

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 17, 2023

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

1. CAITLIN LUTHER V. JONATHAN LUTHER

PFL20210261

On March 10th and 14th the parties filed a series of stipulations with the court regarding property division, child custody/visitation, and child support. The stipulations included, among other things, the provision that Respondent and the minor A.L. to have visits for three hours every Thursday, with visitation to increase up to an equal timeshare as agreed upon by A.L., Respondent, and the reunification counselor. The matter came before the court for review hearing on June 8th at which time Respondent had revealed that while visits between him and the minor N.L. were going well, but none of the visits with A.L. had actually occurred. The court indicated its intent to recalculate child support with a 0% timeshare for A.L. but noted that the parties had not filed current Income and Expense Declarations. The court set a hearing for the present date to calculate support and ordered the parties to file Income and Expense Declarations. The court reserved jurisdiction to award support back to April 1, 2023.

According to Petitioner's filing for the June 8th hearing, Petitioner requests that child support be updated to reflect a 25% timeshare with the minors as opposed to the current 27.5%. The 27.5% was calculated on the basis that Respondent shared a 50% timeshare with N.L. and 5% with A.L. Whereas the 25% timeshare would account for 50% with N.L. and 0% with A.L. As of Petitioner's most recent filing, however, she states that Respondent has only a 30% timeshare with N.L. and 0% with A.L. which results in a total 15% timeshare. Respondent did not address this claim in his most recent filing.

Petitioner filed and served her Income and Expense Declaration on July 19th. On August 7th Respondent filed and served his Income and Expense Declaration along with a Supplemental Declaration of Respondent, Jonathan Luther.

By way of his supplemental declaration, Respondent notes several issues with Petitioner's Income and Expense Declaration. First and foremost, he states that the company Mayhem Managed is run out of Petitioner's residence. It is also paying for several of Petitioner's monthly personal expenses including her car (\$608.27), rent (\$1,363.66), cell phone (326.72), and utilities (\$515.85). This amounts to a total of \$2,814.50 per month.

Respondent's arguments are well founded. Given that Petitioner is personally benefitting from the aforementioned expenses which are paid by the company, the court finds it proper to add an additional \$2,814.50 in non-taxable income to Petitioner's average monthly income.

As for the timeshare, Petitioner originally requested the 25% timeshare and the filings of both parties stated that visitation with N.L. was occurring as planned. Petitioner has not filed anything to support her claim that visitation with N.L. has decreased and, as of the prior filings,

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the parties were in agreement that visits with N.L. were going as planned. That said, the court is using a 25% timeshare.

Utilizing the figures as outlined above and in the attached DissoMaster report, the court finds that child support is \$1,135 per month. The court adopts the attached DissoMaster report and orders Respondent to pay Petitioner \$1,135 per month as and for child support, payable on the 1st of the month until further order of the court or legal termination. The court orders the child support order effective April 1, 2023.

The court finds the above order results in arrears in the amount of \$5,675 through and including August 1, 2023. The court orders Respondent pay Petitioner \$472.91 on the 15th of each month until paid in full (approximately 12 months).

The court further finds Respondent, at times, receives bonus payments and therefore, has included an overtime table with the DissoMaster. Respondent is to pay Petitioner a true up of any bonus earned no later than fourteen days from the date the bonus payment is received.

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 #1: UTILIZING THE FIGURES AS OUTLINED ABOVE AND IN THE ATTACHED DISSOMASTER REPORT, THE COURT FINDS THAT CHILD SUPPORT IS \$1,135 PER MONTH. THE COURT ADOPTS THE ATTACHED DISSOMASTER REPORT AND ORDERS RESPONDENT TO PAY PETITIONER \$1,135 PER MONTH AS AND FOR CHILD SUPPORT, PAYABLE ON THE 1ST OF THE MONTH UNTIL FURTHER ORDER OF THE COURT OR LEGAL TERMINATION. THE COURT ORDERS THE TEMPORARY SPOUSAL SUPPORT ORDER EFFECTIVE APRIL 1, 2023.

THE COURT FINDS THE ABOVE ORDER RESULTS IN ARREARS IN THE AMOUNT OF \$5,675 THROUGH AND INCLUDING AUGUST 1, 2023. THE COURT ORDERS RESPONDENT PAY PETITIONER \$472.91 ON THE 15TH OF EACH MONTH UNTIL PAID IN FULL (APPROXIMATELY 12 MONTHS).

THE COURT FURTHER FINDS RESPONDENT, AT TIMES, RECEIVES BONUS PAYMENTS AND THEREFORE, HAS INCLUDED AN OVERTIME TABLE WITH THE DISSOMASTER. RESPONDENT IS TO PAY PETITIONER A TRUE UP OF ANY OVERTIME EARNED NO LATER THAN FOURTEEN DAYS FROM THE DATE THE OVERTIME PAYMENT IS RECEIVED.

ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6725 BY 4:00 P.M. ON THE DAY THE TENTATIVE

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RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999). NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.

