

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 14, 2022

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

1. AMBER COOKE V. DAVID WEST

22FL0127/22FL0126

On February 14, 2022 Petitioner filed a Petition for Custody and Support. Petitioner asserts the Respondent signed a Voluntary Declaration of Paternity at the minor's birth. The Petition included the minor's birth certificate as an attachment. Respondent is listed as the father. Petitioner is also requesting the court make child support orders.

On February 16, 2022 Petitioner filed an ex parte request for orders requesting the court make child custody, parenting time, and property control orders. Respondent was not served with the ex parte request. On February 16, 2022, the ex parte request was denied, and the Request for Order (RFO) was set for a hearing and the regular law and motion calendar. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on March 23, 2022 and a review hearing on May 5, 2022.

Respondent was personally served with the Summons on the Petition, RFO and referral to CCRC on February 19, 2022.

Petitioner requests the court order guideline child support and property control of the property located at 4911 Sagebrush Rd and a 2019 Dodge Charger. Petitioner also requests the court order Respondent to pay the mortgage, Pacific Gas and Electric, car payment, and car insurance.

On February 25, 2022, Petitioner filed a Declaration. Respondent was served with the Declaration by mail on the same day. Petitioner asserts she has been the full-time caretaker of the minor and homemaker. Petitioner also denies having any issues with alcohol. Petitioner request child support in the amount of \$1776.52.

Respondent filed a Declaration on March 16, 2022. Petitioner was served by mail on March 16, 2022. Respondent asserts he has been an active and close father. Respondent states Petitioner poorly manages the home and the home has safety hazards for the minor. Respondent included several attachments to the declaration.

The parties attended CCRC on March 23, 2022 and reached a full agreement. A copy of the CCRC report was mailed to the parties on April 6, 2022. The court has read and considered the CCRC report and finds the agreement of the parties to be in the minor's best interest and adopts it as the court's order.

On March 25, 2022, Respondent filed a Response to the Petition for Custody, confirming he signed the Voluntary Declaration of Paternity. Respondent requests joint legal and physical custody with a 2-2-5-5 schedule. Respondent also request the court order a holiday schedule that alternates holidays. Petitioner was served by mail on March 31, 2022.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 14, 2022

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

On April 22, 2022 Respondent filed a Responsive Declaration and an Income and Expense Declaration. Petitioner was served electronically and by overnight delivery on April 21, 2022. Respondent requests the court order joint legal and physical custody with a 2-2-3-3 or 2-2-5-5 schedule. Respondent agrees to guideline child support. Respondent requests Petitioner vacate his separate property residence located at 4911 Sagebrush Rd.

On May 5, 2022, the court adopted its tentative ruling continue the matter for further review pending the outcome of the Domestic Violence Restraining Order hearing. The matter was continued to July 14, 2022. Parties were ordered to file their income and expense declarations no later than 10 days prior to the next hearing. The court reserved jurisdiction as to child support to the date of the filing of the RFO.

On May 6, 2022, parties appeared for a hearing on Petitioner's request for a Domestic Violence Restraining Order (DVRO). The parties entered a stipulation on the Family Law case, case number 22FL0126. The Temporary DVRO remained in place pending the next hearing. Parties were referred to Child custody Recommending Counseling (CCRC) for an appointment on June 3, 2022 and a review hearing on July 14, 2022. The review hearing was also set to hear the issue of Petitioner's occupancy of the home on Sagebrush Road.

On May 31, 2022, the court issued an ex parte minute order resetting the CCRC appointment to June 7, 2022.

Parties attended CCRC on June 3, 2022. They were unable to reach any agreements. A report with recommendations was filed on June 28, 2022. A copy was mailed to the parties on June 30, 2022.

On June 7, 2022, Petitioner filed an Income and Expense Declaration in 22FL0127. There is no Proof of Service indicating Respondent was served with this declaration. Therefore, the court has not considered it.

On June 17, 2022, Respondent filed a Declaration with attachments. Petitioner was served by mail on June 21, 2022. Respondent attaches proof of completion of Parent Education, Co-Parenting, and Family Stabilization court on March 29, 2022; participation in the Forever Fathers dads support group from April 6, 2022 through May 18, 2022; Completion of a four hour domestic violence class on May 14, 2022; correspondence with the parties co-parenting counselor; and request to enroll in the KidsFirst Incredible years class.

In case 22FL0126, Petitioner filed a Declaration on July 7, 2022. There is no Proof of Service showing Respondent was served with this declaration. Therefore, the court has not considered it.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 14, 2022

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

In Case 22FL0127, Petitioner filed a Declaration on July 7, 2022. There is no Proof of Service indicating Respondent was served with this declaration. Therefore, the court has not considered it.

On July 7, 2022, Petition filed an Income and Expense Declaration in 22FL0126. There is no Proof of Service indicating Respondent was served with this declaration. Therefore, the court has not considered it.

The court has read and considered the filing in this matter as outlined above. The court makes the following findings and orders:

The court finds the recommendations contained in the CCRC report are in the minor's best interest. The court adopts the recommendations as its order. The parties shall have joint legal custody as set forth in the report. The court adopts the parenting plan as set forth in the report with a step-up plan to a 2-2-3 parenting plan. The court adopts the Holiday plan as well as the transportation plan, vacation plan, and travel provisions. The court adopts the additional provisions. Parties are to utilize the talkingparents.com application to communicate about the minor. The parties are to abide by the Respect Guidelines as set forth in the report. The parties are to continue to participate in co-parenting counseling at a frequency and duration as directed by the therapist. The parties are to follow the treatment directives of the therapist. The court is not ordering Petitioner to participate in individual counseling, however, strongly encourages her to do so.

The court orders parties to appear on the request for a DVRO, the request for child support, and review of Petitioner's occupancy of the Sagebrush Road residence.

