

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

1. CHELSEA HARRISON V. JOSEPH HARRISON

23FL0289

This matter is before the court on a Request for Order (RFO) filed by Petitioner on April 25, 2023. Concurrently therewith Petitioner filed her Income and Expense Declaration. Both documents, along with all other required documents, were served on May 1st. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on May 25th, and a hearing on the RFO was set for the present date.

Respondent filed and served his Responsive Declaration to Request for Order and his Income and Expense Declaration on July 7th. Also on July 7th, Petitioner filed and served Petitioner's Supplemental Declaration. She followed that with Petitioner's Reply Declaration to Respondent's Responsive Declaration which was filed and served on July 13th.

Petitioner brings her RFO requesting orders for child custody and visitation, child support, spousal support, property control and attorney's fees.

Custody and Visitation

Both parties request joint legal and physical custody of the children. Petitioner proposes a 2-2-3 schedule with exchanges to occur at the time of school drop off, or 9am when school is not in session. She also asks that the court establish a schedule for holidays and school break.

The parties attended CCRC on May 25th and a report dated June 20th was prepared and sent to the parties. According to the CCRC report the parties were able to reach agreements on all custody and visitation issues.

Petitioner asks the court to adopt the agreements as stated in the CCRC report with one addition. She asks that the court order any childcare providers over the age of eighteen, that the parties do not know personally, be required to have a background check that will be paid for by the parent utilizing the childcare provider. The parties shall share the report with one another and shall share the contact information of the childcare provider.

The court has reviewed the filings as outlined above and the court finds the agreements as codified in the CCRC report to be in the best interests of the children. As such, the agreements as stated in the June 20, 2023 CCRC report are hereby adopted as the orders of the court. The court further orders that each party share the contact information of any childcare provider he or she intends to use prior to that provider caring for the children. The court denies Petitioner's request to order third party childcare providers to submit to background checks prior to caring for the children. This request appears to be too speculative at this time. Petitioner has not provided any basis for her request or any tangible concern regarding a specified proposed provider. As such, the request is denied at this time.

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Child and Spousal Support

Petitioner is requesting guideline child support with a bonus/overtime table, pursuant to the timeshare established by the parties' custody schedule. She also asks that all uninsured medical, dental, orthodontia, vision, work-related daycare expenses, and agreed upon extracurricular activities be shared equally.

In addition to child support, Petitioner asks the court to order guideline spousal support with a bonus/overtime table. According to the Petitioner, she was the primary caregiver for the children during the marriage and in that capacity she was unemployed for extended periods of time. For that reason, there is now a significant disparity in income between the parties.

Petitioner asks that a bonus/overtime table be included in the calculation of support with overtime income to include "any additional income resulting from employment or self-employment, including but not limited to commissions, bonus income, overtime wages, double time wages, inspection wages, etc." She asks that Respondent be ordered to provide a copy of any earnings statement, or other documentation of any additional income he receives along with the bonus support payment within seven days of his receipt thereof. She asks that support commence on May 1st and has provided the court with a proposed DissoMaster report.

Respondent does not oppose guideline child support or temporary guideline spousal support as long as Petitioner is imputed with full time minimum wage income and an additional \$1,500 a month in rental income is also considered in the court's calculation. Respondent asks that the court issue a *Gavron* warning to Petitioner pursuant to Family Code Section 4330(b) and that Petitioner be ordered to undergo a vocational evaluation with David Ritz, at Respondent's expense, pursuant to Family Code Section 4331. Respondent argues that there is no reason Petitioner cannot work full time. Further, he asks for a credit against support for all of the expenses he has been paying for Petitioner since the date of separation. This includes the mortgage in the amount of \$2,200 per month and boat and dock fees amounting to \$1,525 per month, and an additional \$1,500 per month for his payment towards Petitioner's monthly credit card bills. Respondent has also provided the court with a proposed DissoMaster report and bonus table.

Petitioner argues it is premature for a *Gavron* Warning as she has worked only part-time to allow her the ability to provide care for the children. She notes that both parties have benefitted from this given that regular childcare may be more expensive than the difference in her income between part-time and full-time work. She is not opposed to working full-time and intends to obtain full-time employment when the dissolution is complete or when a position with her current employer becomes available. For this reason, she also requests the court deny Respondent's request for imputed income. Petitioner agrees to comply with a vocational rehabilitation examination as long as Respondent pays for the cost of the evaluation.

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The court is in agreement with Petitioner that a *Gavron* Warning and the imputation of income is premature at this stage in the litigation. That said, these requests are denied without prejudice. Alternatively, Respondent's request for a vocational rehabilitation assessment is granted. Respondent is ordered to pay the full cost of the evaluation subject to reallocation pending trial on the issue of property division.

Regarding the \$500 in rental income paid by Petitioner's mother, the court does find this to be regular income and as such, it is to be included in the calculation of support. That said, utilizing the figures as outlined in the attached DissoMaster report, the court finds that spousal support per the Alameda formula is \$2,260 per month. The court further finds that child support is \$2,268 per month. The court adopts the attached DissoMaster report and orders Respondent to pay Petitioner \$4,528 per month as and for child support and temporary spousal support, payable on the 1st of the month until further order of the court or legal termination. These support orders are effective May 1, 2023.

The court finds the above order results in arrears in the amount of \$13,584 through and including July 1, 2023. The court reserved on the order of the arrears payment and further reserves in the issue of whether Respondent has earned a credit against support for amounts paid after separation until the time of trial on the issue of property division.

The court further finds Respondent routinely earns bonus payments and therefore, has included a bonus table with the DissoMaster. Respondent is to pay Petitioner a true up of any bonus earned within seven days of Respondent's receipt of the bonus money. Respondent is to provide an earning statement, or other documentation, of the amount of the bonus received.

In addition to the above support orders all uninsured medical, dental, orthodontia, vision, work-related daycare expenses, and agreed upon extracurricular activities for the children shall be shared equally.

Attorney's Fees

Petitioner is requesting attorney's fees in the amount of \$5,000 pursuant to Family Code Section 2030. She argues Respondent has the ability to pay fees for both parties from his post-separation earnings as there is a significant disparity in income between the parties.

Respondent opposes the request for attorney's fees and argues that Petitioner can pay her own fees as a result of her receipt of \$34,000 from the sale of stock.

The public policy of Family Code section 2030 is to provide "at the outset of litigation, consistent with the financial circumstances of the parties, parity between spouses in their ability to obtain effective legal representation." *In Re Marriage Of Keech*, 75 Cal. App. 4th 860, 866 (1999). This assures each party has access to legal representation to preserve each party's

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rights. It “is not the redistribution of money from the greater income party to the lesser income party,” but rather “parity.” Alan S. v Superior Court, 172 Cal. App. 4th 238,251(2009). The award must be just and reasonable; in determining what is just and reasonable, the court can take into consideration the need for the award to enable each party, to the extent practical, to have sufficient financial resources to present the party’s case adequately. In Re Marriage Of Falcone & Fyke, 203 Cal. App. 4th 964; 975 (2012). The court must consider the impact of the fee award on the payor, taking into account any orders for support. In Re Marriage Of Keech, *supra*, at 860.

In ruling on an award of 2030 attorney’s fees, the court must first determine whether a disparity exists in the ability to pay for, and access to funds to retain counsel. This element has been met. Respondent has more resources than petitioner as Respondent’s net disposable income after support orders is \$9,339 as compared to Petitioner’s \$7,175. That said, the support orders make for the disparity of income significantly less than prior to the payment of support and the court is concerned that an order of a lump sum payment would constitute a burden on Respondent.

Next, the court is to consider whether the requested costs and fees are reasonably necessary. It appears both parties have paid their attorneys approximately \$5,000 to date. As such, Petitioner’s request for that amount does not appear to be unreasonably excessive.

In light of the foregoing, Petitioner is awarded \$5,000 as and for attorney’s fees to be paid directly to her attorney. Respondent is to make monthly payments of \$500 due on the first of each month until paid in full (approximately 10 months).

Property Control

Petitioner requests temporary exclusive use and possession of the marital residence located on Villagio Drive in El Dorado Hills. She notes that Respondent has recently moved into an apartment so he will no longer need to come and go from the residence. She asks that Respondent assist in the payment of the bills associated with the residence.

Respondent does not oppose Petitioner’s request for exclusive use and possession of the marital residence, however, in the event the court issues such an award he asks that she be ordered to pay all expenses related to the maintenance thereof. This includes, but is not limited to, the mortgage, property taxes, insurance, and utilities. He also asks that the court reserve the right to award him one-half of the fair market rental value of the residence for Petitioner’s use of the home since separation pursuant to *In re Marriage of Watts*.

Petitioner is awarded temporary exclusive use and possession of the marital residence located on Villagio Drive, subject to *Watts/Epstein* charges and credits. Petitioner is to be responsible for the timely and complete payment of the costs associated with her residence in the home, including but not limited to the mortgage, property taxes, insurance, and utilities.

