

**1. ALEXANDRA HANEY V. CHRIS HANEY**

**PFL20110752**

Petitioner filed a Request for Order (RFO) and her Income and Expense Declaration on June 28, 2022. Upon review of the file, there is no Proof of Service indicating Respondent has been served with these documents, as such, the court drops the matter from calendar for lack of proper service.

**TENTATIVE RULING #1: MATTER DROPPED FROM CALENDAR FOR LACK OF PROPER SERVICE.**

Petitioner filed a Request for Order (RFO) on June 24, 2022 requesting the court order Respondent sign the Interspousal Transfer Deed and, if he fails to do so, that the clerk of the court serve as elisor to sign the deed in his stead. Petitioner also requests \$1,500 in attorney's fees. Respondent was personally served with the RFO on July 9, 2022.

Petitioner was awarded the home located at 5205 Ironwood Court in El Dorado Hills in the Amended Judgement entered on August 12, 2021. Petitioner asserts she has attempted to obtain Respondent's signature for the Interspousal Transfer Deed to no avail.

Respondent has not filed a Responsive Declaration.

The court grants Petitioner's request. Respondent is ordered to sign the Interspousal Transfer Deed on or before September 8, 2022. If Respondent fails to do so, the clerk of the court may act as elisor to sign in his stead. Although Petitioner does not state on what basis she is requesting attorney's fees, the court reasonably assumes the request being made pursuant to Family Code section 271. Although Family Code section 271 fees are not a need-based award, the court cannot order such fees if it would create an undue hardship on the payee. The court has no information about Respondent's ability to pay the requested fees. Therefore, the court denies the request for Family Code section 271 sanctions.

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

**TENTATIVE RULING #3: THE COURT GRANTS PETITIONER'S REQUEST. RESPONDENT SHALL SIGN THE INTERSPOUSAL TRANSFER DEED ON OR BEFORE SEPTEMBER 8, 2022. IF RESPONDENT FAILS TO SIGN, THE CLERK OF THE COURT IS AUTHORIZED TO ACT AS ELISOR TO SIGN THE INTERSPOUSAL TRANSFER DEED. THE COURT DENIES PETITIONER'S REQUEST FOR FAMILY CODE SECTION 271 SANCTIONS.**

On April 12, 2022, Respondent filed a Request for Order (RFO) requesting the court order child support, spousal support, and attorneys' fees in the amount of \$7,500. Petitioner was served by mail on April 22, 2022. Petitioner filed his Responsive Declaration to Request for Order, Petitioner's Income and Expense Declaration, and a Proof of Service of the same, all on June 2, 2022. Thereafter, Respondent filed and served a Reply Declaration of Abigail Uva on June 9, 2022, and a Family Code Section 4331 Evaluation Report and its corresponding Proof of Service on June 13, 2022. The matter was set for hearing on June 16, 2022.

In her RFO, Respondent made requests for spousal support, attorneys fees and guideline child support on the basis that she has primary physical custody of the minor children. While Petitioner and Respondent share joint legal custody, the children spend the majority of their time with Respondent, with the exception of sixteen hours a week (four hours a day for four consecutive days) that they spend with Petitioner.

Petitioner did not oppose child support, but he did request that three main factors be taken into account when calculating the amount of the support needed. First, Petitioner requested that Respondent be imputed with a monthly income in the amount of \$8,333, which totals \$100,000 per year. Second, Petitioner argued that Respondent's mother should be considered income as she pays approximately \$6,843 of Respondent's monthly expenses. Third, Petitioner stated that as of April 2022, he was able to procure a home where he can have the children for 50% of the time as established by the Stipulation and Order dated March 24, 2022. Petitioner stated that he is willing and able to have the children 50% of the time but Respondent has denied him the opportunity to do so. Petitioner estimated that he has physical custody of the children approximately 30% of the time. Petitioner requested that child support be computed using a 49.99% timeshare given the prior agreement of the parties and Petitioner's desire to abide by that agreement.

The parties appeared before the court for hearing on June 16, 2022. The court made rulings on the issues of attorney's fees and spousal support. The court also ordered child support based on a 30% timeshare to Petitioner, but the court reserved the right to modify child support depending on the parenting plan agreed to by the parties. They were then scheduled to attend Child Custody Recommending Counseling (CCRC) to discuss a parenting plan.

The parties attended CCRC on August 5, 2022, and were able to reach agreements regarding a parenting plan. A CCRC report was issued and mailed to the parties on August 9<sup>th</sup>. According to CCRC, the parties have agreed that Petitioner will have from 9:00 am the second day of his off day to 4:00 pm on his fourth day off. It was agreed that all previous orders not in conflict with this order would remain in full force and effect. The court has reviewed the filings of the parties and the CCRC report and has made the determination that the agreements contained in the CCRC report are in the best interests of the children. As such, the court adopts the agreements contained in the CCRC report as the order of the court.

With the adoption of the parenting plan as stated in the CCRC report, timeshare to Petitioner is approximately 30%. Accordingly, there is no need to amend the court's child support award of June 16<sup>th</sup>.

**TENTATIVE RULING #4: THE COURT ADOPTS THE AGREEMENTS CONTAINED IN THE CCRC REPORT AS THE ORDER OF THE COURT. THE AWARD OF CHILD SUPPORT REMAINS AS SET ON JUNE 16<sup>TH</sup>. 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.**

On November 12, 2021 Petitioner filed a Request for Order (RFO) requesting modification of the custody and visitation orders and attorney's fees and costs. Petitioner filed a Declaration in support of the RFO as well. The parties were referred to Child Custody Recommending Counseling (CCRC) on December 16, 2021 and the RFO was set on the Law and Motion calendar for January 27, 2022. On November 29, 2021 Petitioner filed a Proof of Service by Mail and email and an Address Verification showing service upon Respondent on November 16, 2021.