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

TENTATIVE RULING #1: THE COURT ADOPTS THE RECOMMENDATIONS OF CCRC AS OUTLINED AND MODIFIED ABOVE. THE COURT ORDERS PARTIES TO APPEAR ON THE REQUEST FOR A DVRO, CHILD SUPPORT, AND REVIEW OF PETITIONER'S OCCUPANCY OF THE SAGEBRUSH ROAD RESIDENCE. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 14, 2022

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

2. BURNS BRIMHALL V. MERI BRIMHALL

PFL20150809

On May 16, 2022 Petitioner filed a Request for Order (RFO) requesting the court order Respondent and Respondent's counsel sign the QDRO or the court to appoint the clerk to act as elisor to sign in their stead. Respondent was served with the RFO by mail on May 16, 2022.

Petitioner asserts that all matters in the dissolution have been agreed upon, however repeated attempts to obtain signatures from Respondent and Respondent's counsel on various settlement documents have been fruitless. Petitioner also asserts this is not the first time this issue has arisen in the pendency of the case. Respondent was previously sanctioned on June 27, 2020 and April 21, 2021 for her failure to provide signed copies of the Marital Settlement Agreement and other QDROs. Petitioner has not made a request for attorney's fees with the present RFO.

In the Request for Order, Petitioner attaches The Stipulation and Order for Division of Roth IRA Account signed by Petitioner and his counsel.

Respondent has not filed a responsive declaration.

The court orders Respondent and her counsel to sign and return the QDROs no later than close of business July 21, 2022. If Respondent and her counsel fail to do so, the court authorizes the clerk of the court to act as elisor to sign.

TENTATIVE RULING #2: THE COURT ORDERS RESPONDENT AND RESPONDENT'S COUNSEL TO SIGN THE STIPULATION AND ORDER FOR DIVISION OF ROTH IRA ACCOUNT BY THE CLOSE OF BUSINESS JULY 21, 2022. IF THEY FAIL TO DO SO, THE CLERK OF THE COURT IS AUTHORIZED TO ACT AS ELISOR AND SIGN IN THEIR STEAD.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 14, 2022

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

3. HENRY M. AGUILAR V. KRISTIE WILLIS

PFL20180694

On February 28, 2022, Petitioner filed a Request for Order (RFO) requesting the court allow Petitioner to deduct \$300 per month from his spousal support obligation until the July 1, 2021 sanction ordered against Respondent in the amount of \$1,500 is paid in full. Petitioner asserts that Respondent has failed to make a single payment toward the sanction order which was due by July 2021. Petitioner requests additional sanctions pursuant to Family Code § 271 in the amount of \$1,000 for having to bring the present motion.

The RFO was set to be heard on April 28, 2022. At that time the court issued a tentative ruling dropping the matter from its calendar for lack of service. Petitioner requested to be heard and asked for a continuance to allow time for service to be perfected. The court vacated its tentative ruling and agreed to continue the matter to July 14, 2022.

The court is now in receipt of a Proof of Service indicating the Request for Order and a blank responsive declaration were served via U.S. Mail on May 2, 2022. Respondent has not filed a responsive declaration.

Family Code §271 empowers the court to award attorney's fees and costs based on the conduct of a party if it "...frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation..." In making such an award the Court is to consider the "income, assets and liabilities" of the sanctioned party to ensure that the sanctions do not impose "an unreasonable financial burden on the party against whom the sanction is imposed."

Here, Respondent's failure to pay the previous sanctions, and lack of communication of any kind, has clearly frustrated the public policy of promoting settlement and reducing litigation costs through mutual cooperation. The court has little information regarding Respondent's income, assets, and liabilities as she has not filed a current Income and Expense Declaration. However, this is as a direct result of Respondent's failure to cooperate and participate in the present proceedings. Accordingly, the court finds it appropriate to award Petitioner an additional \$1,000 in sanctions.

Petitioner may reduce his monthly spousal support obligation by \$300 per month until the total amount of sanctions (\$2,500) has been paid in full.

TENTATIVE RULING #3: THE COURT AWARDS PETITIONER \$1,000 IN SECTION 271 SANCTIONS TO BE REDUCED FROM PETITIONER'S MONTHLY SPOUSAL SUPPORT INCRIMENTS OF \$300 UNTIL THE PRESENT SANCTIONS, AND THE SANCTIONS ISSUED ON JULY 1, 2021, ARE PAID IN FULL (\$2,500 TOTAL). ONCE PAID IN FULL, SPOUSAL SUPPORT PAYMENTS SHALL RESUME AT THEIR FULL AMOUNT. PETITIONER TO PREPARE THE FINDINGS AND ORDERS AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 14, 2022

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

4. HOLLY KRISTINE TODD V. BRIAN MATHEW TODD

21FL0015

On April 26, 2022, Respondent filed a Request for Order (RFO) requesting a change in the current visitation schedule, a change in child support payments and a change in spousal support. Concurrently therewith, Respondent filed a Declaration in Support of Request for Order and his Amended Income and Expense Declaration. A Declaration of Service of the Income and Expense Declaration was filed on April 27th, but there is no proof of service indicating that the RFO and supporting declaration were served on Petitioner. However, on June 1, 2022, Petitioner filed her Responsive Declaration to Request for Order and her Income and Expense Declaration. Accordingly, the court finds that Petitioner did receive actual notice of the RFO and the present hearing date. Petitioner properly served her responsive papers on June 2, 2022.

On June 23, 2022, El Dorado County Department of Child Support Services filed their Responsive Declaration to Request for Order. Therein, they requested the issue of child support be continued until after resolution of the parenting time request. They request that the matter be set to be heard by a child support commissioner as part of the Department of Child Support Services (DCSS) calendar.

