

LAW & MOTION TENTATIVE RULINGS  
DEPARTMENT 5  
May 18, 2023  
8:30 a.m./1:30 p.m.

**12. ABBY EIDSON V. DEVON HIGH**

**PFL20200426**

Petitioner filed a Request for Order (RFO) on March 6, 2023, requesting a change in venue from El Dorado County to Nevada County. Respondent was served by mail on March 22, 2023, with the RFO and the Notice of the Court's Change of Address. The court notes this is not a complete service, as Respondent should have been served a Blank FL-320 as well as the Notice of Tentative Ruling form as well. Petitioner states in her declaration that neither party nor the minors reside in El Dorado County. Petitioner relocated to Nevada County in 2021. Respondent resides in Placer County.

Respondent has not filed a Responsive Declaration.

The court finds good cause to proceed, as the court finds Respondent had adequate notice of Petitioner's request to change venue as well as the date of the hearing, time, and location. The court grants Petitioner's request to change venue and orders the matter transferred to Nevada County. There are currently no pending motions or hearings in El Dorado County. The matter will be transferred upon payment of the transfer fees.

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 #12: THE COURT FINDS GOOD CAUSE TO PROCEED, AS THE COURT FINDS RESPONDENT HAD ADEQUATE NOTICE OF PETITIONER'S REQUEST TO CHANGE VENUE AS WELL AS THE DATE OF THE HEARING, TIME, AND LOCATION. THE COURT GRANTS PETITIONER'S REQUEST TO CHANGE VENUE AND ORDERS THE MATTER TRANSFERRED TO NEVADA COUNTY. THERE ARE CURRENTLY NO PENDING MOTIONS OR HEARINGS IN EL DORADO COUNTY. THE MATTER WILL BE TRANSFERRED UPON PAYMENT OF THE TRANSFER FEES. 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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**13. CARRAH JOHNSON V. JOSHUA JOHNSON**

**22FL0461**

Respondent filed a Request for Order (RFO) on March 7, 2023, requesting the court make child custody and parenting time orders. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on April 6, 2023 and a review hearing on May 18, 2023. Petitioner was served by mail on March 11, 2023. Respondent is requesting joint legal and physical custody of the minor.

Only Respondent appeared for CCRC on April 6, 2023. As such a single parent report was filed with the court on April 6, 2023. A copy was mailed to the parties on the same day.

Petitioner filed a Responsive Declaration as well as an Income and Expense Declaration on April 27, 2023. There is no Proof of Service for these Documents, therefore, the court cannot consider them.

The court rerefers the parties to CCRC. Parties are admonished, that if either fails to appear for the appointment, the court may impose sanctions. Respondent shall prepare and file the Findings and Orders After Hearing.

**TENTATIVE RULING #13: THE PARTIES ARE REREFERRED TO CCRC FOR AN APPOINTMENT ON 6/28/23 AT 9:00 AM AND A FURTHER REVIEW HEARING ON 8/17/23 AT 1:30 PM IN DEPARTMENT 5. PARTIES ARE ADMONISHED THAT FAILURE TO APPEAR FOR CCRC MAY RESULT IN THE COURT IMPOSING SANCTIONS. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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**14. CARY O'NEAL V. COURTNEY O'NEAL**

**PFL20200001**

Joined Party, the Paternal Grandparents, filed a Notice of Motion and Declaration for joinder, along with a Request for Order (RFO) on March 13, 2023, requesting grandparent visitation. There is a Proof of Personal Service on Respondent, substitute service on April 14, 2023. Upon review of the court file, there is no Proof of Service showing Petitioner was properly served with the RFO.

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

**TENTATIVE RULING #14: THE COURT DROPS THE MATTER FROM CALENDAR DUE TO LACK OF PROPER SERVICE.**

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**15. JING HAN V. LIEN HAN**

**PFL20160529**

Respondent filed a Request for Order (RFO) on March 3, 2023, requesting a modification of the child custody orders and specifically orders regarding telephone access. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on March 24, 2023 and a review hearing on May 18, 2023. Petitioner was served by mail on March 6, 2023 with address verification.

