

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

June 22, 2023

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

**1. AMANDA MOORE V. JONATHAN SALAZAR-ALVAREZ**

**PFL20170433**

On March 28, 2023 Petitioner filed and served a Request for Order (RFO) seeking orders for visitation and child support. Concurrently filed with her RFO was Petitioner's Income and Expense Declaration. The RFO, the Income and Expense Declaration, and all other required documents were mail served on April 6, 2023. This is a post-judgment RFO which was mail served, as such, Petitioner properly filed her Declaration Regarding Address Verification – Post Judgment Request to Modify a Child Custody, Visitation, or Child Support Order. Respondent has not filed a Responsive Declaration to Request for Order.

The parties were referred to an appointment with Child Custody Recommending Counseling (CCRC) on May 11, 2023. Only Petitioner appeared at the appointment. CCRC, therefore, submitted a single parent report in which the CCRC counselor was unable to provide the court with any recommendations.

On August 29, 2022, the parties submitted a Stipulation and Order for Custody and/or Visitation of Children wherein it was agreed that Respondent would have one weekend per month from Saturday at 8:00 a.m. to Sunday at 6:30 p.m. and two weekdays per month from 3:00 p.m. to 6:30 p.m. The parties agreed to decide on which weekend and which weekdays the visits would occur in advance of each month. Despite the agreed upon visitation schedule, Petitioner states that Respondent has not seen the children since February 5, 2023. He phoned them once on April 3, 2023. Petitioner requests the visits be modified to eliminate the overnight visit. Instead, she requests visits on one weekend per month from 10:00 a.m. to 3:00 p.m. on both Saturday and Sunday and two weekdays per month from 3:00 p.m. to 6:30 p.m. She also requests guideline child support in accordance with the new timeshare and she requests an order directing Respondent to provide Petitioner with his current address and locations where he will take the children during the visits.

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).

While the court recognizes the importance of contact with both parents, it is not in keeping with the best interests of the minors to order overnight visits with Respondent where they have had little to no contact with him in months, and Respondent has failed to provide the court with any justification for his failure to exercise his visitation. As such, the court finds it to be in the best interest of the minors to order visitation to be as follows. Respondent is to have visits on one weekend per month from 10:00 a.m. to 3:00 p.m. on Saturday and Sunday each,

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and two weekdays per month from 3:00 p.m. to 6:30 p.m. The parties are to mutually agree on the dates for the visits ahead of time. If the parties cannot agree, Petitioner is to have final say.

Petitioner is requesting Respondent provide her with his current address. However, according to the address verification form, Petitioner confirmed Respondent's address within the past 30 days. This gives rise to some concern over the validity of the address verification form; that said, Respondent is ordered to provide Petitioner with his current address and any and all additional addresses where Respondent will have the children during his visitation time.

Regarding child support, the court does not have an Income and Expense Declaration for Respondent, though Petitioner estimates his income to be \$4,500 per month. The court continues the matter of child support to 07/24/23 at 8:30 AM in department 8. Respondent is ordered to file and serve his completed Income and Expense Declaration no later than 10 days prior to the hearing date. If Respondent fails to file his completed Income and Expense Declaration in accordance with this order, the court will use Petitioner's estimate of \$4,500 to calculate child support. The court reserves jurisdiction to award child support back to date of filing the RFO.

All prior orders not in conflict with this order remain in full force and effect.

**TENTATIVE RULING #1: RESPONDENT IS TO HAVE VISITS ON ONE WEEKEND PER MONTH FROM 10:00 A.M. TO 3:00 P.M. ON SATURDAY AND SUNDAY EACH, AND TWO WEEKDAYS PER MONTH FROM 3:00 P.M. TO 6:30 P.M. THE PARTIES ARE TO MUTUALLY AGREE ON THE DATES FOR THE VISITS AHEAD OF TIME. IF THE PARTIES CANNOT AGREE, PETITIONER IS TO HAVE FINAL SAY. FURTHER, RESPONDENT IS ORDERED TO PROVIDE PETITIONER WITH HIS CURRENT ADDRESS AND ANY AND ALL ADDITIONAL ADDRESSES WHERE RESPONDENT WILL HAVE THE CHILDREN DURING HIS VISITATION TIME. REGARDING CHILD SUPPORT, THE COURT DOES NOT HAVE AN INCOME AND EXPENSE DECLARATION FOR RESPONDENT, THOUGH PETITIONER ESTIMATES HIS INCOME TO BE \$4,500 PER MONTH. THE COURT CONTINUES THE MATTER OF CHILD SUPPORT TO 7/24/23 AT 8:30 AM IN DEPARTMENT 8. RESPONDENT IS ORDERED TO FILE AND SERVE HIS COMPLETED INCOME AND EXPENSE DECLARATION NO LATER THAN 10 DAYS PRIOR TO THE HEARING DATE. IF RESPONDENT FAILS TO FILE HIS COMPLETED INCOME AND EXPENSE DECLARATION IN ACCORDANCE WITH THIS ORDER, THE COURT WILL USE PETITIONER'S ESTIMATE OF \$4,500 TO CALCULATE CHILD SUPPORT. THE COURT RESERVES JURISDICTION TO AWARD CHILD SUPPORT BACK TO DATE OF FILING THE RFO. 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**

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**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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**2. ANNE MCNELIS V. FERRIS NUESMEYER**

**PFL20160411**

Petitioner filed a Request for Order (RFO) on April 5, 2023. It was mail served on April 20, 2023. This is a post judgment request which therefore requires personal service or the filing of an address verification form which Petitioner has not filed. The Department of Child Support Services (DCSS) filed a Responsive Declaration to Request for Order. However, Respondent has not filed a responsive declaration.

The matter is dropped from calendar due to lack of proper service.