On November 17, 2021 Respondent filed an RFO requesting modification of the visitation orders and for an order shortening time. The OST was denied and the RFO was set for January 27, 2022. Respondent filed a Proof of Service showing service of the filings upon Petitioner, who also filed a response.

On December 16, 2021 Respondent filed a Responsive Declaration to the RFO with a number of attachments. On December 23, 2021 Respondent filed a Proof of Service by Mail showing service of the filing upon Petitioner on December 20, 2021.

The parties attended their CCRC session and a CCRC report was issued on January 14, 2021. Copies of the CCRC report were mailed to the parties on January 20, 2022.

On January 27, 2022, parties appeared for the hearing and the court made the following orders: Petitioner shall have temporary sole legal and physical custody of the minor and no visitation with the Respondent; the minor to continue in individual therapy; the court shall defer to the minor's therapist as to when telephone calls between the Respondent and minor would be appropriate, and that the therapist facilitate those calls; Respondent to be provided with therapeutic progress reports when deemed appropriate by the therapist; parties to submit a progress report to the court regarding the minor's progress in counseling and input from the minor's therapist about what type of contact, if any Respondent should have with the minor; parties to provide documentation from the District Attorney's Office regarding the status of any pending potential criminal charges; both parties were to prepare and file Income and Expense Declarations no later than 10 days prior to the next hearing; and the court reserved on both party's request for Family Code section 271 sanctions.

On February 16, 2022, Respondent filed a Declaration from attorney Jessica Davis regarding the potential criminal charges against Respondent. Petitioner was served on February 15, 2022 with Proof of Service filed on February 16, 2022. The Declaration includes a "Case Declined Report" attached as Exhibit A which states the District Attorney's Office declined to file due to a lack of sufficient evidence.

On March 3, 2022 Respondent filed an updated Income and Expense Declaration. Petitioner was served my mail on March 2, 2022, with Proof of Service filed on March 3, 2022.

On March 7, 2022, Petitioner filed a Supplemental Declaration which contains documentation from the Sacramento County District Attorney's Office regarding their intent not to pursue criminal charges against Respondent at this time, due to not being able to prove the case beyond a reasonable doubt, but that the victim was a credible witness. The office declined to prosecute due to the lack of corroborating evidence and the high burden of proof rather than a finding of innocence. Petitioner requests the court keep the current orders for custody and visitation in place. Petitioner further request

the court order a full psychosexual evaluation of Respondent. Petitioner has not filed an updated Income and Expense Declaration.

On March 10, 2022 the court received a progress report from the minor's therapist. The minor has been engaging in therapy on a weekly basis since August of 2021. The therapist does not make any recommendations as to contact with the Respondent.

On March 17, 2022, the court adopted its tentative ruling with the following modifications, Petitioner was to sign any releases necessary for Minor's Counsel to speak with the minor's therapist. Respondent was authorized to have therapeutically supervised visitation once deemed appropriate by the minor's therapist. The minor's therapist could recommend three potential therapists for therapeutic visitation, or in the alternative, Minor's Counsel may select. The matter was set for a further review hearing on May 12, 2022. The court denied both parties' request for attorney fees.

On May 3, 2022, all parties agreed to continue the matter to July 14, 2022.

On June 24, 2022, the parties submitted a stipulation and order to continue the July 14, 2022 hearing to July 28, 2022.

Respondent filed an updated Income and Expense Declaration on July 15, 2022. Petitioner was served by mail on July 14, 2022.

Petitioner filed a Supplemental Declaration and updated Income and Expense Declaration on July 18, 2022. Respondent was served by mail and electronically on July 18, 2022. Petitioner requests the court maintain the current orders without modification. Petitioner also requests Respondent be responsible for 100% of the cost of Minor's Counsel.

On July 19, 2022, Respondent filed a Supplemental Declaration. Petitioner was served by mail on July 18, 2022. Respondent requests the court order joint legal custody. Respondent also requests the court order reunification counseling visitation begin between Respondent and the minor with Jamie Miller or in the alternative Stephanie Stilley. Respondent requests the cost of reunification visitation be paid for by Petitioner or equally shared. Respondent concurrently requests supervised visitation be ordered as well. Respondent requests Petitioner be responsible for the cost or the cost to be shared equally. Respondent requests a further review hearing be set to determine a step-up in parenting time.

Minor's Counsel filed a Statement of Issues and Contentions and Request for Orders on July 20, 2022. Parties were served by mail on July 19, 2022. Minor's Counsel requests the court order parties to select a reunification therapist. Once a therapist has been selected, for the minor to begin sessions with the therapist, but the sessions not to include Respondent until the reunification therapist and minor's individual therapist concur conjoint sessions are appropriate. Minor's Counsel requests the court order waivers to be signed to allow the minor's individual therapist and reunification counselor to meet and confer on the minor's treatment and to speak with Minor's Counsel.

On July 25, 2022 Minor's Counsel filed an ex parte motion for emergency orders requesting the court continue the July 28, 2022 hearing. On July 26, 2022, the court granted the request to continue the hearing and made interim orders pending the next court date. Respondent was ordered to provide a third suggested reunification therapist to Petitioner on or before August 11, 2022. Petitioner shall select one of the three on or before August 18, 2022. The minor was ordered to engage with the

reunification therapist at the soonest available appointment. Respondent shall not participate in conjoint sessions until the minor's individual and reunification therapist deem it appropriate. Any waivers necessary to allow the minor's individual and reunification therapists to speak with each other and with Minor's Counsel shall be signed.