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

Input Data	Father	Mother	Guideline (2023)	Cash Flow Analysis	Father	Mother
Number of children	0	2	Nets (adjusted)	Guideline		
% time with Second Parent	25%	0%	Father	7,075	Payment (cost)/benefit	(1,135) 1,135
Filing status	Single	HH/MLA	Mother	8,085	Net spendable income	5,940 9,220
# Federal exemptions	1*	3*	Total	15,160	% combined spendable	39.2% 60.8%
Wages + salary	8,335	6,250	Support		Total taxes	2,325 809
401(k) employee contrib	0	0	CS Payor	Father	Comb. net spendable	15,160
Self-employment income	0	0	Presumed	(1,135)	Proposed	
Other taxable income	0	500	Basic CS	(1,135)	Payment (cost)/benefit	(1,135) 1,135
Short-term cap. gains	0	0	Add-ons	0	Net spendable income	5,940 9,220
Long-term cap. gains	0	0	Presumed Per Kid		NSI change from gdl	0 0
Other gains (and losses)	0	0	Child 1	(412)	% combined spendable	39.2% 60.8%
Ordinary dividends	0	0	Child 2	(724)	% of saving over gdl	0% 0%
Tax. interest received	0	0	Alameda	0	Total taxes	2,325 809
Social Security received	0	0	Total	(1,135)	Comb. net spendable	15,160
Unemployment compensation	0	0	Proposed, tactic 9		Percent change	0.0%
Operating losses	0	0	CS Payor	Father	Default Case Settings	
Ca. operating loss adj.	0	0	Presumed	(1,135)		
Roy, partnerships, S corp, trusts	0	0	Basic CS	(1,135)		
Rental income	0	0	Add-ons	0		
Misc ordinary tax. inc.	0	500	Presumed Per Kid			
Other nontaxable income	1,065	2,814	Child 1	(412)		
New-spouse income	0	0	Child 2	(724)		
SS paid other marriage	0	0	Alameda	0		
CS paid other relationship	0	0	Total	(1,135)		
Adj. to income (ATI)	0	0	Savings	0		
Ptr Support Pd. other P'ships	0	0	No releases			
Health insurance	0	671				
Qual. Bus. Inc. Ded.	0	0				
Itemized deductions	0	0				
Other medical expenses	0	0				
Property tax expenses	0	0				
Ded. interest expense	0	0				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
State sales tax paid	0	0				
Required union dues	0	0				
Cr. for Pd. Sick and Fam. L.	0	0				
Mandatory retirement	0	0				
Hardship deduction	0*	0*				
Other gdl. adjustments	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	0				

ATTORNEY (NAME AND ADDRESS): California ATTORNEY FOR: Father	TELEPHONE NO: Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
Father Annual Bonus Wages Report 2023 Yearly	CASE NUMBER:

"R" denotes that Father is a recipient for the corresponding support
 "CS%" is the percentage of Bonus paid as additional Child Support
 "SS%" is the percentage of Bonus paid as additional Spousal Support

Father's Gross Bonus	Basic CS%	Basic CS	Alameda SS%	Alameda SS	Total Basic CS	Total SS	Total Support CS+SS
0	0.00	0	0.00	0	13,622	0	13,622
100	14.21	14	0.00	0	13,637	0	13,637
200	14.21	28	0.00	0	13,651	0	13,651
300	14.21	43	0.00	0	13,665	0	13,665
400	14.21	57	0.00	0	13,679	0	13,679
500	14.21	71	0.00	0	13,694	0	13,694
600	14.21	85	0.00	0	13,708	0	13,708
700	14.20	99	0.00	0	13,722	0	13,722
800	14.20	114	0.00	0	13,736	0	13,736
900	14.20	128	0.00	0	13,750	0	13,750
1,000	14.20	142	0.00	0	13,765	0	13,765
1,100	14.20	156	0.00	0	13,779	0	13,779
1,200	14.20	170	0.00	0	13,793	0	13,793
1,300	14.20	185	0.00	0	13,807	0	13,807
1,400	14.20	199	0.00	0	13,821	0	13,821
1,500	14.20	213	0.00	0	13,835	0	13,835
1,600	14.19	227	0.00	0	13,850	0	13,850
1,700	14.19	241	0.00	0	13,864	0	13,864
1,800	14.19	255	0.00	0	13,878	0	13,878
1,900	14.19	270	0.00	0	13,892	0	13,892
2,000	14.19	284	0.00	0	13,906	0	13,906

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2. CHRISTINA ENSLEY V. JAMES ENSLEY

22FL1143

Petitioner filed a Request for Order (RFO) on February 14, 2023, after the court denied her request for emergency ex parte orders to modify custody and parenting time orders. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on March 15, 2023 which was later continued to March 30th and a review hearing on May 11, 2023. Petitioner is requesting a modification of child custody and parenting time orders, as well as Family Code section 2030 attorney fees and Family Code section 271 sanctions. Respondent was served by mail on February 14, 2023. Petitioner filed an Income and Expense Declaration and attorney Declaration regarding attorney's fees on February 10, 2023. Respondent was served by mail on February 14, 2023.

Petitioner asserts Respondent has a significant substance abuse issue which places the minors in harm's way. Petitioner requested the court order Respondent's parenting time be supervised, the appointment of Minor's Counsel and Family Code section 2030 attorney's.

Only Petitioner appeared for the CCRC appointment on March 30, 2023. As such a single parent report was filed with the court. The parties appeared before the court for hearing on May 11th at which time the court made orders regarding custody and visitation and appointed Barbara Newman as Minor's Counsel. The parties were re-referred to CCRC and a review hearing was set for the present date. The court reserved jurisdiction on the request for Section 271 sanctions as well as attorney's fees. The parties were ordered to file Income and Expense Declarations no later than 10 days prior to the hearing date.

As per the court's order, Petitioner filed her Income and Expense Declaration on June 29, 2023. She filed and served Petitioner's Supplemental Declaration on July 31st. Minor Counsel's Statement of Issues and Contentions and Request for Orders was filed and served on August 2nd.

Respondent has not filed either an Income and Expense Declaration or a supplemental declaration. Likewise, in defiance of the court's order he did not appear at the CCRC appointment which was re-set due to his initial failure to appear. A report was prepared but the CCRC counselor was unable to make any recommendations due to Respondent's non-appearance.

According to Petitioner, Respondent has not seen the children since March of 2023, and he has not begun to exercise his supervised visitation. Additionally, Respondent's SoberLink account has been suspended since April 17, 2023, despite the court's order of May 11th wherein he was ordered to resume service with Soberlink and test 1 hour before and 1 hour after each visit with the children.

