

On March 3, 2022, Petitioner filed a Request for Order (RFO) requesting changes in child custody and parenting time, and for the minors to resume school in El Dorado County. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on April 4, 2022 and a review hearing on May 26, 2022. Respondent was served by mail on March 3, 2022.

In her RFO, Petitioner asserted she had complied with all the court's orders from the June 17, 2021 hearing and therefore is requesting joint legal custody, unsupervised visitation, and the minors be re-enrolled in their prior elementary school for the 2022-2023 school year.

Parties attended CCRC on April 4, 2022 and were able to reach two agreements. The CCRC report, which contains the agreements of the parties as well as the recommendations of the counselor, was filed on May 9, 2022. A copy of the report was mailed to the parties on May 10, 2022.

Respondent filed a Responsive Declaration on May 17, 2022. Petitioner was served electronically on May 17, 2022. Respondent requested all current orders remain in full force and effect. Respondent requested Family Code section 271 sanctions against Petitioner for filing the RFO despite Petitioner's failure to substantially comply with the June 18, 2021 court orders and for misleading the CCRC counselor and court. Respondent also requested the minors remain in their current school. Respondent also requested Petitioner's parenting time be reduced to every other week, as that is what was being practiced at the time.

In the court's tentative ruling it adopted the agreements and recommendations contained in the CCRC report as the order of the court with the following modifications:

- (1) Respondent shall continue to have sole legal and physical custody of the minors. Pending Petitioner's consistent participation in counseling and benefit from the therapeutic progress on her substance abuse issues, as deemed by her therapist, Petitioner shall continue to have professionally supervised parenting time at Family Time Visitation Center. The court modifies the recommendation for two hours, twice a week to a minimum of two hours every other week. Supervised parenting time may be increased up to two hours, twice a week after Petitioner has consistently and regularly attended visitation with no late cancelled and no "no-shows" for 90 days.
- (2) Once Petitioner receives unsupervised parenting time, she shall submit to an 80-hour alcohol test after her parenting time and will do so for a duration of six months. If Petitioner has a positive, diluted, or missed test, her parenting time will revert to supervised. The parties will search for a family therapist for conjoint counseling between the minors and Petitioner. Parties are to provide the name of the therapist at or before the May 26, 2022 hearing. The court adopts the additional provisions as set forth in the CCRC report.
- (3) The minors shall continue to attend their current school.
- (4) Petitioner is to pay Respondent's counsel Kristen Alexander \$500 as and for Family Code section 271 sanctions. If Petitioner is unable to pay the full amount, she may make monthly payments of \$100 until the amount is paid in full. Any missed payment will result in the remaining sum being due in full with legal interest.

As a follow up to the tentative ruling, a hearing was conducted on May 26th, at which time the court declined to authorize unsupervised parenting time and ordered the parties to agree upon an authorized 3rd party to supervise the visits. The court stayed the matter of sanctions until the July 25th hearing and a review hearing was set for August 25, 2022. Later, the court, due to a clerical error, continued the hearing to September 8, 2022.

On August 24th, Petitioner filed a Declaration. There is no Proof of Service on file. As such, the court has not read or considered this document.

On August 31, 2022, the parties filed a Stipulation and Order Re: Child Visitation. The court signed the stipulated order that same day.

Given the August 31st stipulation and order, the court sees no need for the parties to appear at the hearing on September 8th. Respondent's request for sanctions is denied. All prior orders remain in full force and effect.

TENTATIVE RULING #1: PARTIES DO NOT NEED TO APPEAR. RESPONDENT'S REQUEST FOR SANCTIONS IS DENIED. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT.

Petitioner filed a Request for Order (RFO) and an Income and Expense Declaration on June 23, 2022. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on July 22nd, and a hearing on the RFO was set for September 9th. The RFO, CCRC referral, and all other required documents were personally served on July 6, 2022.

By way of his RFO, Petitioner requests the following orders: (1) An order for joint legal and physical custody; (2) An order to attend CCRC to establish a visitation schedule; and (3) an order modifying child support.

On July 15, 2022, Respondent filed a Declaration of Gail Healy. Thereafter, on July 19, 2022, she filed her Responsive Declaration to Request for Order and her Income and Expense Declaration. All of the aforementioned were served on July 21, 2022.

The El Dorado County Department of Child Support Services (DCSS) filed a Notice Regarding Payment of Support – Substitution of Payee, on July 21, 2022. DCSS then served on all parties, copies of the June 23rd RFO and the order to attend CCRC, so it appears DCSS is aware of the pending motion.

