

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

1. APRIL LOCKHART V. DAVID MERCADO

PFL20200534

On May 26, 2022, Respondent filed a Request for Order (RFO) requesting modification of the joint legal custody orders. Petitioner was served by mail on May 31, 2022. However, there is no Proof of Service indicating Minor's Counsel was served with the RFO. Respondent requests the court grant him final decision-making authority if the parties are unable to reach an agreement on joint legal custody issues.

On May 23, 2022, Petitioner filed an RFO requesting modification of parenting time as well as attorney's fees. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on June 28, 2022 and a review hearing on August 18, 2022. Upon review of the file, there is no Proof of Service showing service of the RFO on either Respondent or Minor's Counsel.

Parties appeared for a hearing on Respondent's Order to Show Cause and Affidavit for Contempt and RFO for Family Code section 271 sanctions on July 21, 2022. The court continued the request for sanctions to August 18, 2022. The court also continued the arraignment on the contempt allegations to August 18, 2022.

In the interest of judicial economy, the court continues this matter to join with the other matters currently set on August 18, 2022. Parties are ordered to serve Minor's Counsel with their respective RFOs forthwith. Petitioner is ordered to serve Respondent with her RFO, if she has not already done so. Both parties are to file Proof of Service upon completion of service.

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 #1: THE COURT CONTINUES THIS MATTER TO JOIN WITH THE OTHER MATTERS CURRENTLY SET ON AUGUST 18, 2022. PARTIES ARE ORDERED TO SERVE MINOR'S COUNSEL WITH THEIR RESPECTIVE RFOs FORTHWITH. 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.

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2. COUNTY OF YOLO V. JOHN SPENCER CAUDILL (OTHER PARTY: KINDALL KEEFER) 22FL0475

Other Party filed a Request for Order (RFO) on June 9, 2022, wherein she makes a request for attorney's fees. After a review of the file, it appears there is no proof of service on file indicating that the RFO was served on Respondent. The court is in receipt of two proofs of service, both of which indicate that the documents served were the Response to Governmental Notice of Motion, Notice of Remote Appearance, and the Income and Expense Declaration. There is no indication that the RFO was served, and Respondent has not filed a response. As such, the matter is dropped from calendar for lack of service.

TENTATIVE RULING #2: MATTER DROPPED FROM COURT'S CALENDAR FOR LACK OF SERVICE.

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3. ERIKA SANDOVAL V. JUSTIN PAINTER

PFL20200280

On January 20, 2022, Petitioner filed a Request for Order (RFO) requesting the court make child custody, parenting time, child support, split medical care costs for the minor, Respondent to remove personal property, and attorney's fee orders. Parties were referred to Child custody Recommending Counseling (CCRC) for an appointment on March 3, 2022 and a review hearing on April 7, 2022. Petitioner filed an Income and Expense Declaration concurrently with the RFO. Respondent was served by mail and electronically on February 18, 2022.

Petitioner requested the court order joint legal custody to the parties with Respondent to have parenting time every other weekend. Petitioner requests guideline child support. Finally, Petitioner listed several personal property items that belong to Respondent that Petitioner wanted removed from the home. The parties have a signed prenuptial agreement.

Parties attended CCRC on March 3, 2022 and reached a full agreement. Copies of the report were mailed to the parties on March 30, 2022.

On April 1, 2022, Petitioner filed a Request to Reschedule the hearing as counsel for Petitioner had conflicting appearance in another county. The court granted the request to continue the hearing to June 2, 2022. The court ordered parties to file Income and Expense Declarations at least 10 days prior to the hearing. Neither party filed a current Income and Expense Declaration.

On June 2, 2022, the court adopted its tentative ruling, adopting the agreement contained within the CCRC report as the court order. The court continued the request for child support to July 28, 2022. Parties were ordered to file and serve Income and Expense Declarations no later than 10 days prior to the next court date. The court reserved jurisdiction to modify child support to the date of the filing of the RFO. Respondent was ordered to arrange a time to pick up the personal property items from Petitioner no later than June 23, 2022, if he had not already done so. The court reserved on the request for attorney fees.

On June 17, 2022, Petitioner filed a request to reschedule the July 28, 2022 hearing date, as her counsel was unavailable. On June 20, 2022, the court granted the request to reschedule and reset the hearing for August 4, 2022. Parties were once again ordered to file updated Income and Expense Declarations at least 10 days prior to the next hearing.

Petitioner filed an updated Income and Expense Declaration as well as a proposed DissoMaster on July 11, 2022. Respondent was served by mail and electronically on July 8, 2022. Petitioner's Income and Expense Declaration shows she has an average monthly income of \$7,611. She receives overtime and bonuses. Petitioner has deductions of \$585 per month

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for health insurance and \$853 per month for property taxes. Petitioner has an interest expense deduction of \$1,604.

Respondent has not filed a Responsive Declaration to the January 20, 2022 RFO or an Income and Expense Declaration.

The court adopts Petitioner's proposed DissoMaster. Respondent is ordered to pay Petitioner \$778 per month as and for child support effective February 1, 2022, and due the first of each month thereafter until further order of the court or termination by operation of law.

The court finds this results in an arrears balance of \$5,446 for the months of February through August inclusive. The court orders Respondent to pay Petitioner \$302.55 per month for arrears. The first payment is due August 15, 2022, and on the 15th of each month thereafter until paid in full (approximately 18 months). If there is any missed payment, the remaining balance is due in full with any legal interest.

Parties are ordered to split any uncovered medical and/or dental expenses for the minor equally.

The court denies Petitioner's request for Family Code section 2030 attorney fees. The court finds Respondent does not have the ability to pay for both parties attorney fees. Further, the court finds Petitioner is the higher earner, and therefore, does not have a need for attorney fees. Each party has an equal access to justice.

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 #3: THE COURT ORDERS RESPONDENT TO PAY PETITIONER CHILD SUPPORT AND ARREARS AS SET FORTH ABOVE. THE PARTIES ARE TO SPLIT ANY UNCOVERED MEDICAL AND/OR DENTAL EXPENSES FOR THE MINOR EQUALLY. THE COURT DENIES PETITIONER'S REQUEST FOR FAMILY CODE SECTION 2030 ATTORNEY FEES AS SET FORTH ABOVE. 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.