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TENTATIVE RULING #1: THE AGREEMENTS AS STATED IN THE JUNE 20, 2023 CCRC REPORT ARE HEREBY ADOPTED AS THE ORDERS OF THE COURT. THE COURT FURTHER ORDERS THAT EACH PARTY SHARE THE CONTACT INFORMATION OF ANY CHILDCARE PROVIDER HE OR SHE INTENDS TO USE PRIOR TO THE PROVIDER CARING FOR THE CHILDREN. THE COURT DENIES PETITIONER'S REQUEST TO ORDER THIRD PARTY CHILDCARE PROVIDERS TO SUBMIT TO BACKGROUND CHECKS PRIOR TO CARING FOR THE CHILDREN. THIS REQUEST APPEARS TO BE TOO SPECULATIVE AT THIS TIME. PETITIONER HAS NOT PROVIDED ANY BASIS FOR HER REQUEST OR ANY TANGIBLE CONCERN REGARDING A SPECIFIED PROPOSED PROVIDER. AS SUCH, THE REQUEST IS DENIED AT THIS TIME. PETITIONER IS AWARDED TEMPORARY EXCLUSIVE USE AND POSSESSION OF THE MARITAL RESIDENCE LOCATED ON VILLAGIO DRIVE, SUBJECT TO WATTS/EPSTEIN CHARGES AND CREDITS. PETITIONER IS TO BE RESPONSIBLE FOR THE TIMELY AND COMPLETE PAYMENT OF THE COSTS ASSOCIATED WITH HER RESIDENCE IN THE HOME, INCLUDING BUT NOT LIMITED TO THE MORTGAGE, PROPERTY TAXES, INSURANCE, AND UTILITIES.

RESPONDENT'S REQUESTS FOR A GAVRON WARNING AND THE IMPUTATION OF MINIMUM WAGE ARE DENIED WITHOUT PREJUDICE. ALTERNATIVELY, RESPONDENT'S REQUEST FOR A VOCATIONAL REHABILITATION ASSESSMENT IS GRANTED. RESPONDENT IS ORDERED TO PAY THE FULL COST OF THE EVALUATION SUBJECT TO REALLOCATION PENDING TRIAL ON THE ISSUE OF PROPERTY DIVISION.

UTILIZING THE FIGURES AS OUTLINED IN THE ATTACHED DISSOMASTER REPORT, THE COURT FINDS THAT SPOUSAL SUPPORT PER THE ALAMEDA FORMULA IS \$2,260 PER MONTH. THE COURT FURTHER FINDS THAT CHILD SUPPORT IS \$2,268 PER MONTH. THE COURT ADOPTS THE ATTACHED DISSOMASTER REPORT AND ORDERS RESPONDENT TO PAY PETITIONER \$4,528 PER MONTH AS AND FOR CHILD SUPPORT AND TEMPORARY SPOUSAL SUPPORT, PAYABLE ON THE 1ST OF THE MONTH UNTIL FURTHER ORDER OF THE COURT OR LEGAL TERMINATION. THE COURT ORDERS THE SUPPORT ORDERS EFFECTIVE MAY 1, 2023.

THE COURT FINDS THE ABOVE ORDER RESULTS IN ARREARS IN THE AMOUNT OF \$13,584 THROUGH AND INCLUDING JULY 1, 2023. THE COURT FINDS THE ABOVE ORDER RESULTS IN ARREARS IN THE AMOUNT OF \$13,584 THROUGH AND INCLUDING JULY 1, 2023. THE COURT RESERVED ON THE ORDER OF THE ARREARS PAYMENT AND FURTHER RESERVES IN THE ISSUE OF WHETHER RESPONDENT HAS EARNED A CREDIT AGAINST SUPPORT FOR AMOUNTS PAID AFTER SEPARATION UNTIL THE TIME OF TRIAL ON THE ISSUE OF PROPERTY DIVISION.

THE COURT FURTHER FINDS RESPONDENT ROUTINELY EARNS BONUS PAYMENTS AND THEREFORE, HAS INCLUDED A BONUS TABLE WITH THE DISSOMASTER. RESPONDENT IS TO PAY PETITIONER A TRUE UP OF ANY BONUS EARNED WITHIN SEVEN DAYS OF RESPONDENT'S

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RECEIPT OF THE BONUS. RESPONDENT IS TO PROVIDE AN EARNING STATEMENT, OR OTHER DOCUMENTATION, OF THE AMOUNT OF THE BONUS RECEIVED.

IN ADDITION TO THE ABOVE SUPPORT ORDERS ALL UNINSURED MEDICAL, DENTAL, ORTHODONTIA, VISION, WORK-RELATED DAYCARE EXPENSES, AND AGREED UPON EXTRACURRICULAR ACTIVITIES FOR THE CHILDREN SHALL BE SHARED EQUALLY.

PETITIONER IS AWARDED \$5,000 AS AND FOR ATTORNEY'S FEES TO BE PAID BY RESPONDENT DIRECTLY TO PETITIONER'S ATTORNEY. RESPONDENT IS TO MAKE MONTHLY PAYMENTS OF \$500 DUE ON THE FIRST OF EACH MONTH UNTIL PAID IN FULL (APPROXIMATELY 10 MONTHS).

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.

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

Input Data	Father	Mother	Guideline (2023)	Cash Flow Analysis	Father	Mother
Number of children	0	2	Nets (adjusted)	Guideline		
% time with Second Parent	50%	0%	Father	13,866	Payment (cost)/benefit	(4,528) 4,528
Filing status	MFJ->	<-MFJ	Mother	2,647	Net spendable income	9,338 7,175
# Federal exemptions	1*	3*	Total	16,513	% combined spendable	56.5% 43.5%
Wages + salary	19,454	2,421	Support (Nondeductible)	Total taxes	5,685	1,024
401(k) employee contrib	0	0	CS Payor	Father	Comb. net spendable	16,513
Self-employment income	0	0	Presumed	2,268	Proposed	
Other taxable income	750	1,250	Basic CS	2,268	Payment (cost)/benefit	(4,528) 4,528
Short-term cap. gains	0	0	Add-ons	0	Net spendable income	9,338 7,175
Long-term cap. gains	0	0	Presumed Per Kid		NSI change from gdl	0 0
Other gains (and losses)	0	0	Child 1	863	% combined spendable	56.5% 43.5%
Ordinary dividends	0	0	Child 2	1,405	% of saving over gdl	0% 0%
Tax. interest received	0	0	SS Payor	Father	Total taxes	5,685 1,024
Social Security received	0	0	Alameda	2,260	Comb. net spendable	16,513
Unemployment compensation	0	0	Total	4,528	Percent change	0.0%
Operating losses	0	0	Proposed, tactic 9		Default Case Settings	
Ca. operating loss adj.	0	0	CS Payor	Father		
Roy, partnerships, S corp, trusts	0	0	Presumed	2,268		
Rental income	0	0	Basic CS	2,268		
Misc ordinary tax. inc.	750	1,250	Add-ons	0		
Other nontaxable income	0	0	Presumed Per Kid			
New-spouse income	0	0	Child 1	863		
SS paid other marriage	0	0	Child 2	1,405		
CS paid other relationship	0	0	SS Payor	Father		
Adj. to income (ATI)	0	0	Alameda	2,260		
Ptr Support Pd. other P'ships	0	0	Total	4,528		
Health insurance	653	0	Savings	0		
Qual. Bus. Inc. Ded.	0	0	No releases			
Itemized deductions	0	0				
Other medical expenses	0	0				
Property tax expenses	0	0				
Ded. interest expense	0	0				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
State sales tax paid	0	0				
Required union dues	0	0				
Cr. for Pd. Sick and Fam. L.	0	0				
Mandatory retirement	0	0				
Hardship deduction	0*	0*				
Other gdl. adjustments	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	0				

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

"R" denotes that Father is a recipient for the corresponding support

"CS%" is the percentage of Bonus paid as additional Child Support

"SS%" is the percentage of Bonus paid as additional Spousal Support

Father's Gross Bonus	Basic CS%	Basic CS	Alameda SS%	Alameda SS	Total Basic CS	Total SS	Total Support CS+SS
0	0.00	0	0.00	0	27,214	27,125	54,340
250	11.22	28	15.98	40	27,242	27,165	54,408
500	11.20	56	15.95	80	27,270	27,205	54,476
750	11.21	84	15.96	120	27,298	27,245	54,544
1,000	11.21	112	15.97	160	27,326	27,285	54,612
1,250	11.21	140	15.97	200	27,354	27,325	54,680
1,500	11.20	168	15.96	239	27,382	27,365	54,747
1,750	11.20	196	15.96	279	27,410	27,405	54,815
2,000	11.20	224	15.97	319	27,438	27,445	54,883
2,250	11.20	252	15.97	359	27,466	27,485	54,951
2,500	11.20	280	15.96	399	27,494	27,525	55,019
2,750	11.20	308	15.97	439	27,522	27,564	55,087
3,000	11.19	336	15.97	479	27,550	27,604	55,155
3,250	11.19	364	15.97	519	27,578	27,644	55,223
3,500	11.19	392	15.97	559	27,606	27,684	55,290
3,750	11.19	420	15.97	599	27,634	27,724	55,358
4,000	11.19	447	15.97	639	27,662	27,764	55,426
4,250	11.19	475	15.97	679	27,690	27,804	55,494
4,500	11.18	503	15.97	718	27,718	27,844	55,561
4,750	11.18	531	15.97	758	27,745	27,884	55,629
5,000	11.18	559	15.97	798	27,773	27,924	55,697
5,250	11.18	587	15.97	838	27,801	27,964	55,765
5,500	11.18	615	15.97	878	27,829	28,004	55,833
5,750	11.17	643	15.97	918	27,857	28,044	55,901
6,000	11.17	670	15.97	958	27,885	28,084	55,968
6,250	11.17	698	15.97	998	27,913	28,124	56,036
6,500	11.17	726	15.97	1,038	27,940	28,163	56,104
6,750	11.17	754	15.97	1,078	27,968	28,203	56,172
7,000	11.17	782	15.97	1,118	27,996	28,243	56,239
7,250	11.17	809	15.97	1,158	28,024	28,283	56,307
7,500	11.16	837	15.97	1,198	28,052	28,323	56,375
7,750	11.16	865	15.97	1,238	28,079	28,363	56,442
8,000	11.16	893	15.97	1,278	28,107	28,403	56,510
8,250	11.16	921	15.97	1,318	28,135	28,443	56,578
8,500	11.16	948	15.97	1,357	28,163	28,483	56,645
8,750	11.15	976	15.97	1,397	28,190	28,523	56,713