Respondent requests the court deny Petitioner's RFO and grant sole legal and physical custody to Respondent. She consents to guideline child support and asks for an order directing Petitioner to pay all legal fees pursuant to Family Code 2030. She requests reunification counseling between Petitioner and the minor child, at Petitioner's sole cost, and asks that Petitioner engage in weekly random drug testing, at Petitioner's cost, and asks for proof of Petitioner's weekly attendance to NA/AA meetings. Respondent has made clear her concerns regarding Petitioner and his ability to stay sober. While she is not opposed to Petitioner being in the minor's life, she is concerned for the safety of her child when the Petitioner is not sober. She is requesting reunification to begin with the minor and Petitioner seeing the therapist separately until the therapist determines that it is in the best interest of the minor to commence joint sessions. Other than therapy, Petitioner would like a no-contact order for the time being until the therapist deems contact outside of therapy is acceptable. At that time, the parties can discuss a step-up plan.

The parties attended CCRC on July 22, 2022, and were able to reach several agreements as set forth in the report prepared by the CCRC counselor. The CCRC report was written and mailed on July 26th.

After receiving the CCRC report, Respondent filed a Supplemental Declaration of Respondent and Reply to CCRC report on August 31, 2022. It was served electronically on August 30th. In her declaration, Petitioner states that she is informed and believes that Petitioner has been using drugs since the CCRC appointment. Petitioner has offered to take a hair follicle test. Respondent requests the adoption of the step-up plan as stated in the CCRC report and is requesting additional language that Petitioner is to complete each step in its entirety, prior to having joint legal and physical custody. She also requests additional language that Petitioner continue random drug testing for up to four times per month for one year and then an additional testing twice per month for the six months after he has passed all tests in a year, without any missed tests.

Respondent has been informed by Petitioner and his counsel that he would like a therapist other than the minor's current therapist to conduct the reunification therapy sessions. Respondent is adamantly opposed to this.

The court has reviewed the aforementioned filings of the parties and the CCRC report. The court finds the agreements as stated in the CCRC report to be in the best interest of the minor child and adopts them as the order of the court with the following modifications:

(1) Legal Custody section 1 shall be amended to read as follows: Respondent to have temporary legal custody until Petitioner has completed the step-up plan in its entirety or upon further order of the court. Absent a court order otherwise, if Petitioner does not complete the step-up plan, sole legal custody shall remain with Respondent;

(2) Parenting Time section 5 shall be amended to read as follows: After Step 3 - Child's therapist and child will agree with Petitioner having one hour visit in Placerville at a public location and include structured phone calls with Petitioner at a frequency and duration as agreed to by the minor and her therapist;

(3) Parenting Time is amended to add the following sixth section: Each step is to last a minimum of 30 days and then the next step may commence only upon the approval of the minor and her therapist;

(4) Drugs/Alcohol Treatment sections 1 and 2 will be amended to read as follows: Petitioner shall randomly drug test at least once per week for a period of one year. After one year of continuous clean tests, without skipping tests, Petitioner will randomly drug test two times per month for a period of six months. Diluted tests shall be deemed to be a positive result;

(5) Drugs/Alcohol Treatment will be amended to add a sixth section to read as follows: Petitioner shall not consume alcoholic beverages, narcotics, or any restricted drugs, without a valid prescription within 24 hours before and during any contact with the minor. In addition to the regular testing schedule as ordered by the court in sections 1-5, prior to any in-person contact with the minor, Respondent may request to have Petitioner test upon reasonable suspicion of drug or alcohol use. If Respondent requests Petitioner test, Petitioner is to test no later than the close of business on the next business day after the request is made. If the test results are negative, then Respondent is to pay for the testing. If the test results are positive, then Petitioner shall be responsible for the cost of the test. If the test is positive, Petitioner shall start back at step one of the step-up plan. A diluted test shall be deemed to be a positive result;

(6) Therapy section 2 shall be amended to read as follows: Petitioner will engage in reunification therapy with the child and the child's therapist Gail Healy, at a frequency and duration as determined by the therapist. In the event Ms. Healy is unable or unwilling to conduct reunification therapy then the parties are to work together to agree on a new therapist.

The court continues the matter of child support modification to be heard on the DCSS calendar on October 24, 2022 at 8:30 AM in department 5.

Regarding Respondent's request for attorney's fees, Respondent makes her request pursuant to Family Code section 2030. However, to award attorney's fees pursuant to Section 2030, the parties must have been married. *Reeves v. Reeves*, 34 Cal. 2d 355 (1949). Section 2030 itself states that it applies

“[i]n a proceeding for dissolution of marriage, nullity of marriage, or legal separation of the parties, or any proceeding subsequent to the entry of a related judgement...” Nonetheless, the court does find good cause to award attorney’s fees pursuant to Family Code section 7605(a).

