

On August 5, 2021, Petitioner filed a Petition to Determine Parental Relationship and Request for Order (RFO) requesting custody orders. On October 12, 2021 Respondent filed a response along with an RFO requesting custody orders and a request for referral to Child Custody Recommending Counseling (CCRC). The parties were referred to CCRC and a hearing on the RFO was set on January 6, 2022.

On December 16, 2021, both parties participated in CCRC and reached a nearly full agreement as to custody, which provides for joint legal custody with parties sharing parenting time on a 50/50 basis utilizing a 2-2-3 parenting schedule. Parties were unable to reach an agreement as to when to initiate this schedule. A CCRC report was issued on December 22, 2021 with copies mailed to the parties on December 23, 2021.

On January 6, 2022, both parties appeared for the hearing. The court modified its tentative ruling and ordered the parties to exchange the minors at the El Dorado County Sheriff substation in El Dorado Hills. Petitioner's parenting time would be every weekend, Saturday, and Sunday from 9:00 am to 6:00 pm, for one month. After one month Petitioner's parenting time would be every Friday from 5:00 pm until Sunday at 5:00 pm for six weeks. The court appointed CASA and set a review hearing for March 17, 2022. The court was to address progressing to the 2-2-3 schedule at the March 17, 2022 hearing.

On March 17, 2022, the matter was continued to June 16, 2022 for CASA to be assigned and prepare a report.

CASA filed a report on June 3, 2022. Copies were mailed to the parties on the same day. CASA had the opportunity to meet with the minors in both parties' respective homes. CASA reports both homes are appropriate, and the minors appear to be well behaved and respectful in each parties' home. CASA further reports the minors appear to enjoy the time they spend with each party. The CASA report was adopted as the order of the court. A 2-2-3 schedule was ordered to commence on Friday June 10, 2022. CASA was relieved and the court terminated the previous order for both parties to drug test. A review hearing was scheduled for August 11, 2022 and the parties were ordered to file supplemental declarations 10 days prior to the hearing date.

Petitioner filed and served her Supplemental Declaration Regarding Custody and Visitation on August 2, 2022. Petitioner states that the 2-2-3 schedule is going well. Petitioner and Respondent are doing well co-parenting together. Minor G.G. has not yet begun therapy but the parties have taken steps to get it started.

The court has not received a supplemental declaration from Respondent, however, given the circumstances established in Petitioner's declaration the court is satisfied with the progress made and there is no need to set an additional review hearing at this time. All prior orders to remain in full force and effect.

TENTATIVE RULING #1. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT.

On June 7, 2022, Petitioner filed a Request for Order (RFO) requesting joint legal and physical custody as well as an order directing the minor to be enrolled in school in Latrobe, California. There is no Proof of Service on file indicating the service of the RFO. However, Respondent has filed a responsive declaration, so the court finds Respondent to have had actual knowledge of the pending RFO and the defect in service is effectively waived.

Respondent's Responsive Declaration to Request for Order was filed on July 7, 2022. Respondent filed a Proof of Service that same day, however it does not indicate the date of service.

By way of her RFO, Petitioner seeks an order regarding the school where the minor is to be enrolled. She provides several documents to support her contention that the schools in Labrobe are superior to those in Galt, where Respondent resides.

In his declaration, Respondent does not address the issue of schooling. Instead, he requests matter be transferred to Sacramento County or, in the alternative, that the present matter be dismissed for improper venue. Respondent states that the minor did not reside in El Dorado County as of May 12, 2022. Respondent claims that there is a contemporaneous child custody/visitation case ongoing in Sacramento County, which he claims is proper venue given the fact that the minor has resided there since birth, was residing there at the time the petition was filed and continues to reside there in part.

Petitioner responds to the contentions made by Respondent in her Reply Declaration of Aleah McNabb, which was served and filed on July 26th and 27th respectively. Petitioner notes that the issue of venue is not properly before the court. Nonetheless she asserts that she has not been served with any documents regarding an ongoing Sacramento County case. Petitioner reiterates her position that the schools in Latrobe are superior and that with scheduling and the proximity of the school it would be convenient for the minor to attend the Latrobe kindergarten.

The court denies Respondent's request for a change of venue or dismissal as it was not properly plead. 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). Respondent's venue challenge is unrelated to the issue of schooling and thus is not properly before the court. The request is therefore denied without prejudice, should Respondent wish to file an RFO for the requested orders.

With regard to the issue of schooling, the court refers the parties to Child Custody Recommending Counseling (CCRC) to discuss the matter further and work toward a resolution in the best interest of the minor.

TENTATIVE RULING #2: RESPONDENT'S REQUEST FOR A CHANGE OF VENUE OR DISMISSAL IS DENIED WITHOUT PREJUDICE. THE PARTIES ARE REFERRED TO CCRC WITH AN APPOINTMENT ON AUGUST 25th, 2022 AT 9:00 AM AND A FOLLOW UP HEARING ON OCTOBER 13, 2022 AT 8:30 AM IN DEPARTMENT 5. PETITIONER IS TO FILE THE FINDINGS AND ORDERS AFTER HEARING.

3. ASHLEY MILLS V. COLE MILLS

PFL20200476

On October 26, 2021, Respondent filed a Request for Order (RFO) requesting the court order a Family Code § 3111 evaluation with Respondent to advance the cost of the evaluation but subject to reallocation. Petitioner filed her response on January 12, 2022, agreeing to the evaluation but requesting that Respondent pay the entire cost. On January 19, 2022, the parties filed a Stipulation and Order Appointing Wendy Campbell as Child Custody Evaluator. The court signed the stipulation and adopted it as the order of the court.

The 3111 evaluation was completed, and a report issued on August 1, 2022. The court has not received any objections, or response declarations, to the 3111 report. The report contains agreements reached by the parties as well as recommendations made by the 3111 evaluator.

