

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
August 4, 2022
8:30 a.m./1:30 p.m.

13. CAROL CARLISLE V. WILLIAM CARLISLE

PFL201500337

On June 9, 2022, Parties appeared for an arraignment on an Order to Show cause and Affidavit for Contempt filed by Petitioner on April 8, 2022. Respondent asserted he was able to afford an attorney and wished to retain counsel. The court continued the matter for further arraignment proceedings to August 4, 2022. Parties were also ordered to appear on Petitioner's Request for Order alleging Respondent has violated the terms of his conditional release on the prior contempt charges.

Parties are ordered to appear for arraignment.

TENTATIVE RULING #13: PARTIES ARE ORDERED TO APPEAR.

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
August 4, 2022
8:30 a.m./1:30 p.m.

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

PFS20150143

Respondent filed an Order to Show Cause and Affidavit for Contempt on April 12, 2022. Other Parent was personally served on April 13, 2022. Respondent asserts Other Parent has failed to exchange the minor on April 10, 2022 per the court's prior orders that custody exchanges take place on Sunday. Parties were ordered to appear for arraignment on the Order to Show Cause.

Parties appeared on June 2, 2022 for an arraignment. The Public Defender's office was appointed to Other Parent. The matter was continued to allow Other Parent an opportunity to speak with her Public Defender.

Parties are ordered to appear for further arraignment.

TENTATIVE RULING #14: PARTIES ARE ORDERED TO APPEAR FOR FURTHER ARRAIGNMENT.

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
August 4, 2022
8:30 a.m./1:30 p.m.

15. DENA DAVIDSON V. JOSHUA DAVIDSON

22FL0201

Petitioner filed a Request for Order (RFO) on May 23, 2022, requesting the court order Respondent to provide Petitioner one half the state tax return the parties received on April 5, 2022 for the 2021 tax year. Respondent was served by mail on May 23, 2022, however, the Proof of Service is signed by Petitioner.

Petitioner asserts the parties received a federal and state tax return for the 2021 tax year. Petitioner states the state portion of the tax refund was \$3,068. Petitioner asserts Respondent received the refund via a direct deposit into his checking account. Respondent has provided Petitioner with one half the federal refund but refuses to provide the one half of the state refund. Petitioner requests the court order Respondent pay her \$1,534 for her one half of the state tax refund.

Respondent has not filed a Responsive Declaration.

The court finds the parties were married for the 2021 tax year, and therefore, the tax refund for the 2021 tax year is community property subject to equal division. Respondent is ordered to pay Petitioner \$1,534 for her portion of the state tax refund. Respondent shall pay Petitioner on or before August 25, 2022.

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

TENTATIVE RULING #15: THE TAX REFUND FOR THE 2021 TAX YEAR IS COMMUNITY PROPERTY SUBJECT TO EQUAL DIVISION. RESPONDENT IS ORDERED TO PAY PETITIONER \$1,534 FOR HER PORTION OF THE STATE TAX REFUND. RESPONDENT SHALL PAY PETITIONER ON OR BEFORE AUGUST 25, 2022. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT.

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
August 4, 2022
8:30 a.m./1:30 p.m.

16. ELIZABETH PETERSON V. BRANDON PETERSON

PFL20140304

Petitioner filed an ex parte request for emergency orders on June 28, 2022, requesting temporary sole physical custody of the minors. On June 29, 2022, the court denied the request, but ordered that the minors were not to be left in the care of Respondent's girlfriend. The minors were to only be transported by a licensed, insured, sober driver. Parties were ordered to abide by the respect guidelines. The court ordered the minors shall have access to call the noncustodial parent. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on July 5, 2022 and a review hearing on August 4, 2022. Petitioner filed a Request for Order (RFO) on June 29, 2022. Upon review of the court file there is no Proof of Service showing Respondent was served with the RFO or referral to CCRC.

Nevertheless, both parties appeared for the CCRC appointment, and therefore the court finds Respondent has notice of Petitioner's request. A CCRC report was filed with the court on August 1, 2022. A copy of the report was mailed to the parties on August 1, 2022. The court finds this is well short of the 10 days prior to the hearing that parties are entitled to receive the report. Therefore, the court finds good cause to continue the matter to allow the parties an opportunity to receive and review the CCRC report. Any Supplemental Declarations are due at least 10 days prior to the next court date.

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 #16: THE COURT CONTINUES THE MATTER TO SEPTEMBER 15TH, 2022 AT 1:30 PM IN DEPARTMENT 5. FOR CCRC REVIEW. ANY SUPPLEMENTAL DECLARATIONS ARE DUE AT LEAST 10 DAYS PRIOR TO THE NEXT COURT DATE. 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
August 4, 2022
8:30 a.m./1:30 p.m.

