

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 21, 2022

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

1. ASHLEY MORGAN V. RYAN GRIPP

PFL20200341

On June 30, 2022, Petitioner filed a Request for Order (RFO) requesting the following orders: (1) Respondent shall endorse the checks in Petitioner's possession; (2) Petitioner shall pay the full amount of the mortgage to Nation Star Mortgage; (3) The remaining balance of the proceeds shall be divided equally; (4) Respondent shall be credited with having previously received \$112,931.55 towards his share of the remaining proceeds; (5) In the event Respondent refuses to execute the checks, that the Clerk of the court be appointed as Elisor to endorse the checks; (6) The Grizzly Flat property be listed for sale and, upon sale, the parties divide the proceeds equally. The RFO and other required documents were served via personal service and U.S. Mail on July 21, 2022. Respondent has not filed a response.

According to Petitioner, she and Respondent entered into an agreement for the division of community and separate property which was codified in the judgment of the court entered on October 7, 2020. The agreement states that Respondent is to get "[t]he equity in the real property located" in Grizzly Flats and he was to pay the mortgage on the property. The title to the property was not changed after entry of the judgment but the dwelling located on the property has since burned down.

Respondent received \$112,931.55 as a portion of the insurance payout. Petitioner is of the belief that this amount has been spent by Respondent. Petitioner has a check for \$315,079.29, which accounts for the remainder of the insurance payout. Respondent is refusing to endorse the check.

Petitioner is seeking a court order requiring Respondent to endorse the check, or allowing the Clerk of court to do so instead. Once cashed, Petitioner would like to use the money to pay off the mortgage on the property and then sell the property. Petitioner asks that the proceeds then be equally divided amongst the parties, with a credit to Respondent for the \$112,931.55 he already received and spent.

Petitioner relies on Family Code § 2550, which states in pertinent part "[e]xcept upon the written agreement of the parties...the court shall, either in its judgment of dissolution of the marriage, in its judgment of legal separation of the parties, or at a later time if it expressly reserves jurisdiction to make such a property division, divide the community estate of the parties equally." However, it seems the provisions of section 5226 are more suitable to the present situation: "In a proceeding for dissolution of marriage...the court has continuing jurisdiction to award community estate assets or community estate liabilities to the parties that have not previously been adjudicated by a judgment in the proceeding...In these cases, the court shall equally divide the omitted or unadjudicated community estate asset or liability, unless the court finds upon good cause shown that the interests of justice require an unequal division of the asset or liability."

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Petitioner asserts that the judgment is silent on the division of the title to the real property. The court disagrees. Respondent was assigned the mortgage on the property in exchange for the fact that he was also receiving the "equity" in it. As the term is commonly colloquially used, giving up her equity interest in the property is giving up her ownership interest. More literally speaking, "equity" is the value of the ownership interest in the property above any liens or amounts owed on the property. Even if Petitioner maintained her name on the title to the property, she gave up any financial value to her portion of the title. The insurance proceeds are directly representative of the value of the structure that was on the property prior to burning. Thus, any proceeds from the insurance company that are in excess of the amount of the mortgage owed are rightly to go to Respondent. Petitioner, in keeping with her duties of section 1(g) of the judgment is to "...execute any and all documents required to carry out" the division of the separate property. The fact that the parties did not remove Petitioner from either the mortgage or the title is immaterial as Petitioner fully conceded any financial interest that her portion of the title would have afforded her when she agreed to award Respondent the equity in the property.

Petitioner does request an order to pay off the Nation Star Mortgage. The judgment is clear that Respondent is to be responsible for the mortgage of the property. The court notes section 2(f) of the judgment which states in part, "[e]ach party will be solely responsible for paying the debts assigned to him or her and will hold the other harmless from those debts. The parties understand that the creditors are not bound by this judgment..." Given that Respondent has been couched with the responsibility of paying the mortgage, regardless of the fact that Petitioner was not taken off the mortgage, the court does find it appropriate to order Respondent to pay off the mortgage on the property.

In keeping with the foregoing, the court grants Petitioner's request to order the payoff of the Nation Star Mortgage but with the following modification: Respondent shall be ordered to payoff the Nation Star Mortgage. All other requests in Petitioner's RFO are denied.

TENTATIVE RULING #1: RESPONDENT IS ORDERED TO PAYOFF THE NATION STAR MORTGAGE. ALL OTHER REQUESTS IN PETITIONER'S RFO ARE DENIED. PETITIONER IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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2. CAROL BUNTING V. DARRYL BUNTING

PFL20200573

On June 30, 2022, Respondent filed a Request for Order (RFO) requesting an order compelling Petitioner to produce documents in response to Respondent's Request for Production of Documents, Set One and sanctions in the amount of \$2,000. The RFO was served via U.S. mail on the day of filing. In response to the RFO, a Declaration of Michael Phillips, CPA was filed and served on August 15, 2022.