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4. ISAAC EDELMAN V. TARA EDELMAN

PFL20200668

Petitioner filed an ex parte request for emergency orders on June 13, 2022. Respondent filed a Responsive Declaration on June 14, 2022. The court granted the ex parte request in part on June 14, 2022, ordering that the clerk of the court may act as elisor to sign all real estate documents. Respondent was ordered to cooperate to make the home available for sale, including decluttering, cleaning, and repairing the home for listing photographs. The court reserved on Petitioner's request for Respondent to vacate the home and the remaining requests of Petitioner.

On June 14, 2022, Petitioner filed a Request for Order (RFO) requesting the court order the sale of the former marital residence, grant Petitioner exclusive use and control of the home, and attorney's fees and costs. Upon review of the file, there is no Proof of Service showing Respondent was served with the RFO.

Respondent has not filed a Responsive Declaration to the RFO.

The matter is dropped from calendar due to lack of service of the RFO.

TENTATIVE RULING #4: THE MATTER IS DROPPED FROM CALENDAR.

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5. JENNIFER COWLES V. BENJAMIN COWLES

PFL20180808

Respondent filed an Order to Show Cause and Affidavit for Contempt on June 7, 2022. Upon review of the court file, there is no Proof of Service showing Petitioner was personally served. Therefore, the matter is dropped from calendar.

Respondent filed a Request for Order (RFO) requesting a motion to compel documents, answers to interrogatories, and request for sanctions on June 27, 2022. Upon review of the court file, there is no Proof of Service showing Petitioner was served with the RFO. Therefore, the matter is dropped from calendar.

All prior orders remain in full force and effect.

TENTATIVE RULING #5: DUE TO LACK OF PROPER SERVICE, THE ORDER TO SHOW CAUSE AND AFFIDAVIT FOR CONTEMPT IS DROPPED FROM CALENDAR. THE MOTION TO COMPEL AND REQUEST FOR SANCTIONS IS ALSO DROPPED DUE TO LACK OF PROPER SERVICE. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT.

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6. 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.

The court issued a tentative ruling on the RFO, and Petitioner requested oral argument. The parties appeared before the court on July 21, 2022 and presented arguments. The court adopted its tentative ruling in part but stayed the portion regarding sanctions and continued it to August 4, 2022.

On June 7, 2022, Petitioner filed an RFO requesting an order compelling Respondent to produce pay stubs for determination of support owed on overtime and a determination of child support and spousal support arrears. The RFO was served via U.S. Mail on June 15, 2022. According to Petitioner, per the court's January 28, 2021 order Respondent was ordered to pay supplemental child support and spousal support pursuant to bonus tables issued at that time. Petitioner notes that she is in possession of pay stubs dated September 20, 2019 through April 15, 2022 but that Respondent has not made any supplemental child support or spousal support payments. Petitioner is requesting the production of pay stubs from December 21, 2018 to September 20, 2019 and from April 15, 2022 through the present.

On July 18, 2022, Respondent filed a Responsive Declaration to Request for Order and an updated Income and Expense Declaration, both of which were served that same day. In his response Respondent indicates that he does not consent to the order requested but he does consent to an order requiring the production of paystubs only from December 21, 2018 through September 20, 2019. Respondent does not provide any justification for his refusal to produce paystubs from April 15, 2022 through the present. With regard to the 2018-2019 paystubs, Respondent claims that he needs additional time to obtain the paystubs from his employer and to complete an accounting of arrears.

Respondent also asserts that Petitioner has failed to complete a current Income and Expense Declaration. However, Petitioner did file and serve an Income and Expense Declaration on June 30, 2022. Respondent further claims that he was not served with a blank Responsive Declaration form and a blank Income and Expense Declaration form in conjunction with service of the RFO as required by Cal. Rules of Court Rule 5.92(4). The court notes that the purpose of

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the cited rule is to ensure that parties are on notice regarding the documents required of them in response to an RFO. Here, Respondent has filed both a Responsive Declaration and an Income and Expense Declaration. He, or likely his counsel, clearly had actual notice of the procedural requirements and complied with them. As such, it is the opinion of the court that given the circumstances at hand, while this is technically a flaw in service, it is not sufficient basis to deny the RFO substantively.

With regard to the disclosure request, “[i]t is the policy of the State of California...to ensure fair and sufficient child and spousal support awards...” Cal. Fam. Code § 2100(a). In furtherance of that policy, each party is required to make full and accurate disclosures of all assets and liabilities and each party has a duty to immediately, fully, and accurately update those disclosures such that both parties have “full and complete knowledge of the relevant underlying facts.” Cal. Fam. Code § 2100(b). In keeping with the policy of the state, and given that Respondent does not provide any reasonable justification for refusing to disclose his 2022 paystubs, Respondent is ordered to produce pay stubs from December 21, 2018 to September 20, 2019 and from April 15, 2022 through the present no later than August 18, 2022. The matter is set for a review hearing on October 6th, 2022 at 8:30 AM in Department 5 to calculate arrears. The court reserves jurisdiction to award amounts owed dating back to the date of the filing of the RFO. Likewise, the court continues to reserve jurisdiction to award discovery sanctions pursuant to the April 29, 2022, RFO. The court continues the issue of discovery sanctions to be heard the same day as the arrears calculation.

TENTATIVE RULING #6: RESPONDENT IS ORDERED TO PRODUCE PAY STUBS FROM DECEMBER 21, 2018 TO SEPTEMBER 20, 2019 AND FROM APRIL 15, 2022 THROUGH THE PRESENT NO LATER THAN AUGUST 18, 2022. THE MATTER IS SET FOR A REVIEW HEARING ON OCTOBER 6TH, 2022 AT 8:30 AM IN DEPARTMENT 5 TO CALCULATE ARREARS. THE COURT RESERVES JURISDICTION TO AWARD AMOUNTS OWED DATING BACK TO THE DATE OF THE FILING OF THE RFO. LIKEWISE, THE COURT CONTINUES TO RESERVE JURISDICTION TO AWARD DISCOVERY SANCTIONS PURSUANT TO THE APRIL 29, 2022, RFO. THE COURT CONTINUES THE ISSUE OF DISCOVERY SANCTIONS TO BE HEARD THE SAME DAY AS THE ARREARS CALCULATION. PETITIONER IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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7. JUSTIN HALLOCK V. DEBRA HALLOCK

PFL20200781

On April 28, 2022, Petitioner filed a Request for Order (RFO) requesting the following orders: (1) sole legal custody of the three minor children; (2) sole physical custody of the three minor children; (3) guideline child support payable by Respondent to Petitioner; (4) guideline spousal support, pursuant to El Dorado County local rule 8.9.03, payable by Respondent to Petitioner; and (5) Attorney's fees in the amount of \$5,500, payable by Respondent to Petitioner, based on Family Code section 2030. Concurrent with the filing of his RFO, Petitioner filed his Income and Expense Declaration. The parties were referred to Child Custody Recommending Counseling (CCRC) and a hearing was set for July 21, 2022 the July hearing was eventually continued to August 4, 2022. The RFO, the Income and Expense Declaration, and the referral to CCRC, and all other required documents were served on Respondent via U.S. Mail on April 29, 2022.

