

LAW AND MOTION TENTATIVE RULINGS
DEPARTMENT 5
July 27, 2023
8:30 a.m./1:30 p.m.

1. ALLISON MURBACH V. DENNY MURBACH

22FL0815

Petitioner is requesting an order striking the Response to the Petition and entering Respondent's default. She also requests the court grant her a voluntary waiver of Respondent's Preliminary Declaration of Disclosure and set the case for a priority default hearing. Finally, she seeks attorney's fees in the amount of \$7,500 as and for sanctions pursuant to Family Code Section 2107 and 271. Petitioner filed and mail served her Request for Order (RFO) on May 16, 2023.

Respondent filed and served his Responsive Declaration to Request for Order on July 18th. The court finds this to be late filed pursuant to Civil Procedure section 1005(b) which states all responsive papers are to be filed at least nine court days before the hearing date. Section 12c states, "[w]here any law requires an act to be performed no later than a specified number of days before a hearing date, the last day to perform that act shall be determined by counting backward from the hearing date, *excluding the day of the hearing* as provided by Section 12." Cal. Civ. Pro. § 12c. Section 1005(b) in conjunction with Section 12c would have made July 14th the last day for filing Respondent's Responsive Declaration to Request for Order. Therefore, it is late filed and has not been considered by the court.

On January 19, 2023, Petitioner filed an RFO seeking to compel Respondent's Preliminary Declaration of Disclosure (PDD). The motion was granted, and Respondent was ordered to serve his PDD, along with a completed Income and Expense Declaration no later than April 10th. He was further ordered to pay sanctions in the amount of \$2,560 no later than April 1st. Having not received either, Petitioner sent a meet and confer letter on the issue. On April 14th he did receive an amended PDD, Schedule of Assets and Debts and an Income and Expense Declaration but there were only slight changes. As of April 1st, Petitioner had yet to receive the sanction payment. Given the ages of the parties, Petitioner argues this matter should be treated with urgency. She requests the following: (1) The court strike Respondent's Response form and enter his default on every issue except the dissolution of marriage; (2) Grant Petitioner a voluntary waiver of the Respondent's Preliminary Declaration of Disclosure in accordance with Family Code § 2107(b)(3); (3) Set the matter for default trial and assign it prior setting in accordance with Civil Procedure Section 36; and (4) Order Respondent to pay \$7,500 in attorney's fees and/or sanctions within ten days of the date of the hearing in accordance with Family Code sections 2107 and 271.

The parties are ordered to appear.

TENTATIVE RULING #1: THE PARTIES ARE ORDERED TO APPEAR.

LAW AND MOTION TENTATIVE RULINGS
DEPARTMENT 5
July 27, 2023
8:30 a.m./1:30 p.m.

3. ANGELA SCHIFANDO V. ANDREW SCHIFANDO

PFL20190365

This matter is before the court on a Request for Order (RFO) filed by Petitioner on April 26, 2023. Concurrently with her RFO Petitioner filed her Income and Expense Declaration and a Declaration of Attorney Taryn M. Scharf Esq. There is no Proof of Service of these documents. However, Respondent filed his Responsive Declaration to Request for Order on June 5th thereby waiving any objection he may have had regarding defective service. Respondent also filed his Income and Expense Declaration. All documents were electronically served on the same date as filing. Petitioner's Reply Declaration in Response to Respondent's Opposition to Petitioner's Request for Orders was filed and served on July 14th.

Petitioner brings her RFO requesting the following orders: (1) Petitioner be allowed to relocate the children to Sacramento, California and that the children be allowed to enroll in a school near her home for the 2023/2024 school year; (2) Award Petitioner primary physical custody during the school week with visitation to Respondent every other weekend and on Wednesday afternoons/evenings; (3) Order the parties to agree to extracurricular activities prior to enrolling the children; (4) Order the parties to attend private mediation with either Wendy Campbell, Carol Greenfield, or Aggie Fuentes. Petitioner also seeks guideline child support and attorney's fees and costs in the amount of \$5,000.

Respondent consents to guideline child support and agrees that the current parenting plan of three days on, three days off, is making it difficult to provide consistency for the children. However, Respondent does not agree to the parenting schedule proposed by Petitioner. Instead he requests the following: (1) Parties to share in joint legal custody; (2) Court to deny Petitioner's request to relocate and order 50/50 physical custody, or, if the relocation request is granted, Respondent to have primary physical custody and Petitioner to have parenting time every other weekend from Friday at 6:30 p.m. until Sunday at 6:30 p.m. with additional optional time on Wednesdays after school until 8:00 p.m.; (3) Order Petitioner not to leave the children alone with Maud Morshedi; (4) Order Petitioner to transport the children to extracurricular activities that occur during her parenting time or allow Respondent to do so; (5) Order Petitioner to pay Respondent's attorney's fees in the amount of \$6,000.

The parties attended Child Custody Recommending Counseling (CCRC) on June 7, 2023. They were unable to reach any agreements but a report with recommendations was prepared on July 13, 2023 and thereafter sent to the parties for review.

The court has reviewed the filings as outlined above and finds the recommendations of the CCRC report to be in the best interests of the children. The court hereby adopts the recommendations of the July 13, 2023, CCRC report as the orders of the court.