Respondent served Respondent's Demand for Production of Documents, Set No. 1 on March 24, 2022, thereby making Petitioner's responses due on or before April 28, 2022. When no responses were provided, Respondent's counsel attempted to meet and confer by way of sending two letters, both of which indicated counsel's willingness to unilaterally grant a 45-day extension of time to respond. A final attempt at meeting and conferring was done on June 3rd via another letter, this time granting an additional two weeks to respond. It was not until June 8, 2022, that Petitioner's attorney responded with a letter agreeing to produce the documents no later than June 16th. As of the date of filing the RFO, Respondent has still not received any responses to the requested discovery.

Respondent maintains that the requested documents are relevant to the division of the sale proceeds of jointly owned real property, for the sale of household goods, and to determine the characterization of money withdrawn from the parties' joint bank account post-separation as well as the money remaining in the account.

According to the declaration of Mr. Phillips, Petitioner's bank statements have been obtained and transmitted to Respondent. He asserts that the delay in response was largely due to the need to obtain the documents from outside sources as opposed to any lack of cooperation on the part of Petitioner.

Respondent has not filed a response to the declaration of Mr. Phillips.

Responses

Generally speaking, "...a party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence." Cal. Civ. Pro. § 2017.010. Among the authorized forms of discovery is a request for the production of documents and other tangible things. Within 30 days of the service of a demand for production of documents, a party shall serve full and complete responses, with verifications, or objections in accordance with the rules of civil procedure. Cal. Civ. Pro. § 2031.260(a)

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“A party to whom a demand for inspection, copying, testing, or sampling has been directed shall respond separately to each item or category of item by any of the following:” (1) a statement that the party will comply, (2) a statement that the party lacks the ability to comply, or (3) an objection to the demand or request made. Cal. Civ. Pro. §2031.210. Where a party fails to provide timely responses the party to whom the discovery was directed waives “any objection...including one based on privilege or on the protection of work product...” Cal. Civ. Pro. §2031.300(a).

While Mr. Phillips’ declaration is helpful to shed some light on the cause of the delay in producing the requested documents, the court does not have any information regarding whether or not the production of documents was in a manner compliant with the California Code of Civil Procedure. The documents at issue are quite clearly relevant and discoverable and, according to Mr. Phillips, they have been produced. However, Petitioner is still required to ensure that responses are provided that affirm either that a diligent search has been conducted and all of the documents in Petitioner’s possession and control have been provided or are not in existence. Petitioner is to provide verifications under oath that the responses are true and correct to the best of Petitioner’s ability.

Given that Respondent has a right to responses and verifications compliant with the Code of Civil Procedure, and given that Petitioner did not serve responses timely and has therefore waived her right to assert any objections, the court orders Petitioner to produce full and complete responses to Respondent’s Demand for Production of Documents, Set No. 1, without objections, no later than September 8, 2022. Such responses shall fully comply with the provisions of California Code of Civil Procedure §2031 et. seq..

Sanctions

The court *may* issue monetary sanctions simply on a showing that the noncompliant party engaged in an unjustified “misuse of the discovery process,” regardless of whether or not the noncompliant party opposes the motion. Cal. Civ. Pro. § 2032.030(a). Where sanctions are requested the notice of motion shall be “accompanied by a declaration setting forth facts supporting the amount of any monetary sanction sought.” Cal. Civ. Pro. § 2023.040.

Here, Respondent requests sanctions in the amount of \$2,000. However, there is nothing in Respondent’s declaration or the accompanying Memorandum of Points and Authorities that sets forth the facts supporting the amount of sanctions sought. It is unclear how Respondent arrived at that number and if the entirety of the amount requested is directly related to Petitioner’s failure to respond to discovery. Accordingly, Respondent’s request for sanctions is denied.

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TENTATIVE RULING #2: THE COURT ORDERS PETITIONER TO PRODUCE FULL AND COMPLETE RESPONSES TO RESPONDENT'S DEMAND FOR PRODUCTION OF DOCUMENTS, SET NO. 1, WITHOUT OBJECTIONS, NO LATER THAN SEPTEMBER 8, 2022. SUCH RESPONSES SHALL FULLY COMPLY WITH THE PROVISIONS OF CALIFORNIA CODE OF CIVIL PROCEDURE §2031 ET. SEQ. RESPONDENT'S REQUEST FOR SANCTIONS IS DENIED. RESPONDENT IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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3. CHRISTOPHER MICHAEL STARR V. LEILANI ALICE STARR

21FL0079

On March 25, 2022, Petitioner filed a Request for Order (RFO) requesting several discovery orders regarding witness testimony and asking for sanctions against Respondent pursuant to Family Code § 271 and the Civil Discovery Act.

The RFO came before the court for hearing on March 25th. The court made orders on all discovery requests and reserved on the issue of sanctions. On April 5, 2022, the DVRO came before the court for hearing but was continued. The court again reserved on the issue of sanctions requested in the RFO.

On June 14, 2022, after several days of trial on the DVRO, the court granted the DVRO, referred the parties to Child Custody Recommending Counseling (CCRC) and set the matter for a review hearing on August 25, 2022. The court again reserved on the issue of sanctions.

