

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
April 20, 2023
8:30 a.m./1:30 p.m.

12. DONNA JORDAN V. BRIAN CARSTENSEN

23FL0114

Petitioner filed a Request for Order (RFO) on February 7, 2023 requesting exclusive use and control of an unspecified property and for Respondent to make mortgage payments while the order is in effect. Respondent was served by mail on March 16, 2023. In her declaration, Petitioner requests Respondent leave the Lotus home, located at 5471 Lodestar Lane, Lotus California by March 15, 2023. Petitioner further requests Respondent continue to be responsible for one-half the mortgage.

Petitioner filed a Declaration on March 7, 2023. The court is unable to locate a Proof of Service which corresponds with this Declaration and therefore, has not considered it.

Respondent filed a Responsive Declaration on March 30, 2023. Petitioner was served on March 30, 2023. Respondent requests the court deny Petitioner's request for exclusive use and control of the property. Respondent asserts the parties are making efforts to reconcile the marriage.

Petitioner filed a Declaration on April 6, 2023, requesting the RFO be amended to reflect the parties own the property. Petitioner is also requesting Respondent be ordered to vacate the property on June 1, 2023, rather than March 15, 2023. Respondent was served with the Declaration by mail on April 6, 2023.

The court denies Petitioner's request for exclusive use and possession of the Lotus residence as Petitioner has failed to provide a compelling reason for the court to issue that temporary order pending a final division of the parties' property.

TENTATIVE RULING #12: PETITIONERS REQUEST FOR EXCLUSIVE USE AND CONTROL OF THE LOTUS PROPERTY IS DENIED.

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

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

13. JASON HARDOUIN V. JENAE NORELL

22FL0118

Petitioner filed an Order to Show Cause and Affidavit for Contempt (OSC) alleging Respondent has violated the parties' Stipulation and Order of March 12, 2019 and the court's orders of October 1, 2021. Respondent was personally served on December 12, 2022.

The parties appeared for arraignment on February 2, 2023, at which time the court appointed Respondent a Public Defender and continued the matter to the present hearing date in order to afford Respondent the opportunity to speak with counsel.

The parties appeared for the arraignment on March 30, 2023. Respondent entered a Not Guilty plea and requested a continuance. The court continued the matter to April 20, 2023.

Parties are ordered to appear for further proceedings on the contempt allegations.

TENTATIVE RULING #13: PARTIES ARE ORDERED TO APPEAR FOR FURTHER PROCEEDINGS ON THE CONTEMPT ALLEGATIONS.

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

15. LAUREN BERG V. JUSTIN APPEGARTH

23FL0119

Petitioner filed a Petition to Establish a Parental Relationship and a Request for Order (RFO) on February 7, 2023. A Summons was issued the same day. There is no Proof of Service indicating either the Summons or RFO were properly served on Respondent.

The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on March 10, 2023 and a review hearing on April 20, 2023. Neither party appeared.

As neither the Summons nor the RFO have been properly served the court drops the matter from calendar.

TENTATIVE RULING #15: THE MATTER IS DROPPED FORM CALENDAR DUE TO LACK OF PROPER SERVICE.

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

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16. LILY DILTS V. DAN DILTS

23FL0007

Petitioner filed a Request for Order (RFO) on January 20, 2023, requesting the court order temporary guideline spousal support. Petitioner concurrently filed an Income and Expense Declaration. Petitioner filed an amended RFO on January 27, 2023, making the same request for temporary guideline spousal support. Petitioner states she has been receiving social security disability which ended February 2023 and therefore, needs \$2,000 per month in spousal support.

Petitioner filed a Proof of Service of Summons, which included the service of the RFO, though it is unclear which of the RFOs was served on Respondent. Respondent was personally served on January 30, 2023.

Respondent filed a Responsive Declaration and Income and Expense Declaration on March 15, 2023. There is no Proof of Service showing Petitioner was properly served with those documents.

Parties were ordered to appear for the hearing on March 23, 2023.

On March 23, 2023 the clerk's office was notified Petitioner would be unable to appear for the hearing due to a medical condition. The court continued the matter due to Petitioner being unable to attend. The court reserved jurisdiction to retroactive modify spousal support to the date of the RFO was filed.

The court finds good cause to consider Respondent's Responsive Declaration and Income and Expense Declaration despite the lack of Proof of Service to Petitioner. The court finds Respondent consents to the order for guideline temporary spousal support.

The court finds based on the parties' filed Income and Expense Declarations, guideline temporary spousal support to be \$1,121 per month (see attached DissoMaster report). The court orders Respondent to pay Petitioner \$1,121 per month as and for temporary guideline spousal support effective February 1, 2023 and due on the 1st of each month until further order of the court or termination by operation of law.

The court finds this order results in an arrears balance of \$3,363 for February through April inclusive. The court orders Respondent to pay Petitioner \$404 per month as and for arrears effective May 15, 2023 and due on the 15th of each month until paid in full (approximately 9 months). If there is any missed payment the full amount is due with legal interest.