Section 7605(a) authorizes the court to award attorney’s fees based on need to ensure that both parties have the opportunity to retain counsel in child custody and support proceedings. Under Section 7605(a), the court is to assess the income and needs of both parties to determine if an award of attorney’s fees is necessary to maintain or defend a proceeding for physical or legal custody of a child. Here, the court finds significant disparity between the income of the parties. Given the disparity, an award of attorney’s fees is reasonably necessary to ensure Respondent has access to representation in the present proceedings. As such, the court orders Petitioner to pay Respondent \$750 for attorney’s fees incurred to date, as stated in her Income and Expense Declaration. Such payment is to be made to Petitioner or her attorney no later than September 19, 2022. Further, Petitioner is to pay any additional attorney’s fees, reasonably incurred by Respondent in the present proceedings up to an amount of \$5,000.

TENTATIVE RULING #2: THE COURT ADOPTS THE AGREEMENTS CONTAINED IN THE CCRC REPORT AS MODIFIED ABOVE AS THE ORDER OF THE COURT. THE MATTER OF CHILD SUPPORT IS CONTINUED TO OCTOBER 24, 2022 AT 8:30 AM IN DEPARTMENT 5 TO BE HEARD ON THE DCSS CALENDAR. THE COURT ORDERS PETITIONER TO PAY RESPONDENT \$750 FOR ATTORNEY’S FEES INCURRED TO DATE, AS STATED IN HER INCOME AND EXPENSE DECLARATION. SUCH PAYMENT IS TO BE MADE TO PETITIONER OR HER ATTORNEY NO LATER THAN SEPTEMBER 19, 2022. FURTHER, PETITIONER IS TO PAY ANY ADDITIONAL ATTORNEY’S FEES, REASONABLY INCURRED BY RESPONDENT IN THE PRESENT PROCEEDINGS UP TO AN AMOUNT OF \$5,000. PETITIONER IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

3. DONNA PESTONI V. JOSEPH PESTONI

PFL20200165

On July 12, 2022, Petitioner filed a Request for Order (RFO) asking the court to bifurcate the issue of marital status and enter judgment of dissolution on that issue only. The RFO was served via U.S. Mail the same day. Respondent has not filed a responsive declaration. The parties are ordered to appear for a hearing on the bifurcation.

TENTATIVE RULING #3: PARTIES ARE ORDERED TO APPEAR FOR A HEARING ON THE BIFURCATION.

4. GERGANA MUDROVA V. PAUL BONDAR

22 FL0444

On June 16, 2022, Petitioner filed a Request for Order (RFO) requesting modification of child custody and visitation, attorney's fees in the amount of \$10,145, and a ruling on the RFO filed on 1/7/22 in Yolo County Superior Court. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on July 20th and a hearing on the RFO set for September 8, 2022. Concurrent with her RFO, Petitioner filed a Request for Judicial Notice, a post-judgment Declaration Regarding Address Verification and an Income and Expense Declaration. All documents were served via U.S. mail on June 27 and then again via overnight delivery and electronic service on July 7, 2022.

On August 12, 2022, Respondent filed his Responsive Declaration to Request for Order and an Income and Expense Declaration. Both were served on August 16th.

Custody and Visitation

In her moving papers, Petitioner sets forth a proposed custody and visitation schedule. She claims it is in the best interest of the minor because it will allow her to spend more quality time with her father and less time driving. Petitioner sees the proposed schedule as a long-term parenting schedule that will not have to change and it will allow both parents to plan ahead for vacations. The change in circumstances which warrants the changed custody and visitation schedule is the fact that Respondent moved to Reno, NV. Petitioner and the minor reside in El Dorado Hills.

The parties attended CCRC as scheduled and were able to reach several agreements. A CCRC report was issued the same day and then mailed to the parties on July 26, 2022. After reviewing the agreements set forth in the CCRC report, the court finds them to be in the best interest of the minor and adopts them as the order of the court.

Yolo County Motion for Child Support

Prior to filing the present RFO, Petitioner filed a request to change venue, a change in child support, and a request for attorney's fees in Yolo County Superior Court on January 7, 2022. Yolo County Superior granted the requested change of venue but deferred the remaining requests to the present court once the case was transferred. Petitioner has requested the court take judicial notice of the January 7th filings pursuant to Evidence Code §§452(d) and 453.

Petitioner asserts that since Respondent's move to Reno, he has indicated that he no longer wanted to travel to El Dorado Hills for his parenting time. Further, he claimed that all of his money went to the down payment on his new home and as such, he can no longer afford schooling and medical for the minor child. As of the filing of the RFO, Respondent has been paying \$600 in child support on a monthly basis since July of 2018.