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RESPONDENT:	

Father Annual Bonus Wages Report, cont'd

9,000	11.15	1,004	15.97	1,437	28,218	28,563	56,781
9,250	11.15	1,032	15.97	1,477	28,246	28,603	56,849
9,500	11.15	1,059	15.97	1,517	28,274	28,643	56,916
9,750	11.15	1,087	15.97	1,557	28,301	28,683	56,984
10,000	11.15	1,115	15.97	1,597	28,329	28,723	57,052
10,250	11.14	1,142	15.97	1,637	28,357	28,763	57,119
10,500	11.14	1,170	15.97	1,677	28,384	28,802	57,187
10,750	11.14	1,198	15.97	1,717	28,412	28,842	57,254
11,000	11.14	1,225	15.97	1,757	28,440	28,882	57,322
11,250	11.14	1,253	15.97	1,797	28,467	28,922	57,390
11,500	11.14	1,281	15.97	1,837	28,495	28,962	57,457
11,750	11.13	1,308	15.97	1,877	28,523	29,002	57,525
12,000	11.13	1,336	15.97	1,917	28,550	29,042	57,592
12,250	11.13	1,364	15.97	1,957	28,578	29,082	57,660
12,500	11.13	1,391	15.97	1,996	28,606	29,122	57,727
12,750	11.13	1,419	15.97	2,036	28,633	29,162	57,795
13,000	11.13	1,446	15.97	2,076	28,661	29,202	57,863
13,250	11.12	1,474	15.97	2,116	28,688	29,242	57,930
13,500	11.12	1,502	15.97	2,156	28,716	29,282	57,998
13,750	11.12	1,529	15.97	2,196	28,744	29,322	58,065
14,000	11.12	1,557	15.97	2,236	28,771	29,362	58,133
14,250	11.12	1,584	15.97	2,276	28,799	29,402	58,200
14,500	11.12	1,612	15.97	2,316	28,826	29,441	58,268
14,750	11.11	1,639	15.97	2,356	28,854	29,481	58,335
15,000	11.11	1,667	15.97	2,396	28,881	29,521	58,403
15,250	11.11	1,695	15.97	2,436	28,909	29,561	58,470
15,500	11.11	1,722	15.97	2,476	28,936	29,601	58,538
15,750	11.11	1,750	15.97	2,516	28,964	29,641	58,605
16,000	11.11	1,777	15.97	2,556	28,991	29,681	58,673
16,250	11.11	1,805	15.97	2,596	29,019	29,721	58,740
16,500	11.10	1,832	15.97	2,636	29,046	29,761	58,807
16,750	11.10	1,860	15.97	2,676	29,074	29,801	58,875
17,000	11.10	1,887	15.97	2,716	29,101	29,841	58,943
17,250	11.10	1,915	15.97	2,756	29,129	29,881	59,010
17,500	11.10	1,942	15.97	2,795	29,156	29,921	59,077
17,750	11.10	1,969	15.97	2,835	29,184	29,961	59,145
18,000	11.09	1,997	15.97	2,875	29,211	30,001	59,212
18,250	11.09	2,024	15.98	2,915	29,239	30,041	59,280
18,500	11.09	2,052	15.97	2,955	29,266	30,081	59,347
18,750	11.09	2,079	15.97	2,995	29,294	30,121	59,414
19,000	11.09	2,107	15.98	3,035	29,321	30,161	59,482
19,250	11.09	2,134	15.98	3,075	29,348	30,201	59,549
19,500	11.08	2,161	15.98	3,115	29,376	30,241	59,616
19,750	11.08	2,189	15.98	3,155	29,403	30,281	59,684
20,000	11.08	2,216	15.98	3,195	29,431	30,321	59,751
20,250	11.08	2,244	15.98	3,235	29,458	30,361	59,819
20,500	11.08	2,271	15.98	3,275	29,485	30,400	59,886
20,750	11.08	2,298	15.98	3,315	29,513	30,440	59,953

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RESPONDENT:	

Father Annual Bonus Wages Report, cont'd

21,000	11.08	2,326	15.98	3,355	29,540	30,480	60,021
21,250	11.07	2,353	15.98	3,395	29,568	30,520	60,088
21,500	11.07	2,380	15.98	3,435	29,595	30,560	60,155
21,750	11.07	2,408	15.98	3,475	29,622	30,600	60,222
22,000	11.07	2,435	15.98	3,515	29,650	30,640	60,290
22,250	11.07	2,463	15.98	3,555	29,677	30,680	60,357
22,500	11.07	2,490	15.98	3,595	29,704	30,720	60,424
22,750	11.06	2,517	15.98	3,635	29,731	30,760	60,492
23,000	11.06	2,544	15.98	3,675	29,759	30,800	60,559
23,250	11.06	2,572	15.98	3,715	29,786	30,840	60,626
23,500	11.06	2,599	15.98	3,755	29,813	30,880	60,693
23,750	11.06	2,626	15.98	3,795	29,841	30,920	60,761
24,000	11.06	2,654	15.98	3,835	29,868	30,960	60,828
24,250	11.06	2,681	15.98	3,875	29,895	31,000	60,895
24,500	11.05	2,708	15.98	3,914	29,922	31,040	60,962
24,750	11.05	2,735	15.98	3,954	29,950	31,080	61,030
25,000	11.05	2,763	15.98	3,994	29,977	31,120	61,097
25,250	11.05	2,790	15.98	4,034	30,004	31,160	61,164
25,500	11.05	2,817	15.98	4,074	30,031	31,200	61,231
25,750	11.05	2,844	15.98	4,114	30,059	31,240	61,299
26,000	11.04	2,872	15.98	4,154	30,086	31,280	61,366
26,250	11.04	2,899	15.98	4,194	30,113	31,320	61,433
26,500	11.04	2,926	15.98	4,234	30,140	31,360	61,500
26,750	11.04	2,953	15.98	4,274	30,168	31,400	61,567
27,000	11.04	2,980	15.98	4,314	30,195	31,440	61,634
27,250	11.04	3,008	15.98	4,354	30,222	31,480	61,702
27,500	11.04	3,035	15.98	4,394	30,249	31,520	61,769
27,750	11.03	3,062	15.98	4,434	30,276	31,560	61,836
28,000	11.03	3,089	15.98	4,474	30,304	31,600	61,903
28,250	11.03	3,116	15.98	4,514	30,331	31,640	61,970
28,500	11.03	3,143	15.98	4,554	30,358	31,679	62,037
28,750	11.03	3,171	15.98	4,594	30,385	31,719	62,104
29,000	11.03	3,198	15.98	4,634	30,412	31,760	62,172
29,250	11.03	3,225	15.98	4,674	30,439	31,800	62,239
29,500	11.02	3,252	15.98	4,714	30,466	31,839	62,306
29,750	11.02	3,279	15.98	4,754	30,493	31,879	62,373
30,000	11.02	3,306	15.98	4,794	30,521	31,919	62,440
30,250	11.02	3,333	15.98	4,834	30,548	31,959	62,507
30,500	11.02	3,360	15.98	4,874	30,575	31,999	62,574
30,750	11.02	3,388	15.98	4,914	30,602	32,039	62,641
31,000	11.02	3,415	15.98	4,954	30,629	32,079	62,708
31,250	11.01	3,442	15.98	4,994	30,656	32,119	62,776
31,500	11.01	3,469	15.98	5,034	30,683	32,159	62,842
31,750	11.01	3,496	15.98	5,074	30,710	32,199	62,910
32,000	11.01	3,523	15.98	5,114	30,737	32,239	62,977
32,250	11.01	3,550	15.98	5,154	30,764	32,279	63,044
32,500	11.01	3,577	15.98	5,194	30,791	32,319	63,111
32,750	11.00	3,604	15.98	5,234	30,818	32,359	63,178

PETITIONER:	CASE NUMBER:
RESPONDENT:	