To date, it appears that a CCRC report has not yet been issued. As such, the matter is continued to October 6th, 2022 at 8:30 AM in Department 5 to review the CCRC report and rule on the issues of sanctions. The court reserves the right to award sanctions back to the date of filing of the RFO.

TENTATIVE RULING #3: THE MATTER IS CONTINUED TO OCTOBER 6TH, 2022 AT 8:30 AM IN DEPARTMENT 5 TO REVIEW THE CCRC REPORT AND RULE ON THE ISSUES OF ATTORNEY'S FEES AND SANCTIONS. THE COURT RESERVES THE RIGHT TO AWARD SANCTIONS BACK TO THE DATE OF FILING OF THE RFO.

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5. GARREN BRATCHER V. EMMALEIGH BRATCHER

PFL20140350

On June 3, 2022, Respondent filed an Ex Parte Application and Declaration for Orders and Notice requesting sole physical and legal custody of the minor children and no visitation to Petitioner. The ex parte was denied and the parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on July 7, 2022. A hearing on the issue was set for August 25, 2022.

On June 6, 2022 Respondent filed her Request for Order (RFO) making the same requests as set forth in her ex parte application. There is a Notice and Acknowledgement of Receipt on file indicating that Petitioner was served with the RFO and CCRC questionnaire.

Also on June 6th, the parties filed a Stipulation and Order for Custody and/or Visitation of Children. At that time, they agreed that, among other things, the minor E.B. will not have any visitation with Petitioner until either July 7th, if an agreement is reached at mediation, or until August 25th if the parties cannot agree at mediation and a hearing on the motion is conducted. Respondent will have only supervised visits with the minor R.B. as agreed upon by the parties. On August 9th the stipulation was re-filed to correct a clerical error. Nothing substantive had changed.

After reviewing the file, it appears that the CCRC report was not issued until August 16, 2022 and not mailed to the parties until August 18, 2022. To allow the parties time to review and respond to the CCRC report, the court continues the matter to October 6th, 2022 at 8:30 AM in Department 5 for a review of the CCRC report and ruling on the RFO.

TENTATIVE RULING #5: THE COURT CONTINUES THE MATTER TO OCTOBER 6TH, 2022 AT 8:30 AM IN DEPARTMENT 5 FOR A REVIEW OF THE CCRC REPORT AND RULING ON THE RFO.

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

6. HENRY BERNARD V. BEATRIZ BERNARD

PFL20210038

On May 6, 2022, Petitioner filed a Request for Order (RFO) requesting a modification of temporary spousal support. Upon review of the court file, there is no Proof of Service showing Respondent was served with the RFO. Petitioner had previously filed an Income and Expense Declaration on April 15, 2022. There is no Proof of Service showing Respondent was served with the Income and Expense Declaration.

Respondent filed a Responsive Declaration on July 8, 2022. It was served by mail on Petitioner on July 11, 2022. In her Response, Respondent states she received a copy of the RFO in the mail on June 28, 2022. Therefore, the court finds Respondent has received actual notice of the requested orders. Respondent filed an Income and Expense Declaration on July 8, 2022. It was served concurrently on Petitioner with the Responsive Declaration. Respondent requests the court deny the request to modify spousal support as both parties are on fixed retirement incomes at the time the court made its prior order and neither parties' incomes have changed since that time. Respondent asserts the figures provided by Petitioner in the April Income and Expense Declaration are incorrect. Respondent requests the court order Family Code section 271 sanctions as Petitioner's attorney failed to meet and confer or communicate with Respondent's counsel regarding this RFO, despite repeated efforts. Respondent requests Petitioner be ordered to produce his retirement account and pension statements for a QDRO to be prepared.

In his April 15, 2022 filed Income and Expense Declaration, Petitioner lists his monthly income from pension/retire funds is \$6,956 per month. However, based on the attached paystubs, the average monthly gross income Petitioner receives is \$8,907. The net amount stated in the pay stub is \$6,993. Petitioner also receives social security payments in the amount of \$2,631 per month. Petitioner receives an additional \$332 per month from a second pension. Petitioner has not attached any paystubs for social security or the second pension.

Respondent receives \$1,084 in social security income each month in addition to \$3,279 in spousal support.

Utilizing the above figures, the court finds guideline temporary spousal support to be \$3,355 per month. See attached DissoMaster. Beginning June 1, 2022, the court orders Petitioner to pay Respondent \$3,355 per month as and for temporary spousal support. Payment is due the 1st of each month until further court order or termination by operation of law.

The court finds this order results in an arrears balance of \$228. Petitioner is ordered to pay Respondent \$228 as and for arrears on or before September 15, 2022.

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The court denies Respondent's request to order Petitioner to produce his retirement account statements, as the court finds that exceeds the scope of Petitioner's RFO.

The court grants Respondent's request for Family Code section 271 sanctions, as the court finds the failure to communicate by Petitioner's counsel as well as the late service of the RFO has frustrated the policy of reducing litigation and promoting settlement. The court orders Petitioner to pay Respondent \$1,000 as and for Family Code 271 sanctions. Petitioner may pay in monthly installments of \$200 payable on the 15th of each month until paid in full. The first payment is due September 15, 2022.