The court notes certain inconsistencies in Respondent's Income and Expense Declaration and needs more information to make a ruling on child support. The parties are ordered to appear.

Attorney's Fees

In support of Petitioner's request for attorney's fees, her attorney has provided a declaration in support of the amount of fees requested. As of the Yolo County filing, attorney's fees amounted to \$7,560. Petitioner requests an additional \$2,585 based on the additional filings with the present court.

Presumably Petitioner makes her request for Attorney's Fees pursuant to Family Code §2030. As such, the court is to consider the income and needs of each party. Again, the court needs additional information regarding Respondent's Income and Expense Declaration. The parties are ordered to appear.

TENTATIVE RULING #4: THE AGREEMENTS CONTAINED IN THE CCRC REPORT ARE ADOPTED AS THE ORDER OF THE COURT. ALL PRIOR RULINGS NOT IN CONFLICT WITH THIS RULING REMAIN IN FULL FORCE AND EFFECT. PARTIES ARE ORDERED TO APPEAR ON ALL OTHER MATTERS.

5. JENNIFER COWLES V. BENJAMIN COWLES

PFL20180808

On June 9, 2022, the court continued the matter for receipt of the Family Codes Section 3111 report and child support to September 8, 2022. The court reserved jurisdiction to modify support to the

date of the filing of the RFO. The court ordered the children to be made available to the evaluator in person. Parties were ordered to file updated Income and Expense Declarations at least 10 days prior to the next hearing.

The court has not received a Family Code section 3111 report. Respondent filed an Income and Expense Declaration on August 18, 2022. Petitioner has not filed an updated Income and Expense Declaration.

The court finds good cause to continue the matter to September 29, 2022. The court continues to reserve jurisdiction to modify child support to the date of the filing of the RFO. Petitioner is admonished if she fails to file an updated Income and Expense Declaration at least 10 days prior to the next court date, the court may impose sanctions.

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: THE COURT FINDS GOOD CAUSE TO CONTINUE THE MATTER TO SEPTEMBER 29, 2022 at 8:30 AM IN DEPARTMENT 5. THE COURT CONTINUES TO RESERVE JURISDICTION TO MODIFY CHILD SUPPORT TO THE DATE OF THE FILING OF THE RFO. PETITIONER IS ADMONISHED IF SHE FAILS TO FILE AN UPDATED INCOME AND EXPENSE DECLARATION AT LEAST 10 DAYS PRIOR TO THE NEXT COURT DATE, THE COURT MAY IMPOSE SANCTIONS. 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 28, 2022, Petitioner filed a Request for Order (RFO) seeking custody and visitation orders, as well as additional orders related to Respondent's alcohol consumption. As required, Petitioner also filed her Declaration Regarding Address Verification since this is a post-judgment request. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on July 28, 2022, and the matter was set for hearing on September 8, 2022. All required documents were electronically served on July 13, 2022.

Petitioner asserts three main reasons for a change in circumstance sufficient to warrant a change in the custody plan. First, Respondent's recent use and abuse of alcohol. Second, the school performance of the children. And third, serious co-parenting disagreements between the parties.

Petitioner requests the following orders: (1) Respondent shall not consume any alcohol or drugs (other than prescription drugs) during his parenting time with the children; (2) Respondent shall enroll and attend regular AA meetings, and provide proof of enrollment and attendance to Petitioner and the court; (3) Respondent shall submit to a 72-hr Etg test after his parenting time with the children for at least 6 months, and allow the testing facility to provide any test results directly to Petitioner's attorney. If Respondent tests positive or fails to test within 8 hours after his parenting time with the children ends each week, all parenting time with Respondent shall cease until further order of the court; (4) Subject to the foregoing requested orders, Respondent shall have parenting time on the 1st, 3rd, and 4th weeks of every month from Friday evening (6:30 pm) through Monday morning (9:00 am), and on the 2nd week of every month from Sunday morning (9:00 am) through Monday morning (9:00 am). Petitioner shall have parenting time at all other times.

On July 27, 2022, Petitioner filed a Declaration of Moisa Tellez re Correspondence with Teacher, to support her RFO. It was served on July 25th. The declaration is submitted as evidence of the difficulties the minors are having in school under the current parenting plan.

As ordered, the parties attended CCRC on July 28th. A report was issued and mailed to the parties on August 29th and 30th, respectively. The parties were unable to reach any agreements at CCRC but the report does note several recommendations by the CCRC counselor.

