

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 25, 2023

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

1. A. HONOROF V. D. HONOROF

SFL20100058

Petitioner filed a Request for Order (RFO) seeking \$15,423.10 in attorney's fees and costs. The RFO and her Income and Expense Declaration, along with an FL-319 (Requests for Attorney's Fees and Costs Attachment) and an FL-158 (Supporting Declaration for Attorney's Fees and Costs Attachment), were filed and served on February 21, 2023. An updated Income and Expense Declaration was filed on May 3rd. It and all other required documents were served on April 10th. On May 4, 2023, Respondent filed his Responsive Declaration to Request for Order and his Income and Expense Declaration. Both were mail served on May 9th.

Petitioner Aneta Honorof's Reply Brief in Support of Motion for Attorney's Fees and Sanctions; Declaration of Mark Martel was filed on May 22, 2023. The court finds this to be late filed pursuant to Civil Procedure section 1005(b) which states all reply papers are to be filed at least five court days before the hearing date. Section 12c states, "[w]here any law requires an act to be performed no later than a specified number of days before a hearing date, the last day to perform that act shall be determined by counting backward from the hearing date, *excluding the day of the hearing* as provided by Section 12." Cal. Civ. Pro. § 12c. Section 1005(b) in conjunction with Section 12c would have made May 18th the last day for filing Petitioner's reply. Therefore, it is late filed and has not been considered by the court.

Petitioner requests attorney's fees and costs pursuant to Family Code section 2032. Her request can be broken down into \$15,000 in attorney's fees and \$423.10 in costs. She seeks an additional \$1,000 in sanctions pursuant to Family Code section 271. According to Petitioner, she has incurred extensive fees and costs due to Respondent's failure to abide by custody orders, failure to engage in discussions to amend the order, and his filing of a request for emergency orders which contained false assertions and made outrageous requests. Petitioner argues that Respondent's insistence that he have his way, despite the facts and direct orders of the court, has caused Petitioner's attorney to expend an extensive amount of time on this matter. In fact, Petitioner states she incurred over \$23,000 in attorney's fees and costs to oppose Respondent's RFO which has caused her extreme hardship.

Respondent objects to the request for fees and argues the assertions being made by Petitioner are meritless. Respondent feels that his proposing language regarding the means of counting vacation days was in compliance with the court order and his RFO was warranted. He argues it was Petitioner who failed to meet and confer with him once the RFO was served, not vice versa. Additionally, he claims Petitioner has withheld information and misrepresented facts which has resulted in the subject legal bills. Respondent is of the opinion that the request for attorney's fees is being used in a punitive manner. He states he is impoverished, as evidenced by his fee waiver, and any order requiring him to pay fees would be highly prejudicial and unfairly burden him.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 25, 2023

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

The Income and Expense Declaration filed by Respondent is incomplete and not compliant with the local rules. He has not provided the court with a copy of his W-2 or recent paystubs. This matter is continued to 8/3/2023 at 8:30 in Department 5. Respondent is ordered to file an updated Income and Expense Declaration no later than 10 days prior to the hearing date. Respondent is to ensure his Income and Expense Declaration is complete, includes supporting documentation, and fully complies with the local rules. Failure to do so may result in sanctions.

TENTATIVE RULING #1: THIS MATTER IS CONTINUED TO 8/3/2023 AT 8:30 AM IN DEPARTMENT 5. RESPONDENT IS ORDERED TO FILE AN UPDATED INCOME AND EXPENSE DECLARATION NO LATER THAN 10 DAYS PRIOR TO THE HEARING DATE. RESPONDENT IS TO ENSURE HIS INCOME AND EXPENSE DECLARATION IS COMPLETE, INCLUDES SUPPORTING DOCUMENTATION, AND FULLY COMPLIES WITH THE LOCAL RULES. FAILURE TO DO SO MAY RESULT IN SANCTIONS.

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

May 25, 2023

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

2. ALEAH MCNABB V. TYLER SWINNEY

22FL0507

On November 2, 2022, Petitioner filed a Request for Order (RFO) requesting the court rule on her request for private Child Custody Recommending Counseling (CCRC) or set aside the orders from October 13, 2022. Parties appeared for a hearing on October 13, 2022 and were able to reach a partial stipulation. The matter was continued for the parties to meet and confer and agree on a holiday schedule. The remainder of the tentative ruling was adopted as the court's order and hearing on the RFO was continued to January 26, 2023.