It appears the 3111 report was sent to Susan Reiter on behalf of Petitioner. However, the court is in receipt of a Substitution of Attorney form filed on July 28th which indicates that Lisa Kindel is now the attorney of record for petitioner. There is no indication whether or not Ms. Kindel has received a copy of the report. Accordingly, the court continues the matter October 6th, 2022 at 8:30 AM in Department 5 to ensure that Ms. Kindel has received and had the opportunity to review the report.

TENTATIVE RULING #3: THE COURT CONTINUES THE MATTER OCTOBER 6TH, 2022 AT 8:30 AM IN DEPARTMENT 5 TO ENSURE THAT MS. KINDEL HAS RECEIVED AND HAD THE OPPORTUNITY TO REVIEW THE 3111 EVALUATION REPORT.

On May 16, 2022, Petitioner filed a Request for Order (RFO) requesting joint legal custody of both minor children, but primary physical custody to Petitioner. The parties were referred to Child Custody Recommending Counseling (CCRC) and a hearing date was set for August 11th. The RFO was served on May 18, 2022. Respondent has not filed a response.

The order Petitioner requests is for sole physical custody to her with visitation to Respondent every Saturday from 9:00 a.m. to 8:00 p.m. and one weeknight per week from 6:00 p.m. to 8:00 p.m. Petitioner makes the request given her assertion that Respondent does not have a proper place for the children to sleep when they visit him, and they will soon be starting school near Petitioner's residence.

The parties attended CCRC on June 16, 2022 and reached several agreements. The agreements of the parties are set forth in the CCRC report which was issued on June 17, 2022, and mailed to the parties on June 22, 2022. Petitioner has since filed a Supplemental Declaration of Caitlin Osborne in Support of the Request for Order wherein she indicates that she is no longer in agreement with the contents of the CCRC report. Petitioner's supplemental declaration was served on July 20, 2022. Once again, Respondent has not filed a response to the CCRC report or to Petitioner's declaration.

According to the CCRC report Petitioner and Respondent are to share joint legal custody with the parenting time schedule as follows: During the summer months, and if the children attend school in Folsom, the parties are to conduct a 2-2-3 schedule; if the children attend school in Placerville then the Petitioner is to have the children from Sunday at 5:30 through Friday at 5:30 and the second weekend of the month, Respondent is to have the children on Friday from 5:30 through Sunday at 7:00 p.m. on the 1st, 3rd, 4th, and 5th weekends of the month. Petitioner states that she is no longer in agreement with the parenting time schedule as listed in the CCRC report, though she does not provide any reasoning.

Petitioner states that she is in agreement with the majority of the CCRC report but with the following amendments: Transportation for Visitation – she would like to add that exchanges are to take place at the In-and-Out on Sunrise and Respondent is not to have any third party, including his girlfriend, with him at exchanges; Parenting Time – she requests that the Parenting Time section be amended to state that Respondent has the children every other weekend from Friday at 6:00 p.m. through Sunday at 7:00 p.m.

After reviewing the filings of the parties and the CCRC report, the court finds the agreements listed in the CCRC report to be in the best interest of the children and therefore adopts them as the orders of the court. Petitioner does not cite a change in circumstances or provide any indication at all, as to why she is no longer in agreement with the schedule she already agreed to. Likewise, there is no justification provided for her request that Respondent attend exchanges alone. That request is denied.

TENTATIVE RULING #4: THE COURT ADOPTS THE AGREEMENTS OF THE PARTIES AS THEY ARE LISTED IN THE CCRC REPORT AS THE ORDER OF THE COURT. PETITIONER IS TO FILE AND SERVE THE FINDINGS AND ORDERS AFTER HEARING.

Respondent filed a Request for Order (RFO) on June 23, 2022 requesting the court grant her Family Code section 2030 and 271 attorney fees. Respondent concurrently filed an Income and Expense Declaration. Petitioner was served by mail on June 29, 2022.

Respondent requests the court order Petitioner to pay \$20,000 in attorney fees. Respondent asserts she has little to no income, save for child support and spousal support, as she is a full-time caretaker for the children as they are homeschooled. Respondent asserts Petitioner has increased the costs of litigation significantly. Respondent requests 271 sanctions for what she alleges is bad faith actions by Petitioner throughout the proceedings. Respondent asserts Petitioner has failed to comply with informal discovery requests and has violated the ATROS.

Petitioner filed a Responsive Declaration and Income and Expense Declaration on July 28, 2022. Petitioner was served by mail on July 28, 2022. Petitioner requests the court deny Respondent's requests for Family Code section 2030 and 271 attorney fees. Petitioner requests the court impose Family Code section 271 sanctions on Respondent for frustrating settlement of pending issues. Petitioner asserts due to his ongoing health concerns and the increased cost of supplies for the business, his income has decreased during 2022. Petitioner asserts he has cooperated with all discovery requests and Respondent has not engaged in good faith settlement negotiations.

Respondent filed a Reply Declaration on August 3, 2022. Respondent was served electronically on August 3, 2022. Respondent asserts in her declaration that Petitioner has produced documents from his business and personal accounts while show he continues to have deposits of \$11,536 which aligns with the average income he received throughout the marriage. Respondent renews her request for both Family Code section 2030 and 271 attorney fees.

The public policy of Family Code section 203 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." (*IRMO Keech* (1999) 75 Cal. App. 4th 860, 866) 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* (2009) 172 Cal. App. 4th 238,251.) The award must be just and reasonable; in taking into consideration what is just and reasonable, the court call 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 addition to the parties' financial resources, the court may consider the parties' trial tactics. (*IRMO Falcone & Fyke* (2012) 203 Cal. App. 4th 964; 975). The court must consider the impact of the fee award on the payor taking into account any orders for support. (*IRMO Keech, supra*, at 860).

The court finds that there is a factual dispute regarding Petitioner's current income and ability to pay. The court must take further evidence. Therefore, parties are ordered to appear for the hearing. The court reserves on both parties' requests for Family Code section 271 sanctions until the time of trial.