Father Annual Bonus Wages Report, cont'd

33,000	11.00	3,631	15.98	5,274	30,846	32,399	63,245
33,250	11.00	3,658	15.98	5,314	30,873	32,439	63,312
33,500	11.00	3,685	15.98	5,354	30,900	32,479	63,379
33,750	11.00	3,712	15.98	5,394	30,927	32,519	63,446
34,000	11.00	3,739	15.98	5,434	30,954	32,559	63,513
34,250	11.00	3,766	15.98	5,474	30,981	32,599	63,580
34,500	10.99	3,793	15.98	5,514	31,008	32,639	63,647
34,750	10.99	3,820	15.98	5,554	31,035	32,679	63,714
35,000	10.99	3,847	15.98	5,594	31,062	32,719	63,781
35,250	10.99	3,874	15.98	5,634	31,089	32,759	63,848
35,500	10.99	3,901	15.98	5,674	31,116	32,799	63,915
35,750	10.99	3,928	15.98	5,714	31,143	32,839	63,982
36,000	10.99	3,955	15.98	5,754	31,170	32,879	64,049
36,250	10.99	3,982	15.98	5,794	31,196	32,919	64,116
36,500	10.98	4,009	15.98	5,834	31,223	32,959	64,182
36,750	10.98	4,036	15.98	5,874	31,250	32,999	64,249
37,000	10.98	4,063	15.98	5,914	31,277	33,039	64,316
37,250	10.98	4,090	15.98	5,954	31,304	33,079	64,383
37,500	10.98	4,117	15.98	5,994	31,331	33,119	64,450
37,750	10.98	4,144	15.98	6,034	31,358	33,159	64,517
38,000	10.98	4,171	15.98	6,074	31,385	33,199	64,584
38,250	10.97	4,198	15.98	6,114	31,412	33,239	64,651
38,500	10.97	4,224	15.98	6,153	31,439	33,279	64,718
38,750	10.97	4,251	15.98	6,194	31,466	33,319	64,785
39,000	10.97	4,278	15.98	6,234	31,493	33,359	64,852
39,250	10.97	4,305	15.98	6,274	31,519	33,399	64,919
39,500	10.97	4,332	15.98	6,313	31,546	33,439	64,985
39,750	10.97	4,359	15.98	6,354	31,573	33,479	65,052
40,000	10.96	4,386	15.98	6,394	31,600	33,519	65,119
40,250	10.96	4,413	15.98	6,434	31,627	33,559	65,186
40,500	10.96	4,439	15.98	6,473	31,654	33,599	65,253
40,750	10.96	4,466	15.98	6,514	31,681	33,639	65,320
41,000	10.96	4,493	15.98	6,554	31,707	33,679	65,386
41,250	10.96	4,520	15.98	6,594	31,734	33,719	65,453
41,500	10.96	4,547	15.98	6,633	31,761	33,759	65,520
41,750	10.95	4,574	15.98	6,673	31,788	33,799	65,587
42,000	10.95	4,600	15.98	6,714	31,815	33,839	65,654
42,250	10.95	4,627	15.98	6,754	31,842	33,879	65,721
42,500	10.95	4,654	15.98	6,793	31,868	33,919	65,787
42,750	10.95	4,681	15.98	6,833	31,895	33,959	65,854
43,000	10.95	4,708	15.98	6,874	31,922	33,999	65,921
43,250	10.95	4,734	15.99	6,914	31,949	34,039	65,988
43,500	10.95	4,761	15.98	6,953	31,976	34,079	66,054
43,750	10.94	4,788	15.99	6,994	32,002	34,119	66,121
44,000	10.94	4,815	15.99	7,034	32,029	34,159	66,188
44,250	10.94	4,842	15.99	7,074	32,056	34,199	66,255
44,500	10.94	4,868	15.99	7,113	32,083	34,239	66,322
44,750	10.94	4,895	15.99	7,154	32,109	34,279	66,388

PETITIONER:	CASE NUMBER:
RESPONDENT:	

Father Annual Bonus Wages Report, cont'd

45,000	10.94	4,922	15.99	7,194	32,136	34,319	66,455
45,250	10.94	4,949	15.99	7,234	32,163	34,359	66,522
45,500	10.93	4,975	15.99	7,273	32,190	34,399	66,589
45,750	10.93	5,002	15.99	7,314	32,216	34,439	66,655
46,000	10.93	5,029	15.99	7,354	32,243	34,479	66,722
46,250	10.93	5,055	15.99	7,394	32,270	34,519	66,789
46,500	10.93	5,082	15.99	7,434	32,296	34,559	66,855
46,750	10.93	5,109	15.99	7,474	32,323	34,599	66,922
47,000	10.93	5,136	15.99	7,514	32,350	34,639	66,989
47,250	10.93	5,162	15.99	7,554	32,377	34,679	67,056
47,500	10.92	5,189	15.99	7,594	32,403	34,719	67,122
47,750	10.92	5,216	15.99	7,634	32,430	34,759	67,189
48,000	10.92	5,242	15.99	7,674	32,457	34,799	67,256
48,250	10.92	5,269	15.99	7,714	32,483	34,839	67,323
48,500	10.92	5,296	15.99	7,754	32,510	34,879	67,389
48,750	10.92	5,322	15.99	7,794	32,537	34,919	67,456
49,000	10.92	5,349	15.99	7,834	32,563	34,959	67,522
49,250	10.92	5,376	15.99	7,874	32,590	34,999	67,589
49,500	10.91	5,402	15.99	7,914	32,617	35,039	67,656
49,750	10.91	5,429	15.99	7,954	32,643	35,079	67,722
50,000	10.91	5,456	15.99	7,994	32,670	35,119	67,789



LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 20, 2023

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

2. DANIELLE MARIE HASAN V. TALIB AL HASAN

23FL0370

Petitioner filed a Request for Domestic Violence Restraining Order (DVRO) on April 27, 2023. The court issued a temporary restraining order and set the matter for hearing. As part of her request, she asked the court to make orders regarding child support and spousal support. The DVRO came before the court for hearing on May 19, 2023 at which time the court continued the DVRO hearing to August 18th and set the support issues for a separate hearing on July 20th. The court reserved jurisdiction on support back to the date of filing the request and the temporary restraining order was extended until the new hearing date.

Petitioner filed her Income and Expense Declaration on May 16, 2023. There is no Income and Expense Declaration on file for Respondent.

This matter is continued to join with the DVRO hearing on August 18, 2023, at 8:30 a.m. Both parties are ordered to file and serve updated Income and Expense Declarations no later than 10 days prior to the hearing date. The court reserves jurisdiction to award support back to the date of filing the request.

TENTATIVE RULING #2: THIS MATTER IS CONTINUED TO JOIN WITH THE DVRO HEARING ON AUGUST 18, 2023, AT 8:30 A.M. BOTH PARTIES ARE ORDERED TO FILE AND SERVE UPDATED INCOME AND EXPENSE DECLARATIONS NO LATER THAN 10 DAYS PRIOR TO THE HEARING DATE. THE COURT RESERVES JURISDICTION TO AWARD SUPPORT BACK TO THE DATE OF FILING 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.

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

3. DENEEN BECERRIL V. JEFF BECERRIL

PFL20210290

This matter is before the court on a Motion to Compel filed by Petitioner on May 5, 2023. In support of her Request for Order (RFO), Petitioner simultaneously filed a Memorandum of Points and Authorities as well as a Declaration of Alan Mikshansky. All documents were filed on May 5th and served on May 10th. Respondent has not opposed the motion.

On February 9, 2023, Petitioner served Respondent with Petitioner's Demand for Production of Documents, Set No. "One" and Form Interrogatories, Family – Set No. "One," thereby making responses due on or before March 21, 2023. Having received no responses by March 24th, Petitioner sent a meet and confer letter requesting full and complete responses. Thereafter, Respondent served unverified and incomplete responses only to the Requests for Production which are dated March 28th. On April 12th, Petitioner sent an additional meet and confer letter regarding the deficient discovery responses and the missing responses to Form Interrogatories. As of the date of filing, Petitioner still has not received full and complete, verified responses to the requested discovery. Petitioner now seeks to compel responses as well as sanctions in the amount of \$1,150.00.

Form Interrogatories

"The party to whom interrogatories have been propounded shall respond in writing under oath separately to each interrogatory by any of the following: (1) An answer containing the information sought to be discovered. (2) An exercise of the party's option to produce writings. (3) An objection to the particular interrogatory." Cal. Civ. Pro. § 2030.210(a). Answers are to be "as complete and straightforward" as possible. Cal. Civ. Pro. § 2030.220. Generally speaking, responses to interrogatories are due within 30 days of the date of service. Cal. Civ. Pro. § 2030.260. If a party fails to provide timely responses, that party waives any right to object to the interrogatories and waives the right to produce writings in response. Cal. Civ. Pro. § 2030.290 (a). All responses to interrogatories, with the exception of objections only, are required to be made under oath signed by the party responding. Cal. Civ. Pro. § 2030.250.

Petitioner has provided the court with copies of the Form Interrogatories along with the Proof of Service establishing that they were properly served on Respondent. With that, Respondent was under a duty to provide full, complete and straightforward answers within the time limit established by Civil Procedure Section 2030.260. Respondent failed to do so. As such, Petitioner's Motion to Compel Responses to Form Interrogatories – Family Law, Set One, is granted. Respondent is ordered to provide full and complete verified responses no later than August 4, 2023.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 20, 2023

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

Requests for Production

In addition to Form Interrogatories, the Civil Discovery Act authorizes all parties to request documents from the opposing party by way of a Request for Production of Documents. “A party to whom a demand for inspection, copying, testing, or sampling has been directed *shall respond separately to each item or category of item* by any of the following:” (1) a statement that the party will comply, (2) a statement that the party lacks the ability to comply, or (3) an objection to the demand or request made. Cal. Civ. Pro. §2031.210 (emphasis added). A statement that the party will comply shall include a statement “that all documents or things in the demanded category that are in the possession, custody, or control of that party and to which no objection is being made will be included in the production.” Cal. Civ. Pro. § 2031.220.

Where a party fails to provide timely responses the party to whom the discovery was directed waives “any objection...including one based on privilege or on the protection of work product...” Cal Civ. Pro. §2031.300(a).