On July 1, 2022, Respondent filed a Reply Declaration, this was properly served on the same day. The court is in receipt of a Proof of Service indicating that Petitioner served a supplemental declaration on July 7, 2022, but no such declaration was filed with the court.

Respondent seeks a change in the current visitation schedule as his work schedule has changed and he now has additional time to spend with the minor child. The current visitation schedule was agreed upon by the parties during Child Custody Recommending Counseling (CCRC) in January of 2022, and consists of daytime visits only, on Wednesdays and Thursdays. In the initial RFO, Respondent sought alternating weekend visitation from Wednesdays at 11:00 am until Saturday at 3:00 pm. During the weeks that Respondent does not have the minor for the weekend schedule, he requested visitation from Wednesday at 11:00 am until Thursday at 7:00 pm. Petitioner requests that the present visitation schedule remain in place. She is concerned that sudden extended overnight stays with Respondent could be traumatic for the minor child given her young age. In response to Petitioner's concerns, Respondent filed a Reply Declaration asking for unsupervised, overnight visitation every Wednesday from 11:00 am until Thursday at 7:00 pm to begin immediately and a review hearing in 3 months to address the possibility of increasing visitation time. Respondent notes that his work schedule is expected to change, and he requests that visitation time be modified in accordance with the new schedule once he knows what it is.

Respondent's request that spousal support be changed is based on the fact that his previous attorney incorrectly characterized amounts he was paying in voluntary support as his

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 14, 2022

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

income. He also notes that on Petitioner's previous Income and Expense Declaration she failed to disclose the voluntary payments as part of her income. Respondent claims that these oversights resulted in an incorrect Dissomaster report and Respondent should have received a true-up for the arrears amount. Respondent would like the support amount recalculated based on the imputation of minimum wage to Petitioner. He is requesting a Gavron warning and a Seek Work Efforts Order. Respondent further requests that spousal support last no longer than 3.5 years from the date arrears began accruing.

Respondent notes that prior to the pandemic Petitioner was about to commence work as a cosmetologist in Susanville. COVID restrictions prevented her from doing so at the time, but those restrictions have since been lifted. To date, Petitioner has not resumed her cosmetology work according to Respondent and as such, Respondent asserts that a minimum wage income should be imputed to Petitioner. Petitioner objects to the imputation of income as she is disabled and unable to work. She is agreeable to crediting Respondent for the 3 voluntary payments he made prior to the court order, and agreeable to reducing the arrears amount by one half of the child tax credit which Petitioner received.

Visitation

After reviewing the filings of the parties and the CCRC report the court finds that beginning overnight stays with Respondent would be in the best interest of the minor. The following visitation schedule is to commence immediately:

- (1) The parties are to continue sharing legal custody of the minor. All orders regarding legal custody as set forth in the CCRC report are to remain in full force and effect.
- (2) The minor will continue to primarily reside with Petitioner. Respondent will have unsupervised parenting time with the minor every Wednesday from 11:00 am until Thursday at 7:00 pm. In the event that Respondent's work schedule is changed, Petitioner and Respondent are to modify the schedule to allow Respondent one overnight visit per week.
- (3) Both parents are not required to be present for exchanges. It is acceptable only for the maternal or paternal grandparent(s) to be present at the exchange in the parent's stead. However, if one parent will not be present at the exchange that parent is to give as much prior notice as possible to the other parent and inform that parent who will be present at the exchange.
- (4) Exchanges shall occur at the McDonald's in Auburn, located at 13370 Lincoln Way.
- (5) In the event that either parent requires childcare for 24 hours or more while the minor is in his or her custody, the other parent must be given the first opportunity, with as much prior notice as possible, to care for the minor before other arrangements are made.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 14, 2022

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

(6) The holiday schedule shall be as follows:

- a. Petitioner to have the minor for Mother's Day and Petitioner's birthday every year.
- b. Respondent to have the minor for Father's Day and Respondent's birthday every year.
- c. For Halloween, Minor's Birthday, Easter and Christmas/Christmas Eve, Respondent is to have the minor on even numbered years, and Petitioner is to have the minor on odd numbered years.
- d. For all other holidays, Petitioner is to have the minor on even numbered years and Respondent is to have the minor on odd numbered years.

Child Support

In accordance with Family Code §4251, the matter of child support is set to be heard on August 22nd, 2022 at 8:30 AM in Department 5 before the child support commissioner.

Spousal Support

Given the inadvertent mistake in Respondent's previous Income and Expense Declaration, the court finds good cause to recalculate the spousal support dating back to December 1, 2021. In accordance with the court's February 17, 2022 order Respondent has been paying monthly spousal support in the amount of \$1,069, with an additional payment of \$267.25 per month in arrears. Respondent shall receive a credit for amounts paid to date, including, but not limited to the payment of \$770 in November of 2021, the payment of \$770 in December of 2021, and \$880 in January of 2022. Respondent shall further be credited for one half of the \$1,150 withdrawn from the joint savings account of the parties. The court declines to address the issue of a credit for one half of the child tax credit as that is a matter of child support to be heard by the child support commissioner.

Regarding the imputation of minimum wage income, the court declines imputing income currently but reserves jurisdiction to do so in the future if it is deemed necessary and appropriate. The court notes that the outcome of Petitioner's permanent disability hearing will likely affect her income and whether or not it is appropriate to impute an income of minimum wage on Petitioner in the future.

Using the information provided in Petitioner's Income and Expense Declaration filed June 1, 2022, and Respondent's Income and Expense Declaration filed April 26, 2022, the court finds that spousal support is to be set at \$2,023 per month. See attached DissoMaster report. The court adopts the attached DissoMaster report and orders Respondent to pay Petitioner \$2,023 per month payable on the 1st of the month until May of 2024 or earlier termination by operation of law. This order is to be effective as of December 1, 2021. The court finds that this

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 14, 2022

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

results in an arrears balance of \$7,632. After applying credits in the amount of \$2,995, the total amount owing in arrears is \$4,637. Respondent is ordered to pay Petitioner \$386 per month, due on the 15th of each month as and for arrears commencing on August 15th, 2022 and continuing until paid in full. Any missed payment will result in the full arrears balance being due in full with legal interest.