The court has reviewed the filings of the parties as well as the CCRC report and finds that the recommendations contained in the CCRC report are in the best interest of the minor children. The court adopts the recommendations of the CCRC report as the order of the court with the following modifications: (1) Respondent shall have parenting time on the 1st, 3rd, and 4th weeks of every month from Friday evening (6:30 pm) through Monday morning (9:00 am), and on the 2nd week of every month from Sunday morning (9:00 am) through Monday morning (9:00 am). Petitioner shall have parenting time at all other times; (2) Petitioner may request Respondent to submit to a 72-hr EtG test at the end of Respondent's parenting time. If Petitioner requests Respondent to test, the test shall be completed by the close of business on the Monday following Respondent's parenting time weekend. If the test results are negative, Petitioner shall be responsible for the cost of the test. If the test results are positive Respondent shall be responsible for the cost of the test. If Respondent has not had any positive tests for a consecutive 90-day period, then Petitioner may no longer request Respondent to test. A diluted test shall be deemed a positive result.

TENTATIVE RULING #7: THE COURT ADOPTS THE RECOMMENDATIONS OF THE CCRC REPORT WITH THE FOLLOWING MODIFICATIONS: (1) RESPONDENT SHALL HAVE PARENTING TIME ON THE 1ST, 3RD, AND 4TH WEEKS OF EVERY MONTH FROM FRIDAY EVENING (6:30 PM) THROUGH MONDAY MORNING (9:00 AM), AND ON THE 2ND WEEK OF EVERY MONTH FROM SUNDAY MORNING (9:00 AM) THROUGH MONDAY MORNING (9:00 AM). PETITIONER SHALL HAVE PARENTING TIME AT ALL OTHER TIMES; (2) PETITIONER MAY REQUEST RESPONDENT TO SUBMIT TO A 72-HR ETG TEST AT THE END OF RESPONDENT'S PARENTING TIME. IF PETITIONER REQUESTS RESPONDENT TO TEST, THE TEST SHALL BE COMPLETED BY THE CLOSE OF BUSINESS ON THE MONDAY FOLLOWING RESPONDENT'S PARENTING TIME WEEKEND. IF THE TEST RESULTS ARE NEGATIVE, PETITIONER SHALL BE RESPONSIBLE FOR THE COST OF THE TEST. IF THE TEST RESULTS ARE POSITIVE RESPONDENT SHALL BE RESPONSIBLE FOR THE COST OF THE TEST. IF, RESPONDENT HAS NOT HAD ANY POSITIVE TESTS FOR A CONSECUTIVE 90-DAY PERIOD, THEN PETITIONER MAY NO LONGER REQUEST RESPONDENT TO TEST. A DILUTED TEST SHALL BE DEEMED A POSITIVE RESULT. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER ARE TO REMAIN IN FULL FORCE AND EFFECT. PETITIONER TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

8. SARAH CRAIG V. RYAN CRAIG

PFL20170099

On June 20, 2022, and then again on June 28, 2022, Respondent filed an Order to Show Cause and Affidavit for Contempt (OSC). Both OSCs were scheduled to be heard on September 8, 2022, and

both were personally served on July 7, 2022. The OSCs allege instances wherein Petitioner impeded phone communications between Respondent and the minors, where she withheld the minors during Respondent's parenting time, and where she made no effort to discuss expanding Respondent's parenting time during the summer vacation, all of which Respondent alleges are violations of court orders. The parties are ordered to appear for arraignment.

On June 22, 2022, Respondent filed a Request for Order (RFO) requesting orders to amend the current custody and visitation schedule, attorney's fees in the amount of \$2,000, an order shortening time, an order to modify the order for 730 evaluation, and confirmation of the trial date. Concurrently therewith, Respondent filed an Application for Order Shortening Time and Order. His application was denied and the matter was set for the regular law and motion calendar. It does not appear that this RFO was ever served.

On July 11, 2022, Respondent filed an Amended Request for Order which looks to be identical to the June 22nd RFO. This RFO was served via U.S. Mail on July 12, 2022. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on July 21st, and a hearing on the RFO was set for September 8th.

Respondent is requesting the following parenting time schedule: Sundays from 7pm through Wednesdays at 8pm; an additional 7-day block of time during summer with 7 days-notice given to Petitioner, which may be used in conjunction with the existing 7-day block of vacation time but total time with Respondent is not to exceed 14 consecutive days; and an additional 7 days for consecutive or non-consecutive use that may be scheduled 14 days in advance, as a makeup for Petitioner's failure to agree to an expansion of Respondent's parenting time. Respondent requests that the court affirm the trial date set for August 2, 2022, as he claims Petitioner has requested a continuance on the basis that a 730 evaluation was not completed. Respondent claims that a 730 evaluation was done and filed with the court. He is seeking \$2,000 in attorney's fees and costs as a result of Petitioner's delaying the case and refusing to expand the parenting time schedule. Finally, he requested to have the RFO heard on a shortened basis with a hearing scheduled for June 23, 2022.