In her supplemental declaration, Petitioner reiterated her request for sole legal custody, or, in the alternative, she requests final decision-making authority in the event Respondent fails

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to provide a substantive response to a legal decision within 24 hours. She argues Respondent has not shown any interest in exercising his legal rights with the children as he has been non-responsive on Our Family Wizard, he failed to appear at CCRC, and he has not been cooperative with Minor's Counsel.

Petitioner requests the following orders: (1) sole legal custody or, in the alternative, final decision making authority if Respondent fails to provide a substantive response to a legal decision within 24 hours; (2) Respondent to be sanctioned for his failure to appear at the second CCRC appointment; (3) The current visitation orders to be therapeutically supervised at Respondent's cost; (4) No additional review hearings, Respondent to file an RFO if he requests a change in visitation; (5) Respondent be ordered to pay \$2,031.57 in expenses for the children from October 2022 to June 2023; (6) \$10,000 in attorney's fees and sanctions.

Minor's Counsel noted that the children do miss Respondent and would like to see him, but Respondent has not called or visited them. Respondent informed Minor's Counsel that he has lost his job and cannot afford Soberlink or Family Visitation Network. Minor's Counsel recommends the visitation schedule remain the same but perhaps be changed to a less expensive provider or to therapeutically supervised visits so insurance may cover it. She also recommends supervised Zoom calls.

The court is in agreement with both Petitioner and Minor's Counsel that maintaining the current visitation orders is in the best interests of the children with some modifications. The visitation schedule is to remain as previously ordered; visits are to be therapeutically supervised at Respondent's sole cost. If Respondent is unable to afford therapeutically supervised visits then he may exercise his visitation time via Zoom or some other videoconference platform. Videoconference visits are to be supervised by a supervisor chosen by Minor's Counsel. Respondent shall be solely responsible for the costs of supervision for the video calls.

Given that the children do still wish to have a relationship with Respondent and Respondent cites financial difficulties as his lack of visitation, the court cannot find that stripping Respondent of his legal custody is warranted at this time. However, it is in the best interests of the children to allow Petitioner to make decisions for them when Respondent is being non-responsive. As such, Petitioner's request for sole legal custody is denied. The parties shall share in joint legal custody. Where Respondent fails to provide a substantive response to a legal decision within 24 hours of Petitioner's request, Petitioner shall have final decision-making authority.

In Petitioner's initial moving papers, she requested \$3,000 in attorneys' fees pursuant to Family Code section 2030 and 3121. She requested an additional \$3,000 pursuant to Family Code section 271, as well as Code of Civil Procedure sections 177.5 and 128.5. She has since

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increased that request to a total of \$10,000 but does not specify what portion of that is attributable to 2030 attorney's fees and what portion is sought as sanctions.

The public policy of Family Code section 2030 is to provide "at the outset of litigation, consistent with the financial circumstances of the parties, parity between spouses in their ability to obtain effective legal representation." *In Re Marriage Of Keech*, 75 Cal. App. 4th 860, 866(1999). This assures each party has access to legal representation to preserve each party's rights. In the face of a request for attorney's fees and costs, the court is to make findings on "whether there is a disparity in access to funds to retain counsel, and whether one party is able to pay for legal representation of both parties." Fam. Code § 2030(a)(2).

Family Code section 2032 works in tandem with Section 2030 to ensure that any award of costs and fees is just and reasonable. Fam. Code § 2032. "In determining what is just and reasonable under the relative circumstances, the court shall 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." *Id.* at (b). Financial resources are only one factor to be considered though. *Id.* In addition to the parties' financial resources, the court may consider the parties' trial tactics. *In Re Marriage Of Falcone & Fyke*, 203 Cal. App. 4th 964; 975 (2012).

Generally, the court would refer to Respondent's Income and Expense Declaration to rule a request for attorneys' fees, however, Respondent has now failed to file an Income and Expense Declaration in the face of two separate court orders to do so. Minor's Counsel indicates that Respondent informed her that he has lost his job. However, he has not made any effort to inform the court of his alleged unemployment. Thus, the court is left to rely on Petitioner's estimate of Respondent's income which she estimates to be \$5,000 per month, or \$25 per hour. The court may consider Respondent's trial tactics, such as his repeated failure to comply with court orders and his failure to pay for half of the children's expenses. In that case, it appears clear that if Respondent is making \$25 per hour, he should have more income available to him to pay for attorney's fees than Petitioner who has primary custody of two minor children and is paying all of their expenses. That said, the court is concerned with Respondent's ability to pay \$10,000 in attorney fees, or even \$5,000 assuming that is the amount being requested for attorney's fees. As such, Respondent is ordered to pay to Petitioner's attorney \$2,500 as and for attorney's fees. This amount may be paid in one lump sum or in monthly increments of \$50 due and payable on the 1st of each month commencing with September 1, 2023, and continuing until paid in full (approximately 50 months).

In addition to the award for attorney's fees, Petitioner is requesting fees under Family Code section 271, as well as Code of Civil Procedure sections 177.5 and 128.5. These codes all provide mechanisms for the court to sanction a party in the form of a penalty. With the support orders in place, as well as the order for attorney's fees, the court is concerned with

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Respondent's ability to pay punitive sanctions. Notwithstanding the foregoing, the court does recognize Respondent's blatant and repeated disregard for court orders which has wasted time and resources of Petitioner and the court. As such, the court reserves on the request for sanctions. The court is imposing a sanction of \$100 pursuant to Local Rule 8.10.02 for Respondent's failure to appear at the second CCRC appointment. Respondent is directed to pay \$100 to the El Dorado Superior Court. Respondent may make payments of \$20, with the first payment being due on September 1, 2023 and the remaining payments due on the 1st of each month until paid in full (approximately five months).

