

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

2. ASHLEY FRAZIER V. JAMES FRAZIER

PFL20150660

Respondent filed a Request for Order (RFO) on April 5, 2023 seeking an order bifurcating the issue of marital status. Judgment in this matter has been entered as of August 8, 2023, therefore the court declines to rule as the issue is now moot.

TENTATIVE RULING #2: THE COURT DECLINES TO RULE ON THIS MATTER AS IT IS NOW MOOT.

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

PLEASE NOTE, IF A HEARING IS REQUESTED, IT WILL BE HELD AT 10:00 A.M.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

3. CASSI POREIDER V. ANDREW POREIDER, JR.

PFL20200082

On July 6th this matter came before the court for hearing on an RFO filed by Respondent wherein Respondent requested custody and visitation orders as well as child support orders. The court adopted the agreements and recommendations as set forth in the June 20, 2023 CCRC report and ordered Petitioner to complete the intake for supervised visits by the close of business on July 7th, and Respondent was ordered to provide the court with a plan for supervising the minor while he is at work. The supervision plan was to be filed no later than July 14th. The court made additional orders regarding custody, visitation and alcohol testing. A review hearing was set for the present date to address compliance with the custody orders and discuss a step-up in visits.

Family Time Visitation Center filed a Declaration of Supervised Visitation Provider on July 13, 2023. On July 13th and 14th, Respondent served and filed his Declaration of Respondent Andrew Poreider Jr., In Regard to the Minors [sic] Supervision in his Absence. Petitioner's Supplemental Declaration was filed, and mail served on September 1st. Petitioner's Objection to Respondent's Unilateral Decision to Relocate with Minor Child to Sacramento County was filed and served on September 7, 2023. Respondent's Responsive Declaration to Petitioner's Supplemental Declaration was filed on September 7th.

Petitioner is requesting the following orders: (1) Restore joint legal custody; (2) Restore joint physical custody with equal parenting time. In the alternative, she requests unsupervised visitation with a step-up parenting schedule; (3) Right of first refusal if Respondent is not available to care for the minor for more than 3 hours; (4) Petitioner to have reasonable unsupervised phone/video calls and text messages with the minor; (5) Respondent to disclose the case number and details for his June 2022 DUI; (6) Remove Petitioner's alcohol testing requirement or, in the alternative, order testing only during Petitioner's parenting time and for a specified duration. Petitioner also states she has received notice from Respondent that he intends to move the minor to Sacramento County. She is objecting to the move as she feels it is not in the minor's best interest.

Respondent opposes the request to restore joint legal custody as well as the requests for equal parenting time, unsupervised phone/video calls with the minor, and the request to have alcohol testing removed. He requests the parties adhere to the CCRC report which allows for unsupervised visits twice per week and reasonable unsupervised calls and texts after Petitioner has tested clean for three months and can provide proof of continued participation in an alcohol recovery program.

The court has reviewed the filings of the parties as stated above, and while it does appear that Petitioner is making progress, it has only been two months since the prior orders

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

were put in place; as such, making the significant leap to equal parenting time would not be in the best interests of the minor. The prior orders remain in place. Pursuant to those orders, once Petitioner has tested clean for three consecutive months and can provide proof of her ongoing attendance in a recovery program, visits can progress to being unsupervised for four hours, twice per week. In addition to the prior orders, if and when visits become unsupervised, Petitioner's phone calls may also be unsupervised. At that time, Petitioner will be responsible for initiating the phone call.

Petitioner's request for information regarding Respondent's June DUI is denied as it is outside the scope of the present hearing. While the court notes Petitioner's objection to Respondent's move of the minor, she does not request the court issue an order precluding the move and, even if she did, this too is outside the scope of the present hearing. Petitioner would need to file an RFO for this request.