Both parties attended CCRC on March 24, 2023. The minors were interviewed as well. The parties were unable to reach any agreements. A report with recommendations was filed on April 18, 2023. A copy of the report was mailed to the parties on April 19, 2023.

Petitioner filed a Responsive Declaration on May 4, 2023. Respondent was served by overnight mail and electronically on May 4, 2023. Petitioner objects to Respondent's request for order. Petitioner asserts Respondent is attempting to further micromanage his parenting time. Petitioner is requesting the minors not have unlimited access to their phones, but rather have designated times to contact the non-custodial parent.

The court has read and considered the filings as set forth above. The court adopts the recommendations as set forth in the April 18, 2023 CCRC report as they are in the best interest of the minors.

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 #15: THE COURT FINDS THE RECOMMENDATIONS OF THE APRIL 18, 2023 CCRC REPORT TO BE IN THE BEST INTERESTS OF THE MINORS AND ADOPTS THE RECOMMENDATIONS AS ITS ORDERS. 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.**

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**16. JOHN CRISAFULLI V. ANITA CRUSTAFULLI**

**22FL1094**

Respondent filed an ex parte application for emergency orders on April 21, 2023 requesting primary care and custody of the minor Chase Anna, amendment of the temporary restraining order, appointment of Minors' Counsel, and in the alternative and Order Shortening Time for the matters to be heard on the law and motion calendar as soon as possible. The court granted the request to appoint Minors' Counsel on an ex parte basis, appointing Kelly Bentley, and denied the remaining requests. The court granted the order shortening time and directed Respondent to serve the RFO on Petitioner no later than April 24, 2023. Petitioner must serve any responsive declaration on or before May 12, 2023. Petitioner was served electronically and by mail on April 24, 2023.

Petitioner has not filed a Responsive Declaration.

The parties are ordered to appear for the hearing.

**TENTATIVE RULING #16: THE PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.**

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**17. JUSTIN NEFF V. KAYLA LATTIMER**

**22FL0990**

Respondent filed a Request for Order (RFO) on March 13, 2023, requesting child custody and visitation orders. Petitioner was served by mail on March 28, 2023. Respondent filed an ex parte application for emergency custody orders on March 28, 2023. The court ordered parties to appear for a hearing on April 3, 2023. At the hearing on April 3, 2023, the court denied the ex parte application.

The court stays the family law proceedings.

**TENTATIVE RULING #17: THE FAMILY LAW PROCEEDINGS ARE STAYED.**

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**18. KRISTI WHITE V. ERIK WHITE**

**PFL20130876**

Respondent filed a Request for Order (RFO) on March 3, 2023, requesting modification of the parenting plan. The parties were referred to Child Custody Recommending Counseling for an appointment on March 27, 2023 and a review hearing on May 18, 2023. Upon review of the court file, there is no filed Proof of Service.

Petitioner filed a Responsive Declaration on March 15, 2023. There is no Proof of Service showing this was served on Respondent.

Both parties appeared for CCRC and were able to reach a full agreement. A CCRC report was filed on April 13, 2023. Copies were mailed to the parties on April 17, 2023.

The court finds good cause to proceed, given both parties appeared at CCRC and are fully aware of the reciprocal requests, and have reached a full agreement. The court finds the parties' agreement to be in the best interest of the minor and adopt the agreement as its order.