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 #6: THE COURT ORDERS GUIDELINE TEMPORARY SPOUSAL SUPPORT AS SET FORTH ABOVE. THE COURT DENIES RESPONDENT'S REQUEST TO ORDER PETITIONER TO PRODUCE HIS RETIREMENT ACCOUNT STATEMENTS, AS THE COURT FINDS THAT EXCEEDS THE SCOPE OF PETITIONER'S RFO. THE COURT ORDERS PETITIONER TO PAY RESPONDENT \$1,000 AS AND FOR FAMILY CODE 271 SANCTIONS. PETITIONER MAY PAY IN MONTHLY INSTALLMENTS OF \$200 PAYABLE ON THE 15TH OF EACH MONTH UNTIL PAID IN FULL. THE FIRST PAYMENT IS DUE AUGUST 15, 2022. 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.

| | | |
|--|---------------|--|
| ATTORNEY (NAME AND ADDRESS): EDC Court California ATTORNEY FOR: | TELEPHONE NO: | Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME: |
| DISSOMASTER REPORT 2022, Monthly | | CASE NUMBER: PFL20210038 |

| Input Data | Pet. | Resp. | Guideline (2022) | Cash Flow Analysis | Pet. | Resp. |
|-----------------------------------|--------|--------|--------------------------------|------------------------------|---------|-------|
| Number of children | 0 | 0 | Nets (adjusted) | Guideline | | |
| % time with Second Parent | 0% | 0% | Pet. | 9,654 Payment (cost)/benefit | (3,043) | 3,300 |
| Filing status | Single | Single | Resp. | 1,030 Net spendable income | 6,299 | 4,384 |
| # Federal exemptions | 1* | 1* | Total | 10,684 % combined spendable | 59% | 41% |
| Wages + salary | 0 | 0 | Support (Nondeductible) | Total taxes | 2,216 | 54 |
| 401(k) employee contrib | 0 | 0 | SS Payor | Pet. # WHA | 0 | 0 |
| Self-employment income | 0 | 0 | Alameda | 3,355 Net wage paycheck/mo | 0 | 0 |
| Other taxable income | 11,870 | 1,084 | Total | 3,355 Comb. net spendable | 10,684 | |
| Short-term cap. gains | 0 | 0 | Proposed, tactic 9 | Proposed | | |
| Long-term cap. gains | 0 | 0 | SS Payor | Pet. Payment (cost)/benefit | (3,043) | 3,300 |
| Other gains (and losses) | 0 | 0 | Alameda | 3,355 Net spendable income | 6,299 | 4,384 |
| Ordinary dividends | 0 | 0 | Total | 3,355 NSI change from gdl | 0 | 0 |
| Tax. interest received | 0 | 0 | Savings | 0 % combined spendable | 59% | 41% |
| Social Security received | 2,631 | 1,084 | No releases | % of saving over gdl | 0% | 0% |
| Unemployment compensation | 0 | 0 | | Total taxes | 2,216 | 54 |
| Operating losses | 0 | 0 | | # WHA | 0 | 0 |
| Ca. operating loss adj. | 0 | 0 | | Net wage paycheck/mo | 0 | 0 |
| Roy, partnerships, S corp, trusts | 0 | 0 | | Comb. net spendable | 10,684 | |
| Rental income | 0 | 0 | | Percent change | 0.0% | |
| Misc ordinary tax. inc. | 9,239 | 0 | | Default Case Settings | | |
| Other nontaxable income | 0 | 0 | | | | |
| New-spouse income | 0 | 0 | | | | |
| Adj. to income (ATI) | 0 | 0 | | | | |
| SS paid other marriage | 0 | 0 | | | | |
| Ptr Support Pd. other P'ships | 0 | 0 | | | | |
| CS paid other relationship | 0 | 0 | | | | |
| Health Ins. | 0 | 0 | | | | |
| 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 | | | | |
| Required union dues | 0 | 0 | | | | |
| Cr. for Pd. Sick and Fam. L. | 0 | 0 | | | | |
| Mandatory retirement | 0 | 0 | | | | |
| Hardship deduction | 0* | 0* | | | | |
| Other gdl. deductions | 0 | 0 | | | | |
| AMT info (IRS Form 6251) | 0 | 0 | | | | |
| Child support add-ons | 0 | 0 | | | | |
| TANF, SSI and CS received | 0 | 0 | | | | |

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7. JAIME LYNN LUPER V. RICHARD JAMES LIMING

PFL20180266

On June 20, 2022, Respondent filed an Order to Show Cause and Affidavit for Contempt (OSC) regarding Petitioner's numerous alleged violations of custody orders. On July 18, 2022, Respondent filed a Declaration of Non-Service which indicates that service of the OSC was unsuccessfully attempted five times. There is no indication that service was ever effectuated. Accordingly, the matter is dropped from the court's calendar.

TENTATIVE RULING #7: THE MATTER IS DROPPED FROM THE COURT'S CALENDAR.