Finally, in keeping with the court's prior order, Respondent is ordered to pay Petitioner \$2,031.57 for expenses per the court's May 11th order plus interest. This amount is due and payable in full no later than August 31st.

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

TENTATIVE RULING #2: THE VISITATION SCHEDULE IS TO REMAIN AS PREVIOUSLY ORDERED; VISITS ARE TO BE THERAPEUTICALLY SUPERVISED AT RESPONDENT'S SOLE COST. IF RESPONDENT IS UNABLE TO AFFORD THERAPEUTICALLY SUPERVISED VISITS THEN HE MAY EXERCISE HIS VISITATION TIME VIA ZOOM OR SOME OTHER VIDEOCONFERENCE PLATFORM. VIDEOCONFERENCE VISITS ARE TO BE SUPERVISED BY A SUPERVISOR CHOSEN BY MINOR'S COUNSEL. RESPONDENT SHALL BE SOLELY RESPONSIBLE FOR THE COSTS OF SUPERVISION. PETITIONER'S REQUEST FOR SOLE LEGAL CUSTODY IS DENIED. THE PARTIES SHALL SHARE IN JOINT LEGAL CUSTODY. WHERE RESPONDENT FAILS TO PROVIDE A SUBSTANTIVE RESPONSE TO A LEGAL DECISION WITHIN 24 HOURS OF PETITIONER'S REQUEST, PETITIONER SHALL HAVE FINAL DECISION-MAKING AUTHORITY. RESPONDENT IS ORDERED TO PAY TO PETITIONER'S ATTORNEY \$2,500 AS AND FOR ATTORNEY'S FEES. THIS AMOUNT MAY BE PAID IN ONE LUMP SUM OR IN MONTHLY INCREMENTS OF \$50 DUE AND PAYABLE ON THE 1ST OF EACH MONTH COMMENCING WITH SEPTEMBER 1, 2023, AND CONTINUING UNTIL PAID IN FULL (APPROXIMATELY 50 MONTHS). THE COURT IS IMPOSING A SANCTION OF \$100 PURSUANT TO LOCAL RULE 8.10.02 FOR RESPONDENT'S FAILURE TO APPEAR AT THE SECOND CCRC APPOINTMENT. RESPONDENT IS DIRECTED TO PAY \$100 TO THE EL DORADO SUPERIOR COURT. RESPONDENT MAY MAKE PAYMENTS OF \$20, WITH THE FIRST PAYMENT BEING DUE ON SEPTEMBER 1, 2023 AND THE REMAINING PAYMENTS DUE ON THE 1ST OF EACH MONTH UNTIL PAID IN FULL (APPROXIMATELY FIVE MONTHS). THE COURT RESERVES ON THE REQUEST FOR 271 SANCTIONS.

FINALLY, IN KEEPING WITH THE COURT'S PRIOR ORDER, RESPONDENT IS ORDERED TO PAY PETITIONER \$2,031.57 FOR EXPENSES PER THE COURT'S MAY 11TH ORDER PLUS INTEREST. THIS AMOUNT IS DUE AND PAYABLE IN FULL NO LATER THAN AUGUST 31ST.

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ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

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4. DEBRA STANLEY V. ROBERT STANLEY

PFL20210202

The court issued its tentative ruling on this matter on August 9, 2023. The parties appeared for hearing and the court stayed the matter pending a long cause hearing which the court set for the present date. The parties are ordered to appear for long cause hearing.

TENTATIVE RULING #4: THE PARTIES ARE ORDERED TO APPEAR FOR HEARING.

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5. GAYLE NYGAARD V. RUSSELL NYGAARD

PFL20080211

On May 26, 2023, Petitioner filed a Request for Order (RFO) seeking a judgment lien for spousal support arrears as well as attorney's fees. The RFO and all other required documents were mail served on June 20th. Respondent has not opposed the RFO. Petitioner filed and served a Hearing Exhibit in support of her RFO on August 9th.

According to Petitioner, Respondent has failed to pay spousal support which is set at \$350 a month per the court's judgment. Respondent is 40 months delinquent in his payments. Petitioner now asks the court to determine spousal support arrears and issue a judgment lien. Petitioner has incurred attorney's fees due to Respondent's non-compliance and she would like an order for attorney's fees in the amount of \$5,280 pursuant to Family Code section 2030 or 2032, or, in the alternative, attorney's fees paid in the form of a sanction pursuant to Family Code section 271.

Generally, the court is to consider the Income and Expense Declaration of the proposed paying party in making an award of 2030 attorney's fees. Where that party fails to file his Income and Expense Declaration the court may rely on the estimate of the opposing party. Here the court has neither. Respondent has not filed anything with the court and Petitioner has not provided the court with her estimate of Respondent's income. The court finds it cannot make an award of 2030 fees with the information before it. However, the court can impose sanctions pursuant to Section 271.

An award for attorney's fees and sanctions may also be made pursuant to Family Code section 271 which states, in pertinent part, "...the court may base an award of attorney's fees and costs on the extent to which the conduct of each party or attorney furthers or frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation by encouraging cooperation of the parties and attorneys. An award of attorney's fees and costs pursuant to this section is in the nature of a sanction." Fam. Code § 271(a). While the purpose of Section 271 is to impose a punitive sanction, the court is not to impose a sanction that would create an "unreasonable financial burden on the party against whom the sanction is imposed." *Id.*

Here, it is undeniable that Respondent's failure to pay support has frustrated the policy of the law to promote settlement and reduce the cost of litigation. His actions have directly caused Petitioner to incur the requested costs and fees. While Section 271 does prohibit a sanction that would create an unreasonable financial burden, there is no evidence before the court that such a burden exists. As such, Petitioner's request for sanctions in the amount of \$5,280 is granted. This amount is to be paid directly to Petitioner's counsel and may be paid in one lump sum or in monthly increments of \$440 due and payable on the 1st of each month,

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commencing September 1, 2023 and continuing until paid in full (approximately 12 months). If any payment is missed or late, the entire amount shall become immediately due and payable.