No additional Supplemental Declarations have been filed.

The court notes there is currently a hearing set for September 15, 2022 on Respondent's RFO request a 730 evaluation. For judicial economy, the court on its own motion continues this matter to join with the RFO set on September 15, 2022. The court continues to reserve on the reallocation of the cost of Minor's Counsel. Any supplemental Declarations are to be filed at least 10 days in advance of 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 #5: FOR JUDICIAL ECONOMY, THE COURT ON ITS OWN MOTION CONTINUES THIS MATTER TO JOIN WITH THE RFO SET ON SEPTEMBER 15, 2022. THE COURT CONTINUES TO RESERVE ON THE REALLOCATION OF THE COST OF MINOR'S COUNSEL. ANY SUPPLEMENTAL DECLARATIONS ARE TO BE FILED AT LEAST 10 DAYS IN ADVANCE OF 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.**

On July 6, 2022, Respondent filed a Request for Order (RFO) requesting the court order temporary spousal support, Family Code Section 2030 attorney's fees, and a forensic accountant. Respondent filed an Income and Expense Declaration concurrently therewith. Petitioner was served with the RFO and Income and Expense Declaration by mail on July 20, 2022. Respondent asserts the parties had previously agreed to Petitioner paying Respondent \$3,000 a month as spousal support. Respondent states Petitioner has not made a full payment of support since May 2022, with a partial payment in June and no payments since. Respondent requests the court order guideline spousal support. Respondent further asserts she has no access to the community funds. Respondent requests Family Code section 2030 attorney fees, as she has had to take a personal loan from her mother to cover the costs of her counsel. Respondent requests the court order Petitioner pay \$10,000 for Respondent's attorney fees. Last Respondent asserts the parties have several community assets of high value and Petitioner has failed to include a large number of those assets in the preliminary disclosures. Respondent request the court order a specialist to value the property and assets at Petitioner's expense.

Petitioner filed a Responsive Declaration and Income and Expense Declaration on August 23, 2022. Respondent was served electronically on August 23, 2022. Petitioner agrees to the court ordering guideline temporary spousal support, however, also requests the court order a vocational evaluation and seek work order for Respondent. Petitioner objects to the request for attorney's fees. Petitioner asserts Respondent charged \$5,000 for her attorney to a community credit card, which he paid \$2,000 of. Petitioner states the parties agreed to sell the former marital residence and split the proceeds equally. Each received \$234,409.49 from the sale in March 2022. Last, Petitioner objects to the request for a forensic accountant at his expense, as the parties' finances are not complex and therefore, it is unwarranted.

Petitioner's counsel filed a Declaration with a DissoMaster calculation on August 23, 2022. Respondent was served electronically on August 23, 2022. Petitioner's counsel included as exhibits two proposed DissoMasters, one for support at present income (Exhibit A) and one for support post division of Petitioner's pension (Exhibit B)

The court has read and considered the filings as outlined above and makes the following findings and orders:

The court adopts Petitioner's proposed DissoMaster (Exhibit A) for temporary guideline spousal support. Petitioner is ordered to pay Respondent \$3,997 per month as and for spousal support effective August 1, 2022 and payable on the first of each month until further order of the court or termination by operation of law.

The court finds this results in an arrears balance of \$7,994. It is unclear to the court if Petitioner has continued to make the voluntary \$3,000 per month spousal support payment, as Respondent asserts the payments stopped all together in June of this year, while Petitioner states he has continued to pay \$3,000 per month, as well as other expenses. If Petitioner has continued to pay the \$3,000 per month, the total arrears balance is then \$1,994 due on or before September 15, 2022. If Petitioner has not been making the full \$3,000 per month voluntary support payment, Petitioner is ordered to pay Respondent \$1998.50 per month, payable on the 15<sup>th</sup> of each month, as and for arrears. Failure to make a payment will result in the full arrears balance being due with any legal interest.



The court orders Respondent to participate in a vocational evaluation with Petitioner to pay the costs, subject to reallocation. The court denies the request for a seek work order, pending the results of the vocational evaluation.

The court also denies Petitioner's request to order the support calculation in Exhibit B to spring into place as the new order for support commencing the first day of the first month after the pension plan administrator begins distribution to Respondent.

The court denies Respondent's request for Family Code section 2030 attorney's fees. Respondent received a distribution of funds from the sale of the proceeds of the former marital home, which is sufficient to pay her attorney's fees and costs. Additionally, Petitioner has already paid \$2,000 for Respondent's attorney fees that were previously charged to a community credit card. The court finds each party as equal access to fund to allow them the ability to have representation.

The court denies Respondent's request to order a forensic accountant with Petitioner to incur the costs. Respondent has failed to set forth adequate grounds upon which the court can make such an order.