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8. JUAN MORA V. MADISON WILLIAMS

22FL0465

Petitioner filed his Request for Order (RFO) on May 24, 2022. It was served on May 28, 2022, via personal service. Respondent filed and served her Responsive Declaration to Request for Order on June 24, 2022. The parties attended Child Custody Recommending Counseling (CCRC) on June 23, 2022, and a report was issued on August 12, 2022. The report was thereafter mailed to the parties on August 16, 2022.

In his RFO, Petitioner requests orders for joint legal and physical custody with equal parenting time on a 2-2-3 schedule or something similar to that. He also requests that the minor be enrolled in school in El Dorado County, the child get necessary dental care and the Petitioner to be allowed to take him to such dental care, and he requests that Respondent keep the child in a safe, sanitary environment during her parenting time.

A Supplemental Declaration Re: CCRC Report of Norman C. Labat from Respondent was filed on August 19, 2022 and served electronically the same day. However, the court notes that given the delay in the mailing of the CCRC report Petitioner has had insufficient time to review and respond to Respondent's supplemental declaration and the CCRC report. As such, the court continues the matter to October 6th, 2022 at 8:30 AM in Department 5.

TENTATIVE RULING #8: THE COURT CONTINUES THE MATTER TO OCTOBER 6TH, 2022 AT 8:30 AM IN DEPARTMENT 5 FOR REVIEW OF THE CCRC REPORT.

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9. KELLY DAWN HESKETT V. JACOB LEE HESKETT

22FL0435

On June 27, 2022, Petitioner filed a Request for Order (RFO) requesting guideline spousal support. Concurrently therewith she filed her Income and Expense Declaration. Both documents were served on July 5, 2022, via U.S. mail. Respondent filed his Responsive Declaration to Request for Order on July 27, 2022. His response was served the day prior on July 26, 2022, via electronic service.

Respondent's July 27th response was not accompanied by an Income and Expense Declaration. On August 23, 2022, Respondent filed another Declaration along with his Income and Expense Declaration. The court notes these documents were untimely and have not been served. As such, the matter is continued to October 20th, 2022 at 8:30 AM in Department 5. Respondent is ordered to serve his August 23, 2022 declaration and his Income and Expense Declaration (FL-150) no later than 10 days prior to the hearing date. The court reserves jurisdiction to award spousal support back to the date of filing of the RFO.

TENTATIVE RULING #9: THE MATTER IS CONTINUED TO OCTOBER 20TH, 2022 AT 8:30 AM IN DEPARTMENT 5. RESPONDENT IS ORDERED TO SERVE HIS AUGUST 23, 2022 DECLARATION ALONG WITH HIS INCOME AND EXPENSE DECLARATION (FL-150) NO LATER THAN 10 DAYS PRIOR TO THE HEARING DATE. THE COURT RESERVES JURISDICTION TO AWARD SPOUSAL SUPPORT BACK TO THE DATE OF FILING THE RFO.

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

10. LISA RENNER V. CHRISTOPHER RENNER

PFL20210613

On April 4, 2022, Respondent filed a Request for Order (RFO) requesting child custody and visitation orders. The parties were referred to Child Custody Recommending Counseling (CCRC) and a review hearing was set for June 23, 2022; it was later stipulated that the June 23rd hearing date would be continued to August 25, 2022. The RFO and CCRC referral were served electronically on April 11th.

The parties attended CCRC on May 9, 2022 and a report was issued on May 31st. The report was sent to the parties that same day.

By way of the RFO, Respondent requests that the court order joint legal and joint physical custody of the minor children, a referral to mediation to discuss a 5-2-2-5 parenting plan, and an order requiring each of the parties to update one another during their respective parenting time. Petitioner has not filed any response or opposition to the RFO.

The parties attended CCRC and were able to reach agreements regarding legal custody, holidays, and a number of additional provisions. In addition to the agreements reached, the CCRC counselor provides recommendations regarding the parenting plan, exchanges, and additional provisions.

Upon reviewing the above-referenced RFO and the CCRC report, the court finds the agreements and recommendations in the CCRC report to be in the best interest of the minors. The court, therefore, adopts the agreements and recommendations of the CCRC report as the order of the court.

TENTATIVE RULING #10: THE COURT ADOPTS THE AGREEMENTS AND RECOMMENDATIONS OF THE CCRC REPORT AS THE ORDER OF THE COURT. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. RESPONDENT IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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11. MATTHEW HICKS V. TIFFINE CHRISTINE WOODSIDE

22FL0345

On April 19, 2022, Petitioner filed a Request for Domestic Violence Restraining Order (DVRO). A temporary restraining order (TRO) was granted, Petitioner was temporarily given sole legal and physical custody and a hearing was set for June 10, 2022. The TRO and notice of hearing were personally served on April 20, 2022.

At the June 10th hearing the court set a short cause trial for June 15, 2022. At the June 15th hearing the court ordered joint legal custody and sole physical custody to Petitioner. Respondent was to have professionally supervised visitation. The remainder of the issues were continued to July 5th.

At the July 5th hearing the court dismissed the request for a restraining order and vacated all prior orders and ordered the parties to attend Child Custody Recommending Counseling (CCRC). A review hearing was then set for August 25, 2022.