The matter is set for review hearing on October 6th, 2022 at 8:30 AM in Department 5. The court reserves jurisdiction to retroactively modify support to July 14, 2022.

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

TENTATIVE RULING #4: BEGINNING IMMEDIATELY, THE CUSTODY AND VISITATION SCHEDULE SHALL BE AMENDED AS STATED ABOVE. THE MATTER OF CHILD SUPPORT IS SET TO BE HEARD ON AUGUST 22ND, 2022 AT 8:30 AM IN DEPARTMENT 5 BEFORE THE CHILD SUPPORT COMMISSIONER. THE COURT ADOPTS THE ATTACHED DISPOSITIVE REPORT AND ORDERS RESPONDENT TO PAY PETITIONER \$2,023 PER MONTH PAYABLE ON THE 1ST OF THE MONTH UNTIL TERMINATION IN MAY OF 2024 OR EARLIER TERMINATION BY OPERATION OF LAW. THIS ORDER IS TO BE EFFECTIVE AS OF NOVEMBER 1, 2021. THE COURT FINDS THAT THIS RESULTS IN AN ARREARS BALANCE OF 7,632. AFTER APPLYING CREDITS IN THE AMOUNT OF \$2,995, THE TOTAL AMOUNT OWING IN ARREARS IS \$4,637. RESPONDENT IS ORDERED TO PAY PETITIONER \$386 PER MONTH, DUE ON THE 15TH OF EACH MONTH AS AND FOR ARREARS COMMENCING ON AUGUST 15TH, 2022 AND CONTINUING UNTIL PAID IN FULL. ANY MISSED PAYMENT WILL RESULT IN THE FULL ARREARS BALANCE BEING DUE IN FULL WITH LEGAL INTEREST. THE MATTER IS SET FOR REVIEW HEARING ON OCTOBER 6TH, 2022 AT 8:30 AM IN DEPARTMENT 5 THE COURT RESERVES JURISDICTION TO RETROACTIVELY MODIFY SUPPORT TO JULY 14, 2022. RESPONDENT SHALL PREPARE THE FINDINGS AND ORDERS AFTER HEARING.

ATTORNEY (NAME AND ADDRESS): EDC Court California ATTORNEY FOR: Resp.	TELEPHONE NO:	Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
DISSOMASTER REPORT 2022, Monthly		CASE NUMBER: 21FL0015

Input Data	Resp.	Pet.	Guideline (2022)	Cash Flow Analysis	Resp.	Pet.
Number of children	0	0	Nets (adjusted)	Guideline		
% time with Second Parent	0%	0%	Resp.	4,758	Payment (cost)/benefit	(2,023) 2,023
Filing status	MFJ->	<-MFJ	Pet.	(240)	Net spendable income	2,735 1,783
# Federal exemptions	1*	1*	Total	4,518	% combined spendable	60.5% 39.5%
Wages + salary	6,535	0	Support (Nondeductible)	Total taxes	1,071	0
401(k) employee contrib	0	0	SS Payor	Resp. # WHA	4	0
Self-employment income	0	0	Alameda	2,023	Net wage paycheck/mo	5,398 0
Other taxable income	153	0	Total	2,023	Comb. net spendable	4,518
Short-term cap. gains	0	0	Proposed, tactic 9	Proposed		
Long-term cap. gains	0	0	SS Payor	Resp. Payment (cost)/benefit	(2,023)	2,023
Other gains (and losses)	0	0	Alameda	2,023	Net spendable income	2,735 1,783
Ordinary dividends	0	0	Total	2,023	NSI change from gdl	0 0
Tax. interest received	0	0	Savings	0	% combined spendable	60.5% 39.5%
Social Security received	0	0	No releases		% of saving over gdl	0% 0%
Unemployment compensation	0	0		Total taxes	1,071	0
Operating losses	0	0		# WHA	4	0
Ca. operating loss adj.	0	0		Net wage paycheck/mo	5,398	0
Roy, partnerships, S corp, trusts	0	0		Comb. net spendable	4,518	
Rental income	0	0		Percent change	0.0%	
Misc ordinary tax. inc.	153	0		Default Case Settings		
Other nontaxable income	0	0				
New-spouse income	0	0				
Adj. to income (ATI)	0	0				
SS paid other marriage	0	0				
Ptr Support Pd. other P'ships	0	0				
CS paid other relationship	0	0				
Health ins(Pd by party)	5	240				
Qual. Bus. Inc. Ded.	0	0				
Itemized deductions	0	0				
Other medical expenses	0	0				
Property tax expenses	0	0				
Ded. interest expense	0	0				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
Required union dues	117	0				
Cr. for Pd. Sick and Fam. L.	0	0				
Mandatory retirement	737	0				
Hardship deduction	0*	0*				
Other gdl. deductions	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	1,305				



LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 14, 2022

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

5. JAMES VERANDES V. ALLISON VERANDES

PFL20170788

On December 8, 2022, the parties submitted a Stipulation and Order RE: Child Custody and Visitation codifying their agreed upon visitation time between Petitioner and the minor children. In February of 2022, Petitioner's parenting time was expanded to include overnights every other weekend from Saturday at 9:00 am to Sunday at 7:00 pm, plus Wednesdays from after school until 7:00 pm. On March 28, 2022, Petitioner filed a Supplemental Declaration requesting joint physical custody with his parenting time to be Sunday at 12:00 pm to Monday at 7:00 pm. Tuesday and Wednesday after school until 7:00 pm and alternating weekends from Saturday at 9:00 am to Sunday at 12:00 pm. Respondent filed a reply, requesting that the current parenting schedule remain as is.