Regarding the requested arrears, the court has reviewed Petitioner's filings and finds the arrears amount owing in spousal support is \$18,563.08. Petitioner may file the requisite paperwork with the court to obtain a judgment lien in this amount.

TENTATIVE RULING #5: REGARDING THE REQUESTED ARREARS, THE COURT HAS REVIEWED PETITIONER'S FILINGS AND FINDS THE ARREARS AMOUNT OWING IN SPOUSAL SUPPORT IS \$18,563.08. PETITIONER MAY FILE THE REQUISITE PAPERWORK WITH THE COURT TO OBTAIN A JUDGMENT LIEN IN THIS AMOUNT. PETITIONER'S REQUEST FOR SANCTIONS IN THE AMOUNT OF \$5,280 IS GRANTED. THIS AMOUNT IS TO BE PAID DIRECTLY TO PETITIONER'S COUNSEL AND MAY BE PAID IN ONE LUMP SUM OR IN MONTHLY INCREMENTS OF \$440 DUE AND PAYABLE ON THE 1ST OF EACH MONTH, COMMENCING SEPTEMBER 1, 2023 AND CONTINUING UNTIL PAID IN FULL (APPROXIMATELY 12 MONTHS). IF ANY PAYMENT IS MISSED OR LATE, THE ENTIRE AMOUNT SHALL BECOME IMMEDIATELY DUE AND PAYABLE. PETITIONER IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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6. JENNIFER ANN CHANEY V. JASON MICHAEL CHANEY

22FL0859

On June 6, 2023, Petitioner filed a Request for Order (RFO) seeking orders for spousal support and attorney's fees. Concurrently therewith she filed her Income and Expense Declaration. Both documents, along with all other required documents were mail served on the same date as filing.

Respondent filed and served his Responsive Declaration to Request for Order and his Income and Expense Declaration on August 8th. He filed a corrected Income and Expense Declaration on August 10th. The court finds these documents to be late filed pursuant to Civil Procedure section 1005(b) which states all opposition papers are to be filed at least nine court days before the hearing date. Section 12c states, "[w]here any law requires an act to be performed no later than a specified number of days before a hearing date, the last day to perform that act shall be determined by counting backward from the hearing date, *excluding the day of the hearing* as provided by Section 12." Cal. Civ. Pro. § 12c. Section 1005(b) in conjunction with Section 12c would have made August 4th the last day for filing Respondent's Responsive Declaration to Request for Order. Therefore, the aforementioned documents are late filed and have not been considered by the court.

Petitioner's requests require the court to consider Respondent's Income and Expense Declaration but given that it was late filed, and Petitioner has not been afforded the opportunity to review and reply to Respondent's filings, the court continues this matter to August 31, 2023 at 8:30 a.m. in Department 5.

The court reserves jurisdiction to retroactive modify spousal support to the date of the filing of the RFO.

TENTATIVE RULING #6: THIS MATTER IS CONTINUED TO AUGUST 31, 2023 AT 8:30 A.M. IN DEPARTMENT 5. THE COURT RESERVES JURISDICTION TO RETROACTIVE MODIFY SPOUSAL SUPPORT TO THE DATE OF THE FILING OF THE RFO.

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

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

7. KRISTI AMES V. NICOLAUS THOMY

23FL0299

Respondent filed a Request for Order (RFO) seeking an order directing Petitioner to undergo a vocational rehabilitation examination. The RFO was filed on June 6, 2023, and mail served the next day. Petitioner filed her Responsive Declaration to Request for Order on August 3rd. Respondent's Reply was thereafter filed on August 11th.

Respondent initially filed this RFO requesting Petitioner undergo a vocational rehabilitation evaluation on the basis that she works only 4 days per month. Petitioner filed her reply stating that she has increased her hours to 8-10 days per month, which is part time for her department. She notes her two young children and states she is of the belief that she is working the maximum number of hours she is able to. In Respondent's Reply he concedes that a vocational evaluation is not necessary if Petitioner is intending to work 32 hours per week. He requests the matter be continued to join to the August 31st hearing.

This matter is continued to join with the hearing already set for August 31, 2023 at 8:30 a.m. in Department 5.

TENTATIVE RULING #7: THIS MATTER IS CONTINUED TO JOIN WITH THE HEARING ALREADY SET FOR AUGUST 31, 2023 AT 8:30 A.M. IN DEPARTMENT 5.

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

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

9. REBECCA BURT-ORTIZ V. DAVID J. ORTIZ

23FL0384

On June 6, 2023, Petitioner filed a Request for Order (RFO) seeking orders regarding child support, spousal support, property control, and attorney's fees. Concurrently with the RFO, Petitioner filed her Income and Expense Declaration. Both documents, along with all other required documents, were mail served on June 14th. Respondent has not filed a Responsive Declaration to Request for Order or an Income and Expense Declaration.

Petitioner brings her RFO requesting the following orders: (1) Guideline child support; (2) Guideline spousal support; (3) Attorney's fees in the amount of \$5,000 pursuant to Family Code section 2030; and (4) Exclusive use, possession, and control of the marital residence located on Platt Circle in El Dorado Hills.

Respondent has not filed a Responsive Declaration to Request for Order, nor an Income and Expense Declaration. Further, Petitioner concedes she is unaware of Respondent's monthly income. However, as of July 24th Respondent filed a Substitution of Attorney. As such, this matter is continued to September 14, 2023 at 8:30 a.m. in Department 5. Both parties are ordered to file an Income and Expense Declarations no later than 10 calendar days prior to the hearing date. Petitioner is ordered to provide notice of the continued hearing to Respondent's counsel no later than August 24, 2023.