The parties appeared and participated in CCRC on June 16th, as ordered. A CCRC report was issued on June 17, 2022 and mailed to all parties on June 24, 2022. Thereafter, Respondent filed and served her Income and Expense Declaration and her Responsive Declaration to Request for Order on July 15, 2022. On July 28, 2022, Petitioner filed and served Petitioner's Reply Declaration to Respondent's Response Declaration.

Custody

Currently there are no orders in place regarding custody and visitation time. Informally, however, the parties have been alternating parenting time between 4-days with Petitioner and then 2-days with Respondent. Petitioner requests sole legal and physical custody of the three minor children. While Respondent requests alternating physical custody between the parties every three nights.

Petitioner makes his request for sole legal and physical custody on the basis that Respondent took a job in Texas and moved away from Petitioner and the children for a period of nine months. Petitioner claims that Respondent returned to California only after being let go from her position in Texas. Petitioner is concerned that Respondent will again leave the state and potentially take the children with her.

Petitioner further claims that when Respondent does have custody of the children, she leaves them with her parents instead of spending time with them. He claims that the relationship between the children and Respondent has become fractured and the children have expressed feelings of abandonment by their mother.

Respondent refutes the abandonment claims and asserts that in mid-2020 she took a position working as a nurse on the frontlines against COVID-19. Prior to that time she was the primary caretaker for the children while Petitioner worked. She claims that during her time in

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Texas she consistently sent money home to Petitioner and the children. According to Respondent, the Texas job was not an abandonment but a short-term position to help others and to contribute to the family income.

According to the CCRC report the parties agreed to joint legal custody and a visitation schedule wherein Respondent would have the children two days with one overnight weekly as determined by Petitioner's work schedule, and increases to Respondent's parenting time would be determined by the children's therapist and the parties. Respondent makes clear that this was not agreed to by her.

According to Respondent, they were told by the CCRC mediator that they were running short on time and the mediator would prepare a report recommending that the children's therapist determine when the children would have parenting time with Respondent. Petitioner refutes that claim, stating that both parties agreed to the terms of the CCRC report and their appointment in fact went over by 30 minutes.

Having reviewed the filings referenced above, as well as the CCRC report, the court finds the agreements stated in the CCRC report to be in the best interest of the minor children. The CCRC report initially allows for two days and one overnight weekly, but it does leave room for this to increase pursuant to the children's therapist and the parents. Accordingly, the court hereby adopts the agreements set forth in the CCRC report as the order of the court with the following modifications:

- (1) An additional provision will be added to the Transportation for Visitation schedule which shall read: "Both parents are required to be present for exchanges. It is acceptable only for the maternal or paternal grandparent(s) to be present at the exchange in the parents' stead. If one parent will not be present at the exchange, that parent is to give as much prior notice as possible to the other parent and inform that parent that the grandparent will be present at the exchange."
- (2) Provision 2 of the No Negative Comments section will be amended to read: "The parties will not discuss the dissolution with the children, nor will they make or allow others to make negative, or disparaging comments about each other or about their past or present relationships, family, or friends within hearing distance of the children."

The remainder of the CCRC report is adopted as-is.

Child Support

As part of his RFO Petitioner is requesting guideline child support. Respondent agrees to guideline child support but is requesting bonus tables for her income and for Petitioner's income to account for the variation in bonus pay that they each receive. Using the information provided in Petitioner's April 28, 2022 Income and Expense Declaration, and Respondent's July

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15, 2022 Income and Expense Declaration, the court finds that child support is to be set at \$1,316 per month. See attached DissoMaster report.

The court adopts the attached DissoMaster report and orders Respondent to pay Petitioner \$1,316 per month in base child support payable on the 1st of each month until further order of the court or until legal termination. This order is to be effective as of December 4, 2020, which results in an arrears amount of \$27,636. A credit for amounts paid is to be applied to the arrears amount but the filings of the parties are unclear as to previous amounts paid by Respondent. Respondent indicates that she has been paying \$1,300 per month, with a one-time payment of \$1,900 in October of 2021. Petitioner concedes that payments ranging from \$1,200 per month to \$1,900 were paid in the past but asserts he was only paid \$2 in support for April 21, 2022, May 5, 2022, and May 19, 2022. The parties are ordered to appear to determine the amount of arrears remaining to be paid, if any.

Monthly base child support shall be supplemented or credited pursuant to the attached Two-way Monthly Overtime Wages Report which the court hereby adopts as the order of the court.

Spousal Support

Petitioner requests guideline spousal support to be payable to him by Respondent. Respondent asks the court to decline this request as there is little disparity between the earnings of the parties. After reviewing the Income and Expense Declarations of both parties and the attached DissoMaster report which the court adopts as the order of the court, spousal support is set to \$0.

Attorney's Fees

Petitioner is requesting an award of \$5,500 in attorney's fees pursuant to Family Code section 2030. To support this request Petitioner asserts that Respondent makes substantially more money than he does, and he is the primary custodial parent who has been paying for the children's schooling, therapy sessions, speech therapy, and dental and medical expenses solely on his own.

Respondent requests that the court deny Petitioner's request for attorney's fees and instead award her attorney's fees in the amount of \$5,000. Petitioner makes her claim for fees pursuant to Family Code Section 271. Respondent asserts that Petitioner has failed to establish a disparity in income and in fact Petitioner has more disposable income than Respondent. Additionally, she claims Respondent's actions of refusing to set aside the default, refusing to comply with discovery and withholding the children have caused her to incur additional attorney's fees and have frustrated the purpose of the law, which is to promote settlement and decrease litigation costs. Respondent points to the fact that she has incurred approximately

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\$12,000 worth of attorney's fees, while according to Petitioner's Income and Expense Declaration he has only incurred \$5,500. Respondent attributes this disparity to the additional work her attorneys have had to do attempting to meet and confer on the default issue, preparing and filing the RFO to set aside the default, attempting to meet and confer on discovery, and responding to the present RFO.

