

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 18, 2022

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

**13. CARISSA MASTEN V. NICHOLAS WHITE**

**21FL0210**

Petitioner filed a Request for Order (RFO) on June 30, 2022, requesting the court modify the current custody orders. Upon review of the case file, there is no proof of service showing Respondent was served with the RFO.

Respondent has not filed a Responsive Declaration.

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

**TENTATIVE RULING #13: THE MATTER IS DROPPED FROM CALENDAR DUE TO LACK OF SERVICE.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 18, 2022

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

**14. DCSS V. ARTURO MEDINA (OTHER PARENT: ANDREA ZAMORA)**

**PFS20200049**

Petitioner filed a Request for Order (RFO) on May 19, 2022 requesting the court make orders as to child custody and parenting time. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on June 22, 2022 and a review hearing on August 18, 2022. Upon review of the court file, there is a Proof of Personal Service, however, it does not state Respondent was the individual served.

Only Other Parent appeared at the CCRC appointment and as such, a single parent report with no agreement or recommendation was filed. A copy was mailed to the parties on June 22, 2022.

The court drops the matter from calendar due to lack of proper service.

**TENTATIVE RULING #14: THE MATTER IS DROPPED FROM CALENDAR SUE TO LACK OF PROPER SERVICE.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 18, 2022

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

**15. DCSS V. STEPHANIE RODRIGUES (OTHER PARENT: JENNIFER HILL)**

**PFS20200183**

Respondent filed a Request for Order (RFO) requesting Parenting time orders on May 23, 2022. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on June 24, 2022 and a review hearing on August 18, 2022. Other Parent was served by mail on May 23, 2022.

Only Other Parent appeared for the CCRC appointment. As such, a single parent CCRC report with no agreements or recommendations was filed. A copy was mailed to the parties on July 5, 2022.

As Respondent was the requesting party and failed to appear at the CCRC appointment, the court denies Respondent's request for parenting time.

All prior orders remain in full force and effect. Respondent shall prepare and file the Findings and Orders After Hearing.

**TENTATIVE RULING #15: THE COURT DENIES RESPONDENT'S RFO. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 18, 2022

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

**16. JEANINE MACDONALD V. JOSEPH MACDONALD**

**PFL20130414**

Petitioner filed a Request for Order (RFO) on May 27, 2022, requesting the court change the child custody and parenting time orders. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on June 30, 2022 and a review hearing on August 18, 2022. Upon review of the court file, there is no Proof of Service showing Respondent was served with the RFO and referral to CCRC. The court notes this is a post judgement modification of custody and Family Code section 215 applies.

Only Petitioner appeared for the CCRC appointment and therefore, a single parent report without an agreement or recommendations was issued. A copy of the report was mailed to the parties on July 5, 2022.

On August 4, 2022, Respondent filed a Responsive Declaration. Upon review of the court file, there is no Proof of Service showing Petitioner was served with the Responsive Declaration. Therefore, the court cannot consider this document.

On August 9, 2022, Petitioner filed a Declaration. Upon review of the court file, there is no Proof of Service showing this document was served on Respondent. Therefore, the court cannot consider this document.

The court finds good cause to rerefer the parties to CCRC for a new appointment on September 8<sup>th</sup>, 2022 at 1:00 PM. The minor is to be made available to the CCRC counselor for an interview at the counselor's request. The court continues the review hearing to October 27<sup>th</sup>, 2022 at 1:30 PM in Department 5. Petitioner is ordered to comply with Family code section 215 and serve Respondent with the RFO and her declaration, if she has not already done so, and file the Proof of Service with address verification forthwith. Respondent is ordered to serve Petitioner with the Responsive Declaration, if he has not already done so, and file the Proof of Service forthwith.

All prior orders not in conflict with this order remain in full force and effect. Petitioner shall prepare and file the Findings and Orders After Hearing.