The matter came before the court for hearing on April 7, 2022, at which time the court ordered the following: (1) the parties to enroll and participate in a co-parenting class, proof of completion must be filed and served no later than May 31, 2022; (2) upon the completion of co-parenting class, the parties are to participate in co-parenting counseling with an agreed upon therapist, at the frequency and duration as directed by the therapist; and (3) the parties to return to Child Custody Recommending Counseling (CCRC). The matter was set for a review hearing on June 23, 2022.

On May 18, 2022, Petitioner filed his certificate of completion evidencing his completion of co-parenting classes with Modern Parenting Solutions Online Learning. There is no certificate of completion filed by Respondent.

In compliance with the court's order, the parties attended CCRC on May 4, 2022. A CCRC report was issued on June 20, 2022 and mailed to the parties that same day. Neither party has filed an objection, or response, to the CCRC report.

Having reviewed the CCRC report, the court finds that the recommendations contained within the CCRC report are in the best interest of the minors and adopts them as the orders of the court. Additionally, Respondent is to complete a co-parenting class, if she has not done so already, and file proof of completion no later than July 28, 2022.

TENTATIVE RULING #5: HAVING REVIEWED THE CCRC REPORT, THE COURT FINDS THAT THE RECOMMENDATIONS CONTAINED WITHIN THE CCRC REPORT ARE IN THE BEST INTEREST OF THE MINORS AND ADOPTS THEM AS THE ORDERS OF THE COURT. ADDITIONALLY, RESPONDENT IS TO COMPLETE A CO-PARENTING CLASS, IF SHE HAS NOT DONE SO ALREADY, AND FILE PROOF OF COMPLETION NO LATER THAN JULY 28, 2022. THE MATTER IS SET FOR REVIEW HEARING ON OCTOBER 6TH, 2022 AT 8:30 AM IN DEPARTMENT 5.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 14, 2022

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

6. JARED DENNIS V. AMORE BISHOP

PFL20170788

On December 2, 2021 the court adopted the tentative ruling as there was no proper request for oral argument. The court set a review hearing for March 10, 2022 at 8:30 to review the request for reunification and visitation.

In the interim, on December 7, 2021 Respondent filed a RFO again requesting reunification and visitation. Petitioner was served by mail on December 8, 2021 with Proof of Service filed the same day. A hearing was set for the RFO on February 24, 2022.

On February 9, 2022, Petitioner filed a Responsive Declaration requesting the matter be continued past the current date for trial on the confidential probate matter, which is currently set for April 5, 2022 in Department 8. Respondent was served by mail on February 9, 2022 with Proof of Service filed the same day. Petitioner renews the concerns previously raised in the November 23, 2021 Supplemental Declaration.

Respondent filed a Declaration in support of the RFO on February 15, 2022. Petitioner was served by mail on February 15, 2022 with Proof of Service filed the same day. Petitioner reiterates the same requests from her previous filings.

On February 24, 2022 the court adopted the tentative ruling issued on February 23, 2022, as no parties requested oral argument. The court continued the review hearing to join with the RFO set for May 12, 2022.

Respondent filed a Supplemental Declaration on April 26, 2022. Petitioner was served by mail on April 25, 2022. The Supplemental Declaration raises the same arguments as previous declarations.

Respondent filed a Declaration on July 5, 2022. Petitioner was served by mail the same day. Respondent asserts Petitioner has a current substance abuse problem. Respondent renews her request that the court begin the reunification process with the minor.

Petitioner filed a Supplemental Declaration on July 7, 2022. Petitioner requests the court continue the hearing as the trial on the confidential matter is still pending. After Respondent exercised her 170.6 against this bench officer, the matter was reassigned to Judge Sullivan. Respondent then filed a 170.1 against Judge Sullivan. Judge Sullivan recused herself and the matter was assigned to Judge McLaughlin in Department 4. Petitioner believes it is likely the hearing set in Department 4 for trial setting will likely be reset as Judge McLaughlin is likely to recuse himself. Petitioner requests the court continue this matter until January 2023.

The court finds the underlying issue in the confidential probate matter has still not been resolved and therefore, this matter will need to be continued past the date of trial. The matter is continued to December 1st, 2022 at 8:30 AM in Department 5.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 14, 2022

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

Respondent is ordered to prepare and file the Findings and Order After Hearing.

TENTATIVE RULING #6: THE MATTER IS CONTINUED TO DECEMBER 1ST, 2022 AT 8:30 IN DEPARTMENT 5. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. RESPONDENT IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 14, 2022

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

7. LIDIA BANTEA V. GARY GLENESK

PFL20210277

On April 28, 2022, the court issued an ex parte minute order setting a hearing for July 14, 2022 at 8:30 am for clarification of Findings and Orders After Hearing for the February 10, 2022 hearing. Parties were noticed via mail.

Neither party has submitted a Declaration regarding this hearing.

The court has read and considered the Findings and Orders After Hearing (FOAH) submitted by both Petitioner and Respondent, as well as the transcript from the February 10, 2022 hearing. The court finds Respondent's FOAH accurately reflects the court's findings and orders from that hearing. The court therefore, adopts the FOAH submitted by Respondent.