All responses, with the exception of objections only, are required to be made under oath signed by the party responding. Cal. Civ. Pro. § 2031.250. In fact, verifications are so imperative to the discovery process that it has been repeatedly said that an “unverified response is tantamount to no response at all.” See *Appleton v. Sup. Ct.*, 206 Cal. App. 3d 632 (2014).

Here, Respondent served only unverified responses to Requests for Production of Documents – Set One, which are tantamount to no response at all. Moreover, the responses given do not provide the required affirmation that all documents within the responding party’s possession, custody, or control are being provided. Accordingly, Respondent is ordered to provide full and complete, amended responses to Requests for Production of Documents, Set One, with verifications, no later than August 4, 2023.

Sanctions

Where a party engages in the misuse of the discovery process, the court “shall” impose monetary sanctions “unless it finds that 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) & 2023.020. Misuse of the discovery process includes, but is not limited to, failing to respond or submit to an authorized method of discovery, making an evasive response to discovery, or failing to confer in a reasonable, good faith attempt to informally resolve any discovery dispute. Cal. Civ. Pro. § 2023.010. Written interrogatories and requests for production of documents are both authorized forms of discovery. Cal. Civ. Pro. §§ 2030.210, 2031.210. A party requesting sanctions for reasonable expenses that were incurred as a result of discovery abuse must already be liable for those expenses before the court can

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
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award the costs as sanctions. See *Tucker v. Pacific Bell Mobile Servs.*, 186 Cal. App. 4th 1548 (2010) (anticipated costs for future deposition could not be included in award of sanctions).

Notwithstanding the foregoing, "... in addition to any other sanctions imposed ...a court *shall* impose a two hundred-and-fifty-dollar (\$250) sanction, payable to the requesting party..." if the court finds that the noncompliant party did not respond in good faith to a request for production of documents or failed to make a reasonable, good faith attempt to informally resolve a discovery dispute. Cal. Civ. Pro. § 2023.050(a).

Here, Respondent has not provided the court with any justification for his failure to comply with discovery or any explanation as to why circumstances would make a sanction unjust. This leaves the court only to surmise that there is no substantial justification nor other circumstance that would make the imposition of sanctions unjust. As such, the court is compelled to award the entirety of fees and costs already incurred as a result of Respondent's failure to comply with discovery. The court finds that the time spent preparing the motion and meet and confer letters amounts to 3 hours. Charged at a rate of \$350 per hour equals \$1,050, plus an additional \$100 in fees. This amount may be subject to increase in the event Petitioner incurs additional costs and fees associated with appearing at a hearing on the motion.

In addition to the \$1,150 in actual costs and fees, the court finds that it is obligated to award an additional \$250 pursuant to section 2023.050. This award is made on the basis that Respondent failed to respond to Petitioner's second meet and confer letter in an attempt to resolve these issues without the need for court intervention.

In light of the foregoing, Petitioner is awarded \$1,400 (\$1,150 in costs and expenses plus \$250) in monetary sanctions to be paid by Respondent to Petitioner's counsel, in monthly increments of \$233.33 until paid in full (approximately 6 months). If Respondent misses a payment or is late in making a payment, the entire amount is to become immediately due and payable.

TENTATIVE RULING #3: PETITIONER'S MOTION TO COMPEL RESPONSES TO FORM INTERROGATORIES – FAMILY LAW, SET ONE, AND REQUESTS FOR PRODUCTION OF DOCUMENTS, SET ONE IS GRANTED. RESPONDENT IS ORDERED TO PROVIDE FULL AND COMPLETE VERIFIED RESPONSES TO FORM INTERROGATORIES – FAMILY LAW, SET ONE NO LATER THAN AUGUST 4, 2023. RESPONDENT IS ORDERED TO PROVIDE FULL AND COMPLETE, AMENDED RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS, SET ONE, WITH VERIFICATIONS, NO LATER THAN AUGUST 4, 2023. PETITIONER IS AWARDED \$1,400 (\$1,150 IN COSTS AND EXPENSES PLUS \$250) IN MONETARY SANCTIONS TO BE PAID BY RESPONDENT TO PETITIONER'S COUNSEL, IN MONTHLY INCREMENTS OF \$233.33 UNTIL PAID IN FULL (APPROXIMATELY 6 MONTHS). IF RESPONDENT MISSES A PAYMENT OR IS LATE IN MAKING A

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PAYMENT, THE ENTIRE AMOUNT IS TO BECOME IMMEDIATELY DUE AND PAYABLE. 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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DEPARTMENT 5

July 20, 2023

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

4. ELIZABETH SMILEY V. DAVID SMILEY

PFL20210005

On April 27, 2023, Respondent filed a Notice of Motion and Motion for Attorneys' Fees seeking \$152,247.15 pursuant to Civil Code Section 1717. In support thereof he filed his Request for Order (RFO), Declaration of John P. O' Malley, Declaration of Dominic Porrino, Memorandum of Points and Authorities, and a Request for Judicial Notice. The RFO and all supporting documents were personally served on April 28th. Petitioner filed and electronically served her Responsive Declaration to Request for Order on June 30, 2023.

On July 13th Respondent filed his Reply to Elizabeth Smiley's Responsive Declaration Re: Respondent's Request for Prevailing Party Attorney's Fees Per Civil Code Section 1717. There is no Proof of Service on file for this document. As such, the court has not read or considered it.

Request for Judicial Notice

Respondent asks the court to take judicial notice of the following: (1) Judgment of Legal Separation and incorporated Property Settlement Agreement, filed on August 16, 1984, Sacramento County Superior Court, Case No. 800944; (2) Petitioner's Request for Order filed on January 29, 2021 in El Dorado County Superior Court Case No. PFL20210005; (3) Amended Statement of Decision filed on March 15, 2023; (4) Amended Judgment filed April 13, 2023; (5) Amended Notice of Entry of Judgment dated April 13, 2023. Petitioner has not opposed the request.

Judicial notice is a mechanism which allows the court to take into consideration matters which are presumed to be indisputably true. California Evidence Code Sections 451, 452, and 453 govern the circumstances in which judicial notice of a matter may be taken. While Section 451 provides a comprehensive list of matters that must be judicially noticed, Section 452 sets forth matters which *may* be judicially noticed, including "[r]ecords of (1) any court of this state or (2) any court of record of the United States or of any state of the United States."

Section 452 provides that the court "may" take judicial notice of the matters listed therein, while Section 453 provides a caveat that the court "shall" take judicial notice of any matter "specified in Section 452 if a party requests it and: (a) Gives each adverse party sufficient notice of the request...to enable such adverse party to prepare to meet the request; and (b) Furnishes the court with sufficient information to enable it to take judicial notice of the matter." Cal. Evid. Code § 453.

The documents which are the subject of this request fall well within the confines of Section 452. Respondent complied with the requirements of Section 453, giving each party enough notice of the requests and giving the court sufficient information, including copies of the documents, to enable the court to take judicial notice thereof. Accordingly, Respondent's request for judicial notice is granted.

LAW & MOTION TENTATIVE RULINGS

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July 20, 2023

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

Attorney's Fees

Respondent makes his request for attorney's fees based on the court's recent ruling in his favor after trial on the issue of the validity of the parties' 1984 Judgment of Legal Separation which incorporated their Marital Settlement Agreement. After a trial on the merits took place on September 13 and 14 of 2022, the court upheld the 1984 Judgment. That judgment contains a prevailing party provision which states, "[i]n the event of any controversy, suit or arbitration proceedings are initiated relating to this Agreement, it is agreed that the prevailing party shall be entitled to recover his or her reasonable attorney's fees incurred in such controversy, suit or arbitration." Marital Settlement Agreement, p. 3, ¶ V(D).

Petitioner asks the court to delay its determination of prevailing party fees until a ruling on the appeal has been reached. She proposes a continuance of 6 months. In the alternative, she asks the court to deny the request based on the unreasonableness of the fees requested and her inability to pay. Petitioner notes that pending a decision on her appeal, there is a change Respondent will no longer be the prevailing party. If the court rules on the motion before it, Petitioner argues that she may be left without recourse if the appellate court renders its decision outside of the time for her to file to have the attorney fee decision set aside. Further, she argues against the reasonableness of the fees requested especially in light of the fact that Respondent has not provided billing statements for the alleged amounts billed.

Under Civil Code section 1717, the prevailing party in any action on a contract, where the contract contains an attorney fee provision, is entitled to "reasonable attorney's fees in addition to other costs." Cal. Civ. Code § 1717(a). As a threshold issue to making this analysis, the court must determine which party is the "prevailing party" for purposes of the statute. While it has been argued that such a determination cannot be made until there is a decision on appeal, the case law is well settled. "Although a prevailing party at trial may not be the prevailing party after an appeal, it has been held that a motion for attorney fees is not premature despite the filing of a notice of appeal." Bankes v. Lucas, 9 Cal. App. 4th 365, 368 (1992). Consequently, the court has jurisdiction to move forward with addressing the issue of attorney's fees.

"[T]he fee setting inquiry in California ordinarily begins with the 'lodestar,' [calculation] i.e., the number of hours reasonably expended multiplied by the reasonable hourly rate." PLCM Group v. Drexler, 22 Cal. 4th 1084, 1095 (2000). "After the trial court has performed the [lodestar calculation], it shall consider whether the total award so calculated under all of the circumstances of the case is more than a reasonable amount and, if so, shall reduce the section 1717 award so that it is a reasonable figure." *Id.* At 1095-1096 citing Sternwest Corp. v. Ash, 183 Cal. App. 3d 74, 77 (1986); See also Hill v. Affirmed Housing Group, 226 Cal. App. 4th 1192 (2014)

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("A trial court has discretion to reduce a prevailing party's contractual attorney fees to the extent they were unnecessary.").