**TENTATIVE RULING #2: THE MATTER IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE.**

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**4. DARBARA SIDHU V. FATEMEH SIDHU**

**22FL0406**

This matter is before the court on a Request for Order (RFO) filed by Respondent on March 14, 2023. Respondent's Income and Expense Declaration and an Attorney Declaration in Support of Respondent's Request for Attorney Fees Pursuant to FC 2030 and FC 271, were filed concurrently with the RFO. All documents were electronically served on March 20<sup>th</sup>.

Petitioner filed his Responsive Declaration to Request for Order and his Income and Expense Declaration on June 9<sup>th</sup>. Both were served on June 6<sup>th</sup>. Respondent has not filed a Reply Declaration.

Respondent requests the court make orders regarding spousal support, attorney's fees pursuant to Family Code section 2030 and sanctions pursuant to Family Code section 271. She proposes that upon receiving spousal support she will be solely responsible for the mortgage and the property taxes for the marital residence. She states she has included an Xspousal calculation, though there does not appear to be one attached to the pleadings.

According to Respondent, Petitioner has the ability to pay attorney's fees for both himself, and Respondent given his significant 401k assets as well as a restricted stock award he received from his company in May of 2022. Additionally, she asks the court to consider duplicative litigation in two different states which has caused her to incur excessive attorney's fees. She is requesting \$12,000 in attorney's fees and costs.

In addition to her request for Section 2030 attorney's fees, Respondent is requesting Section 271 sanctions. She requests sanctions on the basis for Petitioner's redundant litigation and gamesmanship. Previously Respondent had filed for divorce in California while Petitioner had filed in Missouri. Petitioner had the California matter dismissed and was awarded sanctions against Respondent for the filing. Thereafter, he filed to dismiss the Missouri case and then re-filed in California. This has caused Respondent to incur significant attorney's fees.

Petitioner objects to all of the requested orders. He states he was terminated from his job at the end of March 2022 and has not had any income since that time despite his efforts to obtain work. He has withdrawn money from his 401k to pay for living expenses. Given his current financial position he believes Respondent owes him spousal support. Additionally, he requests \$1,500 in attorney's fees pursuant to Family Code section 2030.

Generally, the court would rely on the Income and Expense Declarations of the respective parties to make orders regarding support. However, in this instance the court has concerns with some inconsistencies between Petitioner's income and expenses. Most notably, Petitioner's claim that he has been unemployed for over a year, though his monthly living expenses are in excess of \$10,000. He states he took \$30,000 from retirement to cover his

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expenses but at the rate listed in his Income and Expense Declaration he would have been out of money in approximately three months. Additionally, Petitioner did not submit any of the required documentation to support his Income and Expense Declaration. Given these concerns, the parties are ordered to appear to select trial and Mandatory Settlement Conference dates.

**TENTATIVE RULING #4: THE PARTIES ARE ORDERED TO APPEAR TO SELECT TRIAL AND MANDATORY SETTLEMENT CONFERENCE DATES.**

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**5. DARLA WELLS V. STEVEN WELLS**

**PFL20080335**

Petitioner filed a Request for Order (RFO) on September 27, 2022, requesting a modification of permanent spousal support, specifically, a modification of the termination date as set forth in the September 23, 2011 Marital Settlement Agreement. Petitioner concurrently filed an Income and Expense Declaration. Respondent was personally served on September 29, 2022.

Respondent filed a Responsive Declaration and Income and Expense Declaration on November 23, 2022. Petitioner was served with the Responsive Declaration by mail on November 22, 2022. Petitioner was served with the Income and Expense Declaration electronically on November 23, 2022. Respondent objects to the requested modification.

Parties appeared for the hearing on December 8, 2022 and presented argument. The court ordered further briefing on the issue of whether Petitioner was required to meet a prima facie burden of material change in circumstances in her pleadings for the court to proceed with an evidentiary hearing on the RFO. The court set a briefing schedule and set a further review hearing for March 16, 2023. The court reserved jurisdiction to retroactively modify spousal support to the date of the RFO. The court reserved jurisdiction to retroactive modify the request for attorney's fees and sanctions to the date the response was filed.

Petitioner filed her Brief on January 12, 2023 along with a Supplemental Declaration in support of the RFO. Respondent was served by mail on January 11, 2023. Petitioner concedes the court may require the moving party to make a prima facie showing of changed circumstances prior to proceeding to an evidentiary hearing. Petitioner asserts, however, that she has met that burden, based on Respondent's increase in salary, and Petitioner's ongoing needs.

Respondent filed a memorandum of Points and Authorities on February 14, 2023. Petitioner was served electronically on February 14, 2023. Respondent concurs a prima facie showing can be required prior to the court setting an evidentiary hearing. Respondent asserts Petitioner has failed to do so in her initial filing. Respondent asserts that nothing in Petitioner's initial declaration set forth any change in circumstances, but rather are a listing of her perceived mistakes from the 2015 trial.

Petitioner filed a Reply Brief on February 21, 2023. Respondent was served by mail on February 17, 2023. Petitioner asserts she was not privy Respondent's increase in income until he filed his Income and Expense Declaration. Further, Petitioner asserts the step-down order must be based on reasonable assumptions as to future circumstances, and that if the

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circumstances fail to materialize, then the failure is treated as a change in circumstances. Petitioner states the trial court order assumed Petitioner would be self-supporting by October 1, 2022, and this has not materialized. Petitioner also states the trial orders assumed that Petitioner would be able to meet her needs by October 1, 2022, and that is a change in circumstances. Last, Petitioner requests the court consider the Supplemental Declaration, as she filed her RFO in persona propria and had the assistance of counsel in preparing the Supplemental Declaration.