The parties attended CCRC on July 12, 2022. A report was issued on August 15, 2022, and mailed to the parties on August 16, 2022. The parties were unable to reach any agreements at CCRC, but the CCRC counselor did make several recommendations in his report. Among CCRC's recommendations is that the minor not have any contact with Petitioner's girlfriend until a CASA report is issued regarding the allegations of the girlfriend's background of child endangerment. That report is to be issued under a concurrent and ongoing El Dorado County case number PFL20170682.

The CASA report in the foregoing matter has been received and reviewed by the court. CASA found that there are no restrictions on the girlfriend's ability to lawfully be around children.

On August 18, 2022, Respondent filed a Supplemental Declaration of Tiffine Woodside. It was served via U.S. Mail the same day. In her supplemental declaration, Respondent requests sole legal and physical custody of the minor and supervised visitation to Respondent. According to Respondent, since the parties have been operating without custody orders since the July 5th hearing, Petitioner has completely withheld the minor from Respondent.

After reviewing the filings of the parties as well as the CCRC and CASA reports, the court feels that the recommendations of the CCRC report are in the best interest of the minor and as such, the court adopts the recommendations of the CCRC report as the order of the court.

TENTATIVE RULING #11: THE RECOMMENDATIONS OF THE CCRC REPORT ARE ADOPTED AS THE ORDER OF THE COURT. PETITIONER TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

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12. OKSANA KRYLOV V. VICTOR KRYLOV

PFL20210267

On March 23, 2022, Petitioner filed a Request for Order (RFO) requesting the court order child and spousal support. Petitioner concurrently filed an Income and Expense Declaration. Respondent was served by mail on April 1, 2022. Petitioner is requesting guideline child support and spousal support. There is a Domestic Violence Restraining Order (DVRO) protecting Petitioner and the minor from Respondent. The DVRO was issued on May 28, 2021 and expires on May 28, 2024.

Respondent filed a Responsive Declaration and an Income and Expense Declaration on May 11, 2022. Petitioner was served by mail on May 11, 2022. Respondent consents to guideline child support but requests the court deny Petitioner's request for spousal support. Respondent asserts Petitioner is able to work and sustain herself financially. Respondent asserts Petitioner's monthly income is \$9,029.

Petitioner's monthly average income is \$4330, based on the March 23, 2022 filed Income and Expense Declaration. Petitioner also receives on average \$715 per month in overtime. Petitioner pays \$74.28 per month in required union dues. Petitioner also has deductions of \$335 per month for property taxes.

Respondent's monthly average income is \$4,965 based on his May 11, 2022 filed Income and Expense Declaration. Respondent also receives an average of \$30 per month in overtime. Respondent has not listed any deductions.

Utilizing the above numbers with the parties filing taxes as married filing separately and a 100% timeshare to Petitioner, the guideline child support is \$898 per month payable by Respondent to Petitioner and temporary spousal support per the Alameda formula is \$0. See attached DissoMaster Report. The court orders Respondent to pay \$898 per month as and for child support commencing on April 1, 2022, until further order of the court or termination by operation of law. Petitioner may collect the support via wage garnishment by filing an Income Withholding Order with the court.

This order results in an arrears balance for the months of April through August of \$4,490. The court orders Respondent to pay Petitioner \$224.50 per month as and for arrears due starting September 15, 2022 and due on the 15th of each month until paid in full (approximately 20 months). If there is a missed payment, the remainder is due in full with legal interest.

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 21, 2022

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

TENTATIVE RULING #7: THE COURT ORDERS RESPONDENT TO PAY \$898 PER MONTH AS AND FOR CHILD SUPPORT COMMENCING ON APRIL 1, 2022, UNTIL FURTHER ORDER OF THE COURT OR TERMINATION BY OPERATION OF LAW. PETITIONER MAY COLLECT THE SUPPORT VIA WAGE GARNISHMENT BY FILING AN INCOME WITHHOLDING ORDER WITH THE COURT. THIS ORDER RESULTS IN AN ARREARS BALANCE FOR THE MONTHS OF APRIL THROUGH AUGUST OF \$4,490. THE COURT ORDERS RESPONDENT TO PAY PETITIONER \$224.50 PER MONTH AS AND FOR ARREARS DUE STARTING SEPTEMBER 15, 2022 AND DUE ON THE 15TH OF EACH MONTH UNTIL PAID IN FULL (APPROXIMATELY 20 MONTHS). IF THERE IS A MISSED PAYMENT, THE REMAINDER IS DUE IN FULL WITH LEGAL INTEREST. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE FINDINGS AND ORDERS AFTER HEARING.