TENTATIVE RULING #5: THE PARTIES ARE ORDERED TO APPEAR FOR THE HEARING. THE COURT RESERVES ON BOTH PARTIES' REQUESTS FOR FAMILY CODE SECTION 271 SANCTIONS UNTIL THE TIME OF TRIAL.

On October 25, 2021 Respondent filed a Request for Order (RFO) to modify custody and visitation, as well as to for Family Code 271 sanctions against Petitioner. Petitioner was personally served with the RFO and Poof of Service was filed on November 9, 2021. Respondent set out 12 different requests in his declaration including: sole physical and legal custody; if not sole custody, that Respondent have the ultimate decision authority for all joint legal custody decisions; that Mother's and Father's day be added to the holiday schedule; Petitioner to enroll in, complete, and provide proof of a co-parenting class; Respondent's significant other be allowed to add the minor to her health insurance; Petitioner to disclose her work schedule to Respondent; removal of the right of first refusal for both parties; Respondent be allowed to have the minor at his workplace for more than 30 minutes; Respondent's significant other be allowed to facilitate exchanges and be a point of contact during the exchanges; Respondent to provide a cell phone for the minor for his parenting time and the cell phone purchased by the Petitioner remain with Petitioner; and Family Code 271 sanctions.

The parties were referred to Child Custody Recommending Counseling (CCRC) and both participated in the CCRC session on December 1, 2021. The parties were able to reach agreements and CCRC made recommendations regarding the remainder of the issues. A copy of the report was mailed to parties on December 21, 2021.

The parties appeared for oral argument on January 13, 2022. After hearing and considering the arguments of the parties the court adopted the CCRC report as the order of the court, appointed Rebecca Esty-Burke as minor's counsel and set the matter for a follow-up hearing on April 14th to receive input of minor's counsel. The parties were ordered to (1) file updated Income and Expense Declarations at least 10 days prior to the next hearing date; (2) complete a co-parenting class and provide proof of completion to the court; and (3) use insurance for counseling for the minor child. The court reserved on the issue of reallocation for insurance. Finally, the court denied Respondent's request for sanctions but admonished the parties that a failure to follow rules of court and/or conduct shown to repeatedly frustrate the policy of the law to promote settlement and reduce the cost of litigation may result in the court ordering sanctions.

Prior to the April 14th hearing the court issued its tentative ruling regarding the issues of exchanges, continued use of talkingparents.com, emergency medical treatment, co-parenting classes, and the allocation of costs of minor's counsel. The court reserved on the request for 271 sanctions and set the matter for a review hearing in 120 days. The parties stipulated in agreement to the tentative ruling but with the following modifications: (1) Minor's Counsel is to prepare a report for the return hearing set for August 11, 2022. The report shall be filed 21 calendar days prior to the hearing and Minor's Counsel shall weigh in on whether the child should be vaccinated and report on anything significant; (2) the parties are to file supplemental declarations 14 calendar days prior to the August 11th hearing; (3) replies may be filed 7 calendar days prior to the hearing. After reviewing the stipulation, the court adopted it as the order of the court.

The court is in receipt of an updated Income and Expense Declaration of Petitioner and a status update declaration from Respondent, but no other filings. Respondent's declaration was served on all parties on July 29th via U.S. mail. While Respondent concedes that there have been some positive outcomes since the parties have been participating in co-parenting counseling, Respondent maintains that Petitioner continues to violate the orders of the court and Respondent is concerned for the state of

his relationship with the child. Respondent renews his request for sanctions pursuant to Family Code Section 271 and asks that Minor's Counsel file a report addressing the issue of vaccinating the minor against COVID 19.

Given that Minor's Counsel has not prepared and filed a report, as required by the stipulation of the parties, and the order of the court, the court continues the matter to October 6th, 2022 at 8:30 AM in Department 5. Minor's Counsel is to prepare a report addressing the status of the case and the issue of vaccinating the minor against COVID 19. The report shall be filed no later than 21 calendar days prior to the hearing date. The parties are to file supplemental declarations no later than 14 calendar days prior to the hearing. Any reply declarations are to be filed no later than 7 calendar days prior to the hearing. The court continues to reserve on Respondent's request for Family Code section 271 sanctions.

TENTATIVE RULING #6: THE COURT CONTINUES THE MATTER TO OCTOBER 6TH, 2022 AT 8:30 AM IN DEPARTMENT 5. MINOR'S COUNSEL IS TO PREPARE A REPORT ADDRESSING THE STATUS OF THE CASE AND THE ISSUE OF VACCINATING THE MINOR AGAINST COVID 19. THE REPORT SHALL BE FILED NO LATER THAN 21 CALENDAR DAYS PRIOR TO THE HEARING DATE. THE PARTIES ARE TO FILE SUPPLEMENTAL DECLARATIONS NO LATER THAN 14 CALENDAR DAYS PRIOR TO THE HEARING. ANY REPLY DECLARATIONS ARE TO BE FILED NO LATER THAN 7 CALENDAR DAYS PRIOR TO THE HEARING. THE COURT CONTINUES TO RESERVE ON RESPONDENT'S REQUEST FOR FAMILY CODE SECTION 271 SANCTIONS.

8. JOSEPH CARLISLE V. GINA CARLISLE

PFL20170803

Respondent filed an Order to Show Cause and Affidavit for Contempt on June 10, 2022. Upon review of the court file, there is no Proof of Service showing Petitioner was personally served. Therefore, the matter is dropped from the court's calendar.

TENTATIVE RULING #8: THE MATTER IS DROPPED FROM THE COURT'S CALENDAR DUE TO LACK OF SERVICE.

On June 10, 2022, parties appeared for a Request for Order (RFO) filed by Respondent requesting modification of custody orders, parenting time orders, and exclusive use of the former marital property. The court denied the request to modify custody and parenting time. The court set a further review hearing for July 14, 2022, to review the parenting plan. Respondent was not to be involved in the minors' therapy sessions, unless specifically requested by the minors' therapist. Respondent was not to have any overnight guests during her parenting time. The court did not rule on Respondent's request for exclusive use of the formal marital residence. The court ordered any Supplemental Declarations be filed and served at least 10 days prior to the hearing.