The court has read and considered the filings as outlined above, as well as the parties September 23, 2011 Marital Settlement Agreement (MSA), which contains the provision for spousal support. The court finds the provision for spousal support set a termination date of October 1, 2022, not the trial court. While generally a party's changed income would not constitute a change in circumstances sufficient to warrant a change in court ordered spousal support, the terms of the MSA itself state that "modification by agreement between the parties based on a reevaluation due to significant change in either party's income, or modification, or termination by further court order whichever occurs first..." The court is considering Petitioner's Supplemental Declaration as well as Respondent's filings in this matter. The court finds Petitioner has met her burden to show there has been a change in circumstances given the increase in Respondent's income. Moreover, the current orders presumed that Petitioner would be self-supporting by the termination date. Petitioner maintains that is not the case. As such, the court finds this change in circumstances to be sufficient to meet Petitioner's burden of proof and move forward with an evidentiary hearing on the matter.

Parties are ordered to appear to select Mandatory Settlement Conference and Trial dates.

**TENTATIVE RULING #3: THE COURT FINDS PETITIONER HAS MET HER PRIMA FACIE BURDEN TO SHOW A MATERIAL CHANGE IN CIRCUMSTANCES SUCH TO WARRANT AN EVIDENTIARY HEARING ON THE FAMILY CODE SECTION 4320 FACTORS. PARTIES ARE ORDERED TO APPEAR SELECT MANDATORY SETTLEMENT CONFERENCE AND TRIAL DATES.**

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**6. KEVIN VANDELINDER V. BRIANA THORNTON**

**PFL20180810**

Petitioner filed a Request for Order (RFO) on October 31, 2022 seeking changes in custody, as well as an award of attorney's fees. The RFO and all other required documents were served on Respondent on December 26, 2022. Respondent did not file a Responsive Declaration.

The parties appeared for hearing on February 9, 2023, at which time the court awarded Petitioner sole legal and sole physical custody. Respondent was granted professionally supervised visits once per month for one hour with the following terms: (1) Respondent to choose a facility for the visits no later than February 28, 2023; (2) Petitioner to schedule visits; (3) Respondent to pay for all visits; (4) Respondent to participate in the visits alone without bringing any family or other individuals with her; (5) If Respondent appears under the influence the visit will be cancelled and no other visits will be scheduled; (6) Visits are terminated if Respondent misses a visit without prior notification. Pending Respondent's compliance with all of the court's terms, visitation was to step up from once per month to twice per month beginning June of 2023. The court instituted additional orders directing Respondent to submit to a hair follicle test no later than March 9, 2023, as well as random drug testing on a regular basis. She was also ordered to participate in Narcotics Anonymous and provide Petitioner with proof thereof. Petitioner's request for attorney's fees was denied. The court set a review hearing for the present date to assess the status of the visits.

Counsel for Petitioner filed a Declaration on June 7, 2023. There is no Proof of Service on file evidencing service on Respondent. As such, the court has not read or considered this document.

The parties are ordered to appear to update the court on the status of the visits and discuss the step-up plan.

**TENTATIVE RULING #6: THE PARTIES ARE ORDERED TO APPEAR TO UPDATE THE COURT ON THE STATUS OF THE VISITS AND DISCUSS THE STEP-UP PLAN.**

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**7. KIMBERLY CLINE V. MICHAEL CLINE**

**PFL20120356**

This matter is before the court on a Request for Order (RFO) filed by Respondent on February 15, 2023. The RFO and all other required documents were electronically served, and mail served, on February 7<sup>th</sup> and February 21<sup>st</sup> respectively. Petitioner filed her Responsive Declaration to Request for Order on March 8, 2023. It was electronically served the same day.

The matter was originally set for hearing on March 27<sup>th</sup>, that was continued to April 4<sup>th</sup> for calculation of child support by the Child Support Commissioner. The commissioner ruled on child support and continued all remaining issues to the present hearing date.

The court notes this is a post-judgment request for modification of support and therefore it was not properly served. However, given that Petitioner filed her Responsive Declaration and given that the Child Support Commissioner has already ruled on the issue of support, the court finds good cause to reach the matter on the merits.

Respondent requests recalculation/allocation of college tuition cost sharing, splitting airline costs for the younger minor, cost sharing for the court required co-parenting counselor, and cost sharing for the court ordered 730 custody evaluation. Respondent makes these requests on the basis of changed circumstances as he is no longer employed as of January 12, 2023.

According to Petitioner, the parties agreed to equally contribute to the college education of both children despite the fact that child support is not enforceable after age 18. The agreement was later changed to cap Respondent's contribution at \$10,000 or one half of the actual costs, whichever is lower. Petitioner argues this is a provision in the Marital Settlement Agreement and not subject to modification except on the mutual agreement of the parties. She does not agree to the requested modification.

Similarly, Petitioner argues the order for sharing the airline costs is included in the Marital Settlement Agreement entered into by the parties. Petitioner objects to any modification thereof.

Regarding the cost of the 730 Evaluation, Petitioner concedes that court has retained jurisdiction over this issue however she notes that according to Respondent's Income and Expense Declaration he has \$365,000 in assets he could easily liquidate. As such, she opposes Respondent's request to reallocate the payment of these fees. Petitioner did not address the cost of co-parenting counseling.

Petitioner requests the court order Respondent to seek work by submitting five job applications per week and provide Petitioner with a copy thereof to ensure compliance with the court order.

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Petitioner is well founded in her argument that the court does not have jurisdiction over the marital settlement agreement unless jurisdiction is specifically reserved over the issues in question. Further, the court does not have jurisdiction to order support, including the payment of college tuition, for the children after the age of 18. Respondent's requests to modify the parties' agreements regarding cost sharing of college tuition and the payment of flights for the younger minor are denied.