TENTATIVE RULING #7: THE COURT ADOPTS RESPONDENT'S FOAH FOR THE FEBRUARY 10, 2022 HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 14, 2022

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

8. LISA THOMASON V. LOUIS MOLAKIDES

PFL20210494

On May 17, 2022, Respondent filed a Request for Order (RFO) requesting the court order the parties to participate in a Family Code section 3111 evaluation, with Respondent to cover the expense subject to reallocation. Petitioner was served with the RFO electronically on May 18, 2022. Respondent asserts a Family Code section 3111 evaluation is necessary as the prior CCRC report did not adequately address the issues in the case. Respondent further asserts this case has issues of highly contented child custody and parenting time which involve allegations of physical and emotional abuse, as well as neglect. Respondent believes the case requires additional time and investigation and the court will benefit from full and complete information when decided issues of custody. Respondent proposes to evaluators, Jack Love and Eugene Roeder. Respondent requests the court modify the current parenting plan pending return of the 3111 evaluation. Respondent also requests the current no contact order between the minors and Mr. Whitaker remain in full force and effect.

Petitioner filed a Responsive Declaration on June 3, 2022. Upon review of the court file, there is no Proof of Service indicating Respondent was served with the Responsive Declaration. Therefore, the court has not considered this document.

The court grants Respondent's request for a Family code section 3111 evaluation. Respondent shall pay the expense of the evaluation subject to reallocation. Parties shall utilize either Jack Love or Eugene Roeder. The court sets a review hearing for return of the 3111 evaluation on November 3rd, 2022 at 8:30 AM in Department 5.

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

TENTATIVE RULING #6: THE COURT GRANTS RESPONDENT'S REQUEST FOR A FAMILY CODE SECTION 3111 EVALUATION. RESPONDENT SHALL PAY THE EXPENSE OF THE EVALUATION SUBJECT TO REALLOCATION. PARTIES SHALL UTILIZE EITHER JACK LOVE OR EUGENE ROEDER. THE COURT SETS A REVIEW HEARING FOR RETURN OF THE 3111 EVALUATION ON NOVEMBER 3RD, 2022 AT 8:30 AM IN DEPARTMENT 5. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT PENDING RETURN OF THE EVALUATION. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 14, 2022

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

9. MARIA ELLENA EYRISCH V. BRYCE ANDREW EYRISCH

22FL0433

On May 16, 2022, Petitioner filed a Request for Order (RFO) requesting an order for the parties to stay current on their mortgage. There is no proof of service indicating that the RFO was properly served on Respondent. Without being served, the matter must be dropped from the court's calendar.

TENTATIVE RULING #9: MATTER DROPPED FROM CALENDAR FOR LACK OF SERVICE.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 14, 2022

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

10. NIKOLAS PAECH V. CAROLINE GIROUX

PFL20210276

On June 10, 2022, parties appeared for a Request for Order (RFO) filed by Respondent requesting modification of custody orders, parenting time orders, and exclusive use of the former marital property. The court denied the request to modify custody and parenting time. The court set a further review hearing for July 14, 2022, to review the parenting plan. Respondent was not to be involved in the minors' therapy sessions, unless specifically requested by the minors' therapist. Respondent was not to have any overnight guests during her parenting time. The court did not rule on Respondent's request for exclusive use of the formal marital residence. The court ordered any Supplemental Declarations be filed and served at least 10 days prior to the hearing.

Petitioner filed a Status Brief on July 5, 2022. It was served on Respondent and Minors' Counsel electronically and by mail on July 5, 2022. Petitioner states the minors continue to refuse to go to Respondent's home during her court ordered parenting time. Petitioner further asserts the minor Y.P. has PTSD and has expressed suicidal ideations. Petitioner states the family therapist recommended the minors not be forced to do anything they do not want to do. The family therapist suggested incrementally increasing Respondent's parenting time with the minors by starting with having them for dinner at a restaurant. The family therapist also recommended if progress is made, then Respondent should withdraw her RFO. Petitioner states Respondent seemed to agree with the recommendations during the counseling session, but after leaving stated she expects the minors to be with her during her parenting time. Petitioner asserts the minors felt most comfortable with Child Protective Services involvement in the case and requests the court "allow CPS to take over." Petitioner also raises concerns about Minors' Counsel's representation of the minors.

The court has not received a Supplemental Declaration from Respondent or Minors' Counsel.

Parties are ordered to appear.

TENTATIVE RULING #10: PARTIES ARE ORDERED TO APPEAR.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 14, 2022

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

11. PETER THORNE V. TATJANA THORNE

PFL20180072

On May 17, 2022 parties appeared for trial and requested the trial date be vacated as parties had reached an agreement. A hearing was set for July 14, 2022 for receipt of the Judgement paperwork.

On June 23, 2022, a stipulation to waive final disclosure and appearance stipulation and waiver form was filed along with the Judgment paperwork. On July 7, 2022, the clerk returned the Judgement and Agreement to address whether the issue of support was being reserved or terminated.

As the parties have reached an agreement and are in the process of submitting the Judgement and Agreement, the court drops the matter from calendar.

TENTATIVE RULING #11: THE MATTER IS DROPPED FROM CALENDAR.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 14, 2022

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

12. SAMUEL MATTILA V. KRISTIANNA HEIMAN

PFL20210271

On April 21, 2022, Respondent filed a Request for Order (RFO) requesting joint legal custody and visitation with Petitioner every other Friday from 5:00 pm to Sunday at 6:00 pm. Respondent requests to be the custodial parent. This is a change to the current order which allows for joint legal custody, and visitation with Petitioner from every Friday at 6:00 pm to Monday at 6:00 pm and every other Thursday from 6:00 pm to Monday at 6:00 pm. The RFO was served via U.S. Mail on May 2, 2022.

On May 11, 2022, Petitioner filed his Responsive Declaration to Request for Order, which was served via U.S. Mail on May 9, 2022.

In support of Respondent's request to revise the visitation schedule Respondent provides a declaration indicating that the minor is having difficulty with the current schedule given his age and the distance between Petitioner's home in Roseville, and Respondent's home in Grizzly Flats. Respondent notes that the minor attends pre-K in Wheatland, his enrollment was unilateral by Petitioner without the prior input of Respondent. Given the distance from Respondent's residence to Wheatland, Respondent notes that the minor spends a total of three hours commute time on the pre-K days when he is staying with Respondent. The minor is approximately 3 years old.