In determining the reasonableness of the amount, the court is to consider "...the nature of the litigation, its difficulty, the amount involved, the skill required in its handling, the skill employed,...and other circumstances in the case" (*Melnyk v. Robledo*, 64 Cal. App. 3d 618, 623-624 (1976)) though "it is inappropriate to consider the losing party's financial status as an equitable factor in setting the amount of a contractual attorney fee award." *Walker v. Ticor Title Co. of Cal.*, 204 Cal. App. 4th 363 (2012). The trial court may rely on the knowledge and experience of the trial judge alone is sufficient to determining the reasonable value of services rendered. See *Clejan v. Reisman*, 5 Cal. App. 3d 224 (1970).

Here, the court finds the hourly rates charged by Respondent's attorneys to be commensurate with rates of other attorneys in the area who have like experience and skills. The issue is the reasonableness of the time spent and the necessity of the work done in relation to the contract claim. Section 1717 allows recovery only for in an action for contract. Petitioner's claim regarding the validity of the MSA did not arise until she filed her April 15th RFO. As such, the court is not inclined to award fees prior to that date. Additionally, only the work done after that date that is related to the RFO and the contract claim therein is recoverable. The court finds it unlikely that the entirety of the 65 hours billed by Mr. Porrino in the April to May 2021 timeframe were related to the RFO. A more reasonable figure would be approximately 8 hours of attorney time for time spent reviewing the RFO, responding to it and appearing at the hearing; plus an additional 1.5 hours of legal assistant time. This amounts to \$3,025 of the billable amount from Porrino Law, P.C.

Likewise, the court is not inclined to award any amounts related to the transfer of the file from Porrino Law, P.C. to Delfino Madden. It was Respondent's sole decision to obtain new counsel despite that the fact that he incurred significantly more fees from Porrino and from Delfino Madden related to the transfer of the file and the review of the file by the new attorneys. Accordingly, the court declines to award amounts billed from September 2021 through November 2021 by Porrino, and amounts billed by Delfino Madden from October 2021 through December 2021.

In addition to the unrelatedness of the file transfer, the court finds all discovery done on the valuation of property was also unrelated to the contractual issue in this matter. Whether or not the property needed to be appraised and divided was an issue to be determined subsequent to a determination on the validity of the 1984 judgment. Hence the fact that the parties bifurcated those issues at trial and proceeded only on the contract claim. It is a threshold issue. That said, the court finds the billing from July to September 2022 and October to December 2022 to be related to the contract claim.

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Regarding the billing in January through March of 2023, the court notes that Respondent spent time opposing Petitioner's request for a Statement of Decision, despite the fact that Petitioner had made the request prior to trial and failing to label the court's initial decision as a Statement of Decision was a simple oversight by the court. Making this opposition was unreasonably necessary and fees associated with it are not to be awarded.

Finally, the court finds hours associated with the preparation of the present motion are related to the contract claim and may be awarded under the attorney's fees provision and Section 1717. However, counsel's estimate of 5 hours reviewing the opposition papers and preparing the reply papers seems excessive. The court finds two hours to be more reasonable.

Considering the foregoing the court calculates reasonable attorney's fees, related to the contract claim, as follows: (8hrs x 350) + (1.5 hrs x 150) = \$3,025 to Mr. Porrino. \$51,670 + 11,611 + \$3,840 (for time spent on this motion) = \$67,121 to Delfino Madden. This amounts to a total award of \$70,146.

Respondent's Motion for Attorney's Fees is granted. Petitioner is to pay Respondent's counsel \$70,146 as and for attorney's fees.

TENTATIVE RULING #4: RESPONDENT'S REQUEST FOR JUDICIAL NOTICE IS GRANTED. RESPONDENT'S MOTION FOR ATTORNEY'S FEES IS GRANTED. PETITIONER IS TO PAY RESPONDENT'S COUNSEL \$70,146 AS AND FOR ATTORNEY'S FEES.

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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5. EUGENE EXUM V. ALYSSA EXUM

PFL20190540

Respondent filed a Request for Order (RFO) seeking child custody and visitation orders. The RFO was filed on February 17, 2023. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment scheduled for March 15th, however the RFO was not served until two days prior on March 13th. Given the late notice, Petitioner did not appear at CCRC. The matter came before the court for hearing on May 4th and the court re-referred the parties to CCRC and continued the hearing on the RFO to the present date.

Respondent requests sole legal and physical custody of the minors with supervised visitation to Petitioner. Respondent makes this request on the basis that she feels Petitioner's girlfriend, Samantha Braziel, had threatened the lives of herself and the children. She also states that Ms. Braziel often operates her vehicle while under the influence of alcohol, even when she is driving the children. She states that the children do not feel safe with their father when Ms. Braziel is around and even though Respondent claims he no longer allows contact between Ms. Braziel and the children, Respondent is of the belief that contact is still occurring.

The parties attended CCRC on June 12th and a report was prepared dated July 10, 2023. According to CCRC, Petitioner is requesting that there be no change to the current custody and visitation orders. He did inform the CCRC counselor that he has had contact with Ms. Braziel over speaker phone while in the presence of the children though Ms. Braziel is currently incarcerated, and the children have not been in her physical presence since February of this year. CCRC made recommendations regarding contact between the children and Ms. Braziel.

The court has reviewed the filings of the parties as outlined above and finds that the CCRC recommendations are in the best interests of the children. The court hereby adopts the recommendations of the July 10, 2023 CCRC report as the orders of the court. All prior orders not in conflict with this order remain in full force and effect.

TENTATIVE RULING #5: THE COURT HEREBY ADOPTS THE RECOMMENDATIONS OF THE JULY 10, 2023 CCRC REPORT AS THE ORDERS OF THE COURT. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. RESPONDENT IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

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

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6. HILLARY ERICKSON V. MATTHEW ERICKSON

23FL0136

On February 14, 2023, Petitioner filed a Request for Domestic Violence Restraining Order (DVRO). A Temporary Restraining Order was issued and a hearing on the DVRO was set for March 10th, which the parties ultimately stipulated to continue and, in doing so, they requested a referral to Child Custody Recommending Counseling (CCRC). As requested, the parties were referred to CCRC and a review hearing was set for the present date.

The parties attended CCRC on May 18th and a report dated May 31st was prepared and sent to the parties. The CCRC report contains both agreements of the parties as well as additional recommendations of the CCRC counselor.

Petitioner filed and served Petitioner's Declaration in Response to CCRC on July 10th. Therein, Petitioner noted the upcoming hearing on the DVRO and asked the court to defer the custody issues until after a ruling on the DVRO.

This matter is continued to join with the DVRO hearing on July 21st at 1:30.

TENTATIVE RULING #6: THIS MATTER IS CONTINUED TO JOIN WITH THE DVRO HEARING ON JULY 21ST AT 1:30.

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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7. JAMES BRANDON WEBB V. YVONNE WEBB

PFL20190254

On May 9, 2023, Petitioner filed and served a Request for Order (RFO) seeking sanctions against Respondent. Respondent filed and served her Responsive Declaration to Request for Order and Declaration of Attorney, Layla Cordero. Thereafter, on July 7th, Petitioner filed and served Petitioner's Supplemental Sanction Request Declaration.

Petitioner makes this request on his allegation that Respondent and her counsel failed to comply with Local Rules, rule 8.19.00, 8.19.01, 8.19.03, and 8.20.03. Petitioner is seeking a total of \$9,707.02. \$8,585 of which are to account for attorney's fees and \$1,122.02 for expenses. Petitioner already brought his request before the court on April 19th and the court reserved on his request.

Respondent asks the court to deny Petitioner's request arguing that neither she nor her counsel failed to comply with the local rules, nor did they engage in conduct that frustrated the policy of the law. Moreover, she argues Respondent did not incur any attorney's fees as he is proper, and attorney's fees he incurred in 2021 and 2022 are irrelevant. Further, he fails to provide any explanation for how he incurred \$1,122.02 in expenses. Finally, Respondent asserts that an award of sanctions in any amount would be a financial burden to her.

Petitioner's request for sanctions is denied. He makes his request pursuant to Family Code Section 271 which states in pertinent part, "...the court may base an award of attorney's fees and costs on the extent to which the conduct of each party or attorney furthers or frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation by encouraging cooperation of the parties..." Fam. Code § 271(a). The court is not to impose a sanction under Section 271 where it would constitute an "unreasonable financial burden on the party against whom the sanction is imposed." *Id.*

While Local Rule 8.19.01 does require the parties to file their respective Statement of Issues and Contentions, there is no requirement that the parties update, amend, or file new statements in the event that trial is continued. Because the local rules do not require updated statements, absent a court order directing the parties to do so, Respondent was under no obligation to file an updated Statement of Issues and Contentions. Additionally, under Local Rule 8.19.01, sanctions are permissible, not mandatory and are up to the judgment of the court. Here, the court does not find Respondent or her counsel to have violated the local rules or any court order or stipulation. Further, neither acted with the intention of frustrating the policy of the law to promote settlement or reduce the cost of litigation. Respondent had previously been served with extensive trial briefs and the issues were recounted in the December 5, 2022 stipulation.