An award of attorney's fees pursuant to Section 2030 is a need-based determination. In a proceeding for dissolution the court is to ensure the rights of both parties are preserved by ensuring that the parties have equal access to counsel. Fam. Code § 2030. This may be done by ordering one party, if necessary, to pay an amount of attorney's fees reasonably necessary for the prosecution or defense of the proceeding. *Id.* "In assessing relative need of the party applying for award of attorney fees in a divorce action and the other party's ability to pay, the court may take into account all evidence concerning the parties' current incomes, assets, and abilities, including investment and income-producing properties." *In re Marriage of Terry*, 80 Cal. App. 4th 921 (2000).

The court has reviewed the Income and Expense Declarations of both parties. Notably, the monthly income and listed assets of each party are similar. The most striking disparity is Petitioner's estimate of \$150,000 worth of real and personal property; however, Respondent does not provide an estimate as to the value of her real and personal property. The court notes the potential for income variations given the nature of employment for both parties and understands that circumstances may change and a request for attorney's fees may need to be made at a further date. Nonetheless, at this time, the court does not feel that an award of attorney's fees is warranted and as such Petitioner's request is denied.

Respondent bases her request for fees on Family Code § 271. Unlike Section 2030, which requires a need-based determination, Section 271 empowers the court to award attorney's fees and costs based on the conduct of a party if it "...frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation..." In making such an award the Court is to consider the "income, assets and liabilities" of the sanctioned party to ensure that the sanctions do not impose "an unreasonable financial burden on the party against whom the sanction is imposed."

Here, Respondent points to Petitioner's refusal to set aside the default taken previously in the action. However, Respondent did not make a request for sanctions at that time. Further, she points to meet and confer efforts as part of the discovery process. Yet, no discovery motion is before the court. It appears the parties have resolved their disagreements in that regard through the informal meet and confer process which is in fact in keeping with the policy of the law. Finally, the inability of the parties to agree on a custody arrangement and a request for formal child and spousal support orders are par for the course in dissolution matters and, by

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themselves, are not sufficient grounds to issue sanctions. The court denies Respondent's request for sanctions.

TENTATIVE RULING #7: THE COURT ADOPTS THE AGREEMENTS SET FORTH IN THE CCRC REPORT AS THE ORDER OF THE COURT WITH THE FOLLOWING MODIFICATIONS:

- (1) AN ADDITIONAL PROVISION WILL BE ADDED TO THE TRANSPORTATION FOR VISITATION SCHEDULE WHICH SHALL READ: "BOTH PARENTS ARE REQUIRED TO BE PRESENT FOR EXCHANGES. IT IS ACCEPTABLE ONLY FOR THE MATERNAL OR PATERNAL GRANDPARENT(S) TO BE PRESENT AT THE EXCHANGE IN THE PARENTS' STEAD. IF ONE PARENT WILL NOT BE PRESENT AT THE EXCHANGE, THAT PARENT IS TO GIVE AS MUCH PRIOR NOTICE AS POSSIBLE TO THE OTHER PARENT AND INFORM THAT PARENT THAT THE GRANDPARENT WILL BE PRESENT AT THE EXCHANGE."**
- (2) PROVISION 2 OF THE NO NEGATIVE COMMENTS SECTION WILL BE AMENDED TO READ: "THE PARTIES WILL NOT DISCUSS THE DISSOLUTION WITH THE CHILDREN, NOR WILL THEY MAKE OR ALLOW OTHERS TO MAKE NEGATIVE, OR DISPARAGING COMMENTS ABOUT EACH OTHER OR ABOUT THEIR PAST OR PRESENT RELATIONSHIPS, FAMILY, OR FRIENDS WITHIN HEARING DISTANCE OF THE CHILDREN."**

THE REMAINDER OF THE CCRC REPORT IS ADOPTED AS-IS.

THE COURT ADOPTS THE ATTACHED DISSOMASTER REPORT AND ORDERS RESPONDENT TO PAY PETITIONER \$1,316 PER MONTH IN BASE CHILD SUPPORT PAYABLE ON THE 1ST OF EACH MONTH UNTIL FURTHER ORDER OF THE COURT OR UNTIL LEGAL TERMINATION. THE PARTIES ARE ORDERED TO APPEAR TO DETERMINE THE AMOUNT OF ARREARS REMAINING TO BE PAID, IF ANY. MONTHLY BASE CHILD SUPPORT SHALL BE SUPPLEMENTED OR CREDITED PURSUANT TO THE ATTACHED TWO-WAY MONTHLY OVERTIME WAGES REPORT WHICH THE COURT HEREBY ADOPTS AS THE ORDER OF THE COURT.

PETITIONER'S REQUEST FOR ATTORNEY'S FEES IS DENIED. RESPONDENT'S REQUEST FOR SANCTIONS IS DENIED.

PETITIONER IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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 2022, Monthly		CASE NUMBER:

Input Data	Father	Mother	Guideline (2022)	Cash Flow Analysis	Father	Mother
Number of children	3	0	Nets (adjusted)	Guideline		
% time with Second Parent	0%	29%	Father	6,571	Payment (cost)/benefit	1,316 (1,316)
Filing status	HH/MLA	Single	Mother	6,665	Net spendable income	7,887 5,349
# Federal exemptions	3	0	Total	13,236	% combined spendable	59.6% 40.4%
Wages + salary	10,202	9,832	Support		Total taxes	1,883 3,049
401(k) employee contrib	0	0	CS Payor	Mother	# WHA	14 2
Self-employment income	0	0	Presumed	1,316	Net wage paycheck/mo	8,185 6,708
Other taxable income	0	0	Basic CS	1,316	Comb. net spendable	13,236
Short-term cap. gains	0	0	Add-ons	0	Proposed	
Long-term cap. gains	0	0	Presumed Per Kid		Payment (cost)/benefit	1,376 (1,376)
Other gains (and losses)	0	0	Child 2	236	Net spendable income	7,946 5,491
Ordinary dividends	0	0	Child 3	388	NSI change from gdl	59 142
Tax. interest received	0	0	Child 4	692	% combined spendable	59.1% 40.9%
Social Security received	0	0	Santa Clara	0	% of saving over gdl	29.6% 70.4%
Unemployment compensation	0	0	Total	1,316	Total taxes	1,883 2,847
Operating losses	0	0	Proposed, tactic 9		# WHA	14 4
Ca. operating loss adj.	0	0	CS Payor	Mother	Net wage paycheck/mo	8,185 6,894
Roy, partnerships, S corp, trusts	0	0	Presumed	1,376	Comb. net spendable	13,437
Rental income	0	0	Basic CS	1,376	Percent change	1.5%
Misc ordinary tax. inc.	0	0	Add-ons	0	Default Case Settings	
Other nontaxable income	0	0	Presumed Per Kid			
New-spouse income	0	0	Child 2	323		
Adj. to income (ATI)	0	0	Child 3	378		
SS paid other marriage	0	0	Child 4	675		
Ptr Support Pd. other P'ships	0	0	Santa Clara	0		
CS paid other relationship	0	0	Total	1,376		
Health ins(Pd by party)	178	73	Savings	202		
Qual. Bus. Inc. Ded.	0	0	Total releases to	1		
Itemized deductions	0	0	Mother			
Other medical expenses	0	0				
Property tax expenses	0	0				
Ded. interest expense	0	0				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
Required union dues	125	0				
Cr. for Pd. Sick and Fam. L.	0	0				
Mandatory retirement	1,445	0				
Hardship deduction	0*	0*				
Other gdl. deductions	0	45				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF,SSI and CS received	0	0				