17. JENNIFER BERG V. KEVIN BERG

22FL0500

Respondent filed a Request for Order (RFO) on June 7, 2022 requesting the court order the enforcement of prior orders for tax credits and shared medical expenses. Petitioner was served by mail on June 7, 2022. Respondent requests the court compel Petitioner to complete and return to Respondent Internal Revenue Service (IRS) form 8332 in accordance with prior court orders. Respondent also requests the court order Petitioner to pay one half the orthodontia bill for the minor L.B. Respondent states in his declaration the parties agreed in their Marital Settlement Agreement (MSA) on how the parties would claim the minors for tax purposes. Section 8 of the MSA delineated that Petitioner would claim the minor L.B. and Respondent would claim the minor N.B. Upon L.B. reaching the age of majority status, the parties would claim N.B. in alternating years. Respondent attached the parties' MSA as Exhibit A to his declaration. The court modified MSA on July 30, 2018, allowing Respondent to claim the minor L.B. for tax purposes. Respondent attached the Findings and Orders After Hearing (FOAH) as Exhibit B. Respondent states that the minor N.B. has been residing primarily with Petitioner since June 2020. In March 2022, the matter was heard in Nevada County on an RFO filed by Respondent to modify custody and parenting time. The court ordered the minor N.B. shall reside primarily with Petitioner and have parenting time with Respondent at a 38% timeshare. Respondent requests the court order Petitioner sign IRS for 8332, granting Respondent the ability to claim N.B. for tax purposes, although he is not the custodial parent. Respondent also requests the court order Petitioner comply with section 7 of the parties' MSA; the parties agreed to split all uncovered medical and dental expenses. Respondent states the minor L.B. required orthodontia and Petitioner has failed to pay her portion of the expenses. Respondent requests the court order Petitioner pay \$1,704.60, her portion of the costs of the minor's braces.

Petitioner filed a Responsive Declaration on July 21, 2022. Upon review of the court file, there is no Proof of Service showing Respondent was served. Therefore, the court is unable to consider this document.

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

For tax year 2022 forward, each party shall claim the minor they have primary custody of for tax exemption purposes. The court finds there is a \$0 child support order. If Respondent were to claim the minor N.B., as the non-custodial parent, who is not paying child support, this would result in a windfall to Respondent. The court does not have jurisdiction to modify prior tax years exemptions retroactively. The court orders each party shall comply with section 7 of the MSA. Each party is required to pay one half of any uncovered medical or dental expenses for the minors. Therefore, the court orders Petitioner shall pay Respondent \$1,704.60 for one half the costs of the minor L.B.'s braces. Each party shall submit to the other a bill for

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 4, 2022

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

uncovered medical or dental expenses within 30 days of the service. The other party shall pay their equal portion within 15 days.

All prior orders not in conflict with this order remain in full force and effect.
Respondent shall prepare and file the FOAH.

TENTATIVE RULING #17: FOR TAX YEAR 2022 FORWARD, EACH PARTY SHALL CLAIM THE MINOR THEY HAVE PRIMARY CUSTODY OF FOR TAX EXEMPTION PURPOSES. THE COURT FINDS THERE IS A \$0 CHILD SUPPORT ORDER. IF RESPONDENT WERE TO CLAIM THE MINOR N.B., AS THE NON-CUSTODIAL PARENT, WHO IS NOT PAYING CHILD SUPPORT, THIS WOULD RESULT IN A WINDFALL TO RESPONDENT. THE COURT DOES NOT HAVE JURISDICTION TO MODIFY PRIOR TAX YEARS EXEMPTIONS RETROACTIVELY. THE COURT ORDERS EACH PARTY SHALL COMPLY WITH SECTION 7 OF THE MSA. EACH PARTY IS REQUIRED TO PAY ONE HALF OF ANY UNCOVERED MEDICAL OR DENTAL EXPENSES FOR THE MINORS. THEREFORE, THE COURT ORDERS PETITIONER SHALL PAY RESPONDENT \$1,704.60 FOR ONE HALF THE COSTS OF THE MINOR L.B.'S BRACES. EACH PARTY SHALL SUBMIT TO THE OTHER A BILL FOR UNCOVERED MEDICAL OR DENTAL EXPENSES WITHIN 30 DAYS OF THE SERVICE. THE OTHER PARTY SHALL PAY THEIR EQUAL PORTION WITHIN 15 DAYS. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FOAH.

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
August 4, 2022
8:30 a.m./1:30 p.m.

18. JOANNE BIERNACKI V. SERRELL GORDON

PFS20140404

On January 10, 2022, parties appeared for a hearing for the December 9, 2021 filed Request for Order (RFO). The court found guideline support to be \$0 based on the calculation from DCSS. The court reserved the right to retroactive modification to the date of the filing of the RFO. Respondent was ordered to provide and maintain health insurance coverage for the minor. The parties were ordered to split the costs of all uncovered medical and dental costs equally, as well as the cost of work-related daycare. The court continued the hearing on child support to April 25, 2022 and ordered parties to file and serve updated Income and Expense Declarations at least 10 days prior to the next hearing.

