

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 21, 2022

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

1. ASHLEY FRAZIER V. JAMES FRAZIER

PFL20150660

On May 6, 2022, Petitioner filed a Request for Order (RFO) requesting that she be awarded sole legal custody of all three minor children and a physical custody split of 50/50 for two of the minor children and 87/13 for the youngest child. Petitioner requests that child support be recalculated using the new time split. The parties were referred to Child Custody Recommending Counseling (CCRC) and the matter was set for hearing on July 21, 2022. On May 13, 2022, the RFO, the CCRC referral form, and all other required documents were served via U.S. Mail.

On June 3, 2022, the parties attended CCRC and were able to reach several agreements which are listed in full in the CCRC report. The CCRC report was issued on July 8, 2022 and mailed to the parties on July 11, 2022. The court has not received any objections to the CCRC report.

Having reviewed the filings of the parties and the CCRC report, the court finds that the agreements listed in the CCRC report are in the best interest of the minor children. Accordingly, the court hereby adopts the agreements in the CCRC report as the orders of the court.

Pursuant to the CCRC report, the parents have agreed to maintain the current parenting plan. With no change in custody, the court finds no reason to adjust child support at this time.

TENTATIVE RULING #1: THE AGREEMENTS CONTAINED WITHIN THE CCRC REPORT ARE ADOPTED AS THE ORDERS OF THE COURT. PETITIONER'S REQUEST FOR AMENDED CHILD SUPPORT IS HEREBY DENIED AS NO CHANGE IN CUSTODY HAS OCCURRED. PETITIONER IS TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 21, 2022

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

3. JACOB HENSLEY V. REBECCA HENSLEY

PFL20130896

On January 20, 2022, the court adopted its tentative ruling. The court temporarily stayed the order for child support. The court reserved jurisdiction to retroactively reinstate or modify child support. The court set a further review hearing to reassess the ongoing need to temporarily stay the child support order. Petitioner was ordered to file an updated Income and Expense Declaration prior to the review hearing date, including any unemployment benefits, if applicable. The court reserved jurisdiction on Petitioner's request for guideline child support.

On May 19, 2022, the court adopted its tentative ruling continuing the matter and ordering parties to file updated Income and Expense Declarations no later than 10 days prior to the next hearing. The court further ordered, any supplemental declarations due at least 10 days prior to the hearing. The court continued to reserve jurisdiction to retroactively reinstate child support or modify child support. The court continued to reserve jurisdiction on Petitioner's request for guideline child support.

Respondent filed a Responsive Declaration and Income and Expense Declaration on July 8, 2022. Upon review of the court file, there is no Proof of Service showing either document was served on Petitioner.

Petitioner filed an updated Income and Expense Declaration on May 17, 2022 and again on July 8, 2022. Respondent was served by mail on May 17, 2022 and July 7, 2022 respectively. Respondent was also served with the July 8, 2022 Income and Expense Declaration electronically on July 8, 2022.

Parties are ordered to appear.

TENTATIVE RULING #3: PARTIES ARE ORDERED TO APPEAR.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 21, 2022

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

4. JENNIFER LADLEY V. WILLIAM LADLEY

PFL20180837

On April 29, 2022, Respondent filed a Request for Order (RFO) requesting the court to issue an order compelling responses to Respondent's Demand for Production of Documents, Set Number One, and imposing monetary sanctions in the amount of \$2,500. Concurrently therewith, Respondent filed a memorandum of points and authorities in support of his RFO, a separate statement of Respondent in support of his RFO, as well as a current Income and Expense Declaration. All required documents were served via U.S. Mail on May 9, 2022.

Petitioner filed her Responsive Declaration to Request for Order and her updated Income and Expense Declaration on June 30, 2022. The foregoing documents were served via U.S. Mail on June 30, 2022.

On February 23, 2022, Respondent propounded the subject Demand for Production of Documents, Set One, thereby making Petitioner's responses due on or before March 30, 2022. Petitioner did not provide responses. On April 19, 2022, Respondent's counsel sent a letter to Petitioner regarding the missing discovery responses. Again, Petitioner did not respond. Respondent has provided the court with copies of the discovery requests, the proof of service, and the meet and confer letter. Given Petitioner's failure to provide responses, and failure to respond to Respondent's meet and confer effort, Respondent seeks sanctions in the amount of \$2,500 to cover the fees and costs incurred in preparing and filing the RFO and its supporting documentation. A portion of which, is the \$60 filing fee.

Petitioner's responsive declaration states only that she does not consent to the requested attorney's fees and costs because they can be paid for with Respondent's own income. She does not provide an explanation for her unresponsiveness.

Discovery Responses

Within 30 days after the service of a demand for production of documents, the party to whom the requests were sent shall serve responses to the propounding party. Cal. Civ. Pro. § 2031.260(a). Should a party fail to comply with applicable time limits, the propounding party can seek an order compelling responses. Cal. Civ. Pro. § 2031.300(b).

In the present case, Petitioner has had five months to provide the requested documents to Respondent, well beyond the 30-day requirement of the Civil Discovery Act. Due to Petitioner's failure to comply with the authorized discovery requests, and her failure to respond to meet and confer efforts of the opposing party, the court hereby orders Petitioner to provide Respondent with full and complete responses to Demand for Production of Documents, Set One no later than August 22, 2022.