The court further finds Respondent routinely earns overtime income, including for the prior months the court has ordered spousal support. The court has included an overtime table. Respondent is to pay Petitioner per the overtime table included with the arrears owed on the

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15th of each month. Respondent is to pay Petitioner for any overtime earned in February on May 15th, for March on June 15th, and for April on July 15th. Respondent states in his declaration that he will no longer be earning overtime. Respondent is to true up any overtime earned on the 15th of each month.

All prior orders not in conflict with this order remain in full force and effect. Petitioner is ordered to prepare and file the Findings and Orders After Hearing.

TENTATIVE RULING #16: THE COURT FINDS BASED ON THE PARTIES' FILED INCOME AND EXPENSE DECLARATIONS, GUIDELINE TEMPORARY SPOUSAL SUPPORT TO BE \$1,121 PER MONTH (SEE ATTACHED DISSOMASTER REPORT). THE COURT ORDERS RESPONDENT TO PAY PETITIONER \$1,121 PER MONTH AS AND FOR TEMPORARY GUIDELINE SPOUSAL SUPPORT EFFECTIVE FEBRUARY 1, 2023 AND DUE ON THE 1ST OF EACH MONTH UNTIL FURTHER ORDER OF THE COURT OR TERMINATION BY OPERATION OF LAW. THE COURT FINDS THIS ORDER RESULTS IN AN ARREARS BALANCE OF \$3,363 FOR FEBRUARY THROUGH APRIL INCLUSIVE. THE COURT ORDERS RESPONDENT TO PAY PETITIONER \$404 PER MONTH AS AND FOR ARREARS EFFECTIVE MAY 15, 2023 AND DUE ON THE 15TH OF EACH MONTH UNTIL PAID IN FULL (APPROXIMATELY 9 MONTHS). IF THERE IS ANY MISSED PAYMENT THE FULL AMOUNT IS DUE WITH LEGAL INTEREST. THE COURT FURTHER FINDS RESPONDENT ROUTINELY EARNS OVERTIME INCOME, INCLUDING FOR THE PRIOR MONTHS THE COURT HAS ORDERED SPOUSAL SUPPORT. THE COURT HAS INCLUDED AN OVERTIME TABLE. RESPONDENT IS TO PAY PETITIONER PER THE OVERTIME TABLE INCLUDED WITH THE ARREARS OWED ON THE 15TH OF EACH MONTH. RESPONDENT IS TO PAY PETITIONER FOR ANY OVERTIME EARNED IN FEBRUARY ON MAY 15TH, FOR MARCH ON JUNE 15TH, AND FOR APRIL ON JULY 15TH. RESPONDENT STATES IN HIS DECLARATION THAT HE WILL NO LONGER BE EARNING OVERTIME. RESPONDENT IS TO TRUE UP ANY OVERTIME EARNED ON THE 15TH OF EACH MONTH. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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ATTORNEY (NAME AND ADDRESS): EDC Court California ATTORNEY FOR: Husband	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	Husband	Wife	Guideline (2023)	Cash Flow Analysis	Husband	Wife	
Number of children	0	0	Nets (adjusted)	Guideline			
% time with Second Parent	0%	0%	Husband	2,803	Payment (cost)/benefit	(1,066)	1,121
Filing status	MFS->	HH/MLA	Wife	0	Net spendable income	1,682	1,121
# Federal exemptions	1*	1*	Total	2,803	% combined spendable	60%	40%
Wages + salary	4,160	0	Support (Nondeductible)	Total taxes	748	0	
401(k) employee contrib	0	0	SS Payor	Husband	Comb. net spendable	2,803	
Self-employment income	0	0	Alameda	1,121	Proposed		
Other taxable income	0	0	Total	1,121	Payment (cost)/benefit	(1,066)	1,121
Short-term cap. gains	0	0	Proposed, tactic 9		Net spendable income	1,682	1,121
Long-term cap. gains	0	0	SS Payor	Husband	NSI change from gdl	0	0
Other gains (and losses)	0	0	Alameda	1,121	% combined spendable	60%	40%
Ordinary dividends	0	0	Total	1,121	% of saving over gdl	0%	0%
Tax. interest received	0	0	Savings	0	Total taxes	748	0
Social Security received	0	0	No releases		Comb. net spendable	2,803	
Unemployment compensation	0	0			Percent change	0.0%	
Operating losses	0	0			Default Case Settings		
Ca. operating loss adj.	0	0					
Roy, partnerships, S corp, trusts	0	0					
Rental income	0	0					
Misc ordinary tax. inc.	0	0					
Other nontaxable income	0	0					
New-spouse income	0	0					
SS paid other marriage	0	0					
CS paid other relationship	0	0					
Adj. to income (ATI)	0	0					
Ptr Support Pd. other P'ships	0	0					
Health insurance	609	0					
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	1,234					

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

"R" denotes that Husband is a recipient for the corresponding support
 "CS%" is the percentage of Overtime paid as additional Child Support
 "SS%" is the percentage of Overtime paid as additional Spousal Support