ATTORNEY (NAME AND ADDRESS): EDC Court California ATTORNEY FOR: Father	TELEPHONE NO: Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
Two-way Monthly Overtime Wages Report 2022 Monthly	CASE NUMBER:

Change in Child Support

Blue is a cost to Father. *Red italic is a cost to Mother*

Mother's Gross Overtime Wages	Father's Gross Overtime Wages							
	500	1,000	1,500	2,000	2,500	3,000	3,500	4,000
500	36	11	57	103	153	203	252	300
1,000	121	74	27	18	69	118	167	215
1,500	205	158	111	65	15	34	83	131
2,000	288	241	194	149	98	49	0	48
2,500	373	325	279	233	183	133	84	36
3,000	464	417	371	325	275	225	176	128
3,500	555	508	462	416	366	317	268	219
4,000	646	599	552	507	457	407	358	310
4,500	735	688	642	597	547	497	448	400
5,000	824	777	731	686	636	586	537	489
5,500	910	864	818	772	722	673	624	576
6,000	987	941	895	849	800	750	701	653

PETITIONER:	CASE NUMBER:
RESPONDENT:	

Change in Child Support, cont'd

Blue is a cost to Father. *Red italic is a cost to Mother*

Mother's Gross Overtime Wages				
	4,500	5,000	5,500	6,000
500	347	393	439	485
1,000	263	309	355	400
1,500	179	226	272	317
2,000	96	143	189	234
2,500	11	58	105	150
3,000	80	34	13	58
3,500	172	125	78	33
4,000	262	215	169	123
4,500	352	305	259	213
5,000	441	394	348	302
5,500	528	481	435	389
6,000	606	559	512	467



PETITIONER:	CASE NUMBER:
RESPONDENT:	

Total Child Support

Blue is a cost to Father. Red *italic* is a cost to Mother

Mother's Gross Overtime Wages	Father's Gross Overtime Wages							
	500	1,000	1,500	2,000	2,500	3,000	3,500	4,000
500	1,352	1,305	1,259	1,213	1,163	1,113	1,064	1,016
1,000	1,437	1,390	1,343	1,297	1,247	1,198	1,149	1,101
1,500	1,521	1,474	1,427	1,381	1,331	1,282	1,233	1,184
2,000	1,604	1,557	1,510	1,465	1,414	1,365	1,316	1,267
2,500	1,689	1,641	1,595	1,549	1,499	1,449	1,400	1,352
3,000	1,780	1,733	1,687	1,641	1,591	1,541	1,492	1,444
3,500	1,871	1,824	1,778	1,732	1,682	1,632	1,583	1,535
4,000	1,962	1,915	1,868	1,823	1,773	1,723	1,674	1,626
4,500	2,051	2,004	1,958	1,912	1,862	1,813	1,764	1,716
5,000	2,140	2,093	2,047	2,002	1,952	1,902	1,853	1,805
5,500	2,226	2,180	2,134	2,088	2,038	1,989	1,940	1,892
6,000	2,303	2,257	2,211	2,165	2,116	2,066	2,017	1,969

PETITIONER:	CASE NUMBER:
RESPONDENT:	

Total Child Support, cont'd

Blue is a cost to Father. *Red italic is a cost to Mother*

Mother's Gross Overtime Wages				
	4,500	5,000	5,500	6,000
500	969	923	877	831
1,000	1,053	1,007	961	915
1,500	1,137	1,090	1,044	999
2,000	1,220	1,173	1,127	1,082
2,500	1,304	1,258	1,211	1,166
3,000	1,396	1,349	1,303	1,258
3,500	1,488	1,441	1,394	1,349
4,000	1,578	1,531	1,485	1,439
4,500	1,668	1,621	1,575	1,529
5,000	1,757	1,710	1,664	1,618
5,500	1,844	1,797	1,751	1,705
6,000	1,922	1,875	1,828	1,782

PETITIONER:	CASE NUMBER:
RESPONDENT:	

Change in Santa Clara Spousal Support

Blue is a cost to Father. *Red italic is a cost to Mother*

Mother's Gross Overtime Wages	Father's Gross Overtime Wages							
	500	1,000	1,500	2,000	2,500	3,000	3,500	4,000
500	0	0	0	0	0	0	5	85
1,000	0	0	0	0	0	0	0	0
1,500	0	0	0	0	0	0	0	0
2,000	0	0	0	0	0	0	0	0
2,500	0	0	0	0	0	0	0	0
3,000	0	0	0	0	0	0	0	0
3,500	47	0	0	0	0	0	0	0
4,000	128	39	0	0	0	0	0	0
4,500	210	120	30	0	0	0	0	0
5,000	292	202	112	21	0	0	0	0
5,500	373	284	193	102	0	0	0	0
6,000	447	357	266	175	72	0	0	0

PETITIONER:	CASE NUMBER:
RESPONDENT:	

Change in Santa Clara Spousal Support, cont'd

Blue is a cost to Father. *Red italic is a cost to Mother*

Mother's Gross Overtime Wages				
	4,500	5,000	5,500	6,000
500	167	249	332	415
1,000	77	159	242	325
1,500	0	69	151	235
2,000	0	0	60	143
2,500	0	0	0	49
3,000	0	0	0	0
3,500	0	0	0	0
4,000	0	0	0	0
4,500	0	0	0	0
5,000	0	0	0	0
5,500	0	0	0	0
6,000	0	0	0	0