The court has retained jurisdiction over the cost allocation of the 730 Evaluation fees. In reviewing the Income and Expense Declarations of the parties there is a significant disparity in income between the parties especially in light of Respondent's unemployment. Accordingly, the court orders Petitioner to pay the entire remaining cost of the 730 Evaluation. The court retains jurisdiction to reallocate the cost of the evaluation at a future date.

Given the change in Respondent's employment status, the court also finds grounds to amend its prior order regarding the cost of coparenting counseling. Petitioner is to pay the entire cost of co-parenting counseling moving forward. The court retains jurisdiction to reallocate the cost of co-parenting counseling.

Respondent is advised that it is the goal of the State of California that both parties shall become and remain self-supporting to the best of their ability. In furtherance of that goal, Respondent is ordered to submit three (3) job applications per week. Respondent is to provide Petitioner's counsel with proof of submittal for each application, with confidential information redacted. Respondent is ordered to notify Petitioner's counsel within 48 hours of his date of hire.

**TENTATIVE RULING #7: RESPONDENT'S REQUESTS TO MODIFY THE PARTIES' AGREEMENTS REGARDING COST SHARING OF COLLEGE TUITION AND THE PAYMENT OF FLIGHTS FOR THE YOUNGER MINOR ARE DENIED. THE COURT ORDERS PETITIONER TO PAY THE ENTIRE REMAINING COST OF THE 730 EVALUATION. THE COURT RETAINS JURISDICTION TO REALLOCATE THE COST OF THE EVALUATION AT A FUTURE DATE. PETITIONER IS TO PAY THE ENTIRE COST OF CO-PARENTING COUNSELING MOVING FORWARD. THE COURT RETAINS JURISDICTION TO REALLOCATE THE COST OF CO-PARENTING COUNSELING. RESPONDENT IS ORDERED TO SUBMIT THREE (3) JOB APPLICATIONS PER WEEK. RESPONDENT IS TO PROVIDE PETITIONER'S COUNSEL WITH PROOF OF SUBMITTAL FOR EACH APPLICATION, WITH CONFIDENTIAL INFORMATION REDACTED. RESPONDENT IS ORDERED TO NOTIFY PETITIONER'S COUNSEL WITHIN 48 HOURS OF HIS DATE OF HIRE. 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.**

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**8. LISA TOMASON V. LOUIS MOLAKIDES**

**PFL20210494**

Respondent filed an updating Declaration on February 7, 2023, for the 3111 review hearing set for February 23, 2023. Petitioner was served electronically on February 7, 2023. According to Respondent, the 3111 Evaluation was in progress and the evaluator expected it to be completed by the end of May or beginning of June. Respondent requested the court specify Petitioner's parenting time as set forth in his declaration, as there had been problems in the past when specific dates were not identified. Respondent also requested the court order sanctions against Petitioner pursuant to Family Code Section 271 for her failure to appear at the court hearing on September 5, 2022 after requesting oral argument, as well as for her failure to appear after requesting oral argument on November 3, 2022. Respondent also requested the court order Family Code Section 271 sanctions against Petitioner for her filing frivolous ex parte applications and failure to follow proper procedure and service requirements. Respondent requested \$5,000 in attorney's fees as sanctions.

Respondent filed an Income and Expense Declaration as well as a Memorandum of Points and Authorities and Declaration from Counsel on February 7, 2023. Petitioner was served electronically on February 7, 2023. Respondent reiterated his requests for Family Code Section 271 sanctions for Petitioner's failure to appear at two hearings after requesting oral argument, failure to follow proper procedure for ex parte filings, as well as failure to properly serve Respondent.

The court issued its tentative ruling which, among other things, awarded sanctions to Respondent and continued the review hearing on the 3111 Evaluation to the present date. Oral argument was requested, and Counsel for Respondent requested a continuance of the Section 271 sanctions to join with the 3111 hearing. The court granted the request, and those issues were set to be heard on June 22, 2023, however, the parties submitted a stipulation to continue the hearing on the 3111 Evaluation to August 24, 2023. The stipulation became the order of the court on June 12, 2023. The issue of Section 271 sanctions remains pending.

Neither party has submitted an updated declaration addressing the issue of sanctions since the February hearing.

Family Code Section 271 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).

It appears evident that Petitioner's conduct does in fact, frustrate the policy of the law to promote settlement and reduce the costs of litigation. Given Petitioner's lack of cooperation, failure to appear for hearing in which she requested oral argument, and failure to follow proper

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procedure and provide proper notice on multiple occasions in this matter the court finds it appropriate to award Respondent \$2,500 in sanctions.

Sanctions may be paid in one lump sum or in monthly increments of \$200 due and payable to Respondent's counsel on the 15th of each month, with payments to begin March 15, 2023. If any payment is missed or late, the entire outstanding amount is to become due and payable within five days of the date the late or missed payment was originally due.

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 #8: THE COURT GRANTS RESPONDENT'S REQUEST FOR FAMILY CODE SECTION 271 SANCTIONS IN THE AMOUNT OF \$2,500. SANCTIONS MAY BE PAID IN ONE LUMP SUM OR IN MONTHLY INCREMENTS OF \$200 DUE AND PAYABLE TO RESPONDENT'S COUNSEL ON THE 15TH OF EACH MONTH, WITH PAYMENTS TO BEGIN MARCH 15, 2023. IF ANY PAYMENT IS MISSED OR LATE, THE ENTIRE OUTSTANDING AMOUNT IS TO BECOME DUE AND PAYABLE WITHIN FIVE DAYS OF THE DATE THE LATE OR MISSED PAYMENT WAS ORIGINALLY DUE. 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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**9. MICHELE SAKA V. MAXIM SAKA**

**23FL0138**

This matter is before the court on a Request for Order (RFO) filed by Respondent on April 3, 2023. The RFO, a Memorandum of Points and Authorities, and all other required documents were mail served on April 10<sup>th</sup>. Petitioner has not filed a Responsive Declaration to Request for Order.