TENTATIVE RULING #9: THIS MATTER IS CONTINUED TO SEPTEMBER 14, 2023 AT 8:30 A.M. IN DEPARTMENT 5. BOTH PARTIES ARE ORDERED TO FILE AN INCOME AND EXPENSE DECLARATION NO LATER THAN 10 CALENDAR DAYS PRIOR TO THE HEARING DATE. PETITIONER IS ORDERED TO PROVIDE NOTICE OF THE CONTINUED HEARING TO RESPONDENT'S COUNSEL NO LATER THAN AUGUST 24, 2023.

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

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

10. REBECCA ELLIOTT V. SOLOMON LAMB

PFL20210055

On May 24, 2023, Petitioner filed and served a Request for Order (RFO) seeking custody and visitation orders. This RFO reiterates the requests made ex parte by Petitioner on May 23rd. Respondent filed his Responsive Declaration to Request for Order on May 24th. Thereafter, Petitioner's Reply Declaration to Respondent's Responsive Declaration was filed on July 12, 2023. Petitioner's Reply Declaration to CCRC Report was filed and served on August 10, 2023.

Petitioner filed her RFO requesting the following orders: (1) Respondent's visitation to be limited to day time visits; (2) Respondent's visits to be during the day on Sunday every weekend, so that he can fully supervise the children; (3) The court to order Respondent to exercise his visits somewhere other than his current residence and his visits are not to occur in the presence of his brother David nor his brother's son (Respondent's nephew); (4) Respondent is not to leave the children in the care of his brother or nephew. These requests stem from the fact that Respondent is currently residing with his brother and nephew. Petitioner feels the children are not safe around these individuals.

Respondent opposes the requested orders and instead requests additional time with the children from Monday at 5pm to Tuesday at 5pm in addition to the current visitation schedule. Respondent argues that his brother is his landlord and neither his brother nor his nephew live under the same roof as him or watch his children. He states that Petitioner has not complied with the court's prior orders. He requests Petitioner commence coparenting counseling prior to Christmas. He also states that he did undergo the mental health evaluation as previously ordered and he provides the court with a letter indicating as such.

The parties were referred to Child Custody Recommending Counseling (CCRC) which they attended on July 13th. A report dated July 26th was prepared and mailed to the parties. According to the report the parties were able to reach agreements on some of the pending issues. The CCRC counselor made recommendations regarding the remaining issues.

In Petitioner's reply to the CCRC she asks the court to adopt the CCRC recommendations with the following modifications: (1) Thursday at 4:00 pm visits to occur during the summer months, not during the school year; (2) The Sunday at 1:00 pm exchanges only to take place on holidays such as Mother's Day and Easter, but not on Father's normal parenting time, that is to remain 5:00 pm; (3) Talking Parents application not to be required; (4) Respondent to provide proof of an alarm system on the entrances of his home, and provide pictures of the yard where the children are to play; and (5) Two Saturdays per month, Respondent to have visits from Friday at 5:00pm to Saturday at 5:00pm.

The court has reviewed the filings of the parties as well as the CCRC report and finds the agreements and recommendations contained in the CCRC report to be in the best interests of

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DEPARTMENT 5

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

the children. The court hereby adopts the agreements and recommendations as stated in the July 26th CCRC report as the orders of the court with the following modifications: (1) Respondent shall have visits twice per month from Friday at 5:00 pm until Sunday at 5:00pm, and twice per month from Friday at 5:00pm until Saturday at 5:00pm. During the summer months when the children are not in school Respondent shall have visits twice per month from Thursday at 4:00pm through Sunday at 5:00pm and twice per month from Thursday at 4:00pm through Saturday at 5:00pm; (2) The parties are not required to use the Talking Parents application but may do so if they mutually agree to it; (3) Respondent shall provide Petitioner with proof of an alarm system placed on the entrance of his home, as well as photos of the yard where he plans to have the children play during their visits; (4) The parties are to choose a coparenting counselor and complete the intake process for coparenting counseling no later than September 30th.

All prior orders not in conflict with this order remain in full force and effect. Petitioner is to prepare and file the findings and orders after hearing.

TENTATIVE RULING #10: THE COURT HEREBY ADOPTS THE AGREEMENTS AND RECOMMENDATIONS AS STATED IN THE JULY 26TH CCRC REPORT AS THE ORDERS OF THE COURT WITH THE FOLLOWING MODIFICATIONS: (1) RESPONDENT SHALL HAVE VISITS TWICE PER MONTH FROM FRIDAY AT 5:00 PM UNTIL SUNDAY AT 5:00PM, AND TWICE PER MONTH FROM FRIDAY AT 5:00PM UNTIL SATURDAY AT 5:00PM. DURING THE SUMMER MONTHS WHEN THE CHILDREN ARE NOT IN SCHOOL RESPONDENT SHALL HAVE VISITS TWICE PER MONTH FROM THURSDAY AT 4:00PM THROUGH SUNDAY AT 5:00PM AND TWICE PER MONTH FROM THURSDAY AT 4:00PM THROUGH SATURDAY AT 5:00PM; (2) THE PARTIES ARE NOT REQUIRED TO USE THE TALKING PARENTS APPLICATION BUT MAY DO SO IF THEY MUTUALLY AGREE TO IT; (3) RESPONDENT SHALL PROVIDE PETITIONER WITH PROOF OF AN ALARM SYSTEM PLACED ON THE ENTRANCE OF HIS HOME, AS WELL AS PHOTOS OF THE YARD WHERE HE PLANS TO HAVE THE CHILDREN PLAY DURING THEIR VISITS; (4) THE PARTIES ARE TO CHOOSE A COPARENTING COUNSELOR AND COMPLETE THE INTAKE PROCESS FOR COPARENTING COUNSELING NO LATER THAN SEPTEMBER 30TH. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

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DEPARTMENT 5

August 17, 2023

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

**MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS
ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.**

LAW & MOTION TENTATIVE RULINGS

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August 17, 2023

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

12. SHAWNA RENEE RODRIGUEZ V. MICHAEL ANTHONY RODRIGUEZ

PFL20210023

Minor's Counsel is before the court requesting to be relieved of her position on this matter. The Request for Order (RFO) was filed on May 12, 2023. Respondent was electronically served on May 18th and Petitioner was served in the same manner on June 6th. Neither party has opposed the request.