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 #6: THE COURT ADOPTS PETITIONER'S PROPOSED DISSOMASTER (EXHIBIT A) FOR TEMPORARY GUIDELINE SPOUSAL SUPPORT. PETITIONER IS ORDERED TO PAY RESPONDENT \$3,997 PER MONTH AS AND FOR SPOUSAL SUPPORT EFFECTIVE AUGUST 1, 2022 AND PAYABLE ON THE FIRST OF EACH MONTH UNTIL FURTHER ORDER OF THE COURT OR TERMINATION BY OPERATION OF LAW. THE COURT FINDS THIS RESULTS IN AN ARREARS BALANCE OF \$7,994. IF PETITIONER HAS CONTINUED TO PAY THE \$3,000 PER MONTH, THE TOTAL ARREARS BALANCE IS THEN \$1,994 DUE ON OR BEFORE SEPTEMBER 15, 2022. IF PETITIONER HAS NOT BEEN MAKING THE FULL \$3,000 PER MONTH VOLUNTARY SUPPORT PAYMENT, PETITIONER IS ORDERED TO PAY RESPONDENT \$1998.50 PER MONTH, PAYABLE ON THE 15<sup>TH</sup> OF EACH MONTH, AS AND FOR ARREARS, UNTIL THE TOTAL ARREARS BALANCE OF \$7,994 HAS BEEN REACHED. FAILURE TO MAKE A PAYMENT WILL RESULT IN THE FULL ARREARS BALANCE BEING DUE WITH ANY LEGAL INTEREST. THE COURT ORDERS RESPONDENT TO PARTICIPATE IN A VOCATIONAL EVALUATION WITH PETITIONER TO PAY THE COSTS, SUBJECT TO REALLOCATION. THE COURT DENIES THE REQUEST FOR A SEEK WORK ORDER, PENDING THE RESULTS OF THE VOCATIONAL EVALUATION. THE COURT ALSO DENIES PETITIONER REQUEST TO ORDER THE SUPPORT CALCULATION IN EXHIBIT B TO SPRING INTO PLACE AS THE NEW ORDER FOR SUPPORT COMMENCING THE FIRST DAY OF THE FIRST MONTH AFTER THE PENSION PLAN ADMINISTRATOR BEGINS DISTRIBUTION TO RESPONDENT. THE COURT DENIES RESPONDENT'S REQUEST FOR FAMILY CODE SECTION 2030 ATTORNEY'S FEES. THE COURT DENIES RESPONDENT'S REQUEST TO ORDER A FORENSIC ACCOUNTANT WITH PETITIONER TO INCUR THE COSTS. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

On June 13, 2022, Respondent filed a Request for Order (RFO) requesting the court transfer venue of the matter to Sacramento County. There is no proof of service on file and Petitioner has not filed a response. The matter is dropped from the court's calendar for lack of proper service.

**TENTATIVE RULING #7: THE MATTER IS DROPPED FROM THE COURT'S CALENDAR FOR LACK OF PROPER SERVICE.**

On May 9, 2022, Petitioner filed an Ex Parte Application and Declaration for Orders and Notice requesting sole legal and physical custody, Respondent to have supervised visits, and alcohol treatment ordered for Respondent. Respondent opposed the motion by way of a Responsive Declaration to Request for Order also filed on May 9<sup>th</sup>.

Petitioner filed her ex parte on the basis that Respondent's excessive alcoholism and participation in several detox programs have caused inconsistencies in his ability to be present for the minor children.

Respondent's opposition to the ex parte was based on two main points: (1) Respondent was not properly or timely served with the moving papers for the ex parte; and (2) there were no circumstances to warrant an ex parte hearing. Pursuant to a Stipulation and Order filed by the parties on September 23, 2021, Petitioner already had temporary sole physical custody of the children and Respondent had supervised visitation alternating Saturdays from 9am to 5pm.

Petitioner's ex parte was denied by the court on May 10, 2022. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on June 16, 2022, and a hearing was set for July 28, 2022. Petitioner then filed her Request for Order (RFO) making the same requests as set forth in her ex parte. There is no Proof of Service in the file indicating that the RFO was served, however Respondent has filed a reply to the RFO so the court finds that he had actual knowledge of its existence and the defect in service is waived.

On June 9, 2022, Petitioner filed Petitioner's Supplemental Declaration Regarding Child Custody and Visitation as well as an additional Declaration of Jodi Dillon; both were served the same day via U.S. mail and electronic service. In her declaration, Petitioner claims that under the terms of the stipulation between the parties, Respondent's recent relapse with alcoholism constitutes a change in circumstances which gives rise to a rebuttable presumption that it is not in the best interest of the children to have unsupervised parenting time with the party in breach of the stipulated agreement (i.e. Respondent).

According to Petitioner, Respondent has participated in three detox programs between July of 2021 and July of 2022; all of which were unsuccessful. Respondent has missed several of his parenting time visits due to his drinking and detox programs. Petitioner notes that Respondent is claiming that Petitioner has had a relapse in alcoholism as well. However, Petitioner refutes this with documentation of her participation in AA. She states that the children have been left with their maternal grandmother while Petitioner teaches yoga, not because she is drinking like Respondent claims.

Petitioner requests the following orders: (1) Supervised visitation up to 4 hours every other weekend on either Saturday or Sunday with a professional agency; (2) Neither parent shall say any disparaging remarks about the other parent to, or in front of, the children; (3) Respondent complete a parenting class and also attend co-parenting classes with Petitioner; (4) Respondent to sign up for Soberlink within 30 days and test every day at 8am, 12pm, 3pm, 7pm and 10pm; Respondent shall provide Petitioner with access to his test results; (5) Respondent shall test 1 hour prior to any visits with the children. If Respondent tests positive, the upcoming visit will be forfeited until his next scheduled visit; (6) Respondent shall attend 3 meetings a week of AA, Celebrate Recovery, or some other program to treat his alcoholism; Respondent shall provide proof of his attendance to Petitioner at the end of

every week; (7) Children shall be enrolled in therapy immediately and attend at a frequency and duration as recommended by the therapists; Respondent shall pick one name off the list of therapists provided to him by Petitioner within 7 days of the date of the order; Petitioner shall notify Respondent of any appointments or intakes scheduled and Respondent shall be able to attend the appointment.