| | | |
|---|-------------------------------------|--|
| ATTORNEY (NAME AND ADDRESS): EDC Court California | TELEPHONE NO: | Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME: |
| ATTORNEY FOR: | DISSOMASTER REPORT 2022, Monthly | |
| | | CASE NUMBER: PFL 20210267 |

| Input Data | Resp. | Pet. | Guideline (2022) | Cash Flow Analysis | Resp. | Pet. |
|-----------------------------------|-------|--------|---------------------------|--------------------|------------------------------|--------------------|
| Number of children | 0 | 1 | Nets (adjusted) | Guideline | | |
| % time with Second Parent | 0% | 0% | Resp. | 3,881 | Payment (cost)/benefit | (898) 898 |
| Filing status | MFS-> | HH/MLA | Pet. | 3,735 | Net spendable income | 2,983 4,633 |
| # Federal exemptions | 1* | 2* | Total | 7,616 | % combined spendable | 39.2% 60.8% |
| Wages + salary | 4,965 | 4,330 | Support | | Total taxes | 1,084 521 |
| 401(k) employee contrib | 0 | 0 | CS Payor | Resp. # WHA | 0 | 8 |
| Self-employment income | 0 | 0 | Presumed | 898 | Net wage paycheck/mo | 3,899 3,816 |
| Other taxable income | 0 | 0 | Basic CS | 898 | Comb. net spendable | 7,616 |
| Short-term cap. gains | 0 | 0 | Add-ons | 0 | Proposed | |
| Long-term cap. gains | 0 | 0 | Presumed Per Kid | | Payment (cost)/benefit | (956) 957 |
| Other gains (and losses) | 0 | 0 | Child 1 | 898 | Net spendable income | 3,127 4,490 |
| Ordinary dividends | 0 | 0 | Alameda | 0 | NSI change from gdl | 144 (143) |
| Tax. interest received | 0 | 0 | Total | 898 | % combined spendable | 41.1% 58.9% |
| Social Security received | 0 | 0 | Proposed, tactic 9 | | % of saving over gdl | 18984.7% -18884.7% |
| Unemployment compensation | 0 | 0 | CS Payor | Resp. Total taxes | 881 | 723 |
| Operating losses | 0 | 0 | Presumed | 944 | # WHA | 2 3 |
| Ca. operating loss adj. | 0 | 0 | Basic CS | 944 | Net wage paycheck/mo | 4,004 3,589 |
| Roy, partnerships, S corp, trusts | 0 | 0 | Add-ons | 0 | Comb. net spendable | 7,617 |
| Rental income | 0 | 0 | Presumed Per Kid | | Percent change | 0.0% |
| Misc ordinary tax. inc. | 0 | 0 | Child 1 | 944 | Default Case Settings | |
| Other nontaxable income | 0 | 0 | SS Payor | Resp. | | |
| New-spouse income | 0 | 0 | Alameda | 13 | | |
| Adj. to income (ATI) | 0 | 0 | Total | 957 | | |
| SS paid other marriage | 0 | 0 | Savings | 1 | | |
| Ptr Support Pd. other P'ships | 0 | 0 | Total releases to Resp. | 1 | | |
| CS paid other relationship | 0 | 0 | | | | |
| Health ins. | 0 | 0 | | | | |
| Qual. Bus. Inc. Ded. | 0 | 0 | | | | |
| Itemized deductions | 0 | 335 | | | | |
| Other medical expenses | 0 | 0 | | | | |
| Property tax expenses | 0 | 335 | | | | |
| Ded. interest expense | 0 | 0 | | | | |
| Charitable contribution | 0 | 0 | | | | |
| Miscellaneous itemized | 0 | 0 | | | | |
| Required union dues | 0 | 74 | | | | |
| Cr. for Pd. Sick and Fam. L. | 0 | 0 | | | | |
| Mandatory retirement | 0 | 0 | | | | |
| Hardship deduction | 0* | 0* | | | | |
| Other gdl. deductions | 0 | 0 | | | | |
| AMT info (IRS Form 6251) | 0 | 0 | | | | |
| Child support add-ons | 0 | 0 | | | | |
| TANF, SSI and CS received | 0 | 0 | | | | |



LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 21, 2022

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

13. YVONNE CROPP V. DAVID CROPP

PFL20200691

Respondent filed a Request for Order (RFO) on June 22, 2022 requesting the court grant a motion to bifurcate on the issue of rescinding the Separation Agreement and Quit Claim Deed on Grounds of Undue Influence, Breach of Fiduciary Duty, and Coercion. Petitioner was served by mail on June 23, 2022.

Respondent asserts the court should first determine whether to set aside the parties' separation agreement and quit claim deed signed in November 2018, prior to proceeding with the remaining issues. Respondent asserts the separation agreement and quit claim deed should be set aside as he was unduly influenced and coerced to enter into the agreements by Petitioner. Respondent also asserts the Petitioner breached her fiduciary duty to Respondent.

Respondent filed a Supplemental Declaration and Memorandum of Points and Authorities to support his motion to rescind on July 29, 2022. Petitioner was personally served on July 28, 2022.

Petitioner filed a Responsive Declaration on August 11, 2022. Respondent was served by mail on August 11, 2022. Petitioner asserts the separation agreement and quit claim deed were a carefully bargained for agreements between the parties and therefore, the court should deny Respondent's motion.