Respondent also notes that the current schedule does not provide her with any weekend visitation time, which will be problematic when the minor begins attending school. Petitioner's employment requires him to be gone for extended periods of time, and Petitioner has insisted on leaving the minor with his paternal grandparents instead of allowing Respondent her right to be the first option for childcare. Finally, Respondent notes her concern for the minor's well being while in the care of Petitioner as the minor has repeatedly returned from visits with severe diaper rash.

Petitioner does not agree with the schedule requested in the RFO but would agree to a 2-2-3 or a 2-2-5-5 schedule, or, in the alternative, Petitioner would agree to being the custodial parent. Petitioner also requests that the court eliminate the right of first refusal of childcare given the co-parenting difficulties the parties are having. Petitioner asserts that he did not enroll the minor in pre-K but instead enrolled him in daycare which he attends only during visits with Petitioner, so he is not required to make a 3-hour trip as Respondent claims. Additionally, Petitioner states that the minor is exchanged in Cameron Park so on any given exchange day the minor is traveling from Grizzly Flats to Cameron Park and then from Cameron Park to Roseville or vice versa. Petitioner provides a printout from the Talking Parents app wherein he offered to fly his parents out to care for the minor if needed, but he did not demand that they take him. Finally, he points to only one instance of a diaper rash and indicates that the minor has had diaper rash at times after visits with Respondent as well.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 14, 2022

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

Petitioner notes that Respondent has not provided him with her current address or the identity of individuals living with her, if any.

The parties were referred to Child Custody Recommending Counseling (CCRC) which they attended on May 26, 2022. A CCRC report was issued on July 2, 2022 and sent to all Parties on July 6, 2022. CCRC indicates that the parties were unable to reach any agreements regarding parenting time. As such, CCRC made the following recommendations: (1) the parties are to continue to share equal custody of the child; (2) the parties will utilize a 2-2-3 parenting schedule to ensure that both parents have weekends with the child; (3) Child exchanges will take place in Placerville, CA at a mutually agreed upon location or, if the parties cannot agree, the exchanges are to take place in the El Dorado Superior Court Parking lot located at 495 Main St., in Placerville; (4) the parties are to inform one another of the name, address, and phone number of the child's regular child-care providers; (5) in the event that Petitioner requires childcare for 24 hours or more during his parenting time, Respondent must be given the first opportunity, with as much notice as possible, to care for the child before other arrangements are made; (6) all prior court orders not in conflict with the CCRC recommendations to remain in full force and effect.

Having reviewed the filings of the parties and the CCRC report, the court finds that the agreements and recommendations contained within the CCRC report are in the best interest of the minor and adopts them as the orders of the court with the following modification. The right of first option of extended childcare should apply if either parent is in need of childcare for a period of 24 hours or more during his/her parenting time, not just when Petitioner is in need of such childcare.

TENTATIVE RULING #12: THE COURT FINDS THAT THE AGREEMENTS AND RECOMMENDATIONS CONTAINED WITHIN THE CCRC REPORT ARE IN THE BEST INTEREST OF THE MINOR AND ADOPTS THEM AS THE ORDERS OF THE COURT WITH THE MODIFICATION THAT IF EITHER PARTY REQUIRES CHILDCARE FOR 24 HOURS OR MORE WHILE THE CHILD IS IN HIS OR HER CUSTODY, THE OTHER PARENT MUST BE GIVEN THE FIRST OPPORTUNITY, WITH AS MUCH PRIOR NOTICE AS POSSIBLE, TO CARE FOR THE CHILD BEFORE OTHER ARRANGEMENTS ARE MADE. RESPONDENT IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 14, 2022

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

13. SARAH CRAIG V. RYAN CRAIG

PFL20170099

On May 16, 2022, Respondent filed an Order to Show Cause and Affidavit for Contempt alleging 10 counts of contempt by Petitioner. Petitioner was personally served on July 7, 2022, with a Proof of Service filed on July 11, 2022. The court finds the service does not comply with Code of Civil Procedure section 1005, which requires service at least 16 court days prior to the hearing. Therefore, the court drops the matter from calendar due to lack of proper service.

TENTATIVE RULING #13: THE MATTER IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 14, 2022

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

14. VITO MIRABILE V. JESSICA MIRABILE

PFL20200461

Two motions are set to be heard before the court. First, a Notice of Motion and Declaration for Joinder, and second, a discovery Request for Order (RFO). The facts are as follows.

Motion for Joinder

On February 25, 2022, Petitioner filed a Notice of Motion and Declaration for Joinder (Motion for Joinder) wherein he requested to join Petitioner and Respondent's adult daughter Vitoria Hastings to resolve an issue of the ownership of a bed set that is currently located in the marital home. The court has ordered for the home to be sold. According to Petitioner's moving papers, he inherited the bedroom set from his mother. The set is currently located in the marital home but given the court order to sell the house, the set was about to be moved to a different location when Ms. Hastings sent an interloper under durable power of attorney to block the move of the bedroom set given her claim that she is the true owner of the set. The interloper sent by Ms. Hastings is the same individual that Respondent chose to be her neutral observer for Petitioner's removal of his property from the house. Pursuant to court order issued December 17, 2021, the neutral observer may not interfere with the move. In support of his Motion for Joinder Petitioner requests that the court take judicial notice of pages 6 and 7 of the ex parte motion filed on December 16, 2021.

Petitioner served his Motion for Joinder on March 11, 2022 via U.S. Mail. On April 15, 2011, Respondent filed and served a Responsive Declaration to Motion for Joinder. As a threshold issue, Respondent points to the procedural deficiencies of Petitioner's filing and asks that the matter be dismissed given Petitioner's failure to comply with California Rule of Court 5.24(d)(1) which requires the filing of an appropriate pleading setting forth the joinder claim as if the pleading were asserted in a separate action or proceeding. No such pleading was filed with Petitioner's moving papers.