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Likewise, the court does not find Respondent or her counsel to have been in violation of Local Rule 8.19.03, which effectively imposes on parties the same requirements as Rule 8.19.02. Petitioner was in possession of Respondent's Income and Expense Declaration dated March 2, 2023, which was still current according to the California Rules of Court. Cal. Rule Ct. 5.260(3) (stating "'Current' means the form has been completed within the past three months providing no facts have changed").

Also, counter to Petitioner's assertions, it appears Respondent's counsel did attempt to meet and confer with Petitioner. In fact, on April 7th she proposed the parties meet and confer via email and asked him if he had a settlement proposal. Local Rule 8.20.03 does not require meet and confer efforts to be in person or over the phone. In fact, parties routinely satisfy this requirement via email, as Respondent's counsel proposed.

Finally, Respondent notes her significant debt, most of which is attributable to attorney's fees and educational costs. Neither Respondent's actions, nor those of her counsel, were significantly egregious enough to justify the imposition of sanctions on top of Respondent's current debt. To do so would be unjust.

TENTATIVE RULING #7: PETITIONER'S REQUEST FOR SANCTIONS IS DENIED. RESPONDENT IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

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9. NIKOLAS PAECH V. CAROLINE GIROUX

PFL20210276

This matter came before the court for hearing on February 9, 2023, at which time the court made a variety of orders regarding custody and support; a review hearing was set for the present date to review the parties' progress with the Transitioning Families program. Respondent filed and electronically served her Declaration of Caroline Giroux on July 10, 2023. That same day Respondent also filed and electronically served his Status Brief of Nikolas Paech. The court has not received a Statement of Issues and Contentions from Minor's Counsel.

The court has reviewed the filings of the parties and it appears little progress has been made. The parties are ordered to appear to discuss further.

TENTATIVE RULING #9: THE PARTIES ARE ORDERED TO APPEAR.

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

11. TINA STRICKLAND V. MATTHEW STRICKLAND

PFL20190792

This matter is before the court on a Request for Order (RFO) filed by Respondent on April 27, 2023. The RFO was mail served on May 11th. Petitioner filed her Responsive Declaration to Request for Order on June 20th. It was mail served on June 16th.

Respondent asks the court to set aside Petitioner's Responsive Declaration to Request for Order filed on March 17, 2023, due to untimely service. He asks that the court continue the hearing that had been held on March 30th. According to Respondent, Counsel for Petitioner has been dishonest about what has been served on Respondent and when. He states that the documents served on him include Proofs of Service that were filed prior to them actually being served. He received the Responsive Declaration to Request for Order seven days prior to the hearing date and he argues this was not sufficient time to respond. He would like Petitioner's Counsel removed from the case and criminal charges to be filed against him.

Pursuant to Civil Procedure section 1005(b) opposition papers are to be filed at least nine court days before the hearing date. Cal. Civ. Pro. § 1005(b). Section 1005(c) goes on to specify that "...all papers opposing a motion...shall be served by personal delivery, facsimile transmission, express mail, or other means consistent with Sections 1010, 1011, 1012, and 1013, and reasonably calculated to ensure delivery to the other party or parties not later than the close of the next business day after the time the opposing papers...are filed." Cal. Civ. Pro. § 1005(c).

It appears from the court's file that the subject responsive declaration was mail served on March 17th, which was the last day to file prior to the March 30th hearing date. Per code, the opposition was to be served in some manner so as to ensure delivery no later than the close of the next business day. Petitioner states he did not receive the document until seven days prior to the court date, which is well after March 20th, which was the end of the next business day.

While it does appear that service of the opposition papers was untimely, Respondent's objection thereto is likewise untimely. Respondent did not object to service upon his receipt of the opposition papers. Further, the court issued its tentative ruling on March 29th and Respondent did not call for a hearing to object to service. By failing to call for a hearing Respondent implicitly agreed to the tentative ruling and conceded he had no objection to it. Respondent argues that by receiving the opposition papers untimely, he was deprived of the opportunity to respond. This is not true. Respondent still could have filed an objection to the document or called for a hearing to be heard on the merits or object to service. He did neither. Without filing an objection or calling for a hearing Respondent's objection to service was waived and therefore Respondent's RFO is denied.

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TENTATIVE RULING #11: RESPONDENT'S RFO IS DENIED. 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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12. TRENT HERSHEY V. CANAN HANSEN

PFL20090425

On April 13, 2023, the parties came before the court for a review hearing on custody and therapy for the minor. At that time the court maintained the ordered recommendations from Child Custody Recommending Counseling (CCRC) and granted the parties the authority to mutually agree upon a set visitation schedule and a non-professional supervisor. Additionally, the parties were ordered to select a conjoint therapist as well as an individual therapist for the minor. A review hearing was set for the present date.

Neither party has filed an updating declaration with the court. Accordingly, the parties are ordered to appear to update the court on the issues of custody and visitation.

TENTATIVE RULING #12: THE PARTIES ARE ORDERED TO APPEAR TO UPDATE THE COURT ON THE ISSUES OF CUSTODY AND VISITATION.

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13. BAYLEIGH MARK V. NOAH BINGAMAN

22FL0514

Respondent filed a Request for Order on April 28, 2023, requesting a modification parenting time and a modification of the domestic violence restraining order. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on June 1, 2023 and a review hearing on July 20, 2023. Petitioner was served by mail on April 28, 2023.

The parties submitted a stipulation regarding parenting time, which the court adopted as its order on May 2, 2023.

Both parties attended CCRC on June 1, 2023. The parties were unable to reach any agreements. A report with recommendations was filed with the court on July 6, 2023. Copies were mailed to the parties on the same day.

Petitioner has not filed a Responsive Declaration.

The court has read and considered the filings as outlined above. The court finds the recommendations as set forth in the July 6, 2023 CCRC report to be in the best interest of the minor. The court adopts the recommendations as its order.

The court denies Respondent's request to modify the domestic violence restraining order. The court finds Respondent has failed to comply with the court's order to complete a 52-week Batter's Intervention Program and Respondent has repeatedly violated the restraining order since it was issued. Respondent has failed to set forth any ground upon which the restraining order should be modified.

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 #13: THE COURT ADOPTS THE RECOMMENDATIONS AS SET FORTH IN THE JULY 6, 2023 CCRC REPORT. THE COURT DENIES RESPONDENT'S REQUEST TO MODIFY THE DOMESTIC VIOLENCE RESTRAINING ORDER. THE COURT FINDS RESPONDENT HAS FAILED TO COMPLY WITH THE COURT'S ORDER TO COMPLETE A 52-WEEK BATTER'S INTERVENTION PROGRAM AND RESPONDENT HAS REPEATEDLY VIOLATED THE RESTRAINING ORDER SINCE IT WAS ISSUED. RESPONDENT HAS FAILED TO SET FORTH ANY GROUND UPON WHICH THE RESTRAINING ORDER SHOULD BE MODIFIED. 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

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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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14. COUNTY OF CALAVERAS V. KYLER HERN (OTHER PARENT MARINA CONRIQUEZ)

PFS20190061

Other Parent filed a Request for Order (RFO) requesting modification of child custody and parenting time orders on November 28, 2023. On February 16, 2023 the parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on March 16, 2023 and a review hearing on May 4, 2023. Respondent was served by mail with address verification, as this is a post judgment modification RFO on December 17, 2023. However, there is no Proof of Service showing Respondent was served with the referral to CCRC.

A Single Parent Report was filed with the court and served on the parties on April 4, 2023.

Other Parent appeared for the hearing on May 4, 2023. The court had not issued a tentative ruling, as the matter had not been added to the court's calendar when the RFO was set. The court rereferred the parties to CCRC and directed the clerk of the court as well as Other Parent to serve Respondent with notice of the rereferral to CCRC and the continued hearing date.

Both parties appeared for CCRC on June 4, 2023. The parties were ultimately unable to reach any agreements. A report with recommendations was filed with the court and mailed to the parties on July 11, 2023.

Respondent has not filed a Responsive Declaration.

The court has read and considered the July 11, 2023 CCRC report and finds the recommendations to be in the best interest of minors. The court adopts the recommendations as set forth.

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

TENTATIVE RULING #14: THE COURT FINDS THE RECOMMENDATIONS OF THE JULY 11, 2023 CCRC REPORT TO BE IN THE BEST INTERESTS OF THE MINORS AND THEREFORE, ADOPTS THE RECOMMENDATIONS AS SET FORTH AS ITS ORDERS. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. OTHER PARENT 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

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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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15. DCSS V. JOSEPH SENTER (OTHER PARENT: KERIANNE PRUITT; JOINED PARTY: LYNELLE LANGLOIS)

PFS20130105

Joined Party filed a Petition for Joinder and Request for Order (RFO) on May 9, 2023 requesting grandparent visitation. Respondent was served by mail on May 15, 2023. Other Parent was served by mail on May 15, 2023. Joined Party asserts she has a preexisting relationship with the minor and it would be in the minor's best interest to have court ordered visitation. Joined Party states she has had no contact with the minor since approximately 2021.

Pursuant to Family Code section 3104(c): "The petitioner shall give notice of the petition to each of the parents of the child, any stepparents, and any person who has physical custody of the child, by personal service pursuant to Section 415.10 of the Code of Civil Procedure."

The court finds Joined Party has failed to properly serve the parents in this matter. Therefore, the court drops the matter from calendar due to the lack of proper service.