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

**TENTATIVE RULING #18: THE COURT FINDS GOOD CAUSE TO PROCEED, GIVEN BOTH PARTIES APPEARED AT CCRC AND ARE FULLY AWARE OF THE RECIPROCAL REQUESTS, AND HAVE REACHED A FULL AGREEMENT. THE COURT FINDS THE PARTIES' AGREEMENT TO BE IN THE BEST INTEREST OF THE MINOR AND ADOPT THE AGREEMENT AS ITS ORDER. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE THE FINDINGS AND ORDERS AFTER HEARING.**

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

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19. Robert Thornton v. Melissa Meanor

PFL20140803

On May 3, 2022, Petitioner filed a Request for Order (RFO) requesting a modification of child custody orders. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on June 30, 2022 and a review hearing on August 11, 2022. Upon review of the court file there is no Proof of Service showing Respondent or Minors' Counsel were served with the RFO and referral to CCRC.

Nevertheless, both parties appeared at the CCRC appointment and were able to reach a full agreement. A copy of the CCRC report was mailed to the parties, including Minors' Counsel on August 3, 2022.

On August 11, 2022, the court adopted the agreement of the parties as it was in the best interest of the minors and it does not substantively modify the current custody and parenting time orders, but rather allowed Petitioner to proceed with the court's prior order. The court ordered Petitioner shall provide Respondent with the names of three therapists qualified to provide the parties and court with a Forensic Substance Abuse Evaluation on or before September 1, 2022. Respondent shall select one of the three and provide the name to Petitioner on or before September 15, 2022. Petitioner will then begin the evaluation process at the soonest available appointment.

On August 11, 2022, Petitioner filed another RFO requesting to change child custody. Upon review of the court file there is no Proof of Service showing Respondent or Minor's Counsel were served with the RFO as required by law. Further, the court finds the RFO is deficient on its face as Petitioner has failed to state what changes are being requested and why the court should grant any changes. Petitioner merely declares he has done everything the court has asked of him. Additionally, the court finds this RFO was filed the day the court adopted its tentative ruling, and there has been no additional information plead to warrant modifying the orders made on August 11, 2022.

Respondent filed a Responsive Declaration on September 29, 2022. Petitioner and Minor's Counsel were served by mail on September 29, 2022. Respondent asserts in her declaration she was served 15 days prior to the hearing, which does not comply with Code of Civil Procedure 1005. Respondent requests the court deny Petitioner's RFO, as there are no requested changes to the current orders. Respondent further requests the court order Family Code (FC) Section 271 sanctions.

Minor's Counsel filed a Declaration on October 3, 2022 and a Proof of Service showing the parties were served electronically on October 2, 2022. Minor's Counsel also raises the issue that Petitioner has failed to state what change he is requesting to the current orders. Minor's Counsel requests the court continue the matter to allow Petitioner the opportunity to provide



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the court with documentation “he has done everything the court has asked” and to allow Respondent an opportunity to file a Responsive Declaration.

On October 6, 2022, the court adopted its tentative ruling denying Petitioner’s request to modify child custody and parenting time. The court found Petitioner had filed a motion which was wholly deficient. Petitioner failed to even state what change he was requesting. Petitioner failed to include any declaration or supporting evidence, save his conclusory statement that he had done everything the court has required of him. Finally, Petitioner filed this request the day the court adopted the current orders. There was no showing of any change in circumstances or how any requested change would be in the minor’s best interest. Therefore, the court denied Petitioner’s request.

The court reserved jurisdiction on and continued Respondent’s request for Family Code Section 271 sanctions to December 15, 2022. Petitioner was ordered to file and properly serve an Income and Expense Declaration at least 10 days prior to December 15, 2022.

On December 15, 2022, the court continued all matters to join with the hearing set on December 22, 2022.

Vexatious Litigant

Respondent filed a Request for Order (RFO) on September 29, 2022, requesting the court deem Petitioner to be a vexatious litigant. Petitioner and Minor’s Counsel were served by mail on September 30, 2022.

Respondent sets forth in her Declaration nine instances of Petitioner filing RFOs in the last three years, including three ex parte requests filed in 2019, all of which were denied, and other various RFOs. Respondent asserts Petitioner’s requests have been dropped from calendar due to a lack of proper service or Petitioner has requested oral argument and failed to appear on several instances.