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

TENTATIVE RULING #3: THE PRIOR ORDERS REMAIN IN PLACE. PURSUANT TO THOSE ORDERS, ONCE PETITIONER HAS TESTED CLEAN FOR THREE CONSECUTIVE MONTHS AND CAN PROVIDE PROOF OF HER ONGOING ATTENDANCE IN A RECOVERY PROGRAM, VISITS CAN PROGRESS TO BEING UNSUPERVISED FOR FOUR HOURS, TWICE PER WEEK. IN ADDITION TO THE PRIOR ORDERS, IF AND WHEN VISITS BECOME UNSUPERVISED, PETITIONER'S PHONE CALLS MAY ALSO BE UNSUPERVISED. AT THAT TIME, PETITIONER WILL BE RESPONSIBLE FOR INITIATING THE PHONE CALL. PETITIONER'S REQUEST FOR INFORMATION REGARDING RESPONDENT'S JUNE DUI IS DENIED AS IT IS OUTSIDE THE SCOPE OF THE PRESENT HEARING. WHILE THE COURT NOTES PETITIONER'S OBJECTION TO RESPONDENT'S MOVE OF THE MINOR, SHE DOES NOT REQUEST THE COURT ISSUE AN ORDER PRECLUDING THE MOVE AND, EVEN IF SHE DID, THIS TOO IS OUTSIDE THE SCOPE OF THE PRESENT HEARING. PETITIONER WOULD NEED TO FILE AN RFO FOR THIS REQUEST. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT.

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LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

4. DANIELLE MARIE HASAN V. TALIB AL HASAN

23FL0370

Petitioner filed a Request for Domestic Violence Restraining Order (DVRO) on April 27, 2023. The court issued a temporary restraining order and set the matter for hearing. As part of her request, she asked the court to make orders regarding child support and spousal support. The DVRO came before the court for hearing on May 19, 2023 at which time the court continued the DVRO hearing to August 18th and set the support issues for a separate hearing on July 20th. The court reserved jurisdiction on support back to the date of filing the request, and the temporary restraining order was extended until the new hearing date.

The parties appeared for hearing on August 18th. Due to the pending criminal matter however, the DVRO was continued until after the criminal proceedings. The court allowed for nonprofessionally supervised visits 6 hours per week. A hearing was set for the present date to set child and spousal support orders. Both parties were ordered to file updated Income and Expense Declarations.

Respondent filed and served his Income and Expense Declaration on August 4, 2023. Concurrently therewith he filed a Declaration of Respondent in Opposition to Petitioner's Request for Support. Petitioner filed and served her Income and Expense Declaration on August 30th. Attached to her declaration are profit and loss statements from January 2023 through July 2023 and her 2021 Schedule C.

Respondent notes Petitioner's failure to present her income for the past 12 months. She provided only her 2021 Schedule C and average income from May and June 2023. Respondent further points to the fact that Petitioner's income was \$232,254 in 2021 when operations were still being drastically impacted by COVID. The drop from that to \$1,028.12 is, Respondent argues, unbelievable. He points to numerous deductions taken by Petitioner which he argues were not business expenses.

It is unclear why Petitioner failed to include any information regarding her income during 2022. Petitioner provides her average income for the prior 7 months, not the prior 12 as required by the Income and Expense Declaration. The parties are ordered to appear. Petitioner is ordered to bring documentation of her 2022 income or her 2022 Schedule C.

TENTATIVE RULING #4: THE PARTIES ARE ORDERED TO APPEAR. PETITIONER IS ORDERED TO BRING DOCUMENTATION OF HER 2022 INCOME OR HER 2022 SCHEDULE C. PLEASE NOTE, HEARINGS WILL BE HELD AT 10:00 A.M.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

5. DAVID RITCHIE V. MARIANNE LANSPA

PFL20180627

On July 12, 2023 Respondent filed an Order to Show Cause and Affidavit for Contempt (OSC). The OSC was personally served on August 9th. The OSC asserts ten allegations of contempt and seeks attorney's fees pursuant to Family Code section 271.

The parties are ordered to appear for arraignment.

TENTATIVE RULING #5: THE PARTIES ARE ORDERED TO APPEAR FOR ARRAIGNMENT. PLEASE NOTE, HEARINGS WILL BE HELD AT 10:00 A.M.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

6. FALLON LOPEZ V. ROBERT LOPEZ

22FL0643

Petitioner filed a Request for Order (RFO) on February 10, 2023, requesting the court order guideline child and temporary spousal support as well as Family Code section 2030 attorney fees. Petitioner concurrently filed an Income and Expense Declaration. Respondent was served by mail on February 14, 2023. Respondent filed and served a Responsive Declaration and a Declaration of Counsel on April 17, 2023.