**TENTATIVE RULING #16: THE COURT FINDS GOOD CAUSE TO REREFER THE PARTIES TO CCRC FOR A NEW APPOINTMENT ON SEPTEMBER 8<sup>TH</sup>, 2022 AT 1:00 PM. THE MINOR IS TO BE MADE AVAILABLE TO THE CCRC COUNSELOR FOR AN INTERVIEW AT THE COUNSELOR'S REQUEST. THE COURT CONTINUES THE REVIEW HEARING TO OCTOBER 27<sup>TH</sup>, 2022 AT 1:30 PM IN DEPARTMENT 5. PETITIONER IS ORDERED TO COMPLY WITH FAMILY CODE SECTION 215 AND SERVE RESPONDENT WITH THE RFO AND HER DECLARATION, IF SHE HAS NOT ALREADY DONE SO, AND FILE THE PROOF OF SERVICE WITH ADDRESS VERIFICATION FORTHWITH. RESPONDENT IS ORDERED TO SERVE PETITIONER WITH THE RESPONSIVE DECLARATION, IF HE HAS NOT ALREADY DONE SO, AND FILE THE PROOF OF SERVICE FORTHWITH. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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DEPARTMENT 5

August 18, 2022

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

**17. LAURIE HEYMAN V. SCOTT HEYMAN**

**PFL20090236**

On May 19, 2022, Respondent filed a Request for Order (RFO) requesting modification of the parenting time order and child support order, and imputation of income to Petitioner. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on June 24, 2022 and a review hearing on August 18, 2022. Petitioner was personally served on June 4, 2022. The court does not have Proof of Service showing DCSS was served with the RFO.

Respondent requests the court order a parenting plan for Respondent to have alternating weekends from Thursday after school or work until Sunday at 7:00 pm. Respondent also requests guideline child support be ordered for the minor. Respondent asserts Petitioner has been withholding the minor from his parenting time with Respondent for the past two months.

Parties attended CCRC on June 24, 2022 and were able to reach a full agreement. A copy of the CCRC report was mailed to the parties on June 24, 2022. The parties agree Respondent will have parenting time with the minor on alternating weekends from Friday to Sunday. Respondent and the minor will establish addition time each month based on their work schedules.

Petitioner filed a Responsive Declaration on June 30, 2022. Upon review of the court file, there is no Proof of Service showing Respondent or DCSS were served with this document, therefore, the court cannot consider it.

On July 7, 2022, DCSS filed a Responsive Declaration requesting the child support issue be put on the Child Support Commissioner's calendar pursuant to Family Code section 4251 after resolution of the parenting time issues. Parties were served by mail on July 6, 2022.

On August 1, 2022, Respondent filed a Supplemental Declaration. Respondent filed a Proof of Service stating Petitioner was served by mail, however, the form does not indicate the date on which the Supplemental Declaration was mailed to Petitioner. There is no Proof of Service showing DCSS was served. Therefore, the court cannot consider the document.

The court has read and considered the documents as set forth above. The court adopts the agreement of the parties as contained in the CCRC report. Respondent shall have parenting time with the minor every other weekend from Friday to Sunday. The court sets the request to modify child support on the Child Support Commissioner's calendar. Parties shall file and served updated Income and Expense Declarations at least 10 days prior to the next hearing. All prior orders not in conflict with this order remain in full force and effect.

Respondent shall prepare and file the Findings and Orders After Hearing.

**TENTATIVE RULING #17: THE COURT ADOPTS THE AGREEMENT OF THE PARTIES AS CONTAINED IN THE CCRC REPORT. RESPONDENT SHALL HAVE PARENTING TIME WITH THE MINOR EVERY OTHER WEEKEND FROM FRIDAY TO SUNDAY. THE COURT SETS THE REQUEST TO MODIFY CHILD SUPPORT ON THE CHILD SUPPORT COMMISSIONER'S CALENDAR ON SEPTEMBER 26<sup>TH</sup>, 2022 AT 8:30 AM IN DEPARTMENT 5 PARTIES SHALL FILE AND SERVED UPDATED INCOME AND EXPENSE DECLARATIONS AT LEAST 10 DAYS PRIOR TO THE NEXT HEARING. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS**

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**ORDER REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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

**18. SAMANTHA KOPP V. JUSTIN MOAR**

**PFL20180187**

On January 4, 2022, Petitioner filed a Request for Order (RFO) requesting a modification of the parenting time for Respondent. The parties were referred to Child Custody Recommended Counseling (CCRC) to take place on January 31, 2022. The court never received a proof of service evidencing that Respondent was provided notice of the CCRC referral, and Respondent did not appear at the CCRC appointment. The matter was dropped from calendar due to the lack of service.