The day after the filing of the amended RFO, the parties filed a stipulation to continue the trial to November and continue the Mandatory Settlement Conference to October. The parties further stipulated that if the 730 evaluation has not begun by October 1st, or the evaluator will not have the report completed at least 10 days prior to trial, then the trial and MSC dates will once again be continued.

On August 18th, Petitioner filed a Responsive Declaration to Request for Order. It was served the same day. Petitioner requests the following orders: (1) Respondent's request for summer visitation to be denied as the issue is moot. Summer is over and the children start school prior to the scheduled hearing date; (2) Custody and visitation schedule to remain the same pending trial, which is already set; (3) Respondent's request to confirm the trial date to be denied as moot given that Respondent stipulated to continued trial and mandatory settlement conference dates; and (4) the request to modify the order for a 730 evaluation to also be denied as moot pursuant to the stipulation filed by the parties. Petitioner requests Respondent pay his own attorney's fees, and asks that the court issue sanctions in the amount of \$2,500 pursuant to Family Code section 271.

The parties attended CCRC as scheduled. A report was issued and mailed to the parties on August 29, 2022. The parties were unable to reach an agreement at CCRC. However, the CCRC counselor does recommend that Respondent be given an additional week of parenting/vacation time during the summer break; he also recommends that a Court Appointed Special Advocate (CASA) be appointed to address and monitor the educational needs of the children.

On August 31, 2022, Respondent filed Respondent's Reply Declaration to Petitioner's Responsive Declaration/Reply to CCRC Report. Petitioner was served by mail and electronically on August 31, 2022.

On September 6, 2022, Petitioner filed a Reply Declaration to the CCRC report. Respondent was served by overnight delivery on September 6, 2022. Petitioner states she and her counsel did not receive the CCRC report until September 1, 2022 and have not had adequate time to review it. Petitioner requests the matter be continued to allow sufficient time to review the report.

The court has not received a Statement of Issues and Contentions from Minors' Counsel.

The court finds good cause to continue the RFO as to custody and visitation. The parties are currently set to be heard on two additional Requests for Orders on October 27, 2022. Therefore, for judicial economy, the court continues this matter to join with the matters currently set for October 27, 2022.

The court declines to rule on Respondent's requests to hear his motion on a shortened basis, and his request to have the court affirm the August 2nd trial date. Both issues are moot.

Regarding Respondent's request that the court modify its order for a 730 evaluation, it is unclear exactly what modification Respondent is requesting. However, pursuant to the July 12th stipulation the parties did agree that a 730 evaluation is to take place, but the stipulation is silent as to who will conduct the evaluation. It appears from the filings of the parties that Respondent has agreed to Dr. Sid Nelson as the evaluator. As such, the court orders the 730 evaluation to take place with Dr. Sid Nelson in accordance with the terms of the stipulation filed with the court on July 12, 2022.

Finally, regarding Respondent's request for attorney's fees, he presumably bases his request on Family Code section 271 and requests attorney's fees as a sanction. However, it appears that Petitioner and her counsel did meet and confer on the issue of an additional week of visitation during the summer. Simply because the parties could not come to an agreement does not mean the court order to meet and confer was violated. Further, it appears Respondent and his attorney discontinued the meet and confer efforts and Respondent filed the present motion. All court orders were complied with and thus Respondent's request for sanctions is denied.

Petitioner makes her request for sanctions pursuant to Family Code section 271 which states in pertinent part, "...the court may base an award of attorney's fees and costs on the extent to which the conduct of each party or attorney furthers or frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation by encouraging cooperation between the parties and attorneys." The court notes Respondent's repeated filings on the same issues, repeated requests for orders shortening time and OSCs. It appears that Respondent has not made attempts to amicably resolve these issues without the need for court intervention. This is clearly not in keeping with the court's policy to promote settlement and reduce the cost of litigation. Petitioner's request for

sanctions is granted. Respondent is to pay Petitioner \$2,500 in sanctions. Respondent may make payments of \$250 per month due on the 15th of each month until the entire amount of \$2,500 has been paid. In the event of a missed or late payment, the entire amount of sanctions becomes immediately due with legal interest.