At the hearing on the RFO on April 27th, the parties presented the court with their Stipulation and Order RE: Child Support, Temporary Spousal Support and FC 2030 Attorney Fees RE: Hearing of April 27, 2023. The court adopted the stipulation as the order of the court and set a review hearing for the present date regarding attorney's fees and retroactive modification of support. Parties were ordered to file and serve updated Income and Expense Declarations 10 days prior to the review hearing.

Neither party has filed an updated Income and Expense Declaration as required, therefore, the matter is dropped from calendar.

TENTATIVE RULING #6: THE MATTER IS DROPPED FROM CALENDAR.

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LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

7. JEREMY HEATH V. RACHEL LORRAINE HEATH

22FL0458

Request for Order

Respondent filed a Request for Order (RFO) on August 26, 2022, requesting the court make child custody, parenting time, child support, and spousal support orders. Respondent also requested Family Code section 2030 attorney's fees. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on September 26, 2022 and a hearing on the RFO was set for November 17, 2022. Due to court oversight the hearing was not held until December 1, 2022 at which time the court ruled on all matters.

At the December 1st hearing, it was noted that the parties were still living together but they intended to sell the family home and relocate to separate residences. The parties were re-referred to CCRC to establish a parenting plan in anticipation of their living apart. CCRC was scheduled for February 6, 2023 and a review hearing was set for March 23, 2023.

The parties appeared for hearing on the RFO on March 23, 2023 and requested a continuance. The continuance was granted, and a hearing was set for June 15th. The matter was once again continued to the present date.

Temporary Restraining Order

The parties appeared for hearing on the Request for Domestic Violence Restraining Order filed by Respondent. The matter has been continued several times since it was first set for hearing. The parties are ordered to appear.

Bifurcation

On May 26, 2023, Respondent filed an RFO seeking to bifurcate the issue of marital status. The RFO was mail served on June 14th. Petitioner filed and served his Responsive Declaration to Request for Order on August 31st.

A party seeking bifurcation is required to submit a completed FL-315. Cal. Rule Ct. 5.390(a). Respondent's RFO is denied for failure to complete and file the FL-315.

TENTATIVE RULING #7: THE PARTIES ARE ORDERED TO APPEAR FOR HEARING ON THE DOMESTIC VIOLENCE RESTRAINING ORDER AND THE AUGUST 26TH RFO. THE HEARING WILL BE HELD AT 10:00 A.M. RESPONDENT'S REQUEST TO BIFURCATE IS DENIED FOR FAILURE TO COMPLETE AND FILE THE FL-315.

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LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

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LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

8. KATELYN STAYER V. ADAM STAYER

23FL0084

Petitioner filed a Request for Order (RFO) on May 17, 2023, requesting custody and support orders as well as orders for attorney's fees and proceeds from the sale of the marital residence. On June 15, 2023, Petitioner filed a Declaration which included additional requested parenting provisions. A Proof of Electronic Service for the Declaration was filed on the same date.

On July 13, 2023, Respondent filed his Income and Expense Declaration, and a Proof of Service by Mail. On August 28, 2023, Petitioner filed an updated Income and Expense Declaration.

Respondent filed and served his Responsive Declaration to Request for Order on August 31st. Petitioner filed, and mail served her Reply/Updating Declaration on September 5th.

Custody

Petitioner is requesting joint legal and physical custody of the parties' minor child. She agrees to increase Respondent's parenting time to 50/50 pursuant to an agreed upon schedule. She requested, and was granted, a referral to Child Custody Recommending Counseling (CCRC).

On July 27, 2023, the parties met for a CCRC mediation at which time agreements were made. The agreements were codified in a CCRC report dated July 27, 2023. In summary, the parties agreed to a 2-2-5-5 schedule, which equates to a 50/50 timeshare. They have additionally agreed to joint legal custody, a holiday schedule, vacation schedule, notification of proposed move of child, childcare, right of first option of childcare, phone contact between parties and children, passport for the child, notification of changes in household composition, and to participate in co-parenting counseling when they find it necessary.

The court has reviewed the agreements as stated in the July 27, 2023 CCRC report and finds them to be in the best interest of the minor. They are hereby adopted as the orders of the court.