PETITIONER:	CASE NUMBER:
RESPONDENT:	

Total Santa Clara Spousal Support

Blue is a cost to Father. *Red italic is a cost to Mother*

Mother's Gross Overtime Wages	Father's Gross Overtime Wages							
	500	1,000	1,500	2,000	2,500	3,000	3,500	4,000
500	0	0	0	0	0	0	5	85
1,000	0	0	0	0	0	0	0	0
1,500	0	0	0	0	0	0	0	0
2,000	0	0	0	0	0	0	0	0
2,500	0	0	0	0	0	0	0	0
3,000	0	0	0	0	0	0	0	0
3,500	47	0	0	0	0	0	0	0
4,000	128	39	0	0	0	0	0	0
4,500	210	120	30	0	0	0	0	0
5,000	292	202	112	21	0	0	0	0
5,500	373	284	193	102	0	0	0	0
6,000	447	357	266	175	72	0	0	0

PETITIONER:	CASE NUMBER:
RESPONDENT:	

Total Santa Clara Spousal Support, cont'd

Blue is a cost to Father. *Red italic is a cost to Mother*

Mother's Gross Overtime Wages	4,500	5,000	5,500	6,000
500	167	249	332	415
1,000	77	159	242	325
1,500	0	69	151	235
2,000	0	0	60	143
2,500	0	0	0	49
3,000	0	0	0	0
3,500	0	0	0	0
4,000	0	0	0	0
4,500	0	0	0	0
5,000	0	0	0	0
5,500	0	0	0	0
6,000	0	0	0	0

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

8. LAURA WOLCOTT V. OLIVER WOLCOTT

PFL20140730

On May 10, 2022, Respondent filed an Ex Parte Application and Declaration for Orders and Notice requesting a change to the current visitation orders to allow Petitioner to have only supervised visits with the minor children. The court granted the ex parte request on a temporary basis allowing for professionally supervised visits between Petitioner and the minor children twice per week for two hours each visit. The parties were ordered to attend Child Custody Recommending Counseling (CCRC) and then return to court on June 9, 2022 for a hearing on the matter. The June 9th hearing was eventually continued via stipulation to August 4th.

On May 11, 2022, Respondent filed his Request for Order (RFO) requesting sole physical custody of the minors. Minor's Counsel served and filed her Statement of Issues and Contentions on July 20th and July 21st respectively. On July 22nd Petitioner filed and served her Responsive Declaration to Request for Order.

In his RFO, Respondent provides declarations from himself as well as Kristina Kent, LMFT, who has been assigned to the case as a result of a prior CCRC appointment. The declarations extensively outline incidents that occurred on numerous dates between February of 2022 and April of 2022, wherein Petitioner's behavior during visits with the minors became increasingly dysregulated and concerning, to the extent that the visitation had to be discontinued.

CCRC issued its report on May 31st. The CCRC recommendations regarding custody are as follows. The parties are to maintain joint legal custody but with final decision making to Respondent if the parties are unable reach an agreement after good faith efforts to do so. CCRC recommends sole physical custody to Respondent, with Petitioner to have professionally supervised parenting time for two hours, once-a-week and Ms. Kent shall provide supervision. Once Petitioner is able to return to unsupervised parenting time, then the terms of the March 9, 2022 stipulation shall be put into effect.

Minor's Counsel is requesting that the CCRC report be adopted but with the following modifications: (1) Visitation between Petitioner and the Minors be temporarily suspended; (2) Petitioner shall engage in an AOD assessment and provide the results to Minor's Counsel, Ms. Kent and Respondent; and (3) Petitioner shall meet with Ms. Kent every other week for follow up parenting coaching sessions. Minor's Counsel makes these requests on the basis that since the CCRC report was written the situation has continued to deteriorate to the extent that both Ms. Kent and the therapist for the minors both recommend a temporary discontinuance of visitation to allow for the minors and Petitioner to focus on their mental health and getting back to a place where visits can be positive and productive. Minor's Counsel also notes Ms.

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Kent's suspicions that Petitioner is abusing alcohol and provide instances to support her suspicion.

Petitioner is requesting that the RFO be denied and instead the court order joint legal custody, joint physical custody with supervised visits between Petitioner and the minors at least twice a week for dinner with a step-up plan to equal parenting time, at least two scheduled telephone calls per week with both minors, custody exchanges to occur at a public location, Kristina Kent to be removed from the case, and the parties to participate in co-parenting counseling once per month with Respondent's girlfriend to attend at least one session. Petitioner does not provide any reasoning for her request to have Ms. Kent removed from the case other than the fact that she simply supervised the visits and did not participate in any way. With regard to custody, Petitioner feels that Respondent is using her mental health condition against her and claiming that the events cited by Respondent and Ms. Kent are largely exaggerated. She claims that she has a good relationship with both children and the children want to continue visits as much as she does.

After reviewing and considering the aforementioned the court finds the recommendations of the CCRC report to be in the best interests of the minors and adopts the recommendations as the order of the court with the following modifications: (1) Recommendation number 2 of the Parenting Plan section is to be deleted in its entirety and replaced with: "In person visitation between Petitioner and the minor children is to be temporarily suspended. Petitioner may continue to have supervised calls/FaceTime contact with the minors. Calls/FaceTimes to be supervised by Respondent. If Respondent makes a good faith determination that emotionally abusive and detrimental statements are being made, Respondent may immediately terminate the call/FaceTime visit." (2) Recommendation number 2 under Additional Provisions shall be amended to read "Petitioner is to meet with Ms. Kent every other week for parenting coaching." (3) Recommendation number 4 under Additional Provisions is to be deleted in its entirety.

In addition to the orders of the CCRC report as modified, the parties are ordered not to make, or allow others to make, negative or disparaging comments about one another, about their past or present relationships, family, or friends, within hearing distance of the minors.

The request for an AOD assessment was made in the Statement of Issues and Contentions filed by Minor's Counsel and is not properly before the court. While "[t]he responding party may request relief related to the orders requested in the moving papers...unrelated relief must be sought by scheduling a separate hearing using *Request for Order* (form FL-300)..." Cal. Rule Ct. § 5.92(g)(2). Thus, this request is denied without prejudice.