Respondent requests the court transfer this case to Sacramento County or, in the alternative, dismiss it for improper venue. According to Respondent, both parties have lived in Sacramento for the past twenty years. Neither has ever lived in El Dorado County. On December 5, 2022, Petitioner filed a Petition for Legal Separation of Marriage in Sacramento County.

California Civil Procedure section 395 governs the proper venue for dissolution proceedings. According to Section 395, the proper venue in a proceeding for dissolution of marriage is the superior court in the county where either the petitioner or the respondent resided for at least three months prior to the commencement of the proceeding. Cal. Civ. Pro. § 395(a). The court may, upon a properly noticed motion, transfer any matter where the court designated in the complaint is not the proper court. Cal. Civ. Pro. § 397(a). The burden is on the moving party to establish grounds for a change of venue. Fontaine v. Sup. Ct., 175 Cal. App. 4<sup>th</sup> 830 (2009).

Here, Respondent has clearly established that proper venue rests with Sacramento County. Neither party currently does, nor has within the past three months, resided in El Dorado County. Additionally, there are no support matters pending before this court that would preclude the transfer. As such, Respondent's request to transfer the matter to Sacramento County is granted upon payment of the transfer fees.

It is unclear to the court if Respondent is requesting attorney's fees. There is no request made in the RFO, nor any of the declarations, though it was clear that Petitioner was told that sanctions would be requested for necessitating this motion. Additionally, there is no amount requested nor any proof of amounts incurred. For these reasons, it does not appear a request for attorney's fees is pending before the court and the court declines to rule on the issue.

**TENTATIVE RULING #9: RESPONDENT'S REQUEST TO TRANSFER THE MATTER TO SACRAMENTO COUNTY IS GRANTED UPON PAYMENT OF THE TRANSFER FEES. 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**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

June 22, 2023

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

**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

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June 22, 2023

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

**10. SARAH CRAIG V. RYAN CRAIG**

**PFL20170099**

The parties presented to the court for a Child Custody Recommending Counseling (CCRC) review hearing on February 23, 2023. At that time the court adopted the recommendations of the February 10, 2023 CCRC report with enumerated modifications to the visitation schedule. The court ordered Respondent to have professionally supervised visits, one time per week for two hours each visit. Respondent was to have professionally supervised phone calls with the minors twice per week at 6:00pm for a duration of 15 minutes each. The court further ordered Respondent to select a professional supervised visitation provider no later than March 2, 2023 and inform Petitioner and Minors' Counsel of the selection. The court orders Respondent to be responsible for the costs of professionally supervised visitation. The court suspended the current holiday and summer schedule, pending further review hearing. The court ordered Respondent to enroll in a parenting class geared to teenagers/adolescents that includes a component on age-appropriate discipline. Respondent was to provide a certificate of completion to the court as well as Petitioner and Minors' Counsel. A review hearing was set for the present date.

Petitioner's Supplemental Declaration Regarding Updates as to Orders Related to Child Custody/Visitation was filed on June 5<sup>th</sup> and served the following day. Thereafter, on June 13<sup>th</sup>, the Declaration of Respondent Re Review Hearing for Custody/Visitation was filed and served.

According to Petitioner, Respondent did not comply with court orders. In fact, his actions became so severe that Petitioner filed a Request for Domestic Violence Restraining Order. The temporary restraining order protecting Respondent and the Children was granted on June 2, 2023 which awarded sole legal and sole physical custody to Petitioner and ordered no visitation to Respondent until further order of the court. There is a hearing on the order set for June 30, 2023.

Petitioner requests the current orders of sole legal and sole physical custody remain in place. She asks for a no contact order until Respondent takes his parenting class as ordered by the court. Petitioner also requests that any professionally supervised visits that do occur in the future be the same amount as currently ordered. She also asks that if the telephone calls remain in place, they take place every other week on Tuesdays at 6:00pm which aligns with the availability of the minors' therapist. Finally, she asks that no review hearing be set. Respondent may request a review hearing after the completion of at least 8 professionally supervised visits.

Respondent submits that he has complied with the court's orders and made himself available on both Mondays and Tuesdays for the professionally supervised calls however he has only been able to speak with the children four out of the thirteen court ordered times. Respondent states he has completed the intake process for professionally supervised visitation

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and is waiting on Petitioner to provide her intake information. He also states that he has enrolled in a parenting class but has not yet completed it. Respondent requests the court order Petitioner to produce the children for their scheduled visitation on Tuesdays when their therapist is available. He also requests a continuance of the hearing to allow him to have professionally supervised visitation.

Pursuant to the temporary restraining order, Respondent is prohibited from having visits with the children until further order of the court. In light of the circumstances, however, the court finds good cause to broaden the no visitation order and issue a no contact order. Respondent is not to have contact of any kind with the minors. This includes phone calls, text messages, video calls, social media, etc. Respondent is admonished to comply with all court orders. This matter is continued to join with the hearing on the temporary restraining order which is currently set for June 30, 2023 at 8:30 am. All prior orders not in conflict with this order remain in full force and effect.

**TENTATIVE RULING #10: THE COURT FINDS GOOD CAUSE TO BROADEN THE NO VISITATION ORDER AND ISSUE A NO CONTACT ORDER. RESPONDENT IS NOT TO HAVE CONTACT OF ANY KIND WITH THE MINORS. THIS INCLUDES PHONE CALLS, TEXT MESSAGES, VIDEO CALLS, SOCIAL MEDIA, ETC. RESPONDENT IS ADMONISHED TO COMPLY WITH ALL COURT ORDERS. THIS MATTER IS CONTINUED TO JOIN WITH THE HEARING ON THE TEMPORARY RESTRAINING ORDER WHICH IS CURRENTLY SET FOR JUNE 30, 2023 AT 8:30 AM. 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.**

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June 22, 2023

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

**11. URZA KHURSAND V. YAMA KHURSAND**

**PFL20180089**

On April 29, 2022, Respondent filed a Request for Order (RFO). The RFO was served via U.S. Mail on May 10, 2022. On June 30, 2022, Respondent filed a Declaration of Yama Khursand Re: Modification of Custody and a Declaration of Wallace Francis Re: Modification of Custody, both of which are in support of Respondent's RFO and both of which were served electronically.

