACTIVITIES, ARE ALL DENIED. THE REUNIFICATION PROCESS IS TO BE DISCONTINUED AT THIS TIME. THE MINOR IS TO REMAIN IN INDIVIDUAL THERAPY AND ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. THE COURT CONTINUES TO RESERVE ON RESPONDENT'S REQUEST FOR SANCTIONS.**

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LAW & MOTION TENTATIVE RULINGS  
DEPARTMENT 5  
April 13, 2023  
8:30 a.m./1:30 p.m.

**9. LINDA KOEHN V. DAVID KOEHN**

**PFL20120787**

Petitioner filed a Request for Order (RFO) requesting to modify child support on November 4, 2022, stating the parties' minor son had recently started living with Petitioner full time. Petitioner concurrently filed an Income and Expense Declaration.

On January 12, 2023, Respondent filed a Request to Reschedule the Hearing as he had just retained counsel. In his request to reschedule, Respondent stated he had not been served with the RFO until near Christmas and had retained counsel on or about January 6, 2023. The court granted the request to reschedule the hearing to March 16, 2023. The court noted there was no Proof of Service of the RFO and directed Petitioner file one.

Respondent served Petitioner the Order Rescheduling the Hearing on February 14, 2023.

Petitioner filed another RFO on February 7, 2023, requesting modification of child custody and parenting time, as well as therapy for the minor. That RFO is currently set for a hearing on the present date. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on March 1, 2023. Respondent was served on February 17, 2023.

Parties filed a Stipulation and Order regarding custody on March 6, 2023.

Respondent filed an Income and Expense Declaration on March 8, 2023. Petitioner was served on March 8, 2023.

On March 15, 2023, parties filed a Stipulation and Order to Continue the March 16, 2023 hearing to join with the present hearing.

Respondent filed a Responsive Declaration on April 5, 2023. Petitioner was served electronically on April 4, 2023. The court finds the Responsive Declaration to be untimely and therefore, has not considered it.

The court finds it needs additional information from the parties prior to making determinations for child support. Therefore, parties are ordered to appear for the hearing.

**TENTATIVE RULING #9: PARTIES ARE ORDERED TO APPEAR.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

April 13, 2023

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

**10. M.J.B. V. L.C.D.**

**22FL1185**

Respondent requests an order quashing the Petition to Establish Parental Relationship. The Request for Order (RFO) was filed on January 26, 2023 but it was not served until March 2, 2023 by way of personal service. Petitioner has not filed a response to the request.

According to Respondent, the Motion to Quash should be granted on the basis that neither the minor nor the Respondent reside in El Dorado County. Moreover, Respondent states she was not properly served with the Petition as it was served on her mother at an address where Respondent has not resided since April of 2022.

A Motion to Quash may be brought on the basis of lack of personal jurisdiction over the responding party. Cal. Civ. Pro. § 418.10(a)(1). Lack of personal jurisdiction may be established by statute, or by a showing that the party was improperly served. See Dill v. Berquist Construction Co., 24 Cal. App. 4<sup>th</sup> 1426, 1444 (1994).

Here, Respondent argues both improper service and improper venue as her basis for the motion. She states the Petition was served on her mother at a location where Respondent no longer resides. Generally, the summons and complaint are to be served by personal service. Cal. Civ. Pro. § 415.10. However, “[i]f a copy of the summons and complaint cannot with reasonable diligence be personally served to the person to be served...a summons may be served by leaving a copy of the summons and complaint at the person’s dwelling house, usual place of abode...or usual mailing address...in the presence of a competent member of the household...who shall be informed of the contents thereof, and by thereafter mailing a copy of the summons and of the complaint by first-class mail...” Cal. Civ. Pro. § 415.20(b). “On a motion to quash service of summons, the plaintiff bears the burden of proving by a preponderance of the evidence that all jurisdictional criteria are met,” this includes a showing of proper service. Mihlon v. Sup. Ct., 169 Cal. App. 3d 703, 710 (1985).

The Proof of Service of the Petition states it was personally delivered to Respondent. There is no indication it was served on her mother which calls into question the accuracy of the document. Moreover, there is no showing that Petitioner exercised reasonable diligence in serving Respondent but was unable to do so which would allow for service on a member of Respondent’s household. Petitioner has not opposed the present motion or provided any argument as to why service should be deemed proper. Thus, Petitioner has not met his burden of proof to establish personal jurisdiction.

Regardless of the potential defect in service, it appears the court has no jurisdiction on a statutory basis. The parties are subject to jurisdiction of the court in the county where the child resides or is found. Cal. Fam. Code § 7620(c)(1). The child in question in the present action

LAW & MOTION TENTATIVE RULINGS

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resides in Placer County thereby making it the proper venue for this action. The Petition to Establish a Paternal Relationship is dismissed.

For the foregoing reasons, Respondent's Motion to Quash is hereby granted.

**TENTATIVE RULING #10: RESPONDENT'S MOTION TO QUASH IS GRANTED. IT IS ORDERED THAT SERVICE OF THE PETITION ON RESPONDENT IS QUASHED. THE PETITION TO ESTABLISH A PATERNAL RELATIONSHIP IS DISMISSED. 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.**



LAW & MOTION TENTATIVE RULINGS  
DEPARTMENT 5  
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**12. TRENT HERSHEY V. CANAN HANSEN**

**PFL20090425**

On December 15, 2022, the court adopted the recommendations of the December 9, 2022 Child Custody Recommending Counseling (CCRC) report and ordered the parties to choose a counselor for the minor no later than January 12, 2023 with therapy to commence as soon as possible thereafter. The court further ordered the parties to meet and confer on a schedule for Respondent's parenting time. A review hearing was set for March 2<sup>nd</sup> and the parties were ordered to file and serve Supplemental Declarations at least 10 days prior to the hearing date.

Respondent filed a Supplemental Declaration on February 15, 2023. Petitioner was served by mail on February 15, 2023. Petitioner did not file a Supplemental Declaration.

According to Respondent's declaration, Petitioner has not complied with the court's directive for parties to meet and confer on a parenting plan schedule. Respondent asserts the minor has been coming to her home twice a week after school and had a stay over on Saturday February 11, 2023 and had plans to stay over March 3, 2023. The minor intends to join Petitioner on a family vacation to Hawaii in April and Turkey in July. Petitioner is requesting the order for supervised parenting time be lifted and the minor have parenting time with Respondent every other weekend and twice a week after school, with no overnights until the end of the school year. Respondent requests the parties return to joint physical custody as of June 1, 2023 with a 2-2-3 schedule. Respondent requests the court order Petitioner to file the Findings and Orders After Hearing from the December 15, 2022 hearing within 10 days of the hearing.

The court issued a tentative ruling prior to the March 2<sup>nd</sup> hearing date, which became the ruling of the court. At that time, it was noted that the court had not received any additional information regarding conjoint counseling between Respondent and the minor. The hearing was continued to the present date and parties were ordered to file Supplemental Declarations on that issue. Supplemental Declaration of Petitioner was filed on April 4<sup>th</sup>. The court finds this to be untimely and therefore has not read or considered it.

The parties are ordered to appear for hearing to update the court on the status of the minor's counseling and conjoint counseling with Respondent and to discuss Respondent's parenting time schedule.

**TENTATIVE RULING #12: THE PARTIES ARE ORDERED TO APPEAR FOR HEARING TO UPDATE THE COURT ON THE STATUS OF THE MINOR'S COUNSELING AND CONJOINT COUNSELING WITH RESPONDENT AND TO DISCUSS RESPONDENT'S PARENTING TIME SCHEDULE.**