Petitioner filed a Responsive Declaration on February 14, 2023, which was not timely to when the RFO was originally set. Respondent was served by mail on February 14, 2023. Petitioner requests he not be deemed a vexatious litigant. Petitioner asserts the repeated filings are due to his mistakes as he is a pro per litigant, and merely wants increased parenting time with the minor.

A vexatious litigant is one who has repeatedly, in pro per, relitigated final determinations against him or her or who has repeatedly, in pro per, filed unmeritorious motions, pleadings, or other papers, or engaged in frivolous tactics solely intended to harass or cause delay. Cal. Civ. Pro. §391(b); See also PBA, LLC v. KPOD, Ltd., 112 Cal. App. 4th 965 (2003). Where a party is deemed a vexatious litigant, the court may enter an order “...which prohibits a

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vexatious litigant from filing any new litigation in the courts of this state in propria persona without first obtaining leave of the presiding justice, or presiding judge of the court where the litigation is proposed to be filed. Disobedience of the order by a vexatious litigant may be punished as a contempt of court.” Cal. Civ. Pro. § 391.7(a). “For purposes of this section, ‘litigation’ includes any petition, application, or motion other than a discovery motion, in a proceeding under the Family Code...for any order.” Cal. Civ. Pro. § 391.7(d). Historically, as few as three motions on the same issue, all of which seek the same relief that has already been denied, may be sufficient to have a party deemed a vexatious litigant. See *Goodrich v. Sierra Vista Reg’l Med. Ctr.*, 246 Cal. App. 4th 1260 (2016).

Petitioner has filed three requests in 2022 to have the court’s rulings set aside, essentially seeking to have issues already ruled upon reconsidered. Given the overall number of filings, most but not all of which have been denied, and repeated requests to relitigate the same issues, it is inarguable that Petitioner’s actions are approaching harassment and have caused Respondent to unnecessarily incur time off from work for CCRC appointments and court hearings and spend additional time responding to Petitioner’s requests.

If Petitioner is deemed a vexatious litigant, Petitioner would be prohibited from making any in propria persona filing of any new litigation, petition, application, or motion in the State of California without first obtaining leave of the presiding justice or presiding judge where the litigation is proposed to be filed. Disobedience of this order may be punishable as contempt of court. The court finds this is a serious remedy to the issues at hand and is not inclined to deem Petitioner a vexatious litigant at this time. The court denies Respondent’s request to have Petitioner deemed a vexatious litigant, however, Petitioner is admonished, that if Petitioner continues his pattern of filing RFOs immediately following the court not ruling in his favor, the court may be inclined to grant Respondent’s request, if a future RFO is brought.

October 7, 2022 filed RFO

The court denies Petitioner’s request to modify child custody and parenting time. Petitioner has filed a motion which is wholly deficient. Petitioner once again requests the custody and parenting time go back to 50/50, and again has failed to include any declaration or supporting evidence, save his conclusory statement that he has done everything the court has required of him. Petitioner again filed this request the day after the court adopted the current orders. There has been no showing of any change in circumstances or how any requested change would be in the minor’s best interest. Therefore, Petitioner’s RFO is denied.

Respondent’s Request for Family Code 271 Sanctions

Respondent makes her request for sanctions pursuant to Family Code section 271 which states in pertinent part, “...the court may base an award of attorney’s fees and costs on the

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extent to which the conduct of each party or attorney furthers or frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation by encouraging cooperation between the parties and attorneys.” The court notes Petitioner’s repeated filings on the same issue. It appears that Petitioner has not made attempts to amicably resolve these issues without the need for court intervention. This is clearly not in keeping with the court’s policy to promote settlement and reduce the cost of litigation. Respondent’s request for sanctions is granted. Petitioner is to pay Respondent \$90 in sanctions. Petitioner may make payments of \$10 per month due on the 15th of each month until the entire amount of \$90 has been paid.