On January 26th the parties presented the court with a stipulation to private CCRC on the issues of the school for the minor, the holiday schedule, and the parenting plan. The parties were ordered to select a mediator on or before February 16th and Petitioner was to pay for private CCRC, subject to reallocation. A review hearing was set for the present date.

On April 3rd the parties filed their stipulation with the court appointing Carla Friend as the CCRC counselor.

The court has not received a CCRC report, nor any updated filings of the parties. The matter is continued to 8/3/2023 at 8:30 AM in Department 5 for receipt and review of the CCRC report.

TENTATIVE RULING #2: THE MATTER IS CONTINUED TO 8/3/2023 AT 8:30 AM IN DEPARTMENT 5 FOR RECEIPT AND REVIEW OF THE CCRC REPORT.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 25, 2023

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

3. ASHLEY SAMADANI V. ANTHONY SAMADANI

PFL20200775

Petitioner filed a Request for Order (RFO) on March 6, 2023. Concurrently therewith she filed her Income and Expense Declaration, a Declaration of Ashley Samadani, and a Declaration of Fredrick S. (Rick) Cohen Re Attorney Fees and Sanctions. All documents were mail served on counsel on April 3rd. The court notes this is a post-judgment RFO and as such an address verification form was required or Respondent was to be personally served. Fam. Code § 215.

Respondent filed a Responsive Declaration to Request for order on May 17th. The court finds this to be late filed pursuant to Civil Procedure section 1005(b) which states all papers opposing a motion shall be filed and served at least nine court days prior to 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 May 12th the last day for filing Respondent’s Responsive Declaration to Request for Order. Therefore, it is late filed and has not been read or considered by the court.

Because of the improper service on Respondent, and because the court is unable to consider Respondent’s responsive declaration, so it is unclear if he is objecting to service, the court continues this matter to 7/27/2023 at 8:30 a.m. in Department 5. Petitioner is ordered to either file a completed address verification form or effectuate personal service on Respondent (not his attorney) and file a Proof of Service with the court.

TENTATIVE RULING #3: THE COURT CONTINUES THIS MATTER TO 7/27/2023 AT 8:30 A.M. IN DEPARTMENT 5. PETITIONER IS ORDERED TO EITHER FILE A COMPLETED ADDRESS VERIFICATION FORM OR EFFECTUATE PERSONAL SERVICE ON RESPONDENT (NOT HIS ATTORNEY) AND FILE A PROOF OF SERVICE WITH THE COURT.

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

May 25, 2023

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

4. EDWIN MANN V. KATRINA GATSON

22FL0389

On March 7, 2023, Respondent filed a Request for Order (RFO), her Income and Expense Declaration, and a Declaration of Attorney Melissa M. Cantu Esq. In Support of Respondent's Request for Attorney Fees and Costs. All documents were electronically served on March 20th. The parties were referred to Child Custody Recommending Counseling (CCRC) and a hearing on the RFO was set for the present date.

Petitioner filed and served his Responsive Declaration to Request for Order on May 12th. He followed that with the filing and service of his Income and Expense Declaration on May 15th. Respondent's Supplemental Declaration in Support of Motion for Custody/Visitation, 271 Sanctions and Attorney's Fees was also filed on May 15th. It was electronically served the same day.

Respondent makes the following requests in her RFO: (1) An order shortening time for the court to rule on the issue of the child's school attendance; (2) Sole legal custody or, in the alternative, final decision making authority; (3) Petitioner to have visitation the 1st, 3rd, and 5th weekends from Friday afternoon to either Sunday night at 5pm or, if Monday is a holiday, then to Monday at 5pm; (4) In the event the court does not change the visitation schedule, Respondent requests an order directing Petitioner to take the child to school during his parenting time; (5) Petitioner to pay 60% of the child's uninsured medical costs, work related daycare costs, and tuition costs. In the alternative, she requests Petitioner be ordered to pay 50% of the cost of tuition subject to re-allocation retroactive to May 2022; (6) Petitioner to attend anger management classes; (7) The parties be prohibited from spanking the child except as a last resort; (8) The parties to attend 12 sessions of co-parenting counseling with either Tom Paderna or Carol Greenfield and Petitioner to pay the cost thereof; (9) Petitioner to pay \$5,000 in attorney's fees to Respondent; (10) Petitioner be sanctioned \$2,500 for his violations of court orders; (11) Costs, fees and sanctions to be paid within 30 days of the hearing date.