Regarding the request for a move away order, such a request is to be viewed in light of the court's duty to ensure the rights and welfare of the children. See Fam. Code § 7501(a). In

LAW AND MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 27, 2023

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

assessing the rights and welfare of the child, each case must be evaluated on its own merits. In re Marriage of Burgess, 13 Cal. 4th 25, 37-40 (1996). “Among the factors that the court ordinarily should consider when deciding whether to modify a custody order in light of the custodial parent’s proposal to change the residence of the child are the following: the children’s interest in stability and continuity in the custodial arrangement; the distance of the move; the age of the children; the children’s relationship with both parents; the reasons for the proposed move; and the extent to which the parents currently are sharing custody.” Marriage of LaMusga, 32 Cal. 4th 1072, 1098-1101 (2004). This is a very fact specific analysis and because move away cases involve “the most serious decisions a family law court is required to make and should not be made in haste.” In re Marriage of Seagondollar, 139 Cal. App. 4th 1116 (2006).

Here, the children are still very young, though they are at an age where they have already formed bonds with friends at school and have begun participating in extracurricular activities. There is a strong interest in maintaining and fostering these burgeoning relationships. Further, the parties have been sharing 50/50 custody and the children clearly have strong ties to each of them. The court does not feel it is in their best interests to drastically reduce their time with either parent. Moreover, as Petitioner stated at CCRC, the move is not so far that she would be unable to transport the children to their current school if need be. Accordingly, Petitioner’s requests for a move away order and to enroll the children in a Sacramento based school, are denied. The parties are to share custody as stated in the CCRC report. Additionally, prior to signing either of the minors up for extracurricular activities, the parties are to mutually agree to any activities that will take place during the other parent’s parenting time.

Respondent’s request for an order precluding the children from having unsupervised contact with Mr. Morshedi is denied. The allegations of abuse were established by CPS as unfounded. Without more, the court is hesitant to make such a stringent order.

Petitioner’s request for private mediation is likewise denied. The parties attended mediation provided by the court. It is unclear why Petitioner is of the opinion that there are any issues in the present case that give rise to the need for a more extensive private mediation process.

Utilizing the same figures as outlined in the attached DissoMaster report, the court finds that child support is \$298 per month. See attached DissoMaster report. The court adopts the attached DissoMaster report and orders Petitioner to pay Respondent \$298 per month as and for child support, payable on the 1st of the month until further order of the court or legal termination. The court orders the child support order effective May 1, 2023.

The court finds the above order results in arrears in the amount of \$894 through and including July 1, 2023. The court orders Petitioner to pay Respondent \$149 on the 15th of each month until paid in full (approximately 6 months).

LAW AND MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 27, 2023

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

Each party is requesting the other to pay his or her attorney's fees pursuant to Family Code Section 2030. 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 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 reviewing the Income and Expense Declarations of the parties, the court does not find either party to be in need of attorney's fees. There is only a slight disparity in income between the parties. The parties appear to have equal access to counsel and equal ability to pay. As such, both parties' requests for attorney's fees are denied.

TENTATIVE RULING #3: THE COURT HEREBY ADOPTS THE RECOMMENDATIONS OF THE JULY 13, 2023, CCRC REPORT AS THE ORDERS OF THE COURT. PETITIONER'S REQUESTS FOR A MOVE AWAY ORDER AND TO ENROLL THE CHILDREN IN A SACRAMENTO BASED SCHOOL, ARE DENIED. THE PARTIES ARE TO SHARE CUSTODY AS STATED IN THE CCRC REPORT. ADDITIONALLY, PRIOR TO SIGNING EITHER OF THE MINORS UP FOR EXTRACURRICULAR ACTIVITIES, THE PARTIES ARE TO MUTUALLY AGREE TO ANY ACTIVITIES THAT WILL TAKE PLACE DURING THE OTHER PARENT'S PARENTING TIME. RESPONDENT'S REQUEST FOR AN ORDER PRECLUDING THE CHILDREN FROM HAVING UNSUPERVISED CONTACT WITH MR. MORSHEDI IS DENIED. PETITIONER'S REQUEST FOR PRIVATE MEDIATION IS LIKEWISE DENIED.

THE COURT FINDS THAT CHILD SUPPORT IS \$298 PER MONTH. SEE ATTACHED DISSOMASTER REPORT. THE COURT ADOPTS THE ATTACHED DISSOMASTER REPORT AND ORDERS PETITIONER TO PAY RESPONDENT \$298 PER MONTH AS AND FOR CHILD SUPPORT, PAYABLE ON THE 1ST OF THE MONTH UNTIL FURTHER ORDER OF THE COURT OR LEGAL TERMINATION. THE COURT ORDERS THE CHILD SUPPORT ORDER EFFECTIVE MAY 1, 2023.

THE COURT FINDS THE ABOVE ORDER RESULTS IN ARREARS IN THE AMOUNT OF \$894 THROUGH AND INCLUDING JULY 1, 2023. THE COURT ORDERS PETITIONER TO PAY RESPONDENT \$149 ON THE 15TH OF EACH MONTH UNTIL PAID IN FULL (APPROXIMATELY 6 MONTHS).