Sanctions

"[T]he court *shall* impose a monetary sanction...against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel a response to a demand for inspection, copying,

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 21, 2022

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

testing, or sampling, 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. § 2031.300(c) (emphasis added). Additionally, the court may issue monetary sanctions simply on a showing that the noncompliant party engaged in an unjustified “misuse of the discovery process,” regardless of whether or not the noncompliant party opposes the motion. Cal. Civ. Pro. § 2032.030(a). “Misuse of the discovery process” has been defined to include, among other things, “the failure to respond or submit to an authorized form of discovery.” Cal. Civ. Pro. § 2013.010(d).

The amount of sanctions awarded centers on two main principles: causation, and reasonableness. *See* Cornerstone Realty Advisors, LLC. V. Summit Healthcare Reit, Inc. 56 Cal. App. 5th 771 (2020). First, monetary sanctions may only be imposed based on attorney’s fees and costs incurred “as a result” of the misuse of the discovery process. Cal. Civ. Pro. § 2023.030(a). Second, “[t]he amount of monetary sanctions is limited to the ‘reasonable expenses, including attorney’s fees’ that a party incurred as a result of the discovery abuse.” *Cornerstone Realty Advisors, LLC*, 56 Cal. App. 5th at 791 *citing* Cal. Civ. Pro. § 2023.030(a). To aid the court in determining the reasonableness of the requested sanction amount, the requesting party shall provide “...a declaration setting forth facts supporting the amount of any monetary sanction sought.” Cal. Civ. Pro. § 2023.040.

Requests for production of documents are a well-established authorized form of discovery, to which Petitioner has wholly failed to respond. Petitioner’s response to the RFO notes only that she does not consent to the order requested but does not provide any substantial justification for her failure to produce the requested documents or to engage in the meet and confer process to resolve the matter without the need for court intervention. Had Petitioner responded to the requests, or the meet and confer letter, the RFO before the court would have been unnecessary and Respondent would not have incurred the costs and fees associated with preparing and filing the present motion.

According to the declaration of Respondent’s counsel, Respondent incurred a total of \$2,500 in costs and fees associated with the preparation and filing of the motion. \$60 of that amount constitutes the filing fee for the RFO and supporting papers. Counsel’s declaration does not provide facts supporting the remaining \$2,440. Details like Counsel’s hourly rate, how much time was spent preparing the motion, time spent preparing the meet and confer letter, etc. are left out of the declaration. Without explanation supporting Respondent’s contention that \$2,500 was actually incurred, the court finds that this amount is excessive. Incurring costs and fees in the amount of \$1,000 is more reasonably to be expected in the preparation of a standard motion to compel responses and a filing fee of only \$60. Given the vagueness of Respondent’s declaration justifying the requested amount, and in the interest of reasonableness, the court awards Respondent sanctions in the amount of \$1,000, to be paid no later than August 22, 2022.

TENTATIVE RULING #4: PETITIONER IS ORDERED TO PROVIDE RESPONDENT WITH FULL AND COMPLETE RESPONSES TO DEMAND FOR PRODUCTION OF DOCUMENTS, SET ONE NO LATER THAN AUGUST 22, 2022. THE COURT AWARDS RESPONDENT SANCTIONS IN THE AMOUNT OF \$1,000, TO BE PAID NO LATER THAN AUGUST 22, 2022. RESPONDENT IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 21, 2022

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

5. JONETTE MONTBLEAU V. RICHARD MONTBLEAU

PFL20180797

On February 14, 2022 Petitioner filed a Request for Order (RFO) requesting the court order child support, spousal support, Respondent to provide declarations of disclosure, submit to a vocational evaluation, and attorney fees. Petitioner filed her Income and Expense Declaration concurrently with the RFO. Respondent was served by mail on February 14, 2022.

On April 7, 2022, the parties appeared for the hearing. The court modified the tentative ruling in part and adopted the remainder. The court made child support orders, and reserved jurisdiction to modify retroactively to April 1, 2021. The court stayed the issues of arrears to the continued hearing on June 23, 2022. The court ordered respondent to participate in a vocational evaluation. The court set a review hearing for the receipt of the vocational evaluation on June 23, 2022. The court also reserved jurisdiction to modify spousal support to April 1, 2021. Parties were ordered to file updated Income and Expense Declarations and any Supplemental Declarations at least 10 days prior to the next court date.

On June 23, 2022, parties submitted a Stipulation and Order to continue the hearing to obtain the vocational evaluation. The court signed the order on June 24, 2022.

Petitioner filed an updated Income and Expense Declaration on June 10, 2022. Respondent was served electronically on June 13, 2022.

Respondent filed an updated Income and Expense Declaration on July 5, 2022. Petitioner was served electronically on June 13, 2022.

Petitioner filed a Supplemental Declaration on July 15, 2022. Respondent was served both by mail and electronically on July 15, 2022. The court notes the Supplemental Declaration was filed less than 10 days prior to the hearing. Petitioner requests the court impute income to Respondent. Petitioner requests the court modify child support payable by Respondent to Petitioner including arrears to March 26, 2021, based on imputed income. Petitioner requests the court modify spousal support payable by Respondent to Petitioner to March 1, 2022, based on imputation of income. Petitioner requests the court order Family Code section 2030 attorney fees, in the amount of \$5,500.

Respondent has not filed a Supplemental Declaration.

The court has not yet received the vocational evaluation report.