The parties attended CCRC on March 30th. According to the CCRC counselor the parties reached agreements on the child's attendance at Cadence Academy and the cost thereof, non-school exchanges, extra-curricular activities, co-parenting counseling and communication via Talkingparents. The agreements are codified in full in the CCRC report dated March 30, 2023.

Petitioner's responsive declaration confirms the parties reached agreements on all issues at CCRC. Petitioner requests the court adopt the agreements as stated in the CCRC report and decline to award Respondent attorney's fees. Petitioner states the CCRC report was forwarded to Respondent along with a stipulation agreeing to adopt them as the orders of the court and drop the present hearing. Respondent refused unless Petitioner agreed to two additional terms: (1) The minor attend a kindergarten in a more "racially diverse" school and

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 25, 2023

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

school expenses be split 60/40 instead of 50/50 as agreed to in mediation; and (2) That the co-parenting counselor be bi-racial or a person of color. Petitioner objects to the inclusion of any racial requirements in the court's orders. Likewise, he objects to an order for attorney's fees and sanctions. He notes that he has already paid \$3,400 in fees for Respondent. Further, he argues that Respondent's failure to stipulate to the CCRC report is in and of itself, sanctionable.

Respondent maintains that while the CCRC report does contain some of the agreements between the parties, there are additional agreements that are not listed in the report and Petitioner is still not complying with court orders. CCRC states the parties agreed the minor will continue attending Cadence Academy three days per week. Despite this, Petitioner continues his refusal to drive the child to school. Likewise, the parties agreed to split the child's educational costs, but Respondent states Petitioner still has not reimbursed her for amounts she has incurred. She requests a 40/60 split which amounts to a reimbursement of \$3,511.20. Respondent requests the following additional orders: (1) Full legal custody with Petitioner to have parenting time every other weekend and Wednesday afternoon from 3:00pm to 7:00pm; (2) The child to attend Cadence Academy three days per week for the remainder of this academic year; (3) The child to be enrolled in Carl Sundahl for kindergarten; (4) Counseling with a bi-racial or person of color co-parenting counselor as agreed upon in mediation; (5) Reimbursement of \$3,511.20 in preschool expenses which is consistent with a split of 40/60; (6) Court ordered sanctions in the amount of \$3,000 as opposed to the previously requested \$2,500.

The court has reviewed the aforementioned filings and makes the following orders in the best interest of the minor. The agreements as contained in the CCRC report are adopted as the orders of the court. According to the report, Respondent agreed to a 50/50 split of the child's educational costs, as such Respondent's request to split those costs 60/40 is denied. Petitioner is ordered to pay Respondent \$2,926 as his portion of the school expenses. Payments may be made in monthly increments of \$487.67 until paid in full (approximately 6 months). Payments are due on the 1st of each month commencing with June 1st. If any payment is missed or late the entire amount shall become immediately due and payable.

According to the CCRC report the parties agreed to re-initiate co-parenting counseling. There was no reference to a preference on the therapist's race and the court declines to make this ruling. It is clear the parties need to work together to ensure they are acting in the best interest of the child. Counseling is to assist the parents in doing so, regardless of the counselor's race. Further, the court is concerned with the legality and enforceability of making such a ruling. Respondent's request for an order appointing a bi-racial therapist or a person of color as the therapist is denied. Petitioner is to provide Respondent with the names of three co-parenting counselors no later than June 8th. Respondent is to choose one and notify Petitioner

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 25, 2023

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

of her choice no later than June 22nd. The parties are to commence counseling as soon as possible thereafter and are to continue at a frequency and duration as recommended by the counselor.