Respondent filed a Reply Declaration on August 15, 2022. Petitioner was served by mail and electronically on August 15, 2022. Respondent requests the Trail Setting Conference currently scheduled for August 31, 2022 be vacated, and a new hearing be set on this Motion to Bifurcate, at which time Respondent will request a trial date on the bifurcation.

Petitioner filed a Supplemental Declaration on August 17, 2022. Respondent was served electronically on August 17, 2022. Petitioner objects to the request to continue the Motion for Bifurcation and requests the matter go forward on August 25, 2022. Petitioner asserts the bifurcation would only be necessary if the court intends to grant the request to set aside the agreement.

The court finds it will need to have testimony from the parties on the Motion to Rescind the Separation Agreement and Quit Claim Deed. Parties are ordered to appear to select Mandatory Settlement Conference and Trial dates.

TENTATIVE RULING #13: PARTIES ARE ORDERED TO APPEAR TO SELECT MANDATORY SETTLEMENT CONFERENCE AND TRIAL DATES.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 21, 2022

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

14. HOLLY BUCHANAN V. BEN NEELY

21FL0211

On December 21, 2021, Petitioner filed a Request for Order (RFO) requesting child custody and parenting plan orders. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on January 21, 2022 and a review hearing on March 10, 2022. Respondent was personally served on January 17, 2022. Petitioner requested the court order sole legal and physical custody of the minor with the Respondent to have parenting time every other weekend.

On January 18, 2022, Petitioner filed an Updating Declaration clarifying the requested orders. Respondent was served electronically on January 18, 2022. Therein Petitioner changed her request to joint legal custody, with Petitioner to have primary physical custody. Petitioner requested Respondent have parenting time the first weekend of the month with weekly dinner visits until Respondent has established a pattern of sobriety.

On January 21, 2022, only Petitioner appeared for CCRC. As such, a single parent report without an agreement or recommendations was issued.

On February 25, 2022, Respondent filed a Responsive Declaration to the RFO. Petitioner was served electronically on February 25, 2022. Respondent requested the court order Petitioner have parenting time with the minor every other weekend. Respondent requested the court order joint legal custody, with Respondent to have primary physical custody and Petitioner to have every other weekend parenting time with the minor. The court finds Respondent to be the presumed father of the minor.

On March 4, 2022, parties submitted a stipulation and order to rerefer the parties to CCRC and continue the review hearing. The court signed the order, and the parties were referred to CCRC for an appointment on April 21, 2022 and a review hearing on June 2, 2022.

The parties attended CCRC on April 21, 2022 and were able to reach a full agreement. A report was issued on May 18, 2022 and mailed to the parties on May 20, 2022.

At the June 2nd hearing the court adopted the agreements contained in the CCRC report with the following modifications: Respondent to have a midweek overnight on Thursdays on the opposite week of the weekend visit; Respondent will have weekly dinner visits on Wednesdays from 3:00 pm to 8:00 pm. The matter was set for mediation again with a follow up hearing scheduled for August 18, 2022. The August 18th hearing was later continued to August 25th via stipulation of the parties.

On June 28, 2022, Respondent filed and served Respondent's Supplemental Declaration. Respondent informed the court that the parties had agreed on a 2-2-5-5 visitation schedule during summer, but Respondent would like the visitation schedule to last throughout the

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 21, 2022

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

entirety of the year. Two days later, on June 30, 2022, Respondent filed and served a Secondary Supplemental Declaration where he asserts that he and Petitioner have been unable to coparent. He states that Petitioner will often deny his parenting time, cancel plans, ignore his attempts to make plans, or make other plans for the minor without consulting Respondent.

The parties attended CCRC on July 1st. After attending CCRC but before receiving the report Petitioner filed and served her Reply and Rebuttal Declaration on July 11, 2022. Petitioner is requesting to maintain the current schedule of alternating weekends and Wednesday night dinners with Respondent. According to Petitioner the minor is thriving under the current schedule. Petitioner denies that she is withholding the child from Respondent and provides a recounting of the numerous visits between Respondent and the minor since December.

CCRC issued its report on August 8th, and it was mailed to the parties the next day. CCRC notes that the parties were unable to reach any agreements but the summaries of the positions of the respective parties largely echo those of the filings. CCRC recommended the following: (1) Petitioner and Respondent equally share physical custody of the child; (2) The parents shall utilize a 2-2-5-5 parenting rotation. Petitioner shall have the child in her care on Mondays and Tuesdays. Respondent shall have the child in his care on Wednesdays and Thursdays. The parents shall alternate weekends.

After reviewing the filing of the parties, as well as the CCRC report, the court finds the recommendations of the CCRC report are in the best interest of the child and the court hereby adopts them as the order of the court. All prior orders not in conflict with this order are to remain in full force and effect.

TENTATIVE RULING #14: THE COURT ADOPTS THE RECOMMENDATIONS CONTAINED IN THE AUGUST 8, 2022 CCRC REPORT AS THE ORDERS OF THE COURT. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER ARE TO REMAIN IN FULL FORCE AND EFFECT. PETITIONER IS TO PREPARE THE FINDINGS AND ORDERS AFTER HEARING.