TENTATIVE RULING #15: THE MATTER IS DROPPED FROM CALENDAR AS THE JOINED PARTY FAILED TO PROVIDE PROPER NOTICE PURSUANT TO CODE OF CIVIL PROCEDURE SECTION 415.10.

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
July 20, 2023
8:30 a.m./1:30 p.m.

16. ERIKA LARSSON V. MATTIAS LARSSON

PFL20150771

Petitioner filed an ex parte motion for emergency custody orders on June 6, 2023. On June 9, 2023, the court granted the request, granting Petitioner temporary sole legal and physical custody of the minors and ordering the minors' return to the United States of America. The court denied Petitioner's remaining requests on an ex parte basis. The court set an emergency Child Custody Recommending Counseling (CCRC) appointment for June 27, 2023 and a review hearing for July 20, 2023. Petitioner filed the for Request for Order on June 9, 2023 which makes the same requests as set forth in the ex parte application. Proof of Service shows respondent was served by certified mail and electronically on June 19, 2023. There is no Proof of Service showing Minors' Counsel was properly served.

Only Respondent appeared for CCRC on June 27, 2023. As such, a single parent report was filed with the court and mailed to the parties on June 27, 2023.

Respondent filed a Responsive Declaration on July 17, 2023 along with a Declaration of Counsel on July 17, 2023. Petitioner was served electronically on July 17, 2023. Minors' Counsel was not served. The court finds these documents to be late filed and therefore, has not considered them.

The court orders parties to appear for the hearing.

TENTATIVE RULING #16: THE COURT ORDERS PARTIES TO APPEAR FOR THE HEARING.

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

17. HOLY METZGER V. AMANDA METZGER

22FL0804

Respondent filed a Request for Order (RFO) on May 23, 2023 requesting spousal support and property control. Respondent concurrently filed an Income and Expense Declaration. Petitioner was personally served on May 23, 2023. The court finds this is a post-judgment request for modification.

Respondent is requesting \$1,500 in temporary spousal support. Respondent is also requesting property control of the Kia K5 pending entry of judgment. It also appears Respondent is requesting attorney's fees as well as health insurance.

Petitioner has not filed a Responsive Declaration.

The court notes there was a default taken in this action. Respondent has not filed a motion to set aside the default. Further, a judgment was entered on March 6, 2023, which terminates the court's jurisdiction to award spousal support to either party and awards the Kia K5 to Petitioner. The martial status terminated on May 26, 2023. The court finds it does not have jurisdiction to award spousal support in this matter, per the judgment. Further, the court finds the Kia K5 was awarded to the Petitioner per the judgment. The court no longer has jurisdiction to order Petitioner to pay for health insurance, as the martial status was terminated on May 26, 2023. Respondent has not filed the FL-319 or declaration supporting the award of attorney's fees. The court denies Respondent's requested orders.

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

TENTATIVE RULING #17: THE COURT FINDS IT DOES NOT HAVE JURISDICTION TO AWARD SPOUSAL SUPPORT IN THIS MATTER, PER THE JUDGMENT. FURTHER, THE COURT FINDS THE KIA K5 WAS AWARDED TO THE PETITIONER PER THE JUDGMENT. THE COURT NO LONGER HAS JURISDICTION TO ORDER PETITIONER TO PAY FOR HEALTH INSURANCE, AS THE MARTIAL STATUS WAS TERMINATED ON MAY 26, 2023. RESPONDENT HAS NOT FILED THE FL-319 OR DECLARATION SUPPORTING THE AWARD OF ATTORNEY'S FEES. THE COURT DENIES RESPONDENT'S REQUESTED ORDERS. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 20, 2023

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

**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

July 20, 2023

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

18. JADEN KNIGHT V. MONIQUE LEMIRE

23FL0476

Petitioner filed a Petition to Establish a Paternal Relationship on May 26, 2023. Petitioner concurrently filed a Request for Order (RFO) requesting child custody and parenting plan orders. The parties were not referred to Child Custody Recommending Counseling (CCRC). Respondent was personally served with the Petition and RFO on June 21, 2023.

Respondent filed a Responsive Declaration on July 7, 2023. Petitioner was served by mail on July 10, 2023, which was not timely. Respondent also filed a Response to the Petition to Establish a Paternal Relationship on July 13, 2023.

The court orders parties to appear for the hearing.

TENTATIVE RULING #18: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.

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DEPARTMENT 5
July 20, 2023
8:30 a.m./1:30 p.m.

20. MEGAN CARRIGG V. DANIEL NICOLA

23FL0294

On April 28, 2023, following both parties testifying, the court granted Petitioner a one-year Domestic Violence Restraining Order against Respondent. The court referred the parties to Child Custody Recommending Counseling (CCRC) with an appointment set for May 25, 2023 and a review hearing on July 20, 2023.

Only Petitioner appeared for the CCRC appointment on May 25, 2023. As such, a single parent report was filed with the court on May 25, 2023. A copy was mailed to the parties on May 26, 2023.

The court finds the April 28, 2023 custody orders as set forth in the DV-140 remain in the minor's best interest. Petitioner shall continue to have sole legal and physical custody. Respondent shall continue to have professionally supervised visitation one time per week for two hours.

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

TENTATIVE RULING #20: THE COURT FINDS THE APRIL 28, 2023 CUSTODY ORDERS AS SET FORTH IN THE DV-140 REMAIN IN THE MINOR'S BEST INTEREST. PETITIONER SHALL CONTINUE TO HAVE SOLE LEGAL AND PHYSICAL CUSTODY. RESPONDENT SHALL CONTINUE TO HAVE PROFESSIONALLY SUPERVISED VISITATION ONE TIME PER WEEK FOR TWO HOURS. ALL PRIOR ORDERS 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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 20, 2023

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

22. WILLIAM FORREST V. MAILE FORREST

PFL20170101

Respondent filed a Request for Order (RFO) on April 28, 2023, requesting the court modify child custody and parenting plan orders, modify child and spousal support, modify the domestic violence restraining order, and award Respondent attorney's fees and costs. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on May 31, 2023 and a review hearing on July 20, 2023.

The court notes this is a post-judgement request for modification. Petitioner was served by mail, without address verification. The court finds this does not comply with Family Code section 215, and therefore, service was not proper as to the request to modify child custody and parenting plan orders, child and spousal support. Further, Respondent signed the Proof of Service filed on May 1, 2023. Therefore, service is defective as it was not properly served by a non-party who is over 18 years of age. Additionally, as to the request to modify child support, Respondent failed to serve the Department of Child Support Services, and therefore, service is not proper on those grounds as well.

Petitioner filed a Responsive Declaration on July 7, 2023. Respondent was served by mail on July 10, 2023. Petitioner objects to the court granting any of Respondent's requests for modification.

The court drops the matter from calendar due to service not being proper.

Even if the court had reached Respondent's request on the merits, Respondent's requests would have been denied.

Taking up first the request to modify custody and parenting time. The parties attended CCRC on May 31, 2023, however, were unable to reach any agreements. A report with recommendations was filed with the court and mailed to the parties on July 10, 2023. The report recommends the current court orders remain in full force and effect with the addition of further respect guidelines. The court finds the Respect guidelines are already current orders of the court, however, will reiterate to the parties, that neither party shall make disparaging remarks about the other on any social media platform. The parties are to ensure that extended family, relatives, friends, and/or significant others do not make disparaging remarks about the parents on any social media platform. Neither party shall make disparaging remarks about extended family, relative, or significant others on any social media platform.

As stated previously, the request to modify child support is denied for lack of proper service to the Department of Child Support Services. Further, there has been no modification of the current custody and parenting plan orders.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 20, 2023

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

As to the request to modify spousal support, this is a post-judgment request to modify spousal support. Respondent has failed to set forth any change in circumstances which would trigger grounds for modification. Therefore, if the court had been able to reach the issue on the merits, the request would have been denied.

Similarly, Respondent's request to modify the Domestic Violence Restraining Order is not supported. Respondent merely checked the box on the caption of the FL-300. Respondent failed to check Section 7 on page 4 of the FL-300. Respondent fails to set forth any grounds in her attachments on which the court should grant the request to modify the Domestic Violence Restraining Order (DVRO). The request would, therefore, be denied on the merits as well.

As to the request for attorney's fees and costs, while Respondent checked the box on the caption of the FL-300, Respondent failed to check Box 6 on page 4 of the FL-300 and failed to file the additionally forms, the FL-150, FI-319, and the FL-158, therefore, in addition to not being properly served, the court finds the request for attorney's fees is not properly before the court.

All prior orders remain in full force and effect.

TENTATIVE RULING #23: THE MATTER IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. THE COURT FINDS THE RESPECT GUIDELINES ARE ALREADY CURRENT ORDERS OF THE COURT, HOWEVER, WILL REITERATE TO THE PARTIES, THAT NEITHER PARTY SHALL MAKE DISPARAGING REMARKS ABOUT THE OTHER ON ANY SOCIAL MEDIAL PLATFORM. THE PARTIES ARE TO ENSURE THAT EXTENDED FAMILY, RELATIVES, FRIENDS, AND/OR SIGNIFICANT OTHERS DO NOT MAKE DISPARAGING REMARKS ABOUT THE PARENTS ON ANY SOCIAL MEDIA PLATFORM. NEITHER PARTY SHALL MAKE DISPARAGING REMARKS ABOUT EXTENDED FAMILY, RELATIVE, OR SIGNIFICANT OTHERS ON ANY SOCIAL MEDIA PLATFORM.

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.