The court finds that in its April 7, 2022 orders, it imputed income to Respondent at minimum wage pending return of the vocational evaluation. The court ordered child support set at \$266 per month based on that imputation. The court found guideline spousal support to be \$0 based on the imputed income for Respondent. The court reserved jurisdiction to modify retroactively to April 1, 2021. The court is still not in receipt of the vocational evaluation, and therefore, declines to modify the current support order pending return of the vocational evaluation. The court continues to reserve jurisdiction to retroactively modify both child and spousal support to April 1, 2021. The court continues the matter to October 6th, 2022 at 8:30 AM in Department 5 for receipt of the vocational evaluation and modification of child and spousal support.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 21, 2022

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

Based on the parties respective Income and Expense Declarations, the court finds there is a disparity in income, given Respondent has no current income. However, the court finds there is a disparity in assets available to the parties to pay for attorney fees. The court finds Respondent has listed over \$323,000 in section 11a, of the FL-150. Petitioner has listed just over \$12,000 in section 11a. The court finds Petitioner has monthly expenses of over \$14,000 per month and has used a credit card to pay attorney fees to date. Respondent has expenses of \$8,000 per month and has used savings to pay attorneys fees and costs. The court finds there is a need for the award to enable Petitioner to have sufficient financial resources to present the case adequately. The court finds Respondent has the resources to pay. Therefore, the court grants Petitioner's request for attorney's fees pursuant to Family Code section 2030 in the amount of \$3,500, payable from Respondent to Petitioner.

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

TENTATIVE RULING #5: THE COURT DENIES THE REQUEST TO MODIFY THE CURRENT CHILD AND SPOUSAL SUPPORT ORDERS PENDING RETURN OF THE VOCATIONAL EVALUATION. THE COURT CONTINUES TO RESERVE JURISDICTION TO MODIFY CHILD AND SPOUSAL SUPPORT RETROACTIVELY TO APRIL 1, 2021. THE COURT GRANTS PETITIONER'S REQUEST FOR ATTORNEY'S FEES PURSUANT TO FAMILY CODE SECTION 2030 IN THE AMOUNT OF \$3,500, PAYABLE FROM RESPONDENT TO PETITIONER. THE COURT CONTINUES THE MATTER TO OCTOBER 6TH, 2022 AT 8:30 AM IN DEPARTMENT 5 FOR RECEIPT OF THE VOCATIONAL EVALUATION AND MODIFICATION OF CHILD AND SPOUSAL SUPPORT. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 21, 2022

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

6. KATHRYN SOMERS V. PAUL KORDIK

PFL20160672

Petitioner filed an Order to Show Cause and Affidavit for Contempt on May 13, 2022, alleging three counts of contempt. Respondent was personally served on May 20, 2022, with Proof of Service filed on May 31, 2022.

Parties are ordered to appear for arraignment.

TENTATIVE RULING #6: PARTIES ARE ORDERED TO APPEAR FOR ARRAIGNMENT.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 21, 2022

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

7. KIP WEBER V. KATHARINE WEBER

PFL20180264

On May 24, 2022, Respondent filed a Request for Order (RFO) requesting the following orders: (1) Petitioner be ordered to pay child support in arrears in the amount of \$1,171; (2) Amendment to the current child support order to add a 1% increase to child support payments for each week the payment is delayed beyond 7 days; (3) Petitioner be ordered to provide missing information for the preparation of the QDROs no later than 30 days from the hearing date; (4) Petitioner be ordered to provide Respondent with a copy of the bill for the preparation of the QDRO within 30 days of the date of the order; (5) Petitioner and Respondent to share equally in the cost of the preparation of the QDRO; (6) Petitioner be ordered to provide all pay stubs withheld since February 18, 2022, within 14 days of the date of the hearing; (7) Petitioner be ordered to sign up for talkingparents.com within 14 days of the date of the hearing including a requirement that both parties respond to communications within 3 days; (8) Respondent and Petitioner to share equally in all transportation costs for visitations with payments to be made no later than 30 days after either party has received documentation of the costs incurred and an additional 1% interest on the original amount for each week the payment is late; (9) Petitioner be ordered to pay Respondent \$2,769.66 which amounts to 50% of the travel costs incurred by Respondent for visitation during the 2021 and 2022 school breaks; (10) Respondent be awarded attorney's fees in the amount of \$6,517.50, which would allow Respondent to retain counsel to file a joinder against CalPERS. Concurrently with the RFO, Respondent filed her updated Income and Expense Declaration. The RFO, the Income and Expense Declaration and additional documents were served via U.S. Mail on May 25, 2022.

On July 14, 2022, Petitioner served his supplemental declaration, his Income and Expense Declaration, and his pay statements from July 15, 2021 to present. In response to Respondent's request for child support in arrears, Petitioner asserts that he has, in fact, overpaid support. He provides a spreadsheet documenting amounts owed, and amounts paid, in support of his assertion. According to Petitioner, he was paying \$1,635 in monthly base child support from the date of the Judgment of Dissolution on July 23, 2021, until February 18, 2022. On March 10, 2022, the court decreased the amount of monthly base child support to \$1,114 retroactive to July 23, 2021. Petitioner claims that pursuant to the new order he would owe \$514.15 per pay period but decreased that to \$260.00 to compensate himself for the overpayment paid from July 23 through February 18th. Likewise, Petitioner claims to have overpaid in overtime support pursuant to the updated Ostler Smith overtime table that the court ordered on March 10th to be retroactive through July 23rd. Petitioner proposes that he continue to pay the current reduced amounts for every pay period and, with each payment, to provide Respondent copies of paystubs and the updated spreadsheet until the overpayment has been resolved. Once resolved, Petitioner then proposes to resume full payments in the amount ordered by the court on March 10, 2022.

With regard to the QDRO, Petitioner states that his attorney has reached out to Moon, Schwartz, and Madden to obtain the intake forms. Petitioner agrees to an order requiring both parties to cooperate in completing the forms within 30 days of the hearing date and for both parties to pay

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 21, 2022

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

their half of the QDRO preparation fee. Petitioner further agrees to an order of the court requiring both parties to fully cooperate with signing the QDRO once prepared.