The parties did agree that the minor would continue to attend Cadence Academy three days a week and then be enrolled in the Folsom School District. Carl Sundahl is within the Folsom school district and Respondent did provide Petitioner notice of her interest in enrolling the minor in the school two and a half weeks prior to him responding with his objection to the enrollment. Because the school is within the district agreed to by Petitioner and because Petitioner has not provided any reason why attendance at Carl Sundahl is not in the minor's best interest, the court orders the child to be enrolled in Carl Sundahl for kindergarten.

Regarding Respondent's requested changes to the parenting time schedule, it is the policy of the state to ensure the child has frequent and continuing contact with both parents as long as such contact remains in the child's best interest. In the situation at hand, it does appear to be in the child's best interest to continue contact with both parents as frequently as possible. However, it is certainly not in his best interest to miss school during Petitioner's parenting time. It appears that Petitioner has agreed to the minor's enrollment at Cadence Academy at two separate mediations. In that case, the court declines to modify the parenting schedule, however, Petitioner is ordered to ensure that the minor does not miss school (whether at Cadence Academy, Carl Sundahl, or any other school moving forward) while the minor is in the custody of Petitioner unless there is a valid reason for the absence.

The court is not inclined to award Respondent sole legal custody; however, both parties are admonished to ensure that their responses to matters of legal custody are made in a timely manner. The parties are to continue sharing joint legal custody. If either party sends the other communication regarding a legal custody matter, the receiving party is to respond no later than 72 hours from the date/time of the communication on non-urgent matters and within 24 hours on urgent matters. Absent an emergency or prior notice of the party's unavailability, if the receiving party fails to respond within the allotted 72-hour, or 24-hour, time period then the requesting party shall have final decision-making authority on that issue.

Respondent has requested Petitioner be ordered to take anger management classes. Other than stating she has seen Petitioner lose his temper in the past, Respondent has not provided any additional evidence that Petitioner has difficulty controlling his anger. As such, Respondent's request for Petitioner to attend anger management classes is denied. That said, both parties are prohibited from spanking the child.

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 25, 2023

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

ability to obtain effective legal representation.” *In Re Marriage Of Keech*, 75 Cal. App. 4th 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. 4th 238,251(2009).

In ruling on a request for 2030 fees, the court must first determine whether a disparity exists in the ability to pay for, and access to funds to retain, counsel. This element has been met. Petitioner’s monthly income is well in excess of Respondent’s. Additionally, Petitioner has extensive assets in his cash, checking and other deposit accounts. Petitioner has sufficient funds to assist in the payment of Respondent’s fees.

Finally, the court must determine whether the fees and costs requested are reasonably necessary. Respondent maintains that to date she has paid her attorney \$16,800. Petitioner was previously ordered to pay \$3,400. In Respondent’s RFO she requests \$2,500 in attorney’s fees, however, in her declaration attached to the RFO she requests \$5,000. Counsel’s declaration in support of the requested attorney’s fees establishes \$2,500 as the amount reasonably incurred. As such, Petitioner is to pay Respondent’s attorney \$2,500 as and for attorney’s fees. Payment may be made in one lump sum or in monthly increments of \$500 due on the 15th of each month commencing with June 15th. If any payment is late or missed the entire amount shall become immediately due and payable.

Respondent has also made a 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 extent to which the conduct of each party or attorney furthers or frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation by encouraging cooperation of the parties...” Fam. Code § 271(a). Respondent makes her request on the basis that Petitioner stopped driving the child to school and was non-responsive to attempts to resolve the matter informally. Petitioner maintains that he simply no longer needed childcare and that is why he stopped taking the child to preschool. It does not appear that Petitioner’s actions warrant Section 271 sanctions. Documentation provided by Respondent does appear that Petitioner attempted to discuss the matter informally. The parties’ inability to come to an agreement is not, by itself, sanctionable. Respondent’s request for sanctions pursuant to Family Code section 271 is denied.