On May 4, 2022, Petitioner again filed an RFO requesting modification of the visitation order. Petitioner is requesting a suspension of Respondent's parental visits until he has participated in a 90-day drug rehabilitation program and established a pattern of clean drug tests. Petitioner has not filed a responsive declaration. Parties were not referred to CCRC, as there had been a referral within the last six months.

On June 29, 2022, the court found good cause to rerefer the parties to CCRC. Petitioner was ordered to properly serve Respondent with notice of the referral. The court set a further review hearing for August 18, 2022, to review the CCRC report.

Both parties appeared for the CCRC appointment on July 7, 2022 but were unable to reach any agreements. A CCRC report was filed on August 9, 2022 and mailed to the parties on August 10, 2022. The court finds the recommendations to be in the minor's best interest and adopts them as its order. Respondent shall have supervised visits on the 1<sup>st</sup> and 3<sup>rd</sup> Sunday of the month. The parties may mutually agree to a non-professional 3<sup>rd</sup> party for supervision. If the parties are unable to agree, the visits will be professionally supervised. Respondent shall sign up for random drug testing separate from the Probation Department. Any missed or altered test will be considered positive. Respondent must submit to a drug test the Friday before his visit. If the visits supervisor believe Respondent is under the influence at a visit, the visit shall be cancelled and Respondent shall test the next day, Monday. If Respondent's Monday test result is negative, Petitioner shall bear the costs associated with the test, and the visit shall be made up the following Sunday. Respondent must complete a 90-day drug treatment program as previously ordered.

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 #18: THE COURT ADOPTS THE RECOMMENDATIONS AS CONTAINED IN THE 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.**

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August 18, 2022

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

**19. SHELLY MCGAGIN V. MARK WARREN**

**22FL0509**

Petitioner filed an ex parte request for emergency order for temporary exclusive use and control of the family home, located at 2724 Westville Trail in Cool, California on June 13, 2022. On June 14, 2022 the court denied the request. On June 14, 2022, Petitioner filed a Request for Order (RFO) making the same request as set forth in the ex parte request. Upon review of the court file there is no Proof of Service showing Respondent was served with the RFO.

Respondent filed a Responsive Declaration on August 5, 2022. Petitioner was served my mail on August 3, 2022. Respondent consents to Petitioner's request to have exclusive use and control of the family home on the condition Petitioner continues to be responsible for any and all obligations regarding the property as well as Petitioner being ordered to maintain the property, and that no one else is allowed to reside at the property, other than the parties' children, without the express written consent of Respondent.

The court grants Petitioner's request for temporary exclusive use and control of the property located at 2724 Westville Trail in Cool, California. Petitioner shall be responsible for the expenses and maintenance associated with the home. The court denies Respondent's request that no one other than Petitioner and the children reside at the property. Respondent has offered no authority allowing the court to make such an order. Further, Respondent has offered no grounds on which such a request should be granted.

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 #19: THE COURT GRANTS PETITIONER'S REQUEST FOR TEMPORARY EXCLUSIVE USE AND CONTROL OF THE PROPERTY LOCATED AT 2724 WESTVILLE TRAIL IN COOL, CALIFORNIA. PETITIONER SHALL BE RESPONSIBLE FOR THE EXPENSES AND MAINTENANCE ASSOCIATED WITH THE HOME. THE COURT DENIES RESPONDENT'S REQUEST THAT NO ONE BESIDE PETITIONER AND THE CHILDREN RESIDE AT THE PROPERTY. RESPONDENT HAS OFFERED NO AUTHORITY ALLOWING THE COURT TO MAKE SUCH AN ORDER. FURTHER, RESPONDENT HAS OFFERED NO GROUND ON WHICH SUCH A REQUEST SHOULD BE GRANTED. 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.**