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 #21: THE COURT DENIES RESPONDENT’S REQUEST TO DEEM PETITIONER A VEXATIOUS LITIGANT. THE COURT DENIES PETITIONER’S RFO FOR THE REASONS SET FORTH ABOVE. THE COURT GRANTS RESPONDENT’S REQUEST FOR FAMILY CODE SECTION 271 SANCTIONS IN THE AMOUNT OF \$90. PETITIONER IS TO PAY RESPONDENT \$90 IN SANCTIONS. PETITIONER MAY MAKE PAYMENTS OF \$10 PER MONTH DUE ON THE 15TH OF EACH MONTH UNTIL THE ENTIRE AMOUNT OF \$90 HAS BEEN PAID. 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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**20. SHALYSSA LEE V. ADAM CARTER**

**PFL20180898**

Respondent filed a Request to Set an Uncontested Matter on the Nullity action. Proof of Service shows Petitioner was personally served with the notice of the hearing on April 6, 2023.

Parties are ordered to appear for the hearing to set a date for the uncontested matter.

**TENTATIVE RULING #20: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING TO SET A DATE FOR THE UNCONTESTED MATTER.**

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**21. STACY PURDY V. RYAN PURDY**

**PFL20150937**

Petitioner filed a Request for Order (RFO) on March 9, 2023, requesting the court set aside orders from September 15, 2022, December 1, 2023, and March 9, 2023 and transfer the case to Carson City, Nevada. Upon review of the court file, there is no Proof of Service showing the RFO was served on Respondent or Minor's Counsel. Therefore, the court drops the request from calendar.

Respondent filed a RFO on April 4, 2023, requesting child support as well as orders regarding the telephone calls between Petitioner and the minor. Respondent concurrently filed an Income and Expense Declaration. Petitioner was personally served on April 12, 2023. Minor's Counsel was electronically served on April 4, 2023. Respondent is requesting guideline child support based on the current time share. Respondent is requesting the phone calls between Petitioner and the minor remain positive without boastful or disparaging remarks.

Minor's Counsel filed a Statement of Issues and Contentions (SIC) on April 26, 2023. Petitioner and Respondent were both served by mail and electronically on April 24, 2023. Minor's Counsel was able to speak with her client regarding the phone calls and has no noted concerns. Minor's Counsel requests the court order neither party make disparaging remarks about the other party or allow any member of their family to do so; neither party shall discuss the court case with the minor; and that all other orders not in conflict remain in full force and effect.

Petitioner has not filed a Responsive Declaration nor an Income and Expense Declaration.

The court finds that although Respondent has included an estimate of Petitioner's income on his Income and Expense Declaration, he does not provide any support documents or evidence as to how he formed that estimate. As Petitioner has failed to file an Income and Expense Declaration, the court does not have the requisite information it needs to calculate guideline child support. Therefore, the parties are ordered to appear for the hearing. Petitioner is ordered to file and serve an updated Income and Expense Declaration forthwith.

All prior orders regarding telephone contact and respect guidelines remain in full force and effect.

**TENTATIVE RULING: PETITIONER'S MARCH 9, 2023 FILED RFO IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE.**

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**RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999). NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.**

**PARTIES ARE ORDERED TO APPEAR ON THE CHILD SUPPORT REQUEST PORTION OF RESPONDENT'S APRIL 4, 2023 FILED RFO. PETITIONER IS ORDERED TO FILE AND SERVE AND UPDATED INCOME AND EXPENSE DECLARATION FORTHWITH**

**ALL PRIOR ORDERS REGARDING TELEPHONE CONTACT AND RESPECT GUIDELINES REMAIN IN FULL FORCE AND EFFECT.**

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**22. STEVEN CHAFFIN V. LINDA CHAFFIN**

**PFL20160242**

On January 5, 2023, the court referred the parties back to Child Custody Recommending Counseling (CCRC) for of further step up plan, as Respondent had relocated to Kern County. Parties were to attend CCRC on March 29, 2023 and return to court for a review hearing on May 18, 2023 at 1:30 pm.