Petitioner filed a Status Brief on July 5, 2022. It was served on Respondent and Minors' Counsel electronically and by mail on July 5, 2022. Petitioner states the minors continue to refuse to go to Respondent's home during her court ordered parenting time. Petitioner further asserts the minor Y.P. has PTSD and has expressed suicidal ideations. Petitioner states the family therapist recommended the minors not be forced to do anything they do not want to do. The family therapist suggested incrementally increasing Respondent's parenting time with the minors by starting with having them for dinner at a restaurant. The family therapist also recommended if progress is made, then Respondent should withdraw her RFO. Petitioner states Respondent seemed to agree with the recommendations during the counseling session, but after leaving stated she expects the minors to be with her during her parenting time. Petitioner asserts the minors felt most comfortable with Child Protective Services involvement in the case and requests the court "allow CPS to take over." Petitioner also raises concerns about Minors' Counsel's representation of the minors.

Respondent filed a Supplemental Declaration on July 7, 2022. Petitioner and Minors' Counsel were served electronically on July 7, 2022. The court did not receive Respondent's Declaration prior to the hearing on July 14, 2022. Since the hearing, the court has had an opportunity to read and consider Respondent's July 7, 2022 Declaration.

On August 1, 2022, Respondent filed a Supplemental Declaration. Petitioner and Minors' Counsel were served electronically on August 1, 2022. Respondent asserts the situation remain unchanged from July 14, 2022. The minors continue refusing to follow the court ordered parenting plan. Respondent further asserts Petitioner has not engaged in the recommendations of the co-parenting counselor or the reunification therapist. Respondent renews her request that she be awarded sole legal and physical custody of the minors and that she be granted exclusive use and control of the family residence.

Petitioner filed a Status Brief on August 1, 2022. Respondent and Minors' Counsel were served by mail and electronically on August 1, 2022. Petitioner echoes Respondent's statement that the current situation regarding the minors' refusal to engage in parenting time with Respondent remain unchanged. Petitioner requests the matter be continued.

Minors' Counsel filed a Statement of Issues and Contentions and Request Orders on August 4, 2022. Minors' Counsel requests the court order parties continue to participate in family/reunification therapy, all three minors continue to participate in individual therapy, and the minors' individual therapists be authorized to speak with family/reunification therapist about treatment goals, progress, client's needs, and any other topic they feel would assist the reunification process.

The court notes there is now a confidential aspect to this case, which the court has excluded from its tentative ruling.

The court denies Respondent's request for sole legal and physical custody of the minors. Given the breakdown in the parent-child relationship and the minors' refusal to engage in parenting time with Respondent, the court cannot find it would be in the minors' best interests to modify custody in such as fashion. The court denies Respondent's request for exclusive use and control of the family home. The current orders for joint legal and physical custody remain in place. The parenting time with Respondent is to remain on the 2-2-3 schedule. The parenting time with Respondent must be made available and offered to the minors. Petitioner shall encourage the minors to participate in parenting time with Respondent. The minor may refuse that particular time with Respondent but may not refuse all future parenting time with Respondent. Additionally, if one of the minors wishes to exercise his parenting time with Respondent, it is not contingent on the others participating. The court is hopeful that further participation in reunification counseling, as well as Petitioner and Respondent following the directives of the counselors, will facilitate the minors reengaging with Respondent.

The court adopts the recommendations of Minors' Counsel. The parties are to continue to participate in family/reunification therapy, all three minors continue to participate in individual therapy, and the minors' individual therapists be authorized to speak the with family/reunification therapist about treatment goals, progress, client's needs, and any other topic they feel would assist the reunification process. Parties are to continue to cooperate with all service providers.

TENTATIVE RULING #9: RESPONDENT'S REQUEST FOR SOLE LEGAL AND PHYSICAL CUSTODY OF THE MINORS IS DENIED. RESPONDENT'S REQUEST FOR EXCLUSIVE USE AND CONTROL OF THE FAMILY HOME IS DENIED. THE CURRENT ORDERS FOR JOINT LEGAL AND PHYSICAL CUSTODY REMAIN IN PLACE. THE PARENTING TIME WITH RESPONDENT IS TO REMAIN ON THE 2-2-3 SCHEDULE. THE PARENTING TIME WITH RESPONDENT MUST BE MADE AVAILABLE AND OFFERED TO THE MINORS. PETITIONER SHALL ENCOURAGE THE MINORS TO PARTICIPATE IN PARENTING TIME WITH RESPONDENT. THE MINOR MAY REFUSE THAT PARTICULAR TIME WITH RESPONDENT BUT MAY NOT REFUSE ALL FUTURE PARENTING TIME WITH RESPONDENT. ADDITIONALLY, IF ONE OF THE MINORS WISHES TO EXERCISE HIS PARENTING TIME WITH RESPONDENT, IT IS NOT CONTINGENT ON THE OTHERS PARTICIPATING. THE COURT IS HOPEFUL THAT FURTHER PARTICIPATION IN REUNIFICATION COUNSELING, AS WELL AS PETITIONER AND RESPONDENT FOLLOWING THE DIRECTIVES OF THE COUNSELORS, WILL FACILITATE THE MINORS REENGAGING WITH RESPONDENT. THE COURT ADOPTS THE RECOMMENDATIONS OF MINORS' COUNSEL. THE PARTIES ARE TO CONTINUE TO PARTICIPATE IN FAMILY/REUNIFICATION THERAPY, ALL THREE MINORS CONTINUE TO PARTICIPATE IN INDIVIDUAL THERAPY, AND THE MINORS' INDIVIDUAL THERAPISTS BE AUTHORIZED TO SPEAK THE WITH FAMILY/REUNIFICATION THERAPIST ABOUT TREATMENT GOALS, PROGRESS, CLIENT'S NEEDS, AND ANY OTHER TOPIC THEY FEEL WOULD ASSIST THE REUNIFICATION PROCESS. PARTIES ARE TO CONTINUE TO COOPERATE WITH ALL SERVICE PROVIDERS.