Base Child Support

Respondent has not filed a declaration in response to Petitioner's supplemental declaration and his explanation of the payments made and the amounts reserved as reimbursement for arrears. It is unclear if the parties agree that this issue has been resolved. The parties are ordered to appear.

Overtime Child Support

On March 10, 2022, Parties appeared for a hearing on child support. The court ordered Petitioner to pay Respondent child support and included a bonus table. The order was effective August 1, 2021. The court ordered parties to meet and confer regarding the bonus table and set a review hearing for June 9, 2022. At that time Respondent requested the court provide new overtime/bonus tables utilizing a 35% time share. Petitioner did not file a Supplemental Declaration prior to the June hearing date.

On the June 9, 2022 hearing the court held that it needed additional information about Petitioner's overtime and bonus income received. The court continued the review hearing on the overtime/bonus table to join with the RFO set for July 21, 2022.

The parties are ordered to appear.

QDRO Preparation

The parties are largely in agreement regarding the preparation of the QDRO. Petitioner has obtained the initial intake forms from Moon, Schwartz, and Madden, and as requested by Respondent, Petitioner is agreeable to ensuring that the parties cooperate with one another to complete the intake forms within 30 days of the date of the hearing. Further, the parties agree that all payments made for the preparation of the QDRO are to be split equally.

Given the agreement of the parties as noted above, the court orders the parties to cooperate with one another to complete the Moon, Schwartz, and Madden intake forms no later than August 22, 2022. The parties are to share equally in the QDRO preparation fees. Each party to pay his or her share of the QDRO preparation fees no later than the due date established by Moon, Schwartz, and Madden. The party in receipt of any Moon, Schwartz, and Madden invoices is to provide the invoice to the other party as soon as reasonably possible but no later than 5 business days after receiving the invoice. In the event that either party is late or underpays his or her portion of the payment, that party shall be solely responsible for any and all interest on the Moon, Schwartz, and Madden fees resulting from the late or short payment. If neither party pays its portion of the Moon, Schwartz, and Madden fees in a timely manner, then the parties are to share equally in the payment of interest incurred.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 21, 2022

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

Communication

The parties attended Child Custody Recommending Counseling (CCRC) in August of 2021. CCRC issued a report which then became the ruling of the court on September 23, 2021. The CCRC report expressly states "Mother and Father will utilize talkingparents.com to communicate with each other about the children's physical and mental health, their education, and their general welfare. The parents will respond to each other's talkingparents.com communication within 24-hours of receipt."

The court hereby reiterates its prior order that both parties are to use talkingparents.com. The parties are ordered to sign up for talkingparents.com no later than August 4, 2022. In Respondent's RFO she requests a response time of 3 days. This differs from the court's prior ruling of 24 hours. Accordingly, the parties are to respond to communications on talkingparents.com as soon as reasonably practical, but in no event later than 72 hours of receipt.

Transportation Costs

On March 10, 2022, the court ordered the parties to share equally in the costs of transportation for the summer visitation schedule, not including any lodging for Respondent. Respondent is requesting that this order be extended to travel expenses for all visitation. Petitioner seemingly has no objection to this as he does not address this request in his supplemental declaration. Thus, court orders the parties to share equally in the transportation costs for the children for any and all court ordered visitation. Respondent is to bear the cost of lodging as well as her own transportation costs. Receipts evidencing payments made for the transportation of the children are to be provided to the reimbursing party no later than the end of the month that the costs were incurred. The reimbursing party shall pay his or her equal share of the costs in full within 30 days of the date receipts are received. Late or underpayments will result in 1% interest per week on the original amount due.

In accordance with the court's above order regarding travel expenses, Petitioner is ordered to pay Respondent \$1,776.44 as reimbursement for Petitioner's portion of airfare for each of the children during their November 2021 trip and their December 2021/January 2022 trip. The receipts provided by Respondent indicate that the amount paid for the November trip was \$514.26 per child. \$514.26 multiplied by 4 children and then divided by 2 equals \$1,028.52 for the November trip. In December Respondent paid \$373.96 for airfare per child. Running the same calculation, Petitioner is responsible for \$747.92 for the December/January trip. The total amount due, \$1,776.44, is to be paid in full no later than August 22, 2022. Failure to pay in full by that date will result in the accrual of interest in the amount of 1% of the original amount due for each week that the payment, or any portion of the payment, is outstanding.

Attorney's Fees

Respondent requests attorney's fees in order to retain counsel to file a joinder of CalPERS. However, on February 22, 2021, CalPERS filed a Notice of Appearance and Response of Employee Benefit Plan. Given that CalPERS has already filed an appearance in the case, a joinder is not necessary and Respondent's request for attorney's fees is moot and the court declines to rule on it at this time. The court reserves jurisdiction on an award of attorney's fees as may be requested in the future.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 21, 2022

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

TENTATIVE RULING #7: THE COURT ORDERS AS FOLLOWS:

- (1) THE PARTIES ARE ORDERED TO APPEAR ON THE ISSUE OF BASE CHILD SUPPORT.**
- (2) THE PARTIES ARE ORDERED TO APPEAR ON THE OVERTIME/BONUS ISSUE.**
- (3) THE PARTIES ARE TO COOPERATE WITH ONE ANOTHER TO COMPLETE THE MOON, SCHWARTZ, AND MADDEN INTAKE FORMS NO LATER THAN AUGUST 22, 2022. THE PARTIES ARE TO SHARE EQUALLY IN THE QDRO PREPARATION FEES. EACH PARTY TO PAY HIS OR HER SHARE OF THE QDRO PREPARATION FEES NO LATER THAN THE DUE DATE ESTABLISHED BY MOON, SCHWARTZ, AND MADDEN. THE PARTY IN RECEIPT OF ANY MOON, SCHWARTZ, AND MADDEN INVOICES IS TO PROVIDE THE INVOICE TO THE OTHER PARTY AS SOON AS REASONABLY POSSIBLE BUT NO LATER THAN 5 BUSINESS DAYS AFTER RECEIVING THE INVOICE. IN THE EVENT THAT EITHER PARTY IS LATE OR UNDERPAYS HIS OR HER PORTION OF THE PAYMENT, THAT PARTY SHALL BE SOLELY RESPONSIBLE FOR ANY AND ALL INTEREST ON THE MOON, SCHWARTZ, AND MADDEN FEES RESULTING FROM THE LATE OR SHORT PAYMENT. IF NEITHER PARTY PAYS ITS FULL PORTION OF THE MOON, SCHWARTZ, AND MADDEN FEES IN A TIMELY MANNER, THEN THE PARTIS ARE TO SHARE EQUALLY IN THE PAYMENT OF INTEREST INCURRED.**
- (4) PETITIONER INDICATES THAT THROUGH HIS ATTORNEYS HE HAS PROVIDED RESPONDENT WITH HIS SPREADSHEET AND CORRESPONDING PAYSTUBS. ACCORDINGLY, THE COURT FINDS RESPONDENT'S REQUEST FOR PAYSTUBS TO HAVE BEEN RESOLVED AND THE COURT DECLINES TO RULE ON THIS ISSUE AT THIS TIME.**
- (5) THE PARTIES ARE ORDERED TO SIGN UP FOR TALKINGPARENTS.COM NO LATER THAN AUGUST 4, 2022. ABSENT EXTENUATING CIRCUMSTANCE, THE PARTIES ARE TO RESPOND TO COMMUNICATIONS ON TALKINGPARENTS.COM AS SOON AS REASONABLY PRACTICAL, BUT IN NO EVENT LATER THAN 72 HOURS OF RECEIPT.**
- (6) THE PARTIES ARE TO SHARE EQUALLY IN THE TRANSPORTATION COSTS FOR THE CHILDREN FOR ANY AND ALL VISITATION PURSUANT TO THE COURT'S ORDERED VISITATION SCHEDULE. RESPONDENT IS TO BEAR THE COST OF LODGING AS WELL AS HER OWN TRANSPORTATION COSTS. RECEIPTS EVIDENCING PAYMENTS MADE FOR THE TRANSPORTATION OF THE CHILDREN ARE TO BE PROVIDED TO THE REIMBURSING PARTY NO LATER THAN THE END OF THE MONTH THAT THE COSTS WERE INCURRED. THE REIMBURSING PARTY SHALL PAY HIS OR HER EQUAL SHARE OF THE COSTS IN FULL WITHIN 30 DAYS OF THE DATE RECEIPTS ARE RECEIVED. LATE OR UNDERPAYMENTS WILL RESULT IN 1% INTEREST PER WEEK ON THE ORIGINAL AMOUNT DUE.**
- (7) IN ACCORDANCE WITH THE COURT'S ABOVE ORDER REGARDING TRAVEL EXPENSES, PETITIONER IS ORDERED TO PAY RESPONDENT \$1,776.44 AS REIMBURSEMENT FOR PETITIONER'S PORTION OF AIRFARE FOR EACH OF THE CHILDREN DURING THEIR NOVEMBER 2021 TRIP AND THEIR DECEMBER 2021/JANUARY 2022 TRIP. THIS AMOUNT IS TO BE PAID IN FULL NO LATER THAN AUGUST 22, 2022. FAILURE TO PAY IN FULL BY THAT DATE WILL RESULT IN THE ACCRUAL OF INTEREST IN THE AMOUNT OF 1% OF THE ORIGINAL AMOUNT DUE FOR EACH WEEK THAT THE PAYMENT, OR ANY PORTION OF THE PAYMENT, IS OUTSTANDING.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 21, 2022

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

- (8) RESPONDENT'S REQUEST FOR ATTORNEY'S FEES IS MOOT AND THE COURT DECLINES TO RULE ON IT AT THIS TIME. THE COURT RESERVES JURISDICTION ON AN AWARD OF ATTORNEY'S FEES AS MAY BE REQUESTED IN THE FUTURE.**
- (9) ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 21, 2022

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

8. MELISA SKINNER V. MICHAEL SKINNER

PFL20200259

On April 26, 2022, Respondent filed a Request for Order (RFO) requesting a change to the current spousal support order. As of the date of filing the RFO spousal support was \$1,000 per month, plus the payment of Petitioner's automobile insurance and her phone bill. This agreement had been previously reached by stipulation of the parties. Respondent has since been notified that his temporary disability income will be ending, and his permanent disability payments will result in his monthly income dropping from \$6,000 per month to approximately \$1,256 per month. As such, Respondent requests that his monthly spousal support obligation be reduced to \$0.

The RFO and all other required documents were served on April 16, 2022 via U.S. Mail. On June 6, 2022, the court entered judgment in the matter pursuant to a Marital Settlement Agreement (MSA) that was signed by the parties and filed with the court. As part of the MSA the parties agreed upon one lump sum payment to fully and finally satisfy Respondent's spousal support obligation.

The court finds that the issues raised in the RFO have been resolved as part of the court's June 6, 2022 judgment, as such, the matter is dropped from the court's calendar.