LAW AND MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 27, 2023

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

BOTH PARTIES' REQUESTS FOR ATTORNEY'S FEES ARE DENIED. PETITIONER IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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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	6,375 Payment (cost)/benefit	298	(298)
Filing status	HH/MLA	HH/MLA	Mother	7,784 Net spendable income	6,674	7,485
# Federal exemptions	1*	3*	Total	14,159 % combined spendable	47.1%	52.9%
Wages + salary	12,721	6,480	Support	Total taxes	3,154	2,134
401(k) employee contrib	0	0	CS Payor	Mother Comb. net spendable	14,159	
Self-employment income	0	0	Presumed	298 Proposed		
Other taxable income	0	4,500	Basic CS	298 Payment (cost)/benefit	298	(298)
Short-term cap. gains	0	0	Add-ons	0 Net spendable income	6,674	7,485
Long-term cap. gains	0	0	Presumed Per Kid	NSI change from gdl	0	0
Other gains (and losses)	0	0	Child 1	138 % combined spendable	47.1%	52.9%
Ordinary dividends	0	0	Child 2	160 % of saving over gdl	0%	0%
Tax. interest received	0	0	Spousal support	blocked Total taxes	3,154	2,134
Social Security received	0	0	Total	298 Comb. net spendable	14,159	
Unemployment compensation	0	0	Proposed, tactic 9	Percent change	0.0%	
Operating losses	0	0	CS Payor	Mother Default Case Settings		
Ca. operating loss adj.	0	0	Presumed	298		
Roy, partnerships, S corp, trusts	0	0	Basic CS	298		
Rental income	0	0	Add-ons	0		
Misc ordinary tax. inc.	0	4,500	Presumed Per Kid			
Other nontaxable income	0	0	Child 1	138		
New-spouse income	0	0	Child 2	160		
SS paid other marriage	0	0	Spousal support	blocked		
CS paid other relationship	0	0	Total	298		
Adj. to income (ATI)	0	0	Savings	0		
Ptr Support Pd. other P'ships	0	0	No releases			
Health insurance	524	400				
Qual. Bus. Inc. Ded.	0	0				
Itemized deductions	0	815				
Other medical expenses	0	0				
Property tax expenses	0	815				
Ded. interest expense	0	0				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
State sales tax paid	0	0				
Required union dues	223	150				
Cr. for Pd. Sick and Fam. L.	0	0				
Mandatory retirement	1,795	512				
Hardship deduction	0*	0*				
Other gdl. adjustments	650	0				
AMT info (IRS Form 6251)	0	1,502				
Child support add-ons	0	0				
TANF, SSI and CS received	0	0				

LAW AND MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 27, 2023

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

5. GABRIELA PERIRA-NIERI V. EUGENE NIERI

PFL20200120

Petitioner filed an Order to Show Cause and Affidavit for Contempt (OSC) on February 16, 2023. Petitioner asserts Respondent has violated support and property division orders. Respondent was personally served on March 17, 2023.

Petitioner filed an additional Declaration regarding the OSC on May 5th, however there was no Proof of Service and as such the court did not read or consider it.

The parties appeared for hearing on May 18th at which time the matter was referred to the Public Defender's Office and continued to the present date.

The parties are ordered to appear for arraignment.

TENTATIVE RULING #2: THE PARTIES ARE ORDERED TO APPEAR FOR ARRAIGNMENT.

LAW AND MOTION TENTATIVE RULINGS
DEPARTMENT 5
July 27, 2023
8:30 a.m./1:30 p.m.

6. JEREMY STRUTHERS V. SHERI STRUTHERS

22FL0289

Petitioner comes before the court requesting orders regarding jurisdiction. He filed his Request for Order (RFO) on May 18, 2023. It was mail served on May 22nd. Respondent has not filed a Responsive Declaration to Request for Order.

Petitioner is requesting the court hold conference with an Oregon Judge to discuss jurisdiction and then subsequently issue an order affirming this court's jurisdiction over the issue of child custody. The parties were married for almost 20 years and during that time they, and their children, resided in El Dorado County. After separation in 2022, Respondent and the children moved to Oregon. According to Petitioner, the parties are working on a marital settlement agreement, which is to include child custody, and they would like an order stating that California has jurisdiction over the issue. Respondent has not filed anything in Oregon, nor has she opposed the requested orders.

Petitioner's RFO is granted to the extent that the court finds itself to have ongoing jurisdiction over the issue of child custody. Because there has been no filing with any court in Oregon, a UCCJEA conference is not necessary.

TENTATIVE RULING #6: PETITIONER'S RFO IS GRANTED TO THE EXTENT THAT THE COURT FINDS ITSELF TO HAVE ONGOING JURISDICTION OVER THE ISSUE OF CHILD CUSTODY. BECAUSE THERE HAS BEEN NO FILING WITH ANY COURT IN OREGON, A UCCJEA CONFERENCE IS NOT NECESSARY. PETITIONER IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

LAW AND MOTION TENTATIVE RULINGS
DEPARTMENT 5
July 27, 2023
8:30 a.m./1:30 p.m.

8. KARA HERSOM V. JESSE TABORSKY

PFL20190244

On May 16, 2023, Petitioner filed a Request for Order (RFO) seeking custody and visitation orders as well as attorney's fees. The RFO and all other required documents were served on May 17th. Respondent has not filed a Responsive Declaration to Request for Order.

It appears the parties were not referred to Child Custody Recommending Counseling (CCRC) upon the filing of this RFO. The last CCRC appointment was held in November 2022, but Petitioner did not appear despite the fact that the appointment was set as a result of her filing a previous RFO. The court feels it is appropriate to refer the parties to CCRC prior to ruling on the RFO.

The parties are referred to CCRC on 10/9/2023 with Norman Labat at 9:00 a.m. This matter is continued to 11/30/2023 at 8:30 a.m. in department 5.

TENTATIVE RULING #8: THE PARTIES ARE REFERRED TO CCRC ON 10/9/2023 WITH NORMAN LABAT AT 9:00 A.M. THIS MATTER IS CONTINUED TO 11/30/2023 AT 8:30 A.M. IN DEPARTMENT 5. PETITIONER IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

LAW AND MOTION TENTATIVE RULINGS
DEPARTMENT 5
July 27, 2023
8:30 a.m./1:30 p.m.