Husband's Gross Overtime	Basic CS%	Basic CS	Alameda SS%	Alameda SS	Total Basic CS	Total SS	Total Support CS+SS
0	0.00	0	0.00	0	0	1,121	1,121
100	0.00	0	30.59	31	0	1,152	1,152
200	0.00	0	30.59	61	0	1,182	1,182
300	0.00	0	30.59	92	0	1,213	1,213
400	0.00	0	30.59	122	0	1,244	1,244
500	0.00	0	30.59	153	0	1,274	1,274
600	0.00	0	30.51	183	0	1,304	1,304
700	0.00	0	29.94	210	0	1,331	1,331
800	0.00	0	29.51	236	0	1,357	1,357
900	0.00	0	29.17	263	0	1,384	1,384
1,000	0.00	0	28.84	288	0	1,410	1,410
1,100	0.00	0	28.58	314	0	1,436	1,436
1,200	0.00	0	28.36	340	0	1,461	1,461
1,300	0.00	0	28.17	366	0	1,487	1,487
1,400	0.00	0	28.01	392	0	1,513	1,513
1,500	0.00	0	27.87	418	0	1,539	1,539
1,600	0.00	0	27.62	442	0	1,563	1,563
1,700	0.00	0	27.52	468	0	1,589	1,589
1,800	0.00	0	27.43	494	0	1,615	1,615
1,900	0.00	0	27.35	520	0	1,641	1,641
2,000	0.00	0	27.28	546	0	1,667	1,667

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April 20, 2023

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

17. MELISSA BAXTER V. PAUL GOSS SR.

PFL20190199

Respondent filed a Request for Order (RFO) following the denial of an ex parte request for emergency custody orders on February 8, 2023. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on March 8, 2023 and a review hearing on April 20, 2023. Upon review of the court file, there is no Proof of Service showing Petitioner was served with the RFO or referral to CCRC.

Nevertheless, both parties appeared for the CCRC appointment and fully participated. A report with recommendations was filed with the court on April 11, 2023. A copy of the report was mailed to the parties on April 12, 2023.

The court finds good cause to proceed, despite the lack of notice, as Petitioner was present for CCRC and is aware of Respondent's requested orders. The court has read and considered the April 11, 2023 filed CCRC report and finds the recommendations to be in the best interests of the minors. The court adopts the recommendations as its orders. The parties shall maintain joint legal custody. Petitioner shall have primary physical custody. Respondent shall have parenting time the 1st, 2nd, and 4th weekends of every month. Petitioner shall have parenting time the 3rd and 5th weekends of every month. The court adopts the remaining recommendations as set forth without further recitation.

All prior orders not in conflict with these orders remain in full force and effect. Respondent shall prepare and file the Findings and Orders After Hearing.

TENTATIVE RULING #17: THE COURT ADOPTS THE RECOMMENDATIONS AS SET FORTH IN THE APRIL 11, 2023 CCRC REPORT. 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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April 20, 2023

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

18. TERRY MEDINA V. RAYMOND MEDINA JR.

PFL20150870

Respondent filed a Request for Order (RFO) on February 21, 2023, requesting property control. Petitioner was personally served on March 24, 2023. Respondent does not plead with any specificity in the FL-300 or in his declaration what property he is requesting control of. The court notes that at item number five on page three of four on the FL-300 Respondent has left the subsection describing the property blank. In the attached declaration, Respondent had included a hearsay document which does not describe any property.

Petitioner has not filed a Responsive Declaration.

Respondent's request for property control is denied as Respondent has failed make a request for property control as to any specific property.

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

TENTATIVE RULING #18: RESPONDENT'S REQUEST FOR PROPERTY CONTROL IS DENIED. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE 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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8:30 a.m./1:30 p.m.

19. TIMOTHY ADKINS V. AMEY ADKINS

PFL20170402

Petitioner filed an Order to Show Cause and Affidavit for Contempt on December 21, 2022. Petitioner is alleging 14 counts of contempt. Respondent was personally served on January 31, 2023.

Parties appeared for arraignment on March 23, 2023. The Public Defender's office was appointed to represent Respondent and the matter was continued.

The court orders parties to appear for the continued arraignment on the contempt allegations.

TENTATIVE RULING #19: PARTIES ARE ORDERED TO APPEAR FOR THE CONTINUED ARRAIGNMENT.

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April 20, 2023

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

20. ZACKARY MILLER V. KASSIE KAUFMAN-MILLER

PFL20210425

Respondent filed a Request for Order (RFO) on February 1, 2023, requesting a nullity of marriage be entered. Petitioner was served by mail on February 6, 2023. The RFO includes a Stipulation and Order signed by the parties.

Petitioner has not filed a Responsive Declaration.

Parties are ordered to appear for purposes of completing Local Form M-3 and selecting dates for a Prove Up hearing.

TENTATIVE RULING #20: PARTIES ARE ORDERED TO APPEAR FOR PURPOSES OF COMPLETING LOCAL FORM M-3 AND SELECTING DATES FOR A PROVE UP HEARING.