TENTATIVE RULING #8: THE MATTER IS DROPPED FROM THE COURT'S CALENDAR.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 21, 2022

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

9. MICHAEL CHAPMAN V. TRACY LOCKHART-CHAPMAN

PFL20150319

On March 15, 2022, Respondent filed a Request for Order (RFO) requesting the court modify the spousal support order, order attorney fees pursuant to Family Code 2030 and Family Code section 271, and enforcement of the current orders of March 31, 2018. Petitioner was served by mail on March 17, 2022. Respondent filed an updated Income and Expense Declaration on March 22, 2022. Petitioner was served by mail on March 22, 2022. On April 5, 2022, Petitioner was re-served with the RFO, Income and Expense Declaration, tentative ruling notice, blank responsive declaration, blank income and expense declaration, application for video conference, and the previously filed proofs of service.

Respondent requests the court modify the spousal support order as there has been a material change in circumstances as stated in the orders of March 21, 2018. Further Respondent requests the court enforce the March 21, 2018 orders for payments/reimbursements. Last, Respondent requests the court order attorney fees pursuant to Family Code section 2030 and Family Code section 271 for failure to follow court orders. Respondent asserts that once Petitioner began receiving his social security benefits that would be considered a material change of circumstances. Respondent further asserts she is currently unable to pay all of her expenses and has multiple medical bills. Respondent states she is owed \$1,160.74 from Petitioner for reimbursements. Respondent asserts she has delayed in filing this request due to health issues. Respondent is requesting attorney's fees both pursuant to Family code 2030 and 271.

Petitioner filed a Responsive Declaration and Income and Expense Declaration on May 5, 2022. Respondent was served by mail on May 5, 2022. Petitioner concurs that he is now receiving social security. However, Petitioner states Respondent is overestimating his income. Petitioner also asserts he made the jeep payment timely per the 2018 order. Petitioner acknowledges that he was unable to provide documentation that the loan is fully current. Petitioner also asserts he never received an overpayment from Chrysler. Petitioner states there were never any orders made addressing the Allstate payment. Last, Petitioner requests the court deny Respondent's request for attorney fees and asserts there have not been any violations that would warrant an award of attorney fees.

On May 19, 2022, Parties appeared for the hearing and agreed to a continuance. The court continued the matter to July 21, 2022 and reserved on all issues, including spousal support, attorney's fees, enforcement of orders, reimbursement of omitted assets, and filing of the judgment. The court stayed its tentative ruling.

On July 14, 2022, Respondent filed a Supplemental Declaration. Respondent asserts that pursuant to the discovery requests made there is further income Petitioner has failed to disclose on his Income and Expense Declaration. Respondent requests a further continuance to propound additional discovery to determine Petitioner's true income. Respondent requests the court order Petitioner to pay the prior reimbursements owed, totaling \$1,160.74 as well as Family code section 271 sanctions in the amount of \$3,500 for the costs she has incurred to determine Petitioner's true income.

The court has not received any additional filings from Petitioner.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 21, 2022

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

The court finds good cause to grant Respondent's request for a continuance. The matter is Continued to October 6th, 2022 at 8:30 AM in Department 5. The court continues to reserve jurisdiction to retroactively modify spousal support to the date of the filing of the RFO. The court continues to reserve jurisdiction on the request for attorney's fees, enforcement of orders, reimbursement of omitted assets, and filing of the judgment.

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 #9: THE COURT FINDS GOOD CAUSE TO GRANT RESPONDENT'S REQUEST FOR A CONTINUANCE. THE MATTER IS CONTINUED TO OCTOBER 6TH, 2022 AT 8:30 AM IN DEPARTMENT 5 THE COURT CONTINUES TO RESERVE JURISDICTION TO RETROACTIVELY MODIFY SPOUSAL SUPPORT TO THE DATE OF THE FILING OF THE RFO. THE COURT CONTINUES TO RESERVE JURISDICTION ON THE REQUEST FOR ATTORNEY'S FEES, ENFORCEMENT OF ORDERS, REIMBURSEMENT OF OMITTED ASSETS, AND FILING OF THE JUDGMENT. 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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 21, 2022

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

10. RENEE KLINGHARDT V. JOHN KLINGHARDT

PFL20190857

Parties appeared for trial on May 4, 2022 and stated they had reached a global settlement of the case. Parties requested the court reserve a hearing date on the law and motion calendar for receipt of the judgement.

On June 23, 2022, the court issued a tentative ruling ordering parties to appear as the court had not received the judgement packet. At that time the parties requested a continuance. The matter was continued to July 21, 2022.

The court is not in receipt of the judgement in this matter. Therefore, parties are ordered to appear.

TENTATIVE RULING #10: PARTIES ARE ORDERED TO APPEAR.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 21, 2022

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

11. SARAH PINNELL V. RICHARD PINNELL

PFL20170430

On April 14, 2022, Respondent filed a Request for Order (RFO) requesting the court modify the parenting plan and allow Respondent an opportunity to have a trial on the Child Custody Recommending Counseling (CCRC) report from March 8, 2022. The court notes, the facesheet of the RFO mistakenly refers to Respondent as Petitioner and vice versa. Respondent's declaration also misidentifies Respondent as Petitioner. Upon review of the court file, there does not appear to be a Proof of Service showing Petitioner was served with the RFO. However, Petitioner has filed a Responsive Declaration to the RFO responding to the issues presented. Therefore, the court finds Petitioner has actual notice of the RFO and the requests being made.