9. RICHARD BAKER V. KELSEY HICKENBOTTOM

23FL0172

This matter stems from a Request for Domestic Violence Restraining Order (DVRO) filed by Petitioner on February 23, 2023. Prior to the DVRO hearing, on April 28th, the parties reached a stipulation regarding custody and visitation pending a referral to Custody Recommending Counseling (CCRC). The court adopted the stipulation and referred the parties to CCRC.

The parties attended CCRC on May 31st and a report with recommendations was prepared dated July 17, 2023. At CCRC it was disclosed that Respondent had missed one of her visits with the minor due to her testing positive for alcohol. The CCRC counselor expressed his concern with Respondent's use of alcohol and made several recommendations on that issue.

The court echoes CCRC's concerns with Respondent's alcohol abuse. While the court finds the majority of CCRC's recommendations to be in the best interests of the minor, the court remains concerned that the step-up plan as stated in April 28th stipulation is not sufficient to protect the minor at this time. As such, the court adopts the recommendations as stated in the July 17th CCRC report and adopts them as the orders of the court with the following modifications. The parenting time section of the CCRC report is not adopted. Instead, the court orders (1) the child will reside primarily with Petitioner; (2) Respondent shall have unsupervised visits three times per week for four hours each visit. Respondent shall SoberLink test before and after each visit and provide Petitioner with the results. If Respondent tests positive at any time, visits shall be suspended until Respondent tests negative. Visits can resume once she has a negative test. This first step of the step-up plan shall continue until Respondent tests negative before and after each visit for four consecutive weeks. (2) Once Respondent has tested negative before and after each visit for four consecutive weeks, visitation shall move on to step two. At this step Respondent shall have visits three times per week for up to six hours each. Respondent shall SoberLink test before and after each visit and provide Petitioner with the results. If Respondent tests positive at any time, visits shall be suspended until Respondent tests negative. Visits can resume once she has a negative test. This second step of the step-up plan shall continue until Respondent tests negative before and after each visit for four consecutive weeks. (3) Once Respondent has tested negative before and after each visit for four consecutive weeks, visitation shall move on to step three. At this step Respondent shall have visits three times per week for up to eight hours each. Respondent shall SoberLink test before and after each visit and provide Petitioner with the results. If Respondent tests positive at any time, visits shall be suspended until Respondent tests negative. Visits can resume once she has a negative test. This third step of the step-up plan shall continue until Respondent tests negative before and after each visit for four consecutive weeks. (4) Once Respondent has tested negative before and after each visit for four consecutive weeks, visitation shall move on to step four. At this step Respondent shall have visits two times per week for up to eight hours each and one overnight visit from 4:00 p.m. until 12:00 p.m. the next day. These visits shall follow the schedule as stated

LAW AND MOTION TENTATIVE RULINGS
DEPARTMENT 5
July 27, 2023
8:30 a.m./1:30 p.m.

in the parties' stipulation dated April 28th. Respondent shall SoberLink test before and after each daytime visit and provide Petitioner with the results. During overnight visits, Respondent shall test between 8:00 p.m. and 10:00 p.m. and again between 8:00 a.m. and 10:00 a.m. the following day. If Respondent tests positive at any time, Petitioner may immediately terminate any visit that is taking place and future visits shall be suspended until Respondent tests negative. Visits can resume once she has a negative test.

TENTATIVE RULING #9: THE COURT ADOPTS THE RECOMMENDATIONS AS STATED IN THE JULY 17TH CCRC REPORT AND ADOPTS THEM AS THE ORDERS OF THE COURT WITH THE FOLLOWING MODIFICATIONS. THE PARENTING TIME SECTION OF THE CCRC REPORT IS NOT ADOPTED. INSTEAD, THE COURT ORDERS (1) THE CHILD WILL RESIDE PRIMARILY WITH PETITIONER; (2) RESPONDENT SHALL HAVE UNSUPERVISED VISITS THREE TIMES PER WEEK FOR FOUR HOURS EACH VISIT. RESPONDENT SHALL SOBERLINK TEST BEFORE AND AFTER EACH VISIT AND PROVIDE PETITIONER WITH THE RESULTS. IF RESPONDENT TESTS POSITIVE AT ANY TIME, VISITS SHALL BE SUSPENDED UNTIL RESPONDENT TESTS NEGATIVE. VISITS CAN RESUME ONCE SHE HAS A NEGATIVE TEST. THIS FIRST STEP OF THE STEP-UP PLAN SHALL CONTINUE UNTIL RESPONDENT TESTS NEGATIVE BEFORE AND AFTER EACH VISIT FOR FOUR CONSECUTIVE WEEKS. (2) ONCE RESPONDENT HAS TESTED NEGATIVE BEFORE AND AFTER EACH VISIT FOR FOUR CONSECUTIVE WEEKS, VISITATION SHALL MOVE ON TO STEP TWO. AT THIS STEP RESPONDENT SHALL HAVE VISITS THREE TIMES PER WEEK FOR UP TO SIX HOURS EACH. RESPONDENT SHALL SOBERLINK TEST BEFORE AND AFTER EACH VISIT AND PROVIDE PETITIONER WITH THE RESULTS. IF RESPONDENT TESTS POSITIVE AT ANY TIME, VISITS SHALL BE SUSPENDED UNTIL RESPONDENT TESTS NEGATIVE. VISITS CAN RESUME ONCE SHE HAS A NEGATIVE TEST. THIS SECOND STEP OF THE STEP-UP PLAN SHALL CONTINUE UNTIL RESPONDENT TESTS NEGATIVE BEFORE AND AFTER EACH VISIT FOR FOUR CONSECUTIVE WEEKS. (3) ONCE RESPONDENT HAS TESTED NEGATIVE BEFORE AND AFTER EACH VISIT FOR FOUR CONSECUTIVE WEEKS, VISITATION SHALL MOVE ON TO STEP THREE. AT THIS STEP RESPONDENT SHALL HAVE VISITS THREE TIMES PER WEEK FOR UP TO EIGHT HOURS EACH. RESPONDENT SHALL SOBERLINK TEST BEFORE AND AFTER EACH VISIT AND PROVIDE PETITIONER WITH THE RESULTS. IF RESPONDENT TESTS POSITIVE AT ANY TIME, VISITS SHALL BE SUSPENDED UNTIL RESPONDENT TESTS NEGATIVE. VISITS CAN RESUME ONCE SHE HAS A NEGATIVE TEST. THIS THIRD STEP OF THE STEP-UP PLAN SHALL CONTINUE UNTIL RESPONDENT TESTS NEGATIVE BEFORE AND AFTER EACH VISIT FOR FOUR CONSECUTIVE WEEKS. (4) ONCE RESPONDENT HAS TESTED NEGATIVE BEFORE AND AFTER EACH VISIT FOR FOUR CONSECUTIVE WEEKS, VISITATION SHALL MOVE ON TO STEP FOUR. AT THIS STEP RESPONDENT SHALL HAVE VISITS TWO TIMES PER WEEK FOR UP TO EIGHT HOURS EACH AND ONE OVERNIGHT VISIT FROM 4:00 P.M. UNTIL 12:00 P.M. THE NEXT DAY. THESE VISITS SHALL FOLLOW THE SCHEDULE AS STATED IN THE PARTIES' STIPULATION DATED APRIL 28TH. RESPONDENT SHALL SOBERLINK TEST BEFORE AND AFTER EACH DAYTIME VISIT AND PROVIDE PETITIONER WITH THE RESULTS.