Should the court reach the substantive issues raised in the Motion for Joinder, Respondent concedes that the bedroom set is Petitioner's separate property, and she has no claim to it. According to Respondent, the dispute over the bedroom set is solely between Petitioner and Ms. Hastings and thus, the family court has no jurisdiction to rule on the issue of ownership beyond establishing that the bedroom set is the separate property of Petitioner. Respondent asserts that the family court is not the proper forum to resolve the issue of ownership between Petitioner and a third-party.

"The court may order that a person be joined as a party to the proceeding if the court finds that it would be appropriate to determine the particular issue in the proceeding and that the person to be joined as a party is either indispensable for the court to make an order about

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 14, 2022

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

that issue or is necessary to the enforcement of any judgment rendered on that issue.” Cal. Rule Ct. 5.24(e)(2). To effectuate a joinder, the party making the request must serve and file a Notice of Motion and Declaration for Joinder and “...it must be accompanied by an appropriate pleading setting forth the claim as if it were asserted in a separate action or proceeding.” Cal. Rule Ct. 5.24(d)(1).

Petitioner has not filed a pleading setting forth his claims against Ms. Hastings as if they were being brought in a separate proceeding. As such, his Motion for Joinder must be denied on the basis of its procedural deficiencies. However, even if the court were to reach the substantive matters asserted in the motion, the court would be inclined to deny it substantively as well. Both parties are in agreement that the bedroom set is not community property. Petitioner’s dispute with Ms. Hastings over the ownership of the bedroom set is an issue separate and apart from the dissolution proceedings before the court in the present case. Ms. Hastings involvement is not necessary to determine any matter that is actually pending before the court and as such, her joinder would only serve to unduly complicate and delay the proceedings.

In light of the foregoing, Petitioner’s Notice of Motion and Declaration for Joinder is denied for its procedural deficiencies.

Request for Order

On April 29, 2022, Respondent filed a Request for Order (RFO) requesting an order compelling Petitioner to produce documents in response to Demand for Production of Documents, Set 2, and sanctions in the amount of \$2,500 payable to Respondent per Cal. Code of Civil Procedure Section 2023.010. The RFO was properly served on May 2, 2022 via U.S. Mail. Petitioner has not filed a response.

In support of the RFO, Respondent’s counsel filed a declaration indicating that the subject discovery requests were served on December 21, 2021. Petitioner did not provide responses by their due date of January 26, 2022. A request for a 30-day extension was made, and granted, thereby making responses due on February 25, 2022. Again, no responses were provided. Eventually Petitioner’s counsel informed counsel for Respondent that they would not be providing responses because the same information would be received by way of subpoenas that had been served on Petitioner’s bank. Of note, however, is that only requests 1-3 are seeking bank information. The remainder of the requests address a variety of other issues.

Within 30 days after the service of a demand for production of documents, the party to whom the demands were made shall serve full and complete responses to the propounding party. Cal. Civ. Pro. § 2031.260(a). Should a party fail to comply with applicable time limits, the

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 14, 2022

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

propounding party can seek an order compelling responses to the requested discovery. Cal. Civ. Pro. § 2031.300 (b).

In the matter before the court, Petitioner has had more than ample time to provide Respondent with full and complete discovery responses, as Petitioner is required to do. Whether or not there are pending subpoenas for documents that may also be responsive to the requests made by Respondent's counsel is irrelevant. Respondent has the right to conduct discovery as they so choose in accordance with the California Code of Civil Procedure, and such right includes the ability to both serve subpoenas and to propound requests for documents. One is not exclusive of the other. As such, Petitioner is hereby ordered to serve full and complete responses to Respondent's Demand for Production of Documents, Set 2, no later than July 27, 2022.

Where a party fails to comply with properly made discovery requests, without substantial justification, the court is authorized to issue monetary sanctions pursuant to California Civil Procedure Sections 2023.010 and 2032.030(a). Specifically, "the court may impose a monetary sanction ordering that one engaging in the misuse of the discovery process, or any attorney advising that conduct, or both pay the reasonable expenses, including attorney's fees, incurred by anyone as a result of that conduct...if a monetary sanction is authorized by any provision of this title, the court *shall* impose that sanction unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust." Cal. Civ. Pro. §2023.030(a)(emphasis added).

As discussed above, Petitioner has wholly failed to respond to valid discovery requests which were properly propounded. Petitioner did not provide opposing counsel with any substantial justification for the lack of response, nor did he file a responsive declaration providing the court with an explanation to justify his disregard for the discovery process. Due to Petitioner's failure to comply with the aforementioned Code of Civil Procedure sections, and the failure to provide any substantial justification for Petitioner's actions, the court imposes sanctions against Petitioner and his counsel, jointly and severally in the amount of \$2,500 to be paid in monthly increments of \$500 until paid in full.

TENTATIVE RULING 14: PETITIONER'S NOTICE OF MOTION AND DECLARATION FOR JOINDER IS DENIED FOR ITS PROCEDURAL DEFICIENCIES. PETITIONER IS HEREBY ORDERED TO SERVE FULL AND COMPLETE RESPONSES TO RESPONDENT'S DEMAND FOR PRODUCTION OF DOCUMENTS, SET 2, NO LATER THAN JULY 27, 2022. THE COURT IMPOSES SANCTIONS AGAINST PETITIONER AND HIS COUNSEL, JOINTLY AND SEVERALLY IN THE AMOUNT OF \$2,500 TO BE PAID IN MONTHLY INCREMENTS OF \$500 UNTIL PAID IN FULL. RESPONDENT IS TO PREPARE THE FINDINGS AND ORDERS AFTER HEARING.