TENTATIVE RULING #8: THE PARTIES ARE ORDERED TO APPEAR FOR ARRAIGNMENT ON THE JUNE 20TH AND JUNE 28TH OSCS. THE COURT FINDS GOOD CAUSE TO CONTINUE THE RFO AS TO CUSTODY AND VISITATION TO OCTOBER 27, 2022 AT 8:30 AM IN DEPARTMENT 5. ANY SUPPLEMENTAL DECLARATIONS OR STATEMENTS OF ISSUES AND CONTENTIONS ARE DUE AT LEAST 10 DAYS PRIOR TO THE NEXT HEARING. THE COURT DECLINES TO RULE ON RESPONDENT'S REQUESTS TO HEAR HIS MOTION ON A SHORTENED BASIS, AND HIS REQUEST TO HAVE THE COURT AFFIRM THE AUGUST 2ND TRIAL DATE. BOTH ISSUES ARE MOOT. THE COURT ORDERS THE 730 EVALUATION TO TAKE PLACE WITH DR. SID NELSON IN ACCORDANCE WITH THE TERMS OF THE STIPULATION FILED WITH THE COURT ON JULY 12, 2022. RESPONDENT'S REQUEST FOR SANCTIONS IS DENIED. PETITIONER'S REQUEST FOR SANCTIONS IS GRANTED. RESPONDENT IS TO PAY PETITIONER \$2,500 IN SANCTIONS. RESPONDENT MAY MAKE PAYMENTS OF \$250 PER MONTH DUE ON THE 15TH OF EACH MONTH UNTIL THE ENTIRE AMOUNT OF \$2,500 HAS BEEN PAID. IN THE EVENT OF A MISSED OR LATE PAYMENT, THE ENTIRE AMOUNT OF SANCTIONS BECOMES IMMEDIATELY DUE WITH LEGAL INTEREST.

9. SEEMA NAVEEN V. AASHEESH NAVEEN

PFL20170667

Respondent filed a Request for Order (RFO) on July 8, 2022 requesting the court change the order dated March 30, 2021. Petitioner and Minors' Counsel were served by mail on July 8, 2022. Respondent asserts he has "been able [sic] to purchase a residence as the proceeds of the family residence are necessary for him to do so." Respondent requests modification of the March 30, 2021 order as it was anticipated at the time of that order the division of assets would conclude within a few months. However, the parties are currently in trial on these issues and are not expected to conclude until September 28, 2022. Respondent requests the requirement that Petitioner inform Respondent of her decision on the right of first refusal within 30 days from the agreement/decision on the remaining

property issues, be modified to 15 days from the date of this hearing on the RFO. Respondent requests the order be further modified to change the timeframe for accomplishing the buyout or listing the home for sale from 60 days to 45 days.

Respondent requests a different modification in the event a new appraisal is required. In that instance, Respondent is requesting the language be modified to state Petitioner has 15 days from the appraisal to provide Respondent notice of her decision regarding the right of first refusal. Respondent then makes the same request to modify the timeframe to accomplish the buyout or list the home for sale within 45 days rather than the agreed upon 60 days.

Petitioner has not filed a Responsive Declaration.

Respondent has failed to set forth grounds on which the court may modify the agreement of the parties. Other than the passage of time, the court finds there has been no change in circumstances which would warrant the court modifying the parties carefully bargained for agreement. Therefore, the court denies Respondent's request to modify the March 30, 2021 stipulation.

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 #9: THE COURT DENIES RESPONDENT'S REQUEST TO MODIFY THE MARCH 30, 2021 STIPULATION. 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 5, 2022, Respondent filed a Request for Order (RFO) seeking the following orders: (1) guideline spousal support; (2) attorney's fees in the amount of \$8,000; (3) sanctions pursuant to Family Code §271 in the amount of \$5,000; (4) An award for the entirety of the non-disclosed asset or in the alternative, adjudication of the asset; (5) amendment of the judgment; and (6) the appointment of Chris Whitaker and Linda Walshin with fees paid by Petitioner. In support of her RFO, Respondent filed her Income and Expense Declaration, an Attorney Fee Declaration supporting the nature and amount of costs and fees incurred in preparing and filing the present motion. All documents were served via U.S. mail on July 12th and then again on July 27th. Respondent did not file a post-judgment Declaration Regarding Address Verification. However, Petitioner has filed a responsive declaration so the court finds he had actual notice of the present motion and any defect in service is waived.

Petitioner's Responsive Declaration to Request for Order was filed on August 24th. Concurrently therewith, he filed his Income and Expense Declaration. Both documents were served via U.S. mail on August 19th. On August 29th, he filed Petitioner's Exhibit List Re: Respondent's Request for Order for Spousal Support, Attorney Fees/Costs, Etc. This was served on August 26th.