Petitioner filed a Request for Order (RFO) on January 25, 2023, requesting the case be transferred to Kern County, as all parties and the minors are now residents of Kern County. Respondent was served by mail on February 24, 2023. Petitioner's RFO on change of venue was set to be heard on April 6, 2023.

Respondent filed a RFO on February 17, 2023, requesting modification of child support and Jackson credits. This hearing was originally set in Department 8 in front of the Child Support Commissioner on April 24, 2023. Upon review of the court file, there is no Proof of Service showing Petitioner was served with this motion, however, Petitioner filed a Responsive Declaration and opposition authorities to the Jackson credits, on March 14, 2023 therefore, the court finds Petitioner had adequate notice of Respondent's RFO. Respondent was served with the Responsive Declaration on March 9, 2023. On April 24, 2023, the case to continued to join with the May 18, 2023 review hearing.

Petitioner filed an Income and Expense Declaration on March 14, 2023. Respondent was served by mail on March 9, 2023.

Respondent filed a Responsive Declaration to Petitioner's RFO to change venue on March 23, 2023. Petitioner was served by mail on March 23, 2023.

Petitioner failed to attend the March 29, 2023 CCRC appointment. A single parent report was filed on March 29, 2023. A copy was mailed to the parties on March 30, 2023.

Respondent Filed an ex parte application for emergency orders requesting the parties be referred to CCRC prior to the May 18, 2023 hearing and the April 6, 2023 hearing on the change of venue be continued to join with he May 18, 2023 hearing. On April 4, 2023, the court granted the ex parte motion and rereferred the parties to CCRC and reset the April 6, 2023 hearing to join the May 18, 2023 hearing.

Petitioner filed a Declaration regarding the current custody schedule on April 10, 2023. Respondent was served my mail on April 7, 2023.

Respondent filed an Income and Expense Declaration on April 20, 2023. Petitioner was served personally and electronically on April 20, 2023.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 18, 2023

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

Both parties attended CCRC at the rescheduled appointment on April 18, 2023. The parties were unable to reach any agreements. A report with recommendations was filed on May 1, 2023. A copy was mailed to the parties on May 2, 2023.

The court has read and considered the filings as set forth above and makes the following findings and orders.

CCRC Review

The court has read and considered the May 1, 2023 CCRC report and finds the recommendations to be in the best interest of the minors. The court adopts the recommendations as its orders.

Child Support

With the change in parenting time reflected above, the court finds it is appropriate to recalculate child support based on the new time share.

Utilizing Petitioner's March 14, 2023 filed Income and Expense Declaration and Respondent's April 20, 2023 filed Income and Expense Declaration with a 50% time share, the court finds guideline child support to be \$206 per month payable from Petitioner to Respondent. (See attached DissoMaster) The court orders Petitioner to pay Respondent \$206 per month as and for guideline child support effective June 1, 2023.

The court also finds Petitioner routinely earns overtime and has included an overtime table. Petitioner is to true-up any earned overtime monthly per the attached overtime table.

The court finds there is an arrears balance owing for child support from Respondent to Petitioner. However, the court is unaware of the total arrears still owing. Therefore, the court is unable to calculate an offset. Parties are to meet and confer to determine the current arrears balance and determine the offset.

Family Code Section 2030 Attorney Fees

Respondent has requested Family Code section 2030 attorney fees, as Petitioner is the higher earner.