Respondent responded to Petitioner's allegations in his Reply Declaration to Petitioner's Supplemental Declaration Regarding Child Custody and Visitation (Amended) which was filed and served on July 12, 2022. Respondent admits his struggles with alcohol but indicates that when he has relapsed, he has immediately sought treatment through detox or rehabilitation programs. He provides documentation that he is once again sober and participating in multiple programs (including Soberlink and AA) to remain that way.

Respondent asserts that Petitioner has also relapsed on multiple occasions since the parties entered their September 2021 stipulation. Further, he claims that Petitioner's relapses have taken place during parenting time while Respondent's did not. Respondent notes that Petitioner does not raise any concerns regarding Respondent's parenting abilities other than his struggles with alcohol, which is something they both share, so there is simply no logical reason to award Petitioner sole legal and physical custody and deny Respondent.

Respondent is not opposed to the children participating in therapy but would like to be involved in the process of picking a therapist and in the therapy itself.

Respondent requests the following: (1) Effective immediately, the parties shall return to their original 2-2-5 parenting schedule contingent upon the parties continuing to test negative for alcohol use at all times; (2) Petitioner shall enroll in Soberlink and start testing forthwith per the same terms as Respondent; (3) Respondent shall continue to use Soberlink and test each day at 8am, 1pm, 5pm, and 10pm. All Soberlink requirements shall be followed by both parties. A party who tests positive outside their parenting time shall forfeit their next regularly scheduled parenting time until they have five consecutive days of negative tests. A parent who tests positive during their parenting time, shall have their visitation time immediately terminated, and the children will return to the other parent until 30 consecutive days of sobriety is demonstrated. In the interim, the relapsing parent shall have non-professional supervised visitation with the minor children to be supervised by maternal grandmother in the event Petitioner relapses, or paternal grandfather in the event Respondent relapses; (4) Both parties shall attend a minimum of two AA or Celebrate Recovery meetings each week for a period of one year and keep a log of their attendance. They shall exchange copies of their log upon the other party's request; (5) Respondent shall complete his outpatient treatment program and provide Petitioner with proof of completion; (6) After 90 consecutive days of successful compliance with the aforementioned orders, the complying parent may stop using Soberlink testing. However, in the event a parent fails to complete the 90 days, the count starts over again; (7) Neither party shall make disparaging comments about the other party, or allow a third party to do so, within earshot of the minor children; (8) The children shall be allowed to attend therapy pending an interview of the therapist by each party. In the event one party does not feel comfortable with the therapist, they shall work together to pick a mutually agreed upon therapist. Both parties shall have the right to meet with the therapist and attend sessions. Therapy is not to be open-ended but required only so long as both parents believe it is helping the children; (9) Petitioner shall immediately return Respondent's copies of the children's original birth

certificates and one of the children's passports. Each party shall keep one of the children's passports. Neither parent shall unreasonably deny the other party access to the children's passports.

The parties attended CCRC on June 16, 2022, until it came to the attention of the CCRC counselor that there was a conflict of interest. The mediation was stopped and rescheduled for July 14, 2022. The July 28, 2022 hearing was then continued to September 1, 2022.

On July 14, 2022, the parties again attended CCRC and were able to reach agreements regarding legal custody, co-parenting counseling, and individual therapy for the children. CCRC made recommendations regarding parenting time, transportation for parenting time, negative comments, individual therapy for the parties and alcohol and substance abuse.

After reviewing the filings of the parties along with the agreements and recommendations in the CCRC report, the court feels the agreements and recommendations contained in the CCRC report are in the best interest of the children. The CCRC report is adopted as the order of the court with the following modifications:

(1) Both children shall participate in individual therapy at a frequency and duration as recommended by the therapist. Parents are to follow the recommendations and treatment plan of the licensed clinician. Respondent is to choose one name off the list of therapists provided to him by Petitioner no later than September 15, 2022. The parties are to work together in good faith to complete all intake forms and schedule appointments, making the children available for therapy if scheduled during his or her parenting time. No one is participate in or observe the therapy sessions with the children unless agreed to by the therapist;

(2) The parties shall not consume alcoholic beverages, narcotics, or restricted drugs, without a valid prescription, within 24 hours before and during that party's parenting time;

(3) Both parties shall attend a minimum of two AA or Celebrate Recovery meetings each week for a period of one year and keep a log of their attendance. They shall exchange copies of their log upon the other party's request;

(4) Both parties are to enroll in SoberLink, each at their own cost, and test a minimum of one time per day and at least one hour prior to the start of that party's parenting time. If a party tests negative for 90 consecutive days, that party may discontinue the daily and pre-visit SoberLink tests. However, either party can request to have the other party tested upon reasonable suspicion of alcohol use. If a party requests the other test, the testing party shall take an EtG test no later than the close of business on the next business day after the test is requested. If the test results are negative, the party requesting the test shall be responsible for the cost of the test. If the test results are positive the party testing positive shall be responsible for the cost of the test;

(5) If either parent tests positive for alcohol, the party testing positive shall complete an alcohol and other drug assessment and follow the treatment recommendations of the assessment. The parent in treatment shall have supervised visitation at least one time per week for a period of at least 2 hours or as otherwise allowed in accordance with the rules and scheduling of the treatment program. The parent in treatment shall have at least one phone or video call with the children per week while participating in the treatment program. Once that parent has reached 30 days of sobriety, visitation shall automatically

resume in accordance with the CCRC report and that parent shall resume SoberLink testing once daily and one hour prior to visitations until that parent has had 90 consecutive days of negative tests;

(6) Each party shall have possession of one of the children's passports unless there is an agreed upon out-of-country trip.