Minor's Counsel bases her request on the fact that the parties stipulated to custody in June of 2022 and the custody and visitation plan has been stable since that time. Minor's Counsel feels her services are no longer needed. The court agrees. Minor's Counsel is hereby thanked and relieved of her position.

TENTATIVE RULING #12: MINOR'S COUNSEL IS HEREBY THANKED AND RELIEVED OF HER POSITION. MINOR'S COUNSEL IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

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

13. CHELSEY ROMERO V. ROBERT ROMERO

PFL20190274

Counsel for Respondent has filed a Motion to be Relieved as Counsel. The motion, as well as all supporting documents, were filed on June 12, 2023. All parties were properly served by mail on June 13, 2023. Counsel bases his motion on facts which he states are confidential pursuant to Business and Professions Code § 6068(e) and California Rules of Professional Conduct, rule 1.16. The parties are ordered to appear for in-camera hearing.

TENTATIVE RULING #13: THE PARTIES ARE ORDERED TO APPEAR FOR IN-CAMERA HEARING.

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August 17, 2023

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

14. CHRISTINA BASS V. DAVIS BASS

PFL20120626

Petitioner filed an ex parte motion for emergency temporary custody of the minors on June 22, 2023. On June 23, 2023, the court granted Petitioner's request and referred the parties to an emergency set Child Custody Recommending Counseling (CCRC) appointment on July 11, 2023, and a review hearing on August 17, 2023. Petitioner filed a Request for Order (RFO) making the same requests as set forth in the ex parte motion on June 23, 2023. Respondent was served by first class mail, with address verification on July 6, 2023.

Only Petitioner appeared for the CCRC appointment on July 11, 2023. As such, a single parent report was filed with the court. Parties were served a copy by mail on July 12, 2023.

Petitioner filed an Updating Declaration on August 7, 2023. Respondent was served by mail on August 7, 2023. Petitioner requests the court maintain the ex parte orders and rerefer the parties to CCRC. Petitioner states in her declaration Respondent was on a psychiatric hold on the date of the prior CCRC appointment, however, was released the following day. Petitioner asserts Respondent is still exhibiting concerning behavior. Petitioner is also requesting the court order Respondent to turn over the minors' health insurance information, birth certificates, and social security cards.

Respondent has not filed a Responsive Declaration.

The court orders parties to appear for the hearing.

TENTATIVE RULING #14: THE COURT ORDERS PARTIES TO APPEAR FOR THE HEARING.

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

15. DANIEL LOSSIUS V. MICHELLE COCKRELL

PFL20180865

Respondent filed a Request for Order (RFO) requesting the court authorize a move away on June 13, 2023. The parties were not referred to Child Custody Recommending Counseling (CCRC). Petitioner was served by mail on June 21, 2023.

Respondent requests the court allow the minor to relocate to Idaho. Respondent asserts she has sole physical and legal custody of the minor and Petitioner has not had any contact with the minor. She further argues that Petitioner has failed to take any of the steps the court ordered previously.

Petitioner has not filed a Responsive Declaration.

As this is a move away request, the court finds it must conduct an evidentiary hearing prior to granting the request. Therefore, parties are ordered to appear to select Mandatory Settlement Conference and trial dates.

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

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

16. JEAN GASTALDI V. MICHAEL GASTALDI

23FL0159

Petitioner filed a Request for Order (RFO) requesting guideline temporary spousal support, property control of the home located at 2836 Barkley Road, in Camino, California, and \$10,000 in Family Code section 2030 attorney fees. Respondent was personally served on May 28, 2023. The court notes the Proof of Service indicates Respondent was served with Petitioner's Income and Expense Declaration, however, Petitioner has not filed an Income and Expense Declaration (FL-150) with the court.

Petitioner asserts in her declaration that Respondent is the higher earning spouse and can therefore, afford to pay support as well as afford to pay for both parties' attorney's fees. Petitioner has not set forth any ground as to why she should have exclusive use and control of the Barkley Road home.

Parties appeared on June 22, 2023, and agreed to a continuance to allow each to file and serve Income and Expense Declarations as well as Supplemental Declarations. Parties were to meet with the Family Law Facilitator as well. The court granted the request to continue and set the matter for a further hearing on August 17, 2023. Parties were directed to file and serve Income and Expense Declarations at least 10 days prior to the hearing.

Respondent filed a Responsive Declaration and an Income and Expense Declaration on June 21, 2023. Petitioner was served electronically on June 20, 2023. Respondent does not object to guideline temporary spousal support. Respondent requests both parties pay their own attorney fees. Respondent does not address Petitioner's request to exclusive use and control of the Barkley Road property.

Respondent filed another Responsive Declaration on June 29, 2023. It appears this is the same Responsive Declaration that was filed on June 20, 2023.

Respondent filed an Income and Expense Declaration on July 5, 2023. This appears to be the same Income and Expense Declaration that was filed on June 21, 2023.

Petitioner filed a Declaration as well as an Income and Expense Declaration on July 26, 2023. Respondent was served by mail on August 2, 2023. Petitioner sets forth in her Declaration the need for exclusive use and control of the Barkly Road property. Petitioner asserts this one of several marital properties and where she has been residing. Petitioner asserts Respondent lives at a different marital property. Petitioner requests she continue to reside at the Barkly Road property and Respondent continue to make the voluntary payments of \$1708.33 per month as and for temporary spousal support. Petitioner renews her request for attorney's fees. Petitioner asserts there is a disparity in access to assets and Respondent has significant assets which can be accessed to pay attorney's fees.