The public policy of Family Code section 2030 is to provide "at the outset of litigation, consistent with the financial circumstances of the parties, parity between spouses in their ability to obtain effective legal representation." In Re Marriage Of Keech, 75 Cal. App. 4<sup>th</sup> 860, 866(1999). This assures each party has access to legal representation to preserve each party's rights. It "is not the redistribution of money from the greater income party to the lesser income party," but rather "parity." Alan S. v Superior Court, 172 Cal. App. 4<sup>th</sup> 238,251(2009). The award must be just and reasonable; in determining what is just and reasonable, the court



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May 18, 2023

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

can take into consideration the need for the award to enable each party, to the extent practical, to have sufficient financial resources to present the party's case adequately. In addition to the parties' financial resources, the court may consider the parties' trial tactics. In Re Marriage Of Falcone & Fyke, 203 Cal. App. 4<sup>th</sup> 964; 975 (2012). The court must consider the impact of the fee award on the payor taking into account any orders for support. In Re Marriage of Keech, *supra*, at 860.

In accordance with the above, the court must determine whether a disparity exists in each party's respective ability to pay for, and access funds to retain counsel. This element has been met. Petitioner's current income is well in excess of Respondent's, especially when taking into account Petitioner's overtime income. As such, Petitioner has significantly more resources to pay for attorney's fees. However, upon review of Petitioner's Income and Expense Declaration, he has incurred loans to pay for his attorney, and his monthly expenses are significantly higher than Respondent's. When factoring in the court's recent modification of child support, the court cannot find Petitioner currently has the ability to pay not only his, but also Respondent's attorney's fees. Therefore, the court denies Respondent's request for Family Code section 20230 attorney's fees.

Change of Venue

Petitioner requests the court transfer this matter to Kern County as all parties and the minors are currently residents of Kern County and El Dorado County is no longer a convenient forum for this matter.

The court finds that with the orders set forth in this tentative ruling, the pending issues in El Dorado County have been resolved. As such, the matter would be in an appropriate posture to transfer to Kern County. The court grants Petitioner's request to transfer the case to Kern County. Upon Petitioner's payment of the transfer fees, the matter will be transferred to Kern County.

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 #22: THE COURT HAS READ AND CONSIDERED THE MAY 1, 2023 CCRC REPORT AND FINDS THE RECOMMENDATIONS TO BE IN THE BEST INTEREST OF THE MINORS. THE COURT ADOPTS THE RECOMMENDATIONS AS ITS ORDERS. UTILIZING PETITIONER'S MARCH 14, 2023 FILED INCOME AND EXPENSE DECLARATION AND RESPONDENT'S APRIL 20, 2023 FILED INCOME AND EXPENSE DECLARATION WITH A 50% TIME SHARE, THE COURT FINDS GUIDELINE CHILD SUPPORT TO BE \$206 PER MONTH PAYABLE FROM PETITIONER TO RESPONDENT. (SEE ATTACHED DISSOMASTER) THE COURT ORDERS PETITIONER TO PAY RESPONDENT \$206 PER MONTH AS AND FOR GUIDELINE CHILD SUPPORT EFFECTIVE JUNE 1,**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 18, 2023

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

**2023. THE COURT ALSO FINDS PETITIONER ROUTINELY EARNS OVERTIME AND HAS INCLUDED AN OVERTIME TABLE. PETITIONER IS TO TRUE-UP ANY EARNED OVERTIME MONTHLY PER THE ATTACHED OVERTIME TABLE. PARTIES ARE TO MEET AND CONFER TO DETERMINE THE CURRENT ARREARS BALANCE AND DETERMINE THE OFFSET. THE COURT DENIES RESPONDENT'S REQUEST FOR FAMILY CODE SECTION 20230 ATTORNEY'S FEES FOR THE REASONS SET FORTH ABOVE. THE COURT GRANTS PETITIONER'S REQUEST TO TRANSFER THE CASE TO KERN COUNTY. UPON PETITIONER'S PAYMENT OF THE TRANSFER FEES, THE MATTER WILL BE TRANSFERRED TO KERN COUNTY. 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.**

ATTORNEY (NAME AND ADDRESS):  <b>California</b>	TELEPHONE NO:	Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
ATTORNEY FOR: <b>Pet.</b>		
DISSOMASTER REPORT 2023, Monthly		CASE NUMBER:

Input Data	Pet.	Resp.	Guideline (2023)	Cash Flow Analysis	Pet.	Resp.
Number of children	0	2	<b>Nets (adjusted)</b>	<b>Guideline</b>		
% time with Second Parent	50%	0%	Pet.	3,664	Payment (cost)/benefit	(206) 206
Filing status	<-MFJ	Single	Resp.	2,977	Net spendable income	3,458 3,183
# Federal exemptions	2*	3*	Total	6,641	% combined spendable	52.1% 47.9%
Wages + salary	4,990	3,200	<b>Support</b>		Total taxes	575 (87)
401(k) employee contrib	0	0	CS Payor	Pet.	Comb. net spendable	6,641
Self-employment income	0	0	Presumed	206	<b>Proposed</b>	
Other taxable income	0	0	Basic CS	206	Payment (cost)/benefit	(310) 310
Short-term cap. gains	0	0	Add-ons	0	Net spendable income	3,533 3,120
Long-term cap. gains	0	0	Presumed Per Kid		NSI change from gdl	75 (63)
Other gains (and losses)	0	0	Child 1	19	% combined spendable	53.1% 46.9%
Ordinary dividends	0	0	Child 2	188	% of saving over gdl	625.1% -525.1%
Tax. interest received	0	0	Spousal support	blocked	Total taxes	396 79
Social Security received	0	0	Total	206	Comb. net spendable	6,653
Unemployment compensation	0	0	<b>Proposed, tactic 9</b>		Percent change	0.2%
Operating losses	0	0	CS Payor	Pet.	<b>Default Case Settings</b>	
Ca. operating loss adj.	0	0	Presumed	310		
Roy, partnerships, S corp, trusts	0	0	Basic CS	310		
Rental income	0	0	Add-ons	0		
Misc ordinary tax. inc.	0	0	Presumed Per Kid			
Other nontaxable income	0	0	Child 1	122		
New-spouse income	0	0	Child 2	188		
SS paid other marriage	0	0	Spousal support	blocked		
CS paid other relationship	0	0	Total	310		
Adj. to income (ATI)	0	0	Savings	12		
Ptr Support Pd. other P'ships	0	0	Total releases to Pet.	1		
Health insurance	687	310				
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	64	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				

ATTORNEY (NAME AND ADDRESS):  <b>California</b>  ATTORNEY FOR: <b>Pet.</b>	TELEPHONE NO:  Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
Pet. Monthly Overtime Wages Report 2023 Monthly	CASE NUMBER:

"R" denotes that Pet. 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

Pet.'s Gross Overtime	Basic CS%	Basic CS	El Dorado SS%	El Dorado SS	Total Basic CS	Total SS	Total Support CS+SS
0	0.00	0	0.00	0	206	0	206
100	22.17	22	0.00	0	228	0	228
200	21.79	44	0.00	0	250	0	250
300	21.57	65	0.00	0	271	0	271
400	21.40	86	0.00	0	292	0	292
500	21.24	106	0.00	0	312	0	312
600	21.10	127	0.00	0	333	0	333
700	20.96	147	0.00	0	353	0	353
800	20.83	167	0.00	0	373	0	373
900	20.70	186	0.00	0	392	0	392
1,000	20.58	206	0.00	0	412	0	412
1,100	20.44	225	0.00	0	431	0	431
1,200	20.28	243	0.00	0	450	0	450
1,300	20.14	262	0.00	0	468	0	468
1,400	20.00	280	0.00	0	486	0	486
1,500	19.86	298	0.00	0	504	0	504
1,600	19.74	316	0.00	0	522	0	522
1,700	19.62	333	0.00	0	540	0	540
1,800	19.50	351	0.00	0	557	0	557
1,900	19.39	368	0.00	0	575	0	575
2,000	19.28	386	0.00	0	592	0	592