TENTATIVE RULING #4: THE AGREEMENTS AS CONTAINED IN THE CCRC REPORT ARE ADOPTED AS THE ORDERS OF THE COURT. PETITIONER IS ORDERED TO PAY RESPONDENT \$2,926 AS HIS PORTION OF THE SCHOOL EXPENSES. PAYMENTS MAY BE MADE IN MONTHLY INCREMENTS OF \$487.67 UNTIL PAID IN FULL (APPROXIMATELY 6 MONTHS). PAYMENTS ARE DUE ON THE 1ST OF EACH MONTH COMMENCING WITH JUNE 1ST. IF ANY PAYMENT IS MISSED OR LATE THE ENTIRE AMOUNT SHALL BECOME IMMEDIATELY DUE AND PAYABLE.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 25, 2023

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

RESPONDENT'S REQUEST FOR AN ORDER APPOINTING A BI-RACIAL THERAPIST OR A PERSON OF COLOR AS THE THERAPIST IS DENIED. PETITIONER IS TO PROVIDE RESPONDENT WITH THE NAMES OF THREE CO-PARENTING COUNSELORS NO LATER THAN JUNE 8TH. RESPONDENT IS TO CHOOSE ONE AND NOTIFY PETITIONER OF HER CHOICE NO LATER THAN JUNE 22ND. THE PARTIES ARE TO COMMENCE COUNSELING AS SOON AS POSSIBLE THEREAFTER AND ARE TO CONTINUE AT A FREQUENCY AND DURATION AS RECOMMENDED BY THE COUNSELOR.

THE COURT ORDERS THE CHILD TO BE ENROLLED IN CARL SUNDAHL FOR KINDERGARTEN. THE COURT DECLINES TO MODIFY THE PARENTING SCHEDULE, HOWEVER, PETITIONER IS ORDERED TO ENSURE THAT THE MINOR DOES NOT MISS SCHOOL (WHETHER AT CADENCE ACADEMY, CARL SUNDAHL, OR ANY OTHER SCHOOL MOVING FORWARD) WHILE THE MINOR IS IN THE CUSTODY OF PETITIONER UNLESS THERE IS A VALID REASON FOR THE ABSENCE.

THE PARTIES ARE TO CONTINUE SHARING JOINT LEGAL CUSTODY. IF EITHER PARTY SENDS THE OTHER COMMUNICATION REGARDING A LEGAL CUSTODY MATTER, THE RECEIVING PARTY IS TO RESPOND NO LATER THAN 72 HOURS FROM THE DATE/TIME OF THE COMMUNICATION ON NON-URGENT MATTERS AND WITHIN 24 HOURS ON URGENT MATTERS. ABSENT AN EMERGENCY OR PRIOR NOTICE OF THE PARTY'S UNAVAILABILITY, IF THE RECEIVING PARTY FAILS TO RESPOND WITHIN THE ALLOTTED 72-HOUR, OR 24-HOUR, TIME PERIOD THEN THE REQUESTING PARTY SHALL HAVE FINAL DECISION-MAKING AUTHORITY ON THAT ISSUE.

RESPONDENT'S REQUEST FOR PETITIONER TO ATTEND ANGER MANAGEMENT CLASSES IS DENIED. BOTH PARTIES ARE PROHIBITED FROM SPANKING THE CHILD.

PETITIONER IS TO PAY RESPONDENT'S ATTORNEY \$2,500 AS AND FOR ATTORNEY'S FEES. PAYMENT MAY BE MADE IN ONE LUMP SUM OR IN MONTHLY INCREMENTS OF \$500 DUE ON THE 15TH OF EACH MONTH COMMENCING WITH JUNE 15TH. IF ANY PAYMENT IS LATE OR MISSED THE ENTIRE AMOUNT SHALL BECOME IMMEDIATELY DUE AND PAYABLE.

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 25, 2023

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

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ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 25, 2023

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

5. GERGANA MUDROVA V. PAUL BONDAR

22FL0444

On March 7, 2023, Petitioner filed a Request for Order (RFO) seeking custody and visitation orders, child support orders and orders regarding a vocational evaluation and reunification counseling. The RFO, Petitioner's Income and Expense Declaration and all other required documents were electronically served on March 8th. The parties were referred to Child Custody Recommending Counseling (CCRC) and a hearing was set for the present date. Respondent has not filed a Responsive Declaration to Request for Order.

By way of her RFO, Petitioner makes the following requests: (1) Full physical and legal custody; (2) Respondent ordered to pay one-half of childcare and healthcare expenses as per the court's September 28, 2022 order; (3) Respondent be ordered to undergo a vocational evaluation; and (5) Reunification counseling for Respondent and the minor.