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

Respondent filed an amended Responsive Declaration and Income and Expense Declaration on August 7, 2023. Petitioner was served by mail on August 7, 2023. Respondent objects to the orders requested. Respondent asserts the statements made in Petitioner's Declaration regarding property control are inaccurate.

Respondent filed a Reply Declaration on August 11, 2023. It was served by mail on August 11, 2023. Respondent further disputes Petitioner's assertions.

The court finds it needs to take testimony from the parties prior to making orders in this matter. Therefore, parties are ordered to appear for the hearing.

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

LAW & MOTION TENTATIVE RULINGS
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August 17, 2023
8:30 a.m./1:30 p.m.

17. KATHLEEN WALSHAW V. SCOTT WALSHAW

PFL20200226

On August 18, 2022, the court granted Petitioner's request to relocate with the minors to Texas. Per the parties' stipulation, the court ordered Respondent to have contact with the minors twice a week via video conference on Tuesdays and Sundays at 5:00 pm Pacific Time. The calls could be up to 30 minutes in duration. The court set a further review hearing for February 16, 2023, and directed parties to file any Supplemental Declarations at least 10 days prior to the hearing.

Petitioner filed a Supplemental Declaration on February 7, 2023. Respondent was served by mail on February 7, 2023. The court finds Petitioner's declaration to be late filed and as such, the court cannot consider it.

On February 16, 2023, the court ordered all prior orders to remain in full force and effect. Respondent shall have twice weekly video calls with the minors on Tuesday and Sunday at 5:00 pm Pacific Time. The calls can last up to 30 minutes. If the minors are struggling with the calls, they may be ended sooner than the 30 minutes.

The court set a further review hearing for August 17, 2023, to determine the progress in contact between the minors and Respondent as well as to obtain an update as to Respondent's incarceration status. Parties were ordered to file any Supplemental Declarations at least 10 days prior to the hearing. Failure to file a Supplemental Declaration may result in the matter being dropped from calendar.

Petitioner filed a Declaration on August 4, 2023. Proof of Services shows it was electronically served on Respondent on August 4, 2023. Petitioner asserts there has been little to no change since the last court date. Petitioner asserts Respondent has continued to struggle with substance abuse. Petitioner requests the court leave the current orders in place and that Respondent be required to file a Request for Order to modify the orders if and when it is appropriate.

Respondent has not filed a Supplemental Declaration.

The court has read and considered the filings as outlined above. The court finds the current orders remain in the minors' best interest. All prior orders remain in full force and effect. The court will not set a further review hearing. Petitioner shall prepare and file the Findings and Orders After Hearing.

TENTATIVE RULING #17: THE COURT FINDS THE CURRENT ORDERS REMAIN IN THE MINORS' BEST INTEREST. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. THE COURT WILL NOT SET A FURTHER REVIEW HEARING. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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DEPARTMENT 5

August 17, 2023

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

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

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DEPARTMENT 5

August 17, 2023

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

18. MATT KNESS V. JADE FRIES-KNESS

22FL0301

On June 15, 2023, the court adopted its tentative ruling, granting Respondent's Request for Order to list the former marital home for sale. Although, the court granted Respondent's request for attorney's fees as the prevailing party pursuant to the parties' judgment, the court continued the matter to August 17, 2023, to determine an amount, as Respondent had not set forth in a Declaration any specific amount that the court should award. Article 8.2 of the parties' Judgment states: "...the party prevailing in such proceeding will be entitled to recover from the other party reasonable attorney fees and costs necessarily expensed in the undertaking as determine by the court." The court could not determine what fees and costs have been incurred by Respondent to pursue this action without a Declaration from counsel on the issue. Respondent was ordered to file a Supplemental Declaration addressing attorney's fees and costs at least 10 days prior to the next hearing date.

Upon review of the court file, neither Respondent nor her counsel have filed a Declaration regarding attorney's fees and costs.

The court orders parties to appear for the hearing.

TENTATIVE RULING #18: THE PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.

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

19. MICHAEL NIELSEN V. LORENE NIELSEN

PFL20140434

Petitioner filed a Request for Order (RFO) on May 19, 2023, requesting the court modify the parenting plan. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on June 28, 2023, and a review hearing on August 17, 2023. Respondent and Minors' Counsel were served by mail on May 29, 2023. Petitioner requests the court order reunification counseling with a counselor of his choice and that telephone calls not be stopped by Respondent. Petitioner asserts he is unable to pay for the professionally supervised visitation.

Respondent filed a Responsive Declaration on July 26, 2023. Petitioner and Minors' Counsel were served by mail on July 26, 2023. Respondent objects to the requested modifications and requests Petitioner's phone calls be professionally supervised.

Minors' Counsel filed a Responsive Declaration and Statement of Issues and Contentions on August 2, 2023. The parties were served both by mail and electronically on August 1, 2023. Minors' Counsel objects to the requested modifications and requests the court keep the current orders in place.

Both parties attended CCRC on June 28, 2023, and were unable to reach an agreement. A report with recommendations was filed with the court on August 7, 2023. Copies were mailed to the parties on August 8, 2023.

The court was read and considered the filings as outlined above. The court finds the current orders remain in the minors' best interests. The court adopts the recommendation as set forth in the August 7, 2023 CCRC report.

Respondent shall prepare and file the findings and orders after hearing.

TENTATIVE RULING #19: THE COURT FINDS THE CURRENT ORDERS REMAIN IN THE MINORS' BEST INTERESTS. THE COURT ADOPTS THE RECOMMENDATION AS SET FORTH IN THE AUGUST 7, 2023 CCRC REPORT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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