10. PHILLIP BOGGS V. AIMEE MERKLEY

PFL20210218

On April 6, 2022, Petitioner's attorney filed a Notice of Motion and Motion to be Relieved as Counsel and a Declaration in Support of the Motion to be Relieved. A Proof of Service was filed which indicated that Petitioner was served via U.S. Mail on April 6, 2022. However, Petitioner's attorney has not provided address verification.

Hearing on the Motion to be Relieved as Counsel was scheduled for April 6, 2022. At that time the court noted the defect in service pursuant to California Rule of Court, rule 3.1362(d)(1) and ordered the parties to appear. Petitioner's attorney was present. Respondent was not. Petitioner's attorney requested a continuance, which was granted, and the matter was continued to August 11, 2022.

On June 13, 2022, Petitioner's attorney once again filed a Notice of Motion and Motion to be Relieved as Counsel. This motion was scheduled to be heard on August 11, 2022, the same day as the previous motion. There is no Declaration in Support of the Motion to be Relieved nor is there a Proof of Service.

California Rule of Court rule 3.1362(c) states that "[t]he motion to be relieved as counsel must be accompanied by a declaration on the *Declaration in Support of Attorney's Motion to Be Relieved as Counsel - - Civil* (form MC-025)." Further, the rule requires that service of such a motion, if done via U.S. Mail, "must be accompanied by a declaration stating facts showing that either: (A) The service address is the current residence or business address of the client; or (B) The service address is the last known residence or business address of the client and the attorney has been unable to locate a more current address after making reasonable efforts to do so within 30 days before the filing of the motion to be relieved." Cal. Rule Ct. 3.1362(d)(1).

Here the court finds that neither the April 6th motion, nor the June 13th motion has been properly served. Further, the June 13th motion is not supported by the proper documentation. Accordingly, the matter is dropped from calendar.

TENTATIVE RULING #10: MATTER DROPPED FROM CALENDAR

11. RYAN WISE V. ALLISON WHITE

PFL20200713

Respondent filed an Order to Show Cause and Affidavit for Contempt on June 23, 2022, alleging 372 counts of contempt by Petitioner for failure to initiate Respondent's Facetime visits with the minor. Petitioner was personally served on June 28, 2022.

The parties are ordered to appear for arraignment.

TENTATIVE RULING #11: PARTIES ARE ORDERED TO APPEAR FOR ARRAIGNMENT.

12. SANDRA GRANADE V. TIMOTHY GRANADE

PFL20190133

On April 11, 2022, Petitioner filed a Request for Order (RFO) requesting the court order the entry of the order after trial and the entry of judgement or in the alternative, order the sale of the family residence. Respondent was served by mail on April 14, 2022. Petitioner concurrently filed an Income and Expense Declaration. Respondent was served with the Income and Expense Declaration by mail on April 11, 2022. Petitioner requests the court enter the order after trial issued by Commissioner Shepard on November 4, 2021, as the court's order. Petitioner is also requesting entry of proposed Judgement with an attached Marriage Settlement Agreement prepared on November 16, 2021 as a court order or in the alternative, Petitioner requests that the marital residence be sold with the proceeds of the sale divided equally between the parties. Petitioner is requesting Family Code section 2030 attorney fees as well.

On April 18, 2022, Respondent filed an Income and Expense Declaration. Petitioner was served by mail on the same date.

On May 26, 2022, Respondent concurrently filed a Responsive Declaration and RFO requesting the court set a new trial pursuant to Code of Civil Procedure 657. Petitioner was served with the Responsive Declaration and RFO on May 26, 2022. Respondent in the Responsive Declaration requests the RFO for a new trial be heard concurrently with Petitioner's RFO as they involve the same facts and issues. Currently Respondent's RFO is set for a hearing on July 28, 2022.

On June 16, 2022, Respondent filed a Declaration in response to the "Reply Declaration of Sandra Granade". Petitioner was served electronically with Respondent's Declaration on June 16, 2022. Respondent asserts the health insurance issue has been resolved and that he has paid the \$500 in sanctions the court ordered. Respondent renews his assertion the court miscalculated his income in its November 4, 2021 ruling on the submitted matter. Respondent believes there is still a partial settlement agreement between the parties, but if there is not, requests there be a new trial on all the issues. Respondent further requests the court maintain the May 13, 2021 temporary guideline child support and \$1,568 per month and spousal support of \$633 per month. Respondent notes the court reserved retroactivity to December 22, 2020. Respondent is requesting retroactivity to December 22, 2020 with a 36% timeshare. Respondent has attached a DissoMaster as exhibit A which is reflective of the 36% timeshare and what Respondent asserts is the proper income and non-taxable income for Respondent.

Respondent filed a Request for a Statement of Decision or in the alternative, an Objection to the Court's Statement of Decision on November 15, 2021. As trial was heard by Commissioner Sheperd, he needs to rule on Respondent's request and/or objection prior to proceeding with the Petitioner's April 11, 2022, RFO and Respondent's May 26, 2022 RFO.

Parties are ordered to appear at 10:00 am for a hearing with Commissioner Sheperd.

TENTATIVE RULING #12: PARTIES ARE ORDERED TO APPEAR AT 10:00 FOR A HEARING WITH COMMISSIONER SHEPERD.

On July 12, 2022, Petitioner filed an ex parte request for emergency custody orders. On July 13, 2022, the court denied the request and set an emergency set Child Custody Recommending Counseling (CCRC) appointment on July 26, 2022 and a review hearing on August 11, 2022. The court further ordered Respondent shall not consume alcohol 24 hours prior to or during his parenting time. Respondent shall submit to ETG testing at Petitioner's request upon suspicion of sue. Respondent shall not transport the minors with any measurable amount of alcohol in his system. All other requests were reserved until the review hearing date. On July 13, 2022, Petitioner filed a Request for Order, requesting the same orders as set forth in the ex parte request. Respondent was served electronically on July 13, 2022.