Child and Spousal Support

Petitioner is requesting guideline child and spousal support retroactive to January 30, 2023, the date of filing the Petition for Dissolution. She notes the parties shared a high marital standard of living with a large home and expensive cars. She also reduced her employment during the marriage in order to care for the minor child. Petitioner has provided the court with a proposed DissoMaster report.

In addition to guideline support, Petitioner is requesting child support add-ons, such as uninsured medical, dental, vision, psychiatric, and other special needs including childcare costs.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

She asks that these add-ons be apportioned between the parties based on their respective incomes.

In calculating support, Respondent requests the court impute full-time wages to Petitioner at her current rate of pay \$50.00. He further requests a seek work order and the issuance of a *Gavron* Warning. Respondent notes that he has an RFO set to be heard on October 5th to address his request that Petitioner undergo a vocational rehabilitation assessment. He asks that the hearing on the RFO be advanced to join with the present hearing on support. According to Respondent, Petitioner's attorney agreed to allow the matters to be heard at the same time however it is unclear if there was an agreement to advance the October 5th hearing or vice versa. For any support award that is made, Respondent requests the award be effective as of September 1, 2023 and he asks for a credit towards support for amounts he has paid to cover Petitioner's living expenses since separation. Moving forward, he asks that Petitioner be ordered to pay her own living expenses.

Petitioner agrees to allow Respondent to deduct from spousal support payments for her cell phone bill and the amount of her car insurance, though she requests to take over payments of the cell phone bill on her own. She does not agree to allow him to deduct health insurance premiums.

Given that the issues of support are intertwined with Respondent's request for a vocational rehabilitation evaluation, the court continues the issues of child support, spousal support, and Section 4061 add-ons to join with the hearing on Respondent's RFO which is currently set to be heard on October 5, 2023 at 8:30 a.m. in Department 5. The court reserves jurisdiction to retroactive modify support to the date of the filing of the RFO.

Attorney's Fees and Costs

Petitioner is seeking \$7,500 in attorney's fees and costs pursuant to Family Code section 2030. This represents \$5,000 which she has already incurred and an additional \$2,500 that she expects to incur moving forward. She states there is a substantial disparity in income and access to funds. She has exhausted her half of community funds as the parties have been unable to reach an agreement on support.

Respondent opposes the request for support and asks the court to order each party to pay their own costs and fees. He notes that the marital residence has recently been sold and Petitioner can pay her attorney's fees from her portion of the proceeds.

The public policy of Family Code section 2030 is to provide "at the outset of litigation, consistent with the financial circumstances of the parties, parity between spouses in their ability to obtain effective legal representation." *In Re Marriage of Keech*, 75 Cal. App. 4th 860,

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

866 (1999). This assures each party has access to legal representation to preserve each party's rights. It "is not the redistribution of money from the greater income party to the lesser income party," but rather "parity." Alan S. v Superior Court, 172 Cal. App. 4th 238,251(2009). In the face of a request for attorney's fees and costs, the court is to make findings on "whether there is a disparity in access to funds to retain counsel, and whether one party is able to pay for legal representation of both parties." Fam. Code § 2030(a)(2).

In ruling on a request for Section 2030 attorney's fees, the court must first determine whether there is a disparity in each party's ability to access funds to retain counsel. The court does find this to be the case in the present matter. While Petitioner does have access to her portion of the proceeds from the sale of the marital residence, so too does Respondent. On top of that, Respondent is routinely making significantly more money than Petitioner. Thus, there is a disparity in the ability to retain counsel.

The court next turns to Respondent's ability to pay. Here, Respondent does have significant income and savings and very few debts according to his Income and Expense Declaration. As such, the court finds he does have the ability to pay attorney's fees for both himself and Petitioner.

In light of the findings as stated above, Petitioner is awarded \$7,500 as and for attorney's fees and costs. Respondent is to pay this amount directly to Petitioner's attorney no later than October 12, 2023.

Proceeds of Marital Residence

Petitioner initially requested an order for the equal division of the net sales proceeds of the marital residence. She has since withdrawn that request as it is now moot.