On March 15, 2022, DCSS field a Request to Reschedule the hearing from April 25, 2022 to May 23, 2022. The request was granted.

On May 10, 2022, Petitioner filed an updated Income and Expense Declaration. Respondent was served by mail on May 10, 2022. DCSS was served electronically on May 10, 2022.

On May 17, 2022, Respondent filed a RFO requesting modification of the child custody and parenting time orders. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on June 17, 2022 and a review hearing on August 4, 2022. Upon review of the file, there is no Proof of Service indicating Respondent was served with the RFO or referral to CCRC.

On May 23, 2022, the Child Support Commissioner recused himself from the case and the matter was reassigned to the Honorable Judge Bowers. The hearing was rescheduled for August 4, 2022.

On May 20, 2022, Petitioner filed a Memorandum of Points and Authorities in support of imputing income to Respondent. Respondent was served by mail on May 19, 2022. DCSS was served electronically on May 19, 2022. Petitioner asserts Respondent owes over \$24,000 in arrears for child support and is willfully avoiding employment as a W-2 employee to avoid child support payments. Petitioner requests the court impute income to Respondent as well as order Respondent to seek full-time work.

On June 17, 2022, neither party appeared at the CCRC appointment.

Neither party has filed an update Income and Expense Declaration for the present hearing.

Parties are ordered to appear.

TENTATIVE RULING #18: PARTIES ARE ORDERED TO APPEAR.

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
August 4, 2022
8:30 a.m./1:30 p.m.

19. K.S. v. R.B.

22FL0324

Petitioner filed a Petition to Determine a Parental Relationship on April 14, 2022. The court issued a Summons on April 14, 2022. There is no Proof of Service showing Respondent was served with either the Petition or Summons.

On April 14, 2022, Petitioner filed a Request for Order (RFO) requesting child custody and parenting time orders. The parties were referred to Child Custody Recommending Counseling (CCRC). Upon review of the court file, there is no Proof of Service indicating Respondent was served with the RFO or referral to CCRC.

On May 16, 2022, Petitioner filed a request to reschedule the hearing, as he has been unable to serve Respondent. The court granted the request and rescheduled the hearing as well as CCRC. The parties were referred to CCRC for an appointment on June 16, 2022 and a review hearing on August 4, 2022. Once again, there is no Proof of Service showing Respondent was properly served with the new hearing date or referral to CCRC.

On June 16, 2022, only Petitioner appeared for the CCRC appointment and as such a single parent report was filed with the court. Parties were mailed a copy on June 17, 2022.

On July 22, 2022 Respondent filed a Response to the Petition to Establish a Parental Relationship as well as a Responsive Declaration. Petitioner was served by mail on July 25, 2022. Respondent concurs Petitioner is the biological father to two of the minors' named in the Petition, however, disagrees that that third minor is Petitioner's biological child. Respondent agrees to continue the current joint physical custody arrangement, but requests the court grant her sole legal custody. Respondent asserts Petitioner has a substance abuse problem and requests the court order substance abuse testing.

Parties are ordered to appear.

TENTATIVE RULING #19: PARTIES ARE ORDERED TO APPEAR.

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
August 4, 2022
8:30 a.m./1:30 p.m.

20. WILLIAM FORREST V. MAILE FORREST

PFL20170101

Petitioner filed a Request for Order (RFO) requesting a modification of child and spousal support orders on May 23, 2022. Respondent and the Department of Child Support Services (DCSS) were served by mail on June 7, 2022. Petitioner filed a Declaration regarding address verification on May 19, 2022 and again on June 7, 2022.

On May 27, 2022, DCSS filed a Responsive Declaration requesting the entire matter be heard by the child support Commissioner pursuant to Family Code section 4251. Parties were served with the Responsive Declaration by mail on May 27, 2022.

Respondent filed three declarations on June 23, 2022. There is no Proof of Service showing the Declarations were served on Petitioner or DCSS; therefore, the court has not read or considered Respondent's declarations.

The court continues the matter to be heard by the child support Commissioner on September 12th, 2022 at 8:30 PM in Department 5. Parties are to file and serve updated Income and Expense Declarations at least 10 days prior to the next hearing.

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 #20: THE MATTER IS CONTINUED TO SEPTEMBER 12TH, 2022 AT 8:30 PM IN DEPARTMENT 5 TO BE HEARD BY THE CHILD SUPPORT COMMISSIONER. PARTIES ARE TO FILE AND SERVE UPDATED INCOME AND EXPENSE DECLARATIONS AT LEAST 10 DAYS PRIOR TO THE NEXT HEARING. 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.