**TENTATIVE RULING #8: THE CCRC REPORT IS ADOPTED AS THE ORDER OF THE COURT WITH THE FOLLOWING MODIFICATIONS: (1) BOTH CHILDREN SHALL PARTICIPATE IN INDIVIDUAL THERAPY AT A FREQUENCY AND DURATION AS RECOMMENDED BY THE THERAPIST. PARENTS ARE TO FOLLOW THE RECOMMENDATIONS AND TREATMENT PLAN OF THE LICENSED CLINICIAN. RESPONDENT IS TO CHOOSE ONE NAME OFF THE LIST OF THERAPISTS PROVIDED TO HIM BY PETITIONER NO LATER THAN SEPTEMBER 15, 2022. THE PARTIES ARE TO WORK TOGETHER IN GOOD FAITH TO COMPLETE ALL INTAKE FORMS AND SCHEDULE APPOINTMENTS, MAKING THE CHILDREN AVAILABLE FOR THERAPY IF SCHEDULED DURING HIS OR HER PARENTING TIME. NO ONE IS PARTICIPATE IN OR OBSERVE THE THERAPY SESSIONS WITH THE CHILDREN UNLESS AGREED TO BY THE THERAPIST; (2) THE PARTIES SHALL NOT CONSUME ALCOHOLIC BEVERAGES, NARCOTICS, OR RESTRICTED DRUGS, WITHOUT A VALID PRESCRIPTION, WITHIN 24 HOURS BEFORE AND DURING THAT PARTY'S PARENTING TIME; (3) BOTH PARTIES SHALL ATTEND A MINIMUM OF TWO AA OR CELEBRATE RECOVERY MEETINGS EACH WEEK FOR A PERIOD OF ONE YEAR AND KEEP A LOG OF THEIR ATTENDANCE. THEY SHALL EXCHANGE COPIES OF THEIR LOG UPON THE OTHER PARTY'S REQUEST; (4) BOTH PARTIES ARE TO ENROLL IN SOBERLINK, EACH AT THEIR OWN COST, AND TEST A MINIMUM OF ONE TIME PER DAY AND AT LEAST ONE HOUR PRIOR TO THE START OF THAT PARTY'S PARENTING TIME. IF A PARTY TESTS NEGATIVE FOR 90 CONSECUTIVE DAYS, THAT PARTY MAY DISCONTINUE THE DAILY AND PRE-VISIT SOBERLINK TESTS. HOWEVER, EITHER PARTY CAN REQUEST TO HAVE THE OTHER PARTY TESTED UPON REASONABLE SUSPICION OF ALCOHOL USE. IF A PARTY REQUESTS THE OTHER TO TEST, THE TESTING PARTY SHALL TAKE AN ETG TEST NO LATER THAN THE CLOSE OF BUSINESS ON THE NEXT BUSINESS DAY AFTER THE TEST IS REQUESTED. IF THE TEST RESULTS ARE NEGATIVE, THE PARTY REQUESTING THE TEST SHALL BE RESPONSIBLE FOR THE COST OF THE TEST. IF THE TEST RESULTS ARE POSITIVE THE PARTY TESTING POSITIVE SHALL BE RESPONSIBLE FOR THE COST OF THE TEST. (5) IF EITHER PARENT TESTS POSITIVE FOR ALCOHOL, THE PARTY TESTING POSITIVE SHALL COMPLETE AN ALCOHOL AND OTHER DRUG ASSESSMENT AND FOLLOW THE TREATMENT RECOMMENDATIONS OF THE ASSESSMENT. THE PARENT IN TREATMENT SHALL HAVE SUPERVISED VISITATION AT LEAST ONE TIME PER WEEK FOR A PERIOD OF AT LEAST 2 HOURS OR AS OTHERWISE ALLOWED IN ACCORDANCE WITH THE RULES AND SCHEDULING OF THE TREATMENT PROGRAM. THE PARENT IN TREATMENT SHALL HAVE AT LEAST ONE PHONE OR VIDEO CALL WITH THE CHILDREN PER WEEK WHILE PARTICIPATING IN THE TREATMENT PROGRAM. ONCE THAT PARENT HAS REACHED 30 DAYS OF SOBRIETY, VISITATION SHALL AUTOMATICALLY RESUME IN ACCORDANCE WITH THE CCRC REPORT AND THAT PARENT SHALL RESUME SOBERLINK TESTING ONCE DAILY AND ONE HOUR PRIOR TO VISITATIONS UNTIL THAT PARENT HAS HAD 90 CONSECUTIVE DAYS OF NEGATIVE TESTS. (6) EACH PARTY SHALL HAVE POSSESSION OF ONE OF THE CHILDREN'S PASSPORTS UNLESS THERE IS AN AGREED UPON OUT-OF-COUNTRY TRIP.**

On July 14, 2022, Respondent filed an Order to Show Cause and Affidavit for Contempt (OSC). The OSC was personally served on Petitioner on July 28, 2022. Respondent seeks an order to show cause regarding 85 counts of alleged violations of child custody and visitation orders, as well as failures to produce several items of personal property as ordered. The court notes there is a Request for Order (RFO) currently set to be heard on October 20, 2022. In the interest of judicial economy, the court continues hearing on the OSC to October 20, 2022.