The parties are ordered to return for a review hearing on the issue of visitation on October 6th, 2022 at 8:30 AM in Department 5. Parties are to file statements with the court no

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later than 10 days prior to the hearing date regarding the status of visitation and recommendations on whether or not to resume in-person visitation.

TENTATIVE RULING #8: THE RECOMMENDATIONS OF THE CCRC REPORT ARE ADOPTED AS THE ORDER OF THE COURT WITH THE FOLLOWING MODIFICATIONS: (1) RECOMMENDATION NUMBER 2 OF THE PARENTING PLAN SECTION IS TO BE DELETED IN ITS ENTIRETY AND REPLACED WITH: "IN PERSON VISITATION BETWEEN PETITIONER AND THE MINOR CHILDREN IS TO BE TEMPORARILY SUSPENDED. PETITIONER MAY CONTINUE TO HAVE SUPERVISED CALLS/FACETIME CONTACT WITH THE MINORS. CALLS/FACETIMES TO BE SUPERVISED BY RESPONDENT. IF RESPONDENT MAKES A GOOD FAITH DETERMINATION THAT EMOTIONALLY ABUSIVE AND DETRIMENTAL STATEMENTS ARE BEING MADE, RESPONDENT MAY IMMEDIATELY TERMINATE THE CALL/FACETIME VISIT." (2) RECOMMENDATION NUMBER 2 UNDER ADDITIONAL PROVISIONS SHALL BE AMENDED TO READ "PETITIONER IS TO MEET WITH MS. KENT EVERY OTHER WEEK FOR PARENTING COACHING. (3) RECOMMENDATION NUMBER 4 UNDER ADDITIONAL PROVISIONS IS TO BE DELETED IN ITS ENTIRETY. THE PARTIES ARE ORDERED TO NOT MAKE, OR ALLOW OTHERS TO MAKE, NEGATIVE OR DISPARAGING COMMENTS ABOUT ONE ANOTHER, ABOUT THEIR PAST OR PRESENT RELATIONSHIPS, FAMILY, OR FRIENDS, WITHIN HEARING DISTANCE OF THE MINORS. THE REQUEST FOR AN AOD ASSESSMENT IS DENIED WITHOUT PREJUDICE.

THE PARTIES ARE ORDERED TO RETURN FOR A REVIEW HEARING ON THE ISSUE OF VISITATION ON OCTOBER 6TH, 2022 AT 8:30 AM IN DEPARTMENT 5. PARTIES ARE TO FILE STATEMENTS WITH THE COURT NO LATER THAN 10 DAYS PRIOR TO THE HEARING DATE REGARDING THE STATUS OF VISITATION AND RECOMMENDATIONS ON WHETHER OR NOT TO RESUME IN-PERSON VISITATION. RESPONDENT TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

9. RENEE KLINGHARDT V. JOHN KLINGHARDT

PFL20190857

The 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 a receipt of the judgment. The parties appeared on June 23, 2022 and continued the matter to July 21, 2022. On July 21st, the parties once again agreed to continue the matter. August 4th was set as the new date for the court to receive the judgment. The court is not in receipt of the judgment. The parties are ordered to appear.

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

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

10. SCOTT BLISH V. CLORISA BLISH

PFL20170692

This matter was originally set for trial on July 13, 2022, with a Mandatory Settlement Conference (MSC) date of June 27, 2022. On June 20, 2022, Counsel for Respondent filed an Ex Parte Application and Declaration for Orders and Notice requesting an order to continue the settlement conference and trial dates, an order to re-open discovery, and an order to remove/strike from the court's file all attachments, including bank statements and tax documents accidentally filed by Respondent with her FL-160 dated June 29, 2019. On June 21, 2022, the court issued orders vacating the MSC and trial dates and granting the request to strike attachments to the June 29, 2019 FL-160 attachments. The request to re-open discovery was set for hearing on August 4, 2022 and the parties were ordered to meet and confer on the issue. The court ordered MSC and new trial dates to be set at the hearing on discovery. On June 21, 2022, Respondent filed her Request for Order (RFO) making the same requests asserted in her ex parte application.

The court has not received any indication that the parties have met and conferred on the issue of new trial dates and re-opening discovery. The parties are ordered to appear.

TENTATIVE RULING #10: THE PARTIES ARE ORDERED TO APPEAR.

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

11. SHARLENE WHITING V. BRADLEY WHITING

PFL20180913

Respondent filed a Request for Order (RFO) on May 20, 2022, requesting the court modify the current child support order. Petitioner was served by mail on May 23, 2022. The court finds this is a post-judgement request to modify child support and as such requires address verification pursuant to Family Code section 215. Upon review of the court file, there has been no FL-334 filed. Respondent is requesting the court modify guideline child support to reflect the current custody timeshares. Respondent is also requesting a child support add-on for work related child-care costs. Respondent has not filed an Income and Expense Declaration.

Petitioner filed a Responsive Declaration and Income and Expense Declaration on July 26, 2022. Respondent was served electronically on July 25, 2022. The court finds Petitioner's filings to be untimely as they were not filed nine court days prior to the hearing. The court finds Petitioner has filed a response addressing the allegations raised by Respondent in the RFO. Therefore, the court finds that Petitioner has actual notice of the proceedings, and any Family Code section 215 defects are waived.

The court cannot adjudicate Respondent's request for a modification of child support without his current Income and Expense Declaration. The court continues the matter and Respondent is ordered to file an updated Income and Expense Declaration at least 10 days prior to the next hearing. The court reserves jurisdiction to modify child support retroactively to the date of the filing of the RFO.

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: THE MATTER IS CONTINUED TO SEPTEMBER 15TH, 2022 AT 8:30 AM IN DEPARTMENT 5. RESPONDENT IS ORDERED TO FILE AN UPDATED INCOME AND EXPENSE DECLARATION AT LEAST 10 DAYS PRIOR TO THE NEXT HEARING. THE COURT RESERVES JURISDICTION TO MODIFY CHILD SUPPORT RETROACTIVELY TO THE DATE OF THE FILING OF THE RFO. 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.

12. TARA ANN GRUDIN V. KEVIN RICHARD GRUDIN

PFL20190049

On June 6, 2022, Petitioner filed a Request for Order (RFO) requesting an order compelling further responses to Petitioner's Request for Production of Documents, Set Two and sanctions in the amount of \$1,500. As required by the California Code of Civil Procedure, the RFO is supported by a Memorandum of Points and Authorities, a Declaration of Barbara Newman, and a Separate Statement. All documents were served on Respondent via U.S. Mail on June 10, 2022.