Parties attended CCRC on July 26, 2022. A CCRC report was filed with the court on August 5, 2022. Parties were mailed a copy of the CCRC report on August 5, 2022.. The court finds this was not timely, however, because the parties reached an agreement the court is willing to proceed. Further, the recommendations of the counselor, are reflective of the parties' agreement.

The court has read and considered the CCRC report and finds the agreements and recommendations to be in the minors' best interests. The court adopts the agreements and recommendations as its order. Until February 11, 2023, Petitioner may randomly request Respondent to facetime Petitioner and breathe into the breathalyzer on his car, during his parenting time. No more than two time during his parenting time. Respondent shall have four hours to respond to Petitioner's request. The minors shall continue to participate in indivual counseling with their current therapist. Parties shall follow the treatment plan and/or recommendations of the therapist. The parties shall participate in co-parenting counseling. If parties are unable to agree on a co-parenting counselor, Respondent shall provide Petitioner with the names of three therapists who are currently taking on new patients on or before September 1, 2022. Petitioner shall select one of the three on or before September 8, 2022. Parties shall commence co-parenting counseling at the first available appointment. Respondent shall participate in individual therapy to address how his behavior has impacted the minors. 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 ADOPTS THE AGREEMENTS AND RECOMMENDATIONS AS CONTAINED IN THE AUGUST 5, 2022 CCRC REPORT. 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.

On April 29, 2022, Respondent filed a Request for Order (RFO). The RFO was served via U.S. Mail on May 10, 2022. On June 30, 2022, Respondent filed a Declaration of Yama Khursand Re: Modification of Custody and a Declaration of Wallace Francis Re: Modification of Custody, both of which are in support of Respondent's RFO. The court does not have a proof of service indicating that either of these declarations have been served. Ms. Newman refers to the declarations in her Statement of Issues and Contentions, however there is no indication the Petitioner received copies of the declarations. As such, the court has not read or considered them.

On July 6, 2022, Petitioner filed and served her Responsive Declaration to Request for Order. Minor's Counsel filed her Statement of Issues and Contentions and Request for Orders on July 11, 2022, which had been served the day prior on July 10, 2022.

Respondent's RFO asks the court to institute a 2-2-4 schedule with a graduated step-up plan to 50/50 physical custody, or a schedule recommended by a child custody evaluator, for the youngest minor. Additional orders requested in the RFO are as follows: (1) the court to order a complete child custody evaluation under Family Code section 3111; (2) Remove Donelle Anderson as therapist and Barbara Newman as minor's counsel and appoint neutral, unbiased individuals for those roles; (3) Respondent to attend graduation.

Removal of Ms. Anderson

According to Respondent, Ms. Anderson and Ms. Newman have been using their positions to advocate for Petitioner and interfere with the visitation of him and his children, even in the face of some of Petitioner's questionable actions. Respondent further claims that Ms. Anderson has failed to communicate with him regarding the scheduling of reunification therapy appointments.

Petitioner notes this is Respondent's second request to remove Ms. Anderson. The first was denied at the January 2022 hearing. According to Petitioner, at the one reunification session Respondent did attend with Ms. Anderson, Petitioner could overhear Respondent screaming obscenities at Ms. Anderson and at the children prior to him storming out of the room. Petitioner states that both of the older children have grown to trust Ms. Anderson and have indicated that they want Ms. Anderson to remain the reunification counselor. Petitioner asks the court to deny Respondent's request to have Ms. Anderson removed from the matter.

The Statement of Issues and Contentions filed by Minor's Counsel supports Petitioner's recounting of the reunification therapy session in which Respondent became so irate and agitated that the session was stopped. Per Ms. Anderson, Respondent appeared to be under the influence at the session and he was unable to control himself. Ms. Anderson noted extreme concern and the children contacted Ms. Newman after the visit indicating they were extremely upset by Respondent's actions.

The court finds that the issue of removing Ms. Anderson has already been decided and Respondent has failed to show any change in circumstances which would warrant a change in the court's position. Respondent's request to remove Ms. Anderson is denied.

Removal of Ms. Newman

Respondent claims that Ms. Newman has accused him of abusing his prescribed medications and taking them while under the influence of alcohol. He is adamant these allegations are false and are being used by Ms. Newman simply in furtherance of her position to advocate on behalf of Petitioner and to interfere with his relationship with his children.

In contrast, Petitioner does not feel that Ms. Newman has taken her side, but instead has simply advocates for the best interest of the children. Petitioner notes the long and complicated history of the present matter and stresses the importance of having an attorney for the children who is familiar with the history. Petitioner requests that Ms. Newman remain involved in the case.

Ms. Newman notes that Respondent is requesting to have a “neutral” person appointed to the position of Minor’s Counsel. She notes that the position of Minor’s Counsel is not one of neutrality but one of advocacy. Ms. Newman cites her strong rapport with the children and her familiarity with the facts of the case which allow her to advocate for the best interests of the children.

The court is in agreement with Ms. Newman. Her position is not meant to be held by simply a neutral observer but instead she is to be advocating for the best interest of the children and the court sees no reason to find that she has not done so. Respondent’s request to have Ms. Newman removed from the matter is denied.

Graduation Attendance

Respondent requests an order allowing him to attend the high school graduation of the oldest child. From statements made in Petitioner’s response it appears the graduation has already taken place and thus the issue is moot. The court declines to rule on the matter as it is no longer at issue.

3111 Evaluation

Respondent asserts that since the court’s last child custody order on January 20, 2022, the youngest child has begun questioning Respondent’s medical condition, and claiming that his paternal grandparents are not his grandparents. Respondent claims that Petitioner continues to interfere with the established visitation schedule and the court is in need of additional information to craft a suitable custody order.