On July 6, 2022, Petitioner filed and served her Responsive Declaration to Request for Order. Minor's Counsel filed her Statement of Issues and Contentions and Request for Orders on July 11, 2022, which had been served the day prior on July 10, 2022.

Respondent's RFO asked the court to institute a 2-2-4 schedule with a graduated step-up plan to 50/50 physical custody, or a schedule recommended by a child custody evaluator, for the youngest minor. Additional orders requested in the RFO were as follows: (1) the court to order a complete child custody evaluation under Family Code section 3111; (2) Remove Donelle Anderson as therapist and Barbara Newman as Minors' Counsel and appoint neutral, unbiased individuals for those roles; (3) Respondent to attend graduation. The RFO was set to be heard on August 11<sup>th</sup>.

At the August 11<sup>th</sup> hearing the court ruled on all matters including ordering the parties to participate in a Family Code Section 3111 evaluation with an Evidence Code Section 730 component. All parties were ordered to cooperate in the evaluation. Respondent was ordered to pay the cost of the evaluation but the court reserved jurisdiction to reallocate the costs of the 3111 Evaluation. Finally, the court noted the overlap in issues between the 3111/730 Evaluation and the trial date which was previously set for August 11<sup>th</sup>. The court vacated the August 11<sup>th</sup> trial date and set a review hearing for November 10<sup>th</sup> to review the 3111/730 report and choose new trial dates.

On October 6<sup>th</sup> the parties stipulated to appoint Jacqueline Singer as the 3111/730 evaluator.

Minors' Counsel filed a Statement of Issues and Contentions on February 7, 2023 stating that the parties have not yet begun the evaluation process. Minors' Counsel requested the current orders remain in full force and effect. Minors' Counsel further requested the court order Respondent secure any and all weapons in a safe. Finally, Minors' Counsel requested the parties put the matter back on calendar if they do not agree with the recommendations of the 3111 Evaluation.

The court continued the February 16<sup>th</sup> hearing to the present date in order to ensure the evaluator had sufficient time to conduct her evaluation and complete the report and to choose new trial dates. Respondent was admonished to properly secure all firearms and

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weapons. The court continued to reserve jurisdiction on the reallocation of costs of the 3111 Evaluation.

On May 31<sup>st</sup> and June 1<sup>st</sup> Minor's Counsel served and then filed Minor Counsel's Statement of Issues and Contentions and Request for Orders. Respondent filed and served Respondent's Declaration of Yama Khursand Re: Review Hearing on June 13, 2023. Petitioner has not filed a supplemental declaration.

According to Minor's Counsel the parties have not participated in, nor completed, a 3111 Evaluation. As such, Minor's Counsel requests the court vacate the order for the 3111 Evaluation, without prejudice, and maintain all other current orders. She does not feel that further review hearings on this issue are necessary.

Respondent states he has been unable to afford the custody evaluation, though he believes it is critical. He notes that he requested Petitioner pay for the evaluation and he also requested a less expensive evaluator, though the court appointed Dr. Singer. Respondent objects to Minor's Counsel's request that the court drop its order for the 3111 Evaluation. He also objects to any hearsay statements made by Minor's Counsel. Additionally, Respondent argues that the parties have not complied with the court's order to participate in co-parenting counseling because Petitioner is using this as a means to preclude him from increasing his parenting time. Respondent asks the court to set trial on the issue of custody forthwith.

In light of the information provided by Respondent and Minor's Counsel, the court is in need of additional information from the parties. The parties are ordered to appear for hearing and to select trial and Mandatory Settlement Conference dates.

**TENTATIVE RULING #11: THE PARTIES ARE ORDERED TO APPEAR FOR HEARING AND TO SELECT TRIAL AND MANDATORY SETTLEMENT CONFERENCE DATES.**

**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.

**12. WALTER BORING V. ALLISON BORING**

**PFL20160114**

In preparation for the December 8, 2022 hearing on the issue of child support, Petitioner filed a document entitled Update to the Court Re Child Support and Uninsured Medical Reimbursement. As part of his update to the court, Petitioner requested the court order, among other things, Respondent to pay an arrears amount of \$5,282.26 as well as an order directing Respondent to reimburse him for Respondent's half of uninsured medical expenses for the minor which amounted to \$1,381.14. The December 8<sup>th</sup> hearing was held as scheduled and the court made orders regarding both the overpayment and the reimbursement of the uninsured medical costs. The parties were ordered to meet and confer regarding the reimbursement of the uninsured medical costs for the minors. Additionally, a repayment plan was set for the overpayment of child support and the parties were ordered to meet and confer regarding the amount overpaid from December 2022 forward based on the updated income withholding order. A review hearing was set for March 16, 2023, to address both issues.

Respondent's Counsel appeared at the March 16<sup>th</sup> hearing and, on behalf of all parties, requested a continuance. The court granted the request and continued the matter to the present date.

Neither party has filed status updates with the court. Thus, it is presumed that the parties' meet and confer efforts were successful and no disputes remain. 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 #12: ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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

LAW & MOTION TENTATIVE RULINGS

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June 22, 2023

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

**13. ADAM PAINE V. AMY PAINE**

**22FL1006**

Parties appeared on March 23, 2023, on Respondent's Request for Order (RFO) seeking child and spousal support as well as child custody and breach of fiduciary duties. The court adopted its tentative ruling as to custody and parenting time, reserved on the breach of fiduciary duties until the time of trial and adopted the parties' agreement as to guideline child and temporary spousal support. The court set a further review hearing on the support issues and reserved jurisdiction to retroactively modify support to April 1, 2023. The parties were ordered to file and serve updated Income and Expense Declarations at least 10 days prior to the review hearing.