LAW AND MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 27, 2023

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

DURING OVERNIGHT VISITS, RESPONDENT SHALL TEST BETWEEN 8:00 P.M. AND 10:00 P.M. AND AGAIN BETWEEN 8:00 A.M. AND 10:00 A.M. THE FOLLOWING DAY. IF RESPONDENT TESTS POSITIVE AT ANY TIME, PETITIONER MAY IMMEDIATELY TERMINATE ANY VISIT THAT IS TAKING PLACE AND FUTURE VISITS SHALL BE SUSPENDED UNTIL RESPONDENT TESTS NEGATIVE. VISITS CAN RESUME ONCE SHE HAS A NEGATIVE TEST.

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LAW AND MOTION TENTATIVE RULINGS
DEPARTMENT 5
July 27, 2023
8:30 a.m./1:30 p.m.

11. TODD SMITH V. MERIDEE SMITH

PFL20130821

On March 17, 2022, Petitioner filed a Request for Order (RFO) requesting a modification of spousal support. Respondent was served by mail on April 8, 2022. Petitioner is requesting the court end spousal support and award Family Code section 271 sanctions. Petitioner alleges that Respondent is cohabitating and asks the court to terminate support or set it at \$0 as of the date Respondent began cohabitating. Petitioner alleges the cohabitation began in May 2020. Finally, Petitioner requests the court order Respondent to reimburse all spousal support paid since May of 2020, or in the alternative order sanctions.

Respondent filed a Responsive Declaration on April 29, 2022. Petitioner was served by mail on April 25, 2022. Respondent asks the court to deny Petitioner's request and asserts that the person she is cohabitating with is a roommate only. Respondent notes that she continues to need spousal support and that per the parties' agreement, spousal support will terminate in August 2022 around the time that she graduates from her current schooling program and will begin to work in her new field.

Hearing on the RFO was originally set for June 2, 2022. It has been continued numerous times by stipulation of the parties due to ongoing discovery disputes. Pursuant to orders on the discovery motions, Petitioner was granted the opportunity to file a supplemental declaration no later than 10 days prior to the hearing date on the March 17th RFO, and Respondent was to file her supplemental declaration no later than 5 days prior to the hearing date.

Petitioner has not filed a supplemental declaration. Respondent's Supplemental Declaration and Income and Expense Declaration were filed and served on July 18, 2023.

Although not correctly indicated in the RFO, this is a post judgment motion to modify permanent spousal support. Judgment entered on December 28, 2021 per the parties' stipulation, which is attached and incorporated into the Judgment. Petitioner did not file an FL-157 or declaration addressing the same factors within the FL-157. The court must necessarily consider the Family Code section 4320 factors in considering a post judgment request to modify permanent support. In reviewing the judgment, the court finds that the only provision indicating the parties' intended for the court to reserve jurisdiction over spousal support is line 5 on page 2 stating the support is "non-modifiable first [sic] 6 months..."

As this motion was brought post judgement, service must comply with Family Code section 215(b). Here, although Petitioner did not file an address verification, Respondent filed a Responsive Declaration addressing the issues raised in the RFO and the court finds that any service defects have been waived by Respondent's response.

The court additionally finds that Petitioner has not shown a change in circumstances to warrant a modification of spousal support. There is an insufficient showing that Respondent is

LAW AND MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 27, 2023

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

cohabitating with a non-marital partner within the meaning of Family Code section 4323. Respondent has indicated she resides with a roommate, with whom she purchased a home to address living expenses. Although Petitioner asserts that he knows Petitioner is in a relationship but does not indicate that it is with the same individual or the basis of his belief that it is this individual. Respondent has indicated that she still needs support pending her graduation, which is supported by her Income and Expense Declaration.

For the foregoing reasons, Petitioner's request to modify spousal support post judgment is denied without prejudice. Petitioner's request for Section 271 sanctions is likewise denied.