In his response, Petitioner requests the following: (1) Dismiss the RFO due to Respondent's failure to state the amount of spousal support sought and her failure to complete boxes 11(a) and (b) on her Income and Expense Declaration; (2) He requests attorney's fees of at least \$5,000 pursuant to Family Code Section 271 for Respondent's filing of a meritless RFO; (3) He asks the court to deny all of Respondent's additional requests.

Spousal Support

The parties were married for 24 years until their dissolution in December of 2014. As part of their dissolution, they entered into a Marital Settlement Agreement (MSA) which, according to Respondent, expressly reserves jurisdiction of the court to award spousal support. Respondent claims to have recently sold a family investment opportunity which had previously provided the majority of her income. She is now struggling to make ends meet and she requests guideline spousal support.

Petitioner asks the court to deny Respondent's request and terminate the court's jurisdiction to award spousal support to either party. Petitioner states that the MSA already covers the agreement of the parties that no spousal support would be paid. According to Petitioner, the parties lived a modest lifestyle when they were married. They have since been divorced for eight years and Respondent has had significant separate income for many years. He claims that she has not disclosed her equity in her home as well as the assets she received from a property sale in December of 2021. According to Petitioner, Respondent could be working full time and earning well above what he is earning.

The MSA does contemplate that at the time of signing, no spousal support was to be awarded to either party, however, it expressly reserves jurisdiction of the court to award spousal support unless terminated by any of the delineated circumstances or by operation of law. Neither party points to the occurrence of any of the delineated circumstances which would effectively cut off the court's jurisdiction over support. Thus, pursuant to the terms of the MSA, the court does continue to have jurisdiction to make a ruling on spousal support.

In ruling on spousal support the court is to consider, among other things, “the obligations and assets, including separate property, of each party.” Fam. Code §4320(2)(e). To do so, each party is required to file a “current and completed” Income and Expense Declaration when a support request is pending. Cal. Rule of Ct. 5.260. Notably, Respondent’s Income and Expense Declaration is not complete as she fails to list the value of her personal assets. Admittedly, her family recently sold property which had previously been providing her income yet, as Petitioner points out, any amounts received from the sale are absent from the Income and Expense Declaration. Without full and complete information regarding the assets of each party, the court cannot make a determination on spousal support at this time. Therefore, parties are ordered to appear to select dates for a Mandatory Settlement Conference and trial so that the court may take testimony on the Family Codes section 4320 factors.

Non-Disclosed Asset

Respondent states that it was recently brought to her attention that Petitioner failed to disclose a major investment account during the dissolution proceedings. She is concerned that there are more accounts or assets he did not disclose. She requests the court set aside the dissolution of marriage based on fraud, breach of fiduciary duty and failure to disclose, and she would like to be awarded 100% of the undisclosed asset pursuant to Family Code Section 1101(h) as well as Civil Code Section 3294. In the alternative, she would like the asset to be adjudicated as an omitted asset pursuant to Family Code Section 2556.

Petitioner denies the existence of any asset that was not disclosed at the time of the divorce. He points to the affirmation in the MSA that all funds and accounts belonging jointly have been accounted for as well as the parties’ agreement to waive the final disclosure of assets.

In her moving papers, Respondent makes no mention of the specialists, other than her request to have them appointed. There is no discussion of their credentials or the purpose of their appointment and why Petitioner should bear the sole cost. Likewise, regarding the undisclosed asset, Respondent provides little information regarding the asset itself, its value, and confirmation of its existence. The parties are ordered to appear to select trial dates.

Sanctions and Attorney’s Fees

Respondent requests attorney’s fees and sanctions pursuant to Family Code Sections 271 and 1101. Section 1101 allows for sanctions in the amount of the entire undisclosed asset. While Section 271 sanctions are not based on need, but instead are based “...on the extent to which the conduct of each party...frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation by encouraging cooperation...” Respondent seeks attorney’s fees in the amount of \$8,000 and sanctions in the amount of \$5,000.

Petitioner asks the court to award him attorney’s fees in the amount of at least \$5,000 pursuant to Family Code Section 271. He notes that Respondent failed to complete her Income and Expense Declaration by merely stating TBD in boxes 11(a) and (b) and she fails to disclose her equity in her home, as well as significant assets she received from the sale of real property in November 2021. He claims her motion is meritless, “as to all of the issues other than spousal support.”

The court reserves on the requests of both parties for attorney’s fees and sanctions.

TENTATIVE RULING #10: THE PARTIES ARE ORDERED TO APPEAR TO SELECT TRIAL DATES. THE COURT RESERVES ON THE REQUESTS OF BOTH PARTIES FOR ATTORNEY'S FEES AND SANCTIONS.