Respondent filed an Income and Expense Declaration as well as a Declaration on June 13, 2023. Petitioner was served by mail on June 13, 2023. The court finds this was less than 10 days prior to the hearing and therefore, not timely.

Petitioner has not filed an updated Income and Expense Declaration.

Parties are ordered to appear.

**TENTATIVE RULING #13: THE PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

June 22, 2023

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

**14. BROOK ROTHER V. LAURA THIEL**

**22FL0940**

Petitioner filed a Request for Order (RFO) on April 21, 2023, requesting property control of 5139 Poco Loco Lane, Garden Valley CA. Respondent was personally served on May 16, 2023.

On April 17, 2023, this court granted a Nullity in this matter. Therefore, this court no longer has jurisdiction to adjudicate further RFOs as the parties were not married. Petitioner's remedy is in the civil arena. Therefore, the court drops the matter from calendar.

**TENTATIVE RULING #14: THE MATTER IS DROPPED FROM CALENDAR AS THE COURT GRANTED THE PETITION FOR NULLITY AND NO LONGER HAS JURISDICTION IN THIS MATTER. PETITIONER MAY SEEK RECOURSE THROUGH THE CIVIL 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.**

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June 22, 2023

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

**15. CLARISSA KIESEL V. MICHAEL BECKER**

**23FL0940**

Petitioner filed an ex parte request for emergency custody orders on April 5, 2023. On April 7, 2023, the court denied the request, as Respondent and the minor were named as protected parties in a Domestic Violence Restraining Order, with Petitioner as the restrained party. The court referred the parties to Child Custody Recommending Counseling (CCRC) for an appointment on May 8, 2023 and set a review hearing June 22, 2023. Petitioner filed her Request for Order (RFO) making the same requests as set forth in the ex parte request on April 7, 2023. Respondent was personally served with the RFO and referral to CCRC on May 3, 2023.

On April 28, 2023, the parties presented a stipulation to the court wherein they agreed to dismiss the Domestic Violence Restraining Order. Respondent would have sole legal and physical custody of the minor and Petitioner would have non-professionally supervised parenting time on Tuesdays and Saturdays.

The parties attended CCRC on May 8, 2023, however, were unable to reach any agreements. A report with recommendations from the CCRC counselor was filed with the court on June 12, 2023. A copy of the report was mailed to the parties on June 12, 2023.

The court has read and considered the June 12, 2023 CCRC report and finds the recommendations to be in the best interest of the minor. The court adopts the recommendations as set forth therein.

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 #15: THE COURT ADOPTS THE RECOMMENDATIONS OF THE JUNE 12, 2023 CCRC REPORT AS THEY ARE IN THE BEST INTEREST OF THE MINOR. 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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June 22, 2023

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

**16. CRYSTAL CORBETT V. SEAN CORBETT**

**PFL20110935**

Parties appeared on May 22, 2023, for an ex parte hearing. The court found Petitioner had sole legal and physical custody of the minor, and it was a final custody order. As such, Petitioner has a presumptive right to change residence of the child subject to the court's right to restrain the removal. The court authorized Petitioner's relocation with the child, subject to a 30 day stay, and set conditions precedent to the move away, specifically, reunification counseling, which had previously been ordered needed to be set up with a provider who can continue to provide the service while the minor was residing out of state. Petitioner and the minor needed to complete intake appointments with Ms. Stilley as soon as possible in person. Parties were to provide the court with an update as to the ability of Ms. Stilley to continue to provide reunification counseling services to the minor while she resides in Florida and what frequency of appointments would be appropriate. The court authorized supplemental declarations to be filed on or before June 16, 2023.

Petitioner filed a Supplemental Declaration on June 16, 2023. Parties were served by mail and electronically on June 16, 2023. Petitioner's Supplemental Declaration does not address the concerns raised by the court at the May 22, 2023 hearing, but rather continues to protest the court's prior order for reunification counseling.

Neither Respondent nor Minor's Counsel have filed a Supplemental Declaration.

Parties are ordered to appear for the hearing.

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

June 22, 2023

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

**17. JEAN GASTALDI V. MICHAEL GASTALDI**

**23FL0159**

Petitioner filed a Request for Order (RFO) requesting guideline temporary spousal support, property control of the home located at 2836 Barkley Road, in Camino, California, and \$10,000 in Family Code section 2030 attorney fees. Respondent was personally served on May 28, 2023. The court notes the Proof of Service indicates Respondent was served with Petitioner's Income and Expense Declaration, however, Petitioner has not filed an Income and Expense Declaration (FL-150) with the court.

Petitioner asserts in her declaration that Respondent is the higher earning spouse and can therefore, afford to pay support as well as afford to pay for both parties' attorney's fees. Petitioner has not set forth any ground as to why she should have exclusive use and control of the Barkley Road home.

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

The court cannot adjudicate Petitioner's request as she has failed to file a necessary document, the Income and Expense Declaration. Further, Petitioner has failed to set forth any grounds upon which the court should grant her exclusive use and control of the Barkley Road home pende lite. Therefore, the court denies Petitioner's requested orders.