TENTATIVE RULING #11: PETITIONER'S REQUEST TO MODIFY SPOUSAL SUPPORT POST JUDGMENT IS DENIED WITHOUT PREJUDICE. PETITIONER'S REQUEST FOR SECTION 271 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.

LAW AND MOTION TENTATIVE RULINGS
DEPARTMENT 5
July 27, 2023
8:30 a.m./1:30 p.m.

12. DCSS V. ERIC HILL (OTHER PARENT: ANAROSE FERRO)

PFS20150143

Respondent filed an Order to Show Cause and Affidavit for Contempt (OSC) on April 12, 2022. Other Parent was personally served on April 13, 2022. Respondent asserts Other Parent failed to exchange the minor on April 10, 2022 per the court's prior orders which directed exchanges to take place on Sundays.

The parties appeared for hearing on September 21, 2022 and the court found Other Parent did violate the aforementioned court orders. Other Parent was directed to complete 12 hours of community service and provide the court with documentation thereof no later than six months from the date of the hearing. The court set sentencing to occur on March 23, 2023 but stated the contempt charge would be dismissed once proof of completion of the community service was filed with the court. Respondent was ordered to prepare the Findings and Orders After Hearing.

Other Parent filed a Declaration on March 27, 2023. There is no Proof of Service showing Respondent was served with this document, therefore, the court cannot consider it.

Parties were ordered to appear on May 25, 2023. No parties appeared. The court continued the hearing to July 27, 2023 and directed the clerk of the court to provide the parties with a copy of the May 25, 2023 minute order.

A copy of the May 25, 2023 minute order was mailed to the parties at their addresses of record on May 26, 2023.

Neither party has filed any additional Declarations.

The parties are ordered to appear for the hearing.

TENTATIVE RULING #12: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.

LAW AND MOTION TENTATIVE RULINGS
DEPARTMENT 5
July 27, 2023
8:30 a.m./1:30 p.m.

13. LORI ERMSHAR V. DAVID ERMSHAR

PFL20180544

On July 14, 2023, the parties were in court regarding modification of child and spousal support. The court ordered the parties to file updated Income and Expense Declarations and continued the matter to July 27, 2023.

On July 17, Petitioner filed her Income and Expense Declaration, served electronically on Respondent along with another declaration on July 25, 2023. On July 21, 2023, Respondent filed his Income and Expense Declaration, served on Petitioner electronically that same day.

Using the new Income and Expense Declarations, the court calculates the YTD income of Petitioner as \$6,370 and of Respondent as \$11,573 (including the days in 2022 for which each party received 2023 pay). The court finds that Petitioner pays \$257 towards voluntary pre-tax retirement per month and \$325 towards an HSA account per month. The court finds that Respondent pays \$216 in pre-tax health insurance per month and \$534 towards voluntary pre-tax retirement per month. The court notes that Respondent lists the retirement payment as mandatory. Absent further information to indicate that these payments are mandatory, the court infers that these payments are voluntary as is common with 403(b) contributions, as is the type of contribution in this case.

With a 4% timeshare to Petitioner as discussed at the last hearing and with the court not applying the child tax credit to either child based on their ages, the court calculates guideline child support as \$1,323, commencing on March 1, 2023. Commencing June 1, 2023, after the oldest child emancipated, the court calculates guideline support as \$829 per month. See attached DissoMaster reports.

The court notes that Petitioner contends that Respondent receives adoption assistance for the children. In reviewing the file, the court cannot find the amounts received per child. While adoption assistance is not considered income for support purposes, it can be a factor in whether to deviate from guideline support.

The court orders the parties to appear to provide information regarding the adoption assistance as well as to set a trial date to take evidence regarding the Family Code 4320 factors in considering a possible modification of spousal support.

TENTATIVE RULING #13: THE COURT ORDERS THE PARTIES TO APPEAR TO PROVIDE INFORMATION REGARDING THE ADOPTION ASSISTANCE AS WELL AS TO SET A TRIAL DATE TO TAKE EVIDENCE REGARDING THE FAMILY CODE 4320 FACTORS IN CONSIDERING A POSSIBLE MODIFICATION OF SPOUSAL SUPPORT.

ATTORNEY (NAME AND ADDRESS): <div style="font-size: 1.2em; font-weight: bold; margin-top: 20px;">California</div> ATTORNEY FOR: Father	TELEPHONE NO: <div style="font-size: 0.8em;"> Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME: </div>
DISSOMASTER REPORT 2023, Monthly	CASE NUMBER:

Input Data	Father	Mother	Guideline (2023)	Cash Flow Analysis	Father	Mother
Number of children	2	0	Nets (adjusted)	Guideline		
% time with Second Parent	0%	4%	Father	8,518	Payment (cost)/benefit	1,323 (1,323)
Filing status	HH/MLA	Single	Mother	4,975	Net spendable income	9,841 3,652
# Federal exemptions	3	1	Total	13,493	% combined spendable	72.9% 27.1%
Wages + salary	11,573	6,370	Support		Total taxes	2,839 1,395
401(k) employee contrib	534	257	CS Payor	Mother	Comb. net spendable	13,493
Self-employment income	0	0	Presumed	(1,323)	Proposed	
Other taxable income	0	0	Basic CS	(1,323)	Payment (cost)/benefit	1,373 (1,373)
Short-term cap. gains	0	0	Add-ons	0	Net spendable income	9,935 3,808
Long-term cap. gains	0	0	Presumed Per Kid		NSI change from gdl	94 156
Other gains (and losses)	0	0	Child 1	(494)	% combined spendable	72.3% 27.7%
Ordinary dividends	0	0	Child 2	(829)	% of saving over gdl	37.6% 62.4%
Tax. interest received	0	0	Spousal support	blocked	Total taxes	2,795 1,189
Social Security received	0	0	Total	(1,323)	Comb. net spendable	13,743
Unemployment compensation	0	0	Proposed, tactic 9		Percent change	1.9%
Operating losses	0	0	CS Payor	Mother	Default Case Settings	
Ca. operating loss adj.	0	0	Presumed	(1,373)		
Roy, partnerships, S corp, trusts	0	0	Basic CS	(1,373)		
Rental income	0	0	Add-ons	0		
Misc ordinary tax. inc.	0	0	Presumed Per Kid			
Other nontaxable income	0	0	Child 1	(509)		
New-spouse income	0	0	Child 2	(864)		
SS paid other marriage	0	0	Spousal support	blocked		
CS paid other relationship	0	0	Total	(1,373)		
Adj. to income (ATI)	0	325	Savings	250		
Ptr Support Pd. other P'ships	0	0	Total releases to	1		
Health insurance	216	0	Mother			
Qual. Bus. Inc. Ded.	0	0				
Itemized deductions	0	0				
Other medical expenses	0	0				
Property tax expenses	0	0				
Ded. interest expense	0	0				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
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): <div style="font-size: 1.2em; font-weight: bold; margin-top: 20px;">California</div> ATTORNEY FOR: Father	TELEPHONE NO: <div style="font-size: 0.8em;"> Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME: </div>
DISSOMASTER REPORT 2023, Monthly	CASE NUMBER:

Input Data	Father	Mother	Guideline (2023)	Cash Flow Analysis	Father	Mother
Number of children	1	0	Nets (adjusted)	Guideline		
% time with Second Parent	0%	4%	Father	8,437	Payment (cost)/benefit	829 (829)
Filing status	HH/MLA	Single	Mother	4,975	Net spendable income	9,266 4,146
# Federal exemptions	2	1	Total	13,412	% combined spendable	69.1% 30.9%
Wages + salary	11,573	6,370	Support		Total taxes	2,920 1,395
401(k) employee contrib	534	257	CS Payor	Mother	Comb. net spendable	13,412
Self-employment income	0	0	Presumed	(829)	Proposed	
Other taxable income	0	0	Basic CS	(829)	Payment (cost)/benefit	864 (864)
Short-term cap. gains	0	0	Add-ons	0	Net spendable income	9,220 4,317
Long-term cap. gains	0	0	Presumed Per Kid		NSI change from gdl	(46) 171
Other gains (and losses)	0	0	Child 1	(829)	% combined spendable	68.1% 31.9%
Ordinary dividends	0	0	Spousal support	blocked	% of saving over gdl	-36.9% 136.9%
Tax. interest received	0	0	Total	(829)	Total taxes	3,002 1,189
Social Security received	0	0	Proposed, tactic 9		Comb. net spendable	13,537
Unemployment compensation	0	0	CS Payor	Mother	Percent change	0.9%
Operating losses	0	0	Presumed	(864)	Default Case Settings	
Ca. operating loss adj.	0	0	Basic CS	(864)		
Roy, partnerships, S corp, trusts	0	0	Add-ons	0		
Rental income	0	0	Presumed Per Kid			
Misc ordinary tax. inc.	0	0	Child 1	(864)		
Other nontaxable income	0	0	Spousal support	blocked		
New-spouse income	0	0	Total	(864)		
SS paid other marriage	0	0	Savings	125		
CS paid other relationship	0	0	Total releases to	1		
Adj. to income (ATI)	0	325	Mother			
Ptr Support Pd. other P'ships	0	0				
Health insurance	216	0				
Qual. Bus. Inc. Ded.	0	0				
Itemized deductions	0	0				
Other medical expenses	0	0				
Property tax expenses	0	0				
Ded. interest expense	0	0				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
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				

LAW AND MOTION TENTATIVE RULINGS
DEPARTMENT 5
July 27, 2023
8:30 a.m./1:30 p.m.

14. NICOLE RILEY V. RANDY HOFF

22FL0770

On June 23, 2023, Petitioner filed an ex parte application for emergency orders regarding visitation between Respondent and the minor children. On June 26, 2023, the court maintained the current orders for professionally supervised visitation between Respondent and the minors but added further clarification. The court ordered that the visits take place in El Dorado County and that the visitation supervisor maintain a direct line of sight and hearing distance between themselves, the minors, and Respondent. The court also clarified when visits were to occur.

On June 26, 2023, Petitioner filed an application for an Order Shortening Time (OST) along with a Request for Order (RFO) requesting the court modify orders as to visitation, the Domestic Violence Restraining Order (DVRO), a request for attorney's fees and costs, as well as an Order to Show Cause re Contempt (OSC) of the Temporary Restraining Order. The court granted the OST and set the RFO and OSC for a hearing on July 27, 2023. Petitioner was directed to serve Respondent on or before June 28, 2023. The court allowed Respondent to file and serve a Responsive Declaration on or before July 14, 2023.

Proof of Service shows Respondent was electronically served on June 28, 2023. The court notes the OSC must be personally served. Therefore, the court drops the OSC from calendar.

Petitioner requests the court terminate Respondent's visits or in the alternative the court maintain the modifications made in the ex parte orders. Petitioner additionally requests the court award her \$4,250 in attorney fees. Petitioner has submitted a declaration from counsel, however, upon review of the court file, Petitioner has not filed an Income and Expense Declaration as required. Petitioner requests the court modify the current Temporary Restraining Order to add the three minors as protected parties. Petitioner asserts Respondent continues to contact the minors outside the court's orders and is using the minors to surveil her.