The parties attended CCRC on March 24th and were able to reach a full agreement. A report codifying the agreement was issued by CCRC the same day. The court has reviewed the agreement reached by the parties and finds it to be in the best interest of the minor. The court hereby adopts the agreement stated in the March 24th CCRC report as the order of the court. The issue of child support has already been heard by the Child Support Commissioner.

TENTATIVE RULING #5: THE COURT HEREBY ADOPTS THE AGREEMENT STATED IN THE MARCH 24TH CCRC REPORT AS THE ORDER OF THE COURT. THE ISSUE OF CHILD SUPPORT HAS ALREADY BEEN HEARD BY THE CHILD SUPPORT COMMISSIONER. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. 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
May 25, 2023
8:30 a.m./1:30 p.m.

6. JACQUELIN MULLINAX V. BRYAN MULLINAX

22FL0813

Parties appeared for a hearing on a request for a Domestic Violence Restraining Order (DVRO) on October 7, 2022. The court referred the parties to Child Custody Recommending Counseling (CCRC) and set a review hearing on January 12, 2023. Only Respondent appeared for the CCRC appointment on November 9, 2022. The parties were ordered to appear for hearing on January 12th at which time the court re-referred the parties to CCRC with an appointment on January 19th and set a hearing on the DVRO FOR March 10th.

The DVRO was granted at the March 10th hearing and temporary sole physical custody was awarded to Petitioner with Respondent to have professionally supervised visitation at least once per month for two hours. Respondent was ordered to pay 100% of the fees for visits. The court set the present hearing to review the CCRC report.

The court is not in receipt of a CCRC report. All prior orders remain in full force and effect.

TENTATIVE RULING #6: ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT.

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

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
May 25, 2023
8:30 a.m./1:30 p.m.

7. JOEL MADRIGAL V. GOLDEE MADRIGAL

PFL20150454

Respondent filed a Request for Order (RFO) seeking to modify the visitation schedule. The parties were referred to Child Custody Recommending Counseling (CCRC) and a hearing on the RFO was set for January 19, 2023. After both parties missed CCRC they stipulated to continue the January 19th hearing and obtain a rereferral to CCRC. The court adopted the parties' stipulation and rereferred the parties to CCRC for an appointment on January 18, 2023 and a review hearing date of March 9, 2023.

Only Petitioner appeared for the January 18th CCRC appointment. As such, a single parent CCRC report was filed on January 19, 2023.

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

The matter came before the court for hearing on March 9th at which time the court confirmed the dates selected by the parties and admonished the parties that failure to appear for CCRC may result in sanctions. Any Supplemental Declarations were ordered to be filed with the court at least 10 days prior to the hearing.

Minor's Counsel's Statement of Issues and Contentions and Request for Orders was filed on May 10th and served on May 12th. Minor's Counsel is of the opinion that the current orders should remain as-is. She states that Respondent makes her request on the basis that the children's schoolwork is suffering, and she believes that she can be a more present and involved parent. Minor's Counsel found no evidence that changing the current schedule was necessary. In fact, she is of the opinion that Respondent has been having inappropriate conversations with the minors regarding the court proceedings and the orders should not be amended for that reason.

The parties attended CCRC on April 13th and a report was issued on May 15th. The CCRC counselor is also of the opinion that the current orders should remain in place.

The court is in agreement with the CCRC counselor and Minor's Counsel. There does not appear to have been a change in circumstances that would justify altering the visitation schedule which has remained in place since October of 2021. In fact, the court is concerned that additional time with Respondent would be detrimental to the children given the reports of her comments regarding Petitioner, the children, and the ongoing court proceedings. Respondent is admonished not to make negative comments regarding Petitioner to, or in the

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 25, 2023

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

presence of, the minors. Likewise, she is not to discuss court proceedings with, or in the presence of, the minors. All prior orders remain in full force and effect.