**TENTATIVE RULING: PETITIONER'S REQUEST FOR GUIDELINE TEMPORARY SPOUSAL SUPPORT AND FAMILY CODE SECTION 2030 ATTORNEY'S FEES ARE DENIED AS PETITIONER FAILED TO FILE THE REQUIRED INCOME AND EXPENSE DECLARATION. PETITIONER'S REQUEST FOR EXCLUSIVE USE AND CONTROL OF THE BARKLEY ROAD HOME IS DENIED AS PETITIONER HAS FAILED TO SET FORTH ANY GROUND UPON WHICH THE COURT COULD GRANT THE REQUEST.**

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

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

**18. JODIE CRANE V. JAMES ARBOGAST**

**PFL20120647**

Petitioner filed a Request for Order (RFO) requesting child custody and parenting plan orders on May 3, 2023. Upon review of the court file there is no Proof of Service showing the RFO was served on Respondent.

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

**TENTATIVE RULING #18: THE MATTER IS DROPPED FROM 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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DEPARTMENT 5

June 22, 2023

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

**20. PATRIC MALONE V. ASHLEY SPITTLER**

**PFL20170550**

Petitioner filed a Request for Order (RFO) on April 4, 2023, requesting the court modify child custody and parenting time orders. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on May 10, 2023 and a review hearing on June 22, 2023. Upon review of the court file, there is no Proof of Service showing Respondent was served with the RFO or referral to CCRC.

Only Petitioner appeared at CCRC on May 10, 2023. As such a single parent report was filed with the court with no agreements or recommendations, on May 10, 2023. A copy of the report was mailed to the parties on May 10, 2023.

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

**TENTATIVE RULING #20: THE MATTER IS DROPPED FROM 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.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

June 22, 2023

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

**21. STACEY VALIENTE-KEATES V. SELAH VALIENTE-KEATES**

**22FL0868**

Petitioner filed a Request for Order (RFO) on December 7, 2022, requesting the court make child custody and parenting plan orders, as well as child and spousal support orders. Petitioner concurrently filed an Income and Expense Declaration. Respondent was served by mail with the RFO and Blank FL-320. There is no Proof of Service showing Respondent was served with the FL-150, Income and Expense Declaration or a blank FL-150.

On May 4, 2023, the court found Petitioner had not filed an updated Income and Expense Declaration with the court. Nor had Petitioner filed a Proof of Service showing she served Respondent with a copy of her Income and Expense Declaration (FL-150). Respondent filed an Income and Expense Declaration on March 1, 2023. There was no Proof of Service showing Petitioner was served with the Income and Expense Declaration. The court ordered the parties to appear for the hearing.

The court adopted its tentative ruling with modification as to custody and parenting time. The court dropped the child support portion of the RFO from calendar, as San Joaquin County Department of Child Support Service was handling that matter. Petitioner's counsel requested the spousal support matter be continued to allow the parties time to file and serve Income and Expense Declarations. The court granted the request to continue the matter, however, it admonished the parties that failure to file and properly serve Income and Expense Declarations at least 10 days prior to the next hearing could result in the matter being dropped from calendar. The court reserved jurisdiction to retroactive modify support to the date of the filing of the RFO.

Respondent filed an Income and Expense Declaration on June 15, 2023. Proof of Service shows Petitioner was served by mail on June 15, 2023. The court notes this is less than 10 days prior to the hearing, and therefore, not timely filed or served.

Upon review of the court file, neither party has filed or served an updated Income and Expense Declaration. Therefore, the court drops this matter from calendar. All prior orders remain in full force and effect.

**TENTATIVE RULING #21: THE MATTER IS DROPPED FROM CALENDAR DUE TO THE MOVING PARTY'S FAILURE TO FILE AND SERVE AN INCOME AND EXPENSE DECLARATION AS REQUIRED. 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**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

June 22, 2023

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

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

June 22, 2023

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

**22. STEVEN GIBSON V. STARR ROBINSON**

**PFL20190532**

Petitioner filed an Order to Show Cause and Affidavit for Contempt (“OSC”) on November 21, 2022 alleging Respondent has violated the September 6, 2019 order for parenting time by withholding the minor from him. Respondent was personally served on December 13, 2022.

Parties appeared for an arraignment hearing on February 2, 2023. Respondent requested to be appointed a Public Defender. The court appointed the Public Defender’s Office and continued the hearing until March 23, 2023.

The parties once again appeared for arraignment on March 23, 2023. At that time Gina Pagala appeared on behalf of Respondent. Respondent entered a plea of not guilty but requested a continuance on the basis that Ms. Pagala had not received a signed copy of the custody/visitation orders. A copy was located and the continuance was granted.

On May 4, 2023, once again Ms. Pagala requested the matter be continued to complete her investigation. The court continued the matter to June 22, 2023 at 1:30. The court also set the matter for a trial date and Mandatory Settlement Conference date. Those dates are confirmed.

The court orders parties to appear for the continued arraignment.

**TENTATIVE RULING #22: THE PARTIES ARE ORDERED TO APPEAR.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

June 22, 2023

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

**23. YVONNE BEAL V. ROBERT HUNTSMAN**

**21FL0003**

Respondent filed a Request for Order (RFO) on May 5, 2023, requesting the court compel Petitioner to prepare and serve her Preliminary Disclosure and file the FL-141. Petitioner was served by mail on May 5, 2023. Respondent asserts Petitioner filed the Petitioner for Dissolution on October 18, 2021, making her preliminary disclosure due on or about December 18, 2021. Despite repeated requests, Petitioner has not complied with the required Disclosure, which is preventing the case from concluding.

Petitioner filed the FL-141 on June 14, 2023 showing she has served Respondent with her Final Disclosures and Income and Expense Declaration. Respondent was served on June 14, 2023.

The court finds that as Petitioner has complied with the Respondent's request, the RFO is now moot.

**TENTATIVE RULING #23: THE COURT FINDS PETITIONER HAS COMPLIED WITH RESPONDENT'S REQUEST FOR DISCLOSURE AND HAS FILED THE FL-141. THEREFORE, THE COURT FINDS THE RFO TO BE MOOT.**

**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.**