Respondent filed a Declaration in response to the RFO on July 5, 2022. The responsive declaration was personally served on July 5, 2022. On July 15, 2022, Petitioner filed Petitioner's Reply in Support of Her Motion to Compel Respondent Kevin Grudin's Responses to Requests for Production of Documents.

According to Petitioner's moving papers, Petitioner served Respondent with Request for Production of Documents, Set Two on February 22, 2022 thereby making responses due on or before March 29th. Respondent served untimely and unverified responses on April 19, 2022. On May 6, 2022, counsel sent a letter attempting to meet and confer on the matter. Therein, counsel enumerated each specific request, the response given, and the reasons why she felt the response was insufficient. Specifically, she enumerated request number 7, request number 10, request number 11, and request number 12. Respondent did not respond to the meet and confer letter, nor did he provide amended responses with verifications.

In Respondent's declaration he provides clarifications to his initial responses. However, he does not produce any additional documents, nor does he provide verifications. Petitioner, in response to Respondent's declaration, points out that the responses provided in the declaration remain non-compliant with the Civil Discovery Act. She notes that Respondent's status as pro per does not relieve him of the obligations imposed by the Civil Discovery Act.

Further Responses

Generally speaking, "...a party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence." Cal. Civ. Pro. § 2017.010. Courts have found that the need for broad discovery is so critical that "[a]ny doubt about discovery is to be resolved in favor of disclosure." *Advanced Modular Sputtering, Inc. v. Sup. Ct.*, 132 Cal. App. 4th 826 (2005).

In conducting discovery, each "party is permitted to use multiple methods of obtaining discovery and the fact that information was disclosed under one method is not, standing alone, proper basis for refusing to provide discovery under another method." *Irvington-Moore, Inc. v.*

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Sup. Ct. 14 Cal. App. 4th 733 (1993). Among the authorized forms of discovery is a request for the production of documents and other tangible things. “A party to whom a demand for inspection, copying, testing, or sampling has been directed shall respond separately to each item or category of item by any of the following:” (1) a statement that the party will comply, (2) a statement that the party lacks the ability to comply, or (3) an objection to the demand or request made. Cal. Civ. Pro. §2031.210.

A statement that the party will comply shall include a statement “that all documents or things in the demanded category that are in the possession, custody, or control of that party and to which no objection is being made will be included in the production.” Cal. Civ. Pro. § 2031.220.

A statement of inability to comply shall “affirm that a diligent search and a reasonable inquiry has been made in an effort to comply with that demand. This statement shall also specify whether the inability to comply is because the particular item or category has never existed, has been destroyed, has been lost, misplaced, or stolen, or has never been, or is no longer, in the possession, custody, or control of the responding party. The statement shall set forth the name and address of any natural person or organization known or believed by that party to have possession, custody, or control of that item or category of item.” Cal. Civ. Pro. § 2031.230.

An objection to a request shall identify with particularity what document or object is being objected to and clearly state the extent of and the specific ground for the objection. Cal. Civ. Pro. § 2031.240.

The requests at issue in the present matter sought the production of compensation documents, pay records, medical records regarding work ability, employment records and profit and loss statements. All of which are items that are clearly relevant to claims being made in this case and thus clearly discoverable. Given the abovementioned requirements for responses to requests for production of documents, and after a review of the requests made and the responses given, the court finds that Respondent’s responses to request numbers 7, 10, 11, and 12 to be non-compliant. Accordingly, Respondent is ordered to provide full, complete and verified responses to Requests for Production of Documents, Set Two, requests number 7, 10, 11 and 12 no later than August 10, 2022.

Verifications

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

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The responses provided by Respondent are unverified. Without verification, the information provided in discovery responses is effectively useless to the party seeking to use the information provided. Given the importance of verifications to the discovery process, and the fact that the Civil Discovery Act simply requires their production, Respondent is hereby ordered to produce verifications to all previously served responses to Request for Production of Documents, Set Two no later than August 10, 2022. Amended responses served pursuant to the court's order must also be made with proper verifications.

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, 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. § 2031.320(b) (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" includes, but is not limited to, "making, without substantial justification, an unmeritorious objection to discovery" and "making an evasive response to discovery." Cal. Civ. Pro. §2023.010(e) & (f) respectively.

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).

Respondent does not assert any objections in his responses, however he declines to produce any documents in response to requests numbers 10 and 11, though his declaration makes it clear that there are responsive documents in existence. Respondent has not provided any substantial justification for his refusal to produce the requested documents.

Respondent's declaration attempts to clarify the responses at issue. However, the time to do so would have been in response to Petitioner's meet and confer letter. The purpose of the meet and confer process is to resolve discovery matters informally, without the need for court intervention. At this point, Petitioner has incurred the costs of preparing and filing the motion.

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Counsel's declaration indicates that her hourly billing rate is \$300. She asserts that she spent 1.0 hour reviewing responses and drafting the meet and confer letter, 3.0 hours drafting the motion and supporting documentation and she estimates 1.0 additional hour will be spent if the parties appear for oral arguments. To date, Petitioner has only incurred expenses related to the drafting of the letter and the motion and supporting documentation. No expenses for oral argument have been incurred at this time and the court can only award sanctions for those expenses actually incurred. As such, the court awards Petitioner sanctions in the amount of \$1,200 to be paid no later than September 5, 2022.

TENTATIVE RULING #12: HAVING READ AND CONSIDERED THE FILINGS OF BOTH PARTIES, THE COURT HEREBY ORDERS: (1) RESPONDENT IS ORDERED TO PROVIDE FULL, COMPLETE AND VERIFIED RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS, SET TWO, REQUESTS NUMBER 7, 10, 11 AND 12 NO LATER THAN AUGUST 10, 2022; (2) RESPONDENT IS HEREBY ORDERED TO PRODUCE VERIFICATIONS TO ALL PREVIOUSLY SERVED RESPONSES TO REQUEST FOR PRODUCTION OF DOCUMENTS, SET TWO NO LATER THAN AUGUST 10, 2022. AMENDED RESPONSES SERVED PURSUANT TO THE COURT'S ORDER MUST ALSO BE MADE WITH PROPER VERIFICATIONS; (3) THE COURT AWARDS PETITIONER SANCTIONS IN THE AMOUNT OF \$1,200 TO BE PAID NO LATER THAN SEPTEMBER 5, 2022.