**TENTATIVE RULING #9: IN THE INTEREST OF JUDICIAL ECONOMY, THE COURT CONTINUES HEARING ON THE OSC TO OCTOBER 20, 2022.**

On March 21, 2022, Petitioner filed a Declaration for Default or Uncontested Dissolution. The court entered judgment on the dissolution on April 7, 2022, with the terms of the judgment to be those set forth in the marital settlement agreement (MSA) entered into by the parties. The MSA terminated jurisdiction of the court to award spousal support to petitioner, and ordered spousal support to Respondent as follows: "The Husband shall pay to Wife for rehabilitative spousal maintenance, the sum of \$80,000 per month payable in advance on the first (1<sup>st</sup>) day of each month commencing on January 1, 2022 and continuing thereafter until the earliest of the following events (i) death of either party, (ii) remarriage of Wife, (iii) the cohabitation by Wife with a person of the opposite sex in a relationship similar to a husband-wife relationship for 90 continuous or noncontinuous days in a 12 month period, (iv) a duration of 1 month has passed since the first payment was made."

On May 24, 2022, Respondent filed a Request for Order (RFO), requesting spousal support in the amount of \$1,500 per month and indicating that she feels Petitioner has no intention of paying the \$80,000. In addition to the RFO, Respondent filed her Income and Expense Declaration on the same day. Both documents were served on June 1, 2022. The RFO was scheduled to be heard on July 7<sup>th</sup>.

On June 24, 2022, Respondent filed another RFO asking the court to set aside the default entered on March 8, 2022, and the Default Judgment filed April 7, 2022, and granting Respondent leave to file a Response to the Petition for Dissolution. In conjunction with the filing of the RFO, petitioner filed a Memorandum of Points and Authorities to support her position. This RFO and supporting memorandum were served on July 5<sup>th</sup> and scheduled for a hearing date on September 1<sup>st</sup>.

The parties later stipulated to continue the July 7<sup>th</sup> hearing to allow the spousal support RFO to be heard on the same day as the RFO to set aside default.

On June 27, 2022, Petitioner filed a Responsive Declaration to Request for Order and his Income and Expense Declaration. There is no proof of service on file indicating that Respondent was served with these documents. Accordingly, the court has not read or considered them.

Respondent claims that she was induced into signing the MSA based on several false representations made by Petitioner. According to Respondent, Petitioner falsely represented (1) that the provisions of the MSA were fair and reasonable; (2) that several dozen families would lose their livelihoods if Respondent did not agree to the terms of the MSA; and (3) that Petitioner was entitled to 100% of the retirement funds in his name.

The court is in need of additional information regarding Respondent's allegations before it can rule on the issue. The parties are ordered to appear for trial setting.

On the issue of spousal support, the court notes that it cannot rule on whether or not to award spousal support until after a determination is made on whether or not to set aside the default, default judgment and the MSA. The court reserves on the issue of spousal support dating back to the date of filing of the Request for Order.

**TENTATIVE RULING #10: THE PARTIES ARE ORDERED TO APPEAR FOR TRIAL SETTING. THE COURT RESERVES ON THE ISSUE OF SPOUSAL SUPPORT DATING BACK TO THE DATE OF FILING OF THE REQUEST FOR ORDER.**



On June 22, 2022, Petitioner filed a Request for Order (RFO) requesting the court order temporary spousal support, attorney's fees, and set the matter for trial on all other issues. Respondent was served by mail the same day. Petitioner filed an Income and Expense Declaration on June 15, 2022.

On June 28, 2022, Respondent filed a request to continue the hearing as his counsel was unavailable on the date for the hearing on the RFO. The court granted the request and reset the hearing for September 1, 2022.

Petitioner requests the court order guideline temporary spousal support based on the parties' marital standard of living for the last five years. Petitioner requests the court order arrears to February 3, 2022, the date she filed her request for a Domestic Violence Restraining Order. Petitioner requests the court utilize the average salary for Respondent over the last five years. Petitioner has attached a proposed DissoMaster as well as supporting documents. Petitioner also requests the court order \$2,500 in attorney's fees pursuant to Family Code section 2030.

Respondent filed a Responsive Declaration and Income and Expense Declaration on August 18, 2022. Petitioner was served by mail on August 18, 2022. Respondent objects to Petitioner's requests. Respondent requests the court set temporary spousal support at zero and order each party be responsible for their own attorney's fees and costs.

The court has read and considered the filings as set forth above. The court needs additional information from the parties prior to ruling on the matter. Therefore, parties are ordered to appear.

**TENTATIVE RULING #11: PARTIES ARE ORDERED TO APPEAR.**

On August 26, 2022, Respondent filed an ex parte emergency Request for Order (RFO) or in the alternative an Order Shortening Time. On August 29, 2022, the court granted the OST and ordered Petitioner to be noticed on August 29, 2022. The court directed Petitioner to file a Response on or before August 31, 2022. Petitioner timely filed her Responsive Declaration to Request for Order, however there is no Proof of Service on file indicating it was properly served on Respondent. Accordingly, the court has not read or considered it.

Respondent requests the court authorize him to travel with the minors to Hawaii to attend a Pow Wow at the Polynesian Cultural Center from September 9-13, 2022. This would require a switch in the parenting weekend for Petitioner, as September 9-11, 2022 is currently scheduled to be Petitioner's weekend. Respondent request that Petitioner have the following weekend in order for the minors to participate in the cultural activities. The trip will also require the older minor to miss two days of school; Respondent states he will plan ahead with the teacher to get the schoolwork in advance so the minor will not be behind. Respondent states Petitioner objects to the trip as it will require the minor to miss two days for school.