Petitioner and Ms. Newman both agree to a 3111 evaluation but only if there is a psychological evaluation included and only if Respondent bears the sole cost of the evaluation. Respondent states that he has no money to pay for the evaluation given that he is on disability. He claims that if he is ordered to pay the cost of one, it is not likely an evaluation will occur. Petitioner, likewise, states that she cannot afford the cost of an evaluation. She claims to be the sole source of financial support for the children and points to the present litigation as a huge source of financial burden.

The court is in agreement that a 3111 evaluation is warranted, along with a psychological evaluation pursuant to Evidence Code Section 730. The request for a 3111 evaluation with a 730 psychological component is therefore granted. Respondent is to pay the sole cost of the evaluation subject to reallocation. Respondent is to provide Petitioner and Minor’s Counsel with a list of three 3111 evaluators no later than August 22, 2022. Petitioner and Minor’s Counsel are then to choose one of the

three evaluators within five days of their receipt of Respondent's list. Once an agreement has been reached the parties are to submit an order to the court with the chosen evaluator.

Motion to Compel

Respondent filed an Ex Parte Application and Declaration for Orders and Notice on June 30, 2022. Therein he requested either an order shortening time to be heard on a Motion to Compel, or alternatively, an order granting relief from the discovery cutoff and a hearing set on the regular law and motion calendar. The ex parte documents were served on June 29, 2022. Petitioner opposed the ex parte stating that it is unnecessary as the documents subject to the Motion to Compel are covered by HIPPA and protected by the physician-patient privilege. Despite Petitioner's objections the court granted the order shortening time and set a hearing for July 21st. The discovery cutoff was stayed pending the hearing on the Motion to Compel. Hearing on the motion was later moved to the present August 11th date.

Respondent filed his Request for Order (RFO) on July 5th and served it via electronic service that same day. Petitioner filed her Responsive Declaration on July 15th and served it electronically the same day.

In his RFO Respondent requests the court overrule Petitioner's objections to the subpoena issued to Henry Schein (Dentrix) and for relief from the applicable discovery deadlines as trial is scheduled for August 16, which sets the discovery cutoff on July 15.

At issue in Respondent's RFO are daily charge sheets, or day sheets, which show the procedures and payments for the procedures for each day Petitioner's dental office was open. On April 30th Respondent requested the day sheets by way of a Request for Production of Documents. On May 31st, Petitioner responded to the request indicating that "responding party has made a diligent search and reasonable inquiry in an effort to comply with these requests and is unable to comply with such requests as no such documents are known to exist." However, when Respondent served a subpoena on Dentrix to obtain the day sheets directly from the software company that produces them, Petitioner objected citing HIPPA and the physician-patient privilege.

According to Petitioner the day sheets are replete with patient names, billing information, and medical information. Petitioner maintains that numerous non-privileged documents have been produced which provide the same information contained in the day sheets. She asserts that Respondent's request is nothing more than a fishing expedition.

Respondent argues that redacted versions of the documents can, and should, be produced since none of the patient information is necessary, nor is it being requested. In support of his RFO Respondent provides a Declaration of Christopher F. Whitaker CPA, ABV, CFF, MBA, MST, who corroborates Respondent's assertion that the day sheets are needed as a means of verifying the accuracy of the revenue reported on Petitioner's income tax returns and her profit and loss statements. Mr. Whitaker confirms that he can complete his analysis with day sheets that are redacted to protect patient information. In fact, he claims it is a common practice to do so.

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. The need for broad discovery is so critical to ensuring the fairness of the litigation process 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. Sup. Ct.* 14 Cal. App. 4th 733 (1993).

Petitioner’s objection on the basis of relevance is without merit. The day sheets at issue contain information that is clearly relevant to the calculation of child support as well as the issue of Petitioner’s credibility given her previous response that no such documents exist. In fact, Petitioner actually contradicts herself in making the relevancy argument. On one hand Petitioner objects to the production of the day sheets as irrelevant but on the other hand, she states that they have already produced documents with the same information contained on the day sheets. If the information is relevant and discoverable in one form, it stands to reason that it is relevant in all forms. Moreover, Petitioner argues that Respondent does not need the day sheets since he is already in possession of the same information provided in other documentation. This is irrelevant. Each party is permitted to use multiple methods of obtaining discovery regardless of the fact that such methods may produce overlapping information.

The fact that the day sheets contain privileged information in part, is not sufficient to render the entirety of the documents privileged and thus exclude them from discovery. In fact, Respondent’s subpoena requests redacted copies of the documents. The information Petitioner claims to be privileged is not even included as part of the subpoena and therefore her objection is misplaced.

For the foregoing reasons, Petitioner’s objections to the subpoena issued to Henry Schein (Dentrix) for day sheets are overruled and records in response to the subpoena, with confidential information redacted, are to be produced no later than August 31, 2022.

Trial Date

The court notes the upcoming trial date on the issues of child support, spousal support, and a modification of custody and visitation. Given that the decisions in the courts ruling are directly pertinent to trial the court hereby vacates the trial date currently set for August 11, 2022. The matter is set for a review hearing November 10th, 2022 at 8:30 AM in Department 5 to review the 3111 evaluation and choose a new trial date.