TENATIVE RULING #7: ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. RESPONDENT IS ADMONISHED NOT TO MAKE NEGATIVE COMMENTS REGARDING PETITIONER TO, OR IN THE PRESENCE OF, THE MINORS. LIKewise, SHE IS NOT TO DISCUSS COURT PROCEEDINGS WITH, OR IN THE PRESENCE OF, THE MINORS. RESPONDENT 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

May 25, 2023

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

8. JOSEPH BARRETT V. CASSANDRA DURANTE

PFL20120799

On December 28, 2022, Minor's Counsel filed a Request for Order (RFO) and Statement of Issues and Contentions (SIC) requesting a referral for the parties to Child Custody Recommending Counseling (CCRC) and a review hearing to determine whether a modification of the current orders for contact between the minor and Respondent is in the minor's best interest. The parties were served the RFO and SIC by mail and electronically on December 27, 2022.

The court granted the request and referred the parties to CCRC with an appointment on April 6th and a review hearing set for the present date. Petitioner appeared for the CCRC appointment as scheduled, however Respondent did not appear. CCRC did note that it is unclear if the address on file with the court is still a good address for Respondent.

According to Petitioner, the minor has not spoken with Respondent since October of 2022; and she has not had visitation with Respondent since April of 2020. Petitioner requests the court ordered visitation be removed.

Minor's Counsel substantiates Petitioner's claim that there has been no in-person visitation since 2020. More recently, Respondent has shown little to no interest in continuing contact with the minor. When there has been phone contact between the two, Respondent has made inappropriate comments regarding the legal proceedings and other matters. Minor's Counsel has attempted to contact Respondent but has been unable to do so.

While CCRC indicated that the address for Respondent on file with the court may not be correct, it is Respondent's duty to serve on all parties, and file with the court, a written notice of change of address. Cal. Rule Ct. 2.200. "When an action is pending, an attorney or self-represented party has the burden of notifying the court of any change of address, and failure so to do does not enable them to claim improper notice." Kramer v. Traditional Escrow, Inc., 56 Cal. App. 5th 13, 31 (2020). As such, the court finds good cause to reach the matter on its merits.

When making orders regarding custody or visitation the court is to consider (1) the state's policy to ensure the child has frequent and continuing contact with both parents after a separation and (2) the health, welfare, and safety of the child. Cal. Fam. Code § 3020. Where these two factors are in conflict, the health, welfare, and safety of the child trumps the policy regarding parental contact. *Id.* at (c).

After reviewing the filings of the parties, it appears clear that contact with Respondent is not in the best interest of the minor at this time. Comments blaming the minor and/or Petitioner for Respondent's failure to visit the minor only serve to harm and confuse her.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 25, 2023

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

Likewise, Respondent's failure to maintain consistent contact with the minor is detrimental to her mental and emotional health. For these reasons the court feels it is in the best interest of the minor to award Petitioner temporary sole legal and physical custody. If/when Respondent wishes to resume contact with the minor, she may file an RFO and establish that she will reliably maintain frequent contact with the minor and she will not discuss the proceedings or other inappropriate topics with the minor.

TENTATIVE RULING #8: PETITIONER IS TO HAVE TEMPORARY SOLE LEGAL AND SOLE PHYSICAL CUSTODY. ALL PRIOR ORDERS ARE REMAIN IN FULL FORCE AND EFFECT. MINOR'S COUNSEL IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 25, 2023

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

9. JUSTIN SIMARRO V. YAHAIIRA SIMARRO

PFL20200099

On March 7, 2023, Petitioner filed a Request for Order (RFO) seeking custody and visitation orders. The parties were referred to Child Custody Recommending Counseling (CCRC) and a hearing was set for the present date. There is no Proof of Service on file indicating proper service of the RFO, CCRC referral or any other required documents. Respondent did file and serve a Responsive Declaration to Request for Order on May 2nd. However, neither party appeared at CCRC.

The matter is dropped from calendar for lack of proper service.

TENTATIVE RULING #9: THE MATTER IS DROPPED FROM CALENDAR FOR 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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 25, 2023

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

10. RICHARD CREVIER V. CHRISTINE CREVIER

PFL20190104

Respondent filed an Order to Show Cause and Affidavit for Contempt (OSC) on March 6, 2023. Petitioner was personally served on March 13th. Respondent alleges violations of the Marital Settlement Agreement and Judgment entered September 15, 2022.

The parties are ordered to appear for arraignment.

TENTATIVE RULING #10: THE PARTIES ARE ORDERED TO APPEAR FOR ARRAIGNMENT.