**TENTATIVE RULING #12: THE COURT GRANTS RESPONDENT'S REQUEST TO TRAVEL WITH THE MINORS TO HAWAII SEPTEMBER 9-13, 2002. PETITIONER SHALL HAVE PARENTING TIME THE FOLLOWING WEEKEND, SEPTEMBER 16-17, 2022. THE 2-2-3 SCHEDULE WILL THEN REVERT BACK TO THE PRIOR ROTATION. THIS WILL RESULT IN RESPONDENT HAVE THE MINORS TWO WEEKENDS CONSECUTIVELY AND PETITIONER HAVING THE MINORS TWO WEEKENDS CONSECUTIVELY. RESPONDENT IS TO ENSURE THE MINOR GABRIEL RECEIVES HIS SCHOOLWORK IN ADVANCE OF THE TRIP AND THAT IT IS TURNED IN PROMPTLY UPON THE FAMILY'S RETURN FROM HAWAII.**

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

On March 17, 2022, parties filed a further stipulation with the court agreeing the current support orders remaining in effect pending the return from the Family Code section 3111 evaluation and that the court reserve retroactive modification over child and spousal support until the continued hearing date. Further, that the issue of attorneys' fees and costs shall be deferred to the review hearing. The court signed the stipulation and adopted it as the order of the court.

The 3111 evaluation was completed, and a report issued on August 1, 2022. The report contains agreements reached by the parties as well as recommendations made by the 3111 evaluator.

Petitioner filed a Declaration on August 5, 2022, agreeing in part and objecting in part to the recommendations and agreements as set forth in the 3111 report. The Declaration was served on Respondent electronically on August 5, 2022. Petitioner objects to proceeding with the 2-2-5-5 parenting plan without a step-up plan. Petitioner asserts Respondent has failed to complete a court ordered Alcohol and Other Drug assessment and treatment. Petitioner also objects to paying for alcohol testing. Petitioner asserts she does not have a substance abuse problem. Petitioner does agree that if Respondent requests she test, and the test is negative, that Respondent be required to pay for the test; Petitioner agrees if the test is positive, she would be responsible for payment. Petitioner requests Respondent pay the full cost for Soberlink. Petitioner agrees with and requests the court adopt Agreements 1-5 inclusive and Recommendations 6, 7, 9, 10, 12, 13, 14, 15, and 16. Petitioner requests the court order Respondent participate in an alcohol and drug assessment and follow any recommendations, produce negative drug tests, and maintain sobriety as previously agreed.

Respondent filed a Responsive Declaration on August 23, 2022. Respondent requests the court adopt the agreements and recommendations as set forth in the 3111 report, with the exception on item 11(c), which Respondent requests the court strike in its entirety. Respondent asserts he has never been ordered to submit to drug or alcohol treatment.

The court has read and considered the filings as outlined above and makes the following findings and orders:

The court adopts the agreements and recommendations as contained in the 3111 report with the following modifications: The court implements a step-up plan for Respondent's parenting time. Respondent has already had two weeks of unsupervised parenting time, as set forth in Petitioner's Step 1. As Step 2, Respondent will have Monday and Wednesday after school until 7:30 pm. Respondent will have every other Saturday and two weekdays a week for three weeks.

Step 2 will commence on September 3, 2022 with Respondent having parenting time on Saturday from 9 am until 7 pm. Step 2 will last for three weeks. At Step 3, Respondent will have Monday and Wednesday from after school until 7:30 pm and every other weekend from Friday after school to Sunday at 7:00 pm. Step 3 will start on September 30, 2022. This schedule will last 3 weeks. Beginning October 28, 2022 parties will utilize the 2-2-5-5 schedule with Respondent having from Friday at 8:00 am until Monday at 8:00. Respondent will have the minors that Monday through Wednesday at 8:00. Petitioner shall have the minors from Wednesday at 8:00 to Friday at 8:00. Petitioner will have the minors the weekend starting on Friday November 4, 2022. Parties will continue to alternate weekends.

The court adopts section 11 (b) of the 3111 report with the following modification. Each party shall submit to a 72-hour EtG test on Monday for the next seven weeks, until October 24, 2022. If neither party tests positive, during the next seven weeks, then testing shall end. During the seven weeks each party is responsible for the cost of their own tests. After October 24, 2022, testing shall be at the request of either party, following their parenting weekend. If a party requests the other to test, the test shall be completed by the close of business on the Monday following their parenting time weekend. If the test results are negative, the party requesting the test shall be responsible for the cost of the test. If the test results are positive the party testing positive shall be responsible for the cost of the test.

Neither party has submitted an updated Income and Expense Declaration. Therefore, the court is not able to address the issues of support or attorneys' fees. Further, while the March 17, 2022 stipulation and order reserved on the issues of support and attorneys' fees, there is not a current request before the court for modification of support or that the court award attorneys' fees. Therefore, the court finds those requests are not properly before the court.

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

**TENTATIVE RULING #13: THE COURT ADOPTS THE AGREEMENTS AND RECOMMENDATIONS OF THE 3111 REPORT AS MODIFIED ABOVE. THE COURT FINDS THE REQUESTS TO MODIFY SUPPORT AND/OR AWARD ATTORNEY FEES ARE NOT PROPERLY BEFORE THE COURT AND FURTHER, NEITHER PARTY HAS FILED AN UPDATED INCOME AND EXPENSE DECLARATION. ALL PRIOR ORDERS NOT IN CONFLICT WITH THESE ORDERS REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**