TENTATIVE RULING #16: RESPONDENT’S REQUEST TO REMOVE MS. ANDERSON IS DENIED. RESPONDENT’S REQUEST TO HAVE MS. NEWMAN REMOVED FROM THE MATTER IS DENIED. THE COURT DECLINES TO RULE ON THE MATTER OF RESPONDENT’S ATTENDANCE AT GRADUATION AS IT IS NO LONGER AT ISSUE. THE REQUEST FOR A 3111 EVALUATION WITH A PSYCHOLOGICAL COMPONENT IS GRANTED. RESPONDENT IS TO PAY THE SOLE COST OF THE EVALUATION SUBJECT TO REALLOCATION. RESPONDENT IS TO PROVIDE PETITIONER AND MINOR’S COUNSEL WITH A LIST OF THREE 3111 EVALUATORS NO LATER THAN AUGUST 22, 2022. PETITIONER AND MINOR’S COUNSEL ARE THEN TO CHOOSE ONE OF THE THREE EVALUATORS WITHIN FIVE DAYS OF THEIR RECEIPT OF RESPONDENT’S LIST. THE PARTIES ARE THEN TO SUBMIT AN ORDER TO THE COURT WITH THE CHOSEN

EVALUATOR. PETITIONER'S OBJECTIONS TO THE SUBPOENA ISSUED TO HENRY SCHEIN (DENTRIX) FOR DAY SHEETS ARE OVERRULED AND RECORDS IN RESPONSE TO THE SUBPOENA, WITH CONFIDENTIAL INFORMATION REDACTED, ARE TO BE PRODUCED NO LATER THAN AUGUST 31, 2022. THE COURT VACATES THE TRIAL DATE CURRENTLY SET FOR AUGUST 11, 2022. THE MATTER IS SET FOR A REVIEW HEARING ON NOVEMBER 10TH, 2022 AT 8:30 AM IN DEPARTMENT 5 TO REVIEW THE 3111 EVALUATION AND CHOOSE A NEW TRIAL DATE. RESPONDENT IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

Parties appeared for a hearing on June 2, 2022. The court adopted the tentative ruling, however, reserved on the issue of spousal support arrears. The court reserved on retroactivity to April 1, 2022. The court ordered Petitioner to participate in a vocational evaluation and set a review hearing on that issue for August 11, 2022. The court denied the request for a vocational evaluation for Respondent. Respondent was ordered to pay for the vocational evaluation.

Petitioner filed an updated Income and Expense Declaration on July 28, 2022. Respondent was served by mail on July 28, 2022.

Respondent filed a Supplemental Declaration and updated income and Expense Declaration on July 29, 2022. Petitioner was served by mail on July 29, 2022. Respondent requests Epstein credits and credit for payment of Petitioner's post-separation separate debts. Respondent also requests Petitioner be ordered to pay one-half the fee for Moon, Schwartz, and Madden for the QDRO, and one-half of the vocational evaluation fee, payable from Petitioner's share of the proceeds from the sale of the family home. Respondent also requests the court retroactively modify the spousal support order based on the CalPers income and the input from the vocational evaluation. Respondent further requests the court set spousal support at \$0 prospectively.

Petitioner filed a Supplemental Declaration on July 29, 2022. Respondent was served by mail on July 29, 2022. Petitioner asserts Respondent's requests for Epstein credits and/or Watts charges is premature and should be denied. Petitioner is also seeking credits for paying community debts with her separate property.

Petitioner filed a Reply Declaration to Respondent's Supplemental Declaration on August 5, 2022. Upon review of the court file there is no Proof of Service for this document.

Respondent filed a Declaration with the Vocational Evaluation attached as Exhibit A on August 5, 2022. Petitioner was served electronically on August 5, 2022.

Given the late filing of the vocational evaluation, the court continues the matter to October 6th, 2022 at 8:30 AM In Department 5. The court continues to reserve jurisdiction on the spousal support arrears and retroactive modification of spousal support to April 1, 2022. The court reserves on both parties' requests for credits/reimbursements. The court continues and reserves on Respondent's request for Petitioner to pay one-half the fees for the QDRO and one-half the fee for the vocational evaluation.

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 #17: THE COURT CONTINUES THE MATTER TO OCTOBER 6TH, 2022 AT 8:30 AM IN DEPARTMENT 5. THE COURT CONTINUES TO RESERVE JURISDICTION ON THE SPOUSAL SUPPORT ARREARS AND RETROACTIVE MODIFICATION OF SPOUSAL SUPPORT TO APRIL 1, 2022. THE COURT RESERVES ON BOTH PARTIES' REQUESTS FOR CREDITS/REIMBURSEMENTS. THE COURT CONTINUES AND RESERVES ON RESPONDENT'S REQUEST FOR PETITIONER TO PAY ONE-HALF THE FEES FOR THE QDRO AND ONE-HALF THE FEE FOR THE VOCATIONAL EVALUATION. 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.

On July 7, 2022, parties appeared for a hearing addressing child custody and child support. The court adopted Respondent's proposed DissoMaster, ordering Petitioner to pay Respondent \$656 per month as and for child support. The court found the order created an arrears balance of \$1,312 to be paid at \$164 each month due on the 15th of each month. The court set a further review hearing for August 11, 2022 to address the issue of child support as Petitioner had not complied with Respondents Demand of Production of Documents, which Respondent asserted were necessary to ascertain Petitioner's income. The court reserved jurisdiction to modify the support order retroactively to June 1, 2022.

Respondent filed a Supplemental Declaration on August 2, 2022. Petitioner was served by mail on August 2, 2022. Respondent filed an Updated Income and Expense Declaration on August 5, 2022. Petitioner was served by mail on August 5, 2022.

In her Declaration, Respondent asserts Petitioner has failed to make any child support payments as ordered. Respondent states Petitioner informed her he was no longer working and will not be making any child support payments. Respondent also asserts Petitioner has failed to comply with the demand for documents. Respondent requests the current orders remain in full force and effect.

Petitioner has not filed an updated Income and Expense Declaration or a Supplemental Declaration.

All prior orders remain in full force and effect. The current order for child support remains in full force and effect. The court reiterates its prior order regarding arrears, that any missed payment results in the entire balance being due forthwith, with any legal interest. Respondent shall prepare and file the Findings and Orders After Hearing.

TENTATIVE RULING #18: ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. THE CURRENT ORDER FOR CHILD SUPPORT REMAINS IN FULL FORCE AND EFFECT. THE COURT REITERATES ITS PRIOR ORDER REGARDING ARREARS, THAT ANY MISSED PAYMENT RESULTS IN THE ENTIRE BALANCE BEING DUE FORTHWITH, WITH ANY LEGAL INTEREST. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.