Respondent asserts he was not provided with the tentative ruling paperwork when he filed his RFO on January 5, 2022. The court notes there is a copy of the tentative ruling guidelines in the court file, file endorsed January 5, 2022. The court does not find Respondent's assertion that he did not receive the paperwork from the clerk's office to be credible. Respondent did not request oral argument for the March 23, 2022 hearing and the court adopted its tentative ruling. Respondent requests the court grant him primary physical custody of the minors and set the custody recommendation for trial. Respondent asserts the CCRC counselor and court should have conducted a move away analysis.

Petitioner filed a Responsive Declaration on June 17, 2022. Respondent was served by mail on June 15, 2022. The court notes the Responsive Declaration was not filed ten days prior to the hearing in accordance with Code of Civil Procedure 1005. However, in her declaration Petitioner asserts she received a letter from Respondent's counsel stating he would be requesting a continuance of the hearing date as he was unavailable on June 23, 2022. Petitioner attached the letter as an exhibit to her declaration. Petitioner further asserts when she contacted Respondent's counsel on June 14, 2022, counsel stated the hearing was not going to be continued. The court finds good cause to accept and consider Petitioner's Responsive Declaration. Petitioner requests the current court orders remain in full force and effect. Petitioner asserts she has been the primary caretaker for the minors throughout their lives. Petitioner also asserts Respondent has not been ensuring the minors' attendance at school on Fridays, missing 11 Fridays during the school year. Petitioner further states Respondent has neglected the minors' medical needs including dental needs and failing to take J.P. to the emergency room for follow up care after he suffered a febrile seizure. Petitioner states Respondent has failed to pay for one-half the medical bills for the minors. Petitioner requests the medical bills be added to the child support order.

On June 22, 2022 the court issued its tentative ruling. Respondent requested oral argument. The parties appeared for the hearing on June 23, 2022. Respondent requested a continuance as his counsel was unavailable. The court stayed the tentative ruling and continued the matter to July 21, 2022.

The court makes the following findings and orders:

The court denies Respondent's request to modify the parenting plan. The court is concerned with the issues Petitioner has raised in her responsive declaration, specifically Respondent's refusal to cooperate with Petitioner on the minors' dental needs, as well as the failure to seek follow-up medical

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 21, 2022

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

care for the minor J.P. after he suffered a seizure. The court is also concerned about Respondent's failure to ensure the minors regular school attendance during his parenting time. The court finds the current orders are in the minors' best interest.

The court finds the request to set a trial on Petitioner's relocation is akin to a motion for reconsideration. The court finds Respondent has failed to identify any new facts, circumstances, or law not available to be presented at the first hearing. Parties attended Child Custody Recommending Counseling on March 8, 2022 where the issue of Petitioner's relocation to Vacaville was thoroughly discussed. Although Respondent asserts he was not provided with the tentative ruling procedures, the court does not find that assertion credible. The court denies Respondent's request to set a trial on Petitioner's relocation.

Petitioner's request for the minors' medical bills to be added to the child support order is beyond the scope of Respondent's RFO, and therefore is denied.

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 #11: RESPONDENT'S REQUEST FOR ORDER TO MODIFY THE CURRENT PARENTING PLAN IS DENIED. RESPONDENT'S REQUEST FOR A TRIAL ON PETITIONER'S RELOCATION IS DENIED. PETITIONER'S REQUEST TO ADD THE MINORS' MEDICAL BILLS TO THE CHILD SUPPORT ORDER IS DENIED WITHOUT PREJUDICE. 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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 21, 2022

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

13. YAZMIN HANNA V. JAKOB WAGNER

22FL0144

On February 10, 2022 parties reached a stipulation as to custody and parenting time. The parties share joint legal and physical custody of the minor. Respondent has parenting time from Monday at 6:00 pm until Thursday at 10:00 am. The minor is with Petitioner the remainder of the time. The court signed and adopted the parties' stipulation on February 14, 2022.

Respondent filed a Request for Order (RFO) on May 12, 2022, requesting a modification of the current custody and parenting time orders. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on June 17, 2022 and a review hearing on July 21, 2022. Petitioner was served by mail on May 13, 2022. Respondent requests the court modify the order for parenting time to a 2-2-3 schedule rather than the current schedule for Monday evening through Thursday morning. Respondent asserts this will allow him to have more time with the minor and will be a more equal parenting plan.

Parties attended CCRC on June 17, 2022 but were unable to reach any agreements. A report with recommendations was filed on July 12, 2022. A copy of the report was mailed to the parties on July 12, 2022. The report recommends the current custody and parenting time orders remain in full force and effect. The CCRC counselor notes in the report, the current arrangement was made to accommodate Respondent's work schedule to maximize his time with the minor. Although Respondent asserts his schedule could be modified to accommodate a new parenting plan, that has not yet happened and there is no guarantee if and when it would happen.

Petitioner filed a Responsive Declaration on July 7, 2022. Respondent was personally served on July 7, 2022. Petitioner requests the court maintain the current orders for custody and parenting time. Petitioner asserts the current plan that has been in place since February 10, 2022 remains in the best interest of the minor. Petitioner further asserts Respondent's work schedule remains the same as in February and the current parenting plan allows Respondent and the minor to have the maximum amount of time with each other.

Respondent filed a Supplemental/Reply Declaration on July 13, 2022. Petitioner was served by mail on July 13, 2022. Respondent asserts Petitioner utilizes the maternal grandfather for childcare during her parenting time while she works. Respondent asserts he would be able to utilize the paternal grandparents for childcare during his parenting time, while he works. Respondent argues this puts the parties in substantially similar situations. Respondent also asserts he has utilized all the parenting time that is available to him. Respondent states Petitioner has failed to abide by the no alcohol provision of the court order, in that Petitioner has consumed alcohol during her parenting time, on or about March 4, 2022.