Respondent filed a Responsive Declaration on July 14, 2023. Petitioner was served electronically on July 14, 2023. Respondent asserts in his Declaration he was not served the underlying RFO. Respondent acknowledges being served the OSC and OST. Respondent requests the court maintain the current visitation orders pending the evidentiary hearing currently set for September 20, 2023. Respondent disputes any violation of the Temporary Restraining Order. Respondent requests the court appoint Minors' Counsel to represent the children.

The court denies Petitioner's request to suspend Respondent's visitation. All current orders as to Respondent's visitation remain in full force and effect. The court denies Petitioner's request for attorney's fees as Petitioner has failed to file the necessary Income and Expense

LAW AND MOTION TENTATIVE RULINGS
DEPARTMENT 5
July 27, 2023
8:30 a.m./1:30 p.m.

Declaration. The court continues Petitioner's request to add the minors to the DVRO to join with the currently set evidentiary hearing on September 20, 2023.

The court grants Respondent's request to appoint Minors' Counsel. The court appoints Rebecca Esty-Burke as Minors' Counsel.

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 #14: THE COURT DROPS THE OSC RE CONTEMPT FROM CALENDAR DUE TO LACK OF PROPER SERVICE. THE COURT DENIES PETITIONER'S REQUEST TO SUSPEND RESPONDENT'S VISITATION. ALL CURRENT ORDERS AS TO RESPONDENT'S VISITATION REMAIN IN FULL FORCE AND EFFECT. THE COURT DENIES PETITIONER'S REQUEST FOR ATTORNEY'S FEES AS PETITIONER HAS FAILED TO FILE THE NECESSARY INCOME AND EXPENSE DECLARATION. THE COURT CONTINUES PETITIONER'S REQUEST TO ADD THE MINORS TO THE DVRO TO JOIN WITH THE CURRENTLY SET EVIDENTIARY HEARING ON SEPTEMBER 20, 2023. THE COURT GRANTS RESPONDENT'S REQUEST TO APPOINT MINORS' COUNSEL. THE COURT APPOINTS REBECCA ESTY-BURKE AS MINORS' COUNSEL. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

LAW AND MOTION TENTATIVE RULINGS
DEPARTMENT 5
July 27, 2023
8:30 a.m./1:30 p.m.

15. SARAH COOPER V. JESSE COOPER

PFL20200753

Respondent filed a Request for Order (RFO) requesting to modify permanent spousal support on June 9, 2023. This is a post judgment request for modification. Petitioner was personally served on June 13, 2023. Respondent asserts he is unable to continue paying permanent spousal support as previously ordered. Respondent request the court make orders retroactive to March 7, 2023, the date Respondent previously filed an RFO making the same requests. Respondent filed an Income and Expense Declaration on June 9, 2023. It was personally served on Petitioner on June 13, 2023.

Petitioner filed a Responsive Declaration and Income and Expense Declaration on June 21, 2023. Respondent was served by mail on June 21, 2023. Petitioner objects to the requested modification.

Respondent filed an additional Declaration on July 17, 2023. Petitioner was personally served on July 17, 2023. Respondent requests the court consider his 2022 tax returns. Respondent additionally asserts the Marital Settlement Agreement was signed under duress.

The court notes parties were ordered to appear on Respondent's March 7, 2023 filed RFO for a hearing on May 11, 2023. Respondent failed to appear at the hearing and therefore, the court dropped the matter from calendar. Respondent states he was hospitalized during the hearing on May 11, 2023. However, Respondent made no effort to contact the court to make the court aware of his inability to attend the hearing due to being in the hospital.

The court finds as this is a request to modify permanent spousal support, the court must take evidence on the Family Code section 4320 factors. The parties are ordered to appear to select Mandatory Settlement Conference and Trial dates.

TENTATIVE RULING #15: PARTIES ARE ORDERED TO APPEAR TO SELECT MANDATORY SETTLEMENT CONFERENCE AND TRIAL DATES.

LAW AND MOTION TENTATIVE RULINGS
DEPARTMENT 5
July 27, 2023
8:30 a.m./1:30 p.m.

16. TUCKER BENOIT V. MOLLY HASHA

23FL0466

Petitioner filed a Petition to Establish a Paternal Relationship on May 23, 2023. Petitioner concurrently filed a Request for Order (RFO) requesting the court make orders as to child custody and parenting time. The parties were not referred to Child Custody Recommending Counseling (CCRC). A Summons was issued on May 23, 2023. Respondent was personally served with the Summons and RFO on May 25, 2023.

Petitioner is requesting joint legal and physical custody along with a referral to CCRC to determine a parenting plan.

Respondent has not filed a Response or a Responsive Declaration.

The court orders parties to appear for the hearing.

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

LAW AND MOTION TENTATIVE RULINGS
DEPARTMENT 5
July 27, 2023
8:30 a.m./1:30 p.m.

17. CHRISTOPHER TRUXLER V. NATASHA TRUXLER

23FL0037

The parties appeared for hearing on a Request for Domestic Violence Restraining Order on April 28, 2023. At that time the parties were referred to Child Custody Recommending Counseling (CCRC) and a review hearing was set for July 18th. The hearing was later continued to the present date.

The parties attended CCRC on May 22, 2023 and a report with recommendations was prepared on July 6, 2023. Neither party has filed a declaration addressing the recommendations of the CCRC report.

The parties are ordered to appear.

TENTATIVE RULING #17: THE PARTIES ARE ORDERED TO APPEAR.