The court has read and considered the above filings and makes the following findings and orders:

The court is not adopting the recommendations as set forth in the CCRC report. The court finds the minor is a very young child and frequent contact with each parent is in the minor's best interest. The court further finds the minor is no longer breastfeeding and Respondent can have a more flexible

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 21, 2022

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

work schedule. Each party has their respective parents available to provide in-home childcare while they are working. Respondent currently has three consecutive overnights with the minor. The court finds a 2-2-3 schedule will allow a balanced schedule between the parties, allowing the minor to have frequent contact with both parties, without extended absences from either. On week one, Respondent shall have the minor Monday at 6:00 pm until Wednesday at 6:00 pm. Petitioner shall have the minor Wednesday from 6:00 pm until Friday at 6:00. Respondent shall have the minor from Friday at 6:00 pm until Monday at 6:00 pm. The schedule will be reversed on week two, with Petitioner having the minor Monday through Wednesday, Respondent having the minor Wednesday through Friday, and Petitioner Friday through Monday. The schedule would then repeat. The schedule shall commence on Monday July 25, 2022.

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 MODIFIES THE PARENTING PLAN AS SET FORTH ABOVE. 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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 21, 2022

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

14. ZANE DAVIS V. NICHOLE DAVIS

PFL20190077

On March 8, 2022, Petitioner filed a Request for Order (RFO) requesting the court modify the order regarding therapy for the minor, enforce the order for the parties to participate in co-parenting counseling, enforcement of current orders regarding legal custody and parenting time, and order Family Code section 271 sanctions. Respondent was served with the RFO by mail on March 4, 2022.

Petitioner asserts Respondent has failed to cooperate in having the minor enrolled in individual therapy. Further, Petitioner asserts Respondent is refusing to attend the previously ordered co-parenting therapy. Petitioner requests the court authorize him to select a therapist for the minor and allow the minor to engage in therapy. Petitioner requests the court select a co-parenting therapist for the parties and that the parties begin co-parenting counseling as soon as possible. Petitioner asserts Respondent has failed to abide by the legal custody orders. Finally, Petitioner requests attorney fees as sanctions for having to file this RFO.

Respondent filed a Responsive Declaration on May 2, 2022. Respondent filed a Proof of Service on May 2, 2022, showing that Petitioner was served by mail. However, the Proof of Service does not indicate what date the Responsive Declaration was mailed to Petitioner. Additionally, the Responsive Declaration is required by Code of Civil Procedure to be filed at least nine court days prior to the hearing. Therefore, the court has not considered Respondent's Responsive Declaration.

On May 5, 2022, parties appeared for the hearing. The court ordered parties to participate in co-parenting counseling with Wendy Campbell. Parties were ordered to commence co-parenting counseling on or before June 16, 2022. The minor was to be enrolled and participating in therapy on or before June 16, 2022. Petitioner was to pay for 100% of the costs to enable the video call feature on the talkingparents.com application. The court adopted the remainder of its tentative ruling. The court set a review hearing for July 21, 2022.

Petitioner filed a Supplemental Declaration on July 11, 2022. Respondent was served by mail on July 11, 2022. Petitioner asserts Respondent has failed to bring the minor to the first therapy appointment as directed by the therapist. Petitioner continues to assert Respondent is resistant to allowing the minor to participate in therapy. Petitioner also asserts Respondent has failed to enable the video call feature on the talkingparents.com application and has continued to interfere with phone calls between Petitioner and the minor. Petitioner is requesting the court reiterate its orders regarding phone contact while the minor is in Respondent's care.

Respondent has not filed a Supplemental Declaration.

All prior orders remain in full force and effect. The parties are to continue to participate in co-parenting counseling at a frequency and duration as directed by the counselor. The minor shall continue to participate in individual therapy at a frequency and duration as directed by the counselor. The parties are to abide by the treatment plans and recommendations of the respective counselors. The court affirms its prior orders regarding the use of the video call feature of the talkingparents.com application. The minor shall be made available for video calls with Petitioner, without interference or

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 21, 2022

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

monitoring by Respondent. The court reminds parties that failure to abide by the court's orders may result in contempt proceedings, sanctions, and/or modification of custody orders.

Petitioner shall prepare and file the Findings and Orders After Hearing.

TENTATIVE RULING #14: ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. THE PARTIES ARE TO CONTINUE TO PARTICIPATE IN CO-PARENTING COUNSELING AT A FREQUENCY AND DURATION AS DIRECTED BY THE COUNSELOR. THE MINOR SHALL CONTINUE TO PARTICIPATE IN INDIVIDUAL THERAPY AT A FREQUENCY AND DURATION AS DIRECTED BY THE COUNSELOR. THE PARTIES ARE TO ABIDE BY THE TREATMENT PLANS AND RECOMMENDATIONS OF THE RESPECTIVE COUNSELORS. THE COURT AFFIRMS ITS PRIOR ORDERS REGARDING THE USE OF THE VIDEO CALL FEATURE OF THE TALKINGPARENTS.COM APPLICATION. THE MINOR SHALL BE MADE AVAILABLE FOR VIDEO CALLS WITH PETITIONER, WITHOUT INTERFERENCE OR MONITORING BY RESPONDENT. THE COURT REMINDS PARTIES THAT FAILURE TO ABIDE BY THE COURT'S ORDERS MAY RESULT IN CONTEMPT PROCEEDINGS, SANCTIONS, AND/OR MODIFICATION OF CUSTODY ORDERS. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.