TENTATIVE RULING #8: THE COURT FINDS THE AGREEMENTS AS STATED IN THE JULY 27, 2023 CCRC REPORT TO BE IN THE BEST INTEREST OF THE MINOR AND THEREFORE ADOPTS THEM AS THE ORDERS OF THE COURT. THE COURT CONTINUES THE ISSUES OF CHILD SUPPORT, SPOUSAL SUPPORT, AND SECTION 4061 ADD-ONS TO JOIN WITH THE HEARING ON RESPONDENT'S RFO WHICH IS CURRENTLY SET TO BE HEARD ON OCTOBER 5, 2023 AT 8:30 A.M. IN DEPARTMENT 5. THE COURT RESERVES JURISDICTION TO RETROACTIVE MODIFY SUPPORT TO THE DATE OF THE FILING OF THE RFO. PETITIONER IS AWARDED \$7,500 AS AND FOR ATTORNEY'S FEES AND COSTS. RESPONDENT IS TO PAY THIS AMOUNT DIRECTLY TO PETITIONER'S ATTORNEY NO LATER THAN OCTOBER 12, 2023. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

9. LAURA PARKES V. DANIEL PARKES

PFL20210112

On July 7, 2023, Respondent filed a Request for Order (RFO) seeking bifurcation of marital status. The RFO was mail served on July 14th. Petitioner has not opposed the motion.

Respondent is requesting to bifurcate the issue of marital status to obtain a status only judgment. Respondent is a member of the Church of Jesus Christ of Latter-Day Saints, and his religious beliefs preclude him from moving forward in many aspects of his life while he is still married. He maintains that reconciliation of the parties is not possible. As required, Respondent filed the FL-315 in conjunction with his RFO. According to that document, all pension plans in which the community has an interest have been joined as parties to the matter.

“The court may separately try one or more issues before the trial of the other issues if resolution of the bifurcated issue is likely to simplify the determination of the other issues.” Cal. Rules of Ct. Rule 5.390(c). In dissolution proceedings, the court may bifurcate the issue of the dissolution of the marriage and enter a status only judgment. *Id.* at (c)(7); Fam. Code § 2337. In fact, it is the public policy of the state to favor bifurcation where the dissolution of marriage would otherwise be postponed due to issues of property, support, custody or attorney’s fees. *In re Marriage of Fink*, 54 Cal. App. 3d 357 (1976). Despite the general policy in favor of bifurcation, the moving party must ensure that “[a]ll pension plans that have not been divided by court order that require joinder ...” have been joined. Cal. Rule Ct. 5.390(d)(1). A party seeking bifurcation is to submit a completed FL-315 evidencing such. Cal. Rule Ct. 5.390(a).

Respondent has filed the requisite FL-315 as required by California Rule of Court rule 5.390(a). He states that all required pension plans have been joined as parties, though this does not appear to actually be the case. The parties are ordered to appear for hearing.

TENTATIVE RULING #9: THE PARTIES ARE ORDERED TO APPEAR FOR HEARING. PLEASE NOTE, HEARINGS WILL BE HELD AT 10:00 A.M.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

10. LAURA WOLCOTT V. OLIVER WOLCOTT

PFL20140730

After a series of review hearings on the issue of custody and visitation, the court ordered the following as of June 15, 2023: (1) Petitioner is to have a minimum of two phone calls per week with the minors. The calls are to be initiated by the minors, not Petitioner. The minors may choose to have additional phone calls if they would like. (2) Petitioner is to have a minimum of 4 hours of unsupervised visitation time per week. This may be done in one visit or broken up into more than one visit of at least one hour per visit. The minors are to choose the date, time, and place for the visit/visits. No overnight visits are allowed. The minors may choose to have additional visitation time if they would like. (3) The minors are to give Respondent sufficient advanced notice of the date and time for each visit to allow Respondent the opportunity to schedule a therapy session to take place post-visit. The court set a review hearing for the present date to determine whether or not an additional step up in visitation is warranted.

Minor's Counsel filed and served her Statement of Issues and Contentions and Request for Orders on August 25th. Thereafter, Petitioner's Reply to Minor's Counsel's Statement of Issues and Contentions was served on September 5th and filed on the 6th.

Minor's Counsel has spoken with the girls and they both report they are happy with the current schedule, and they would like it to remain as-is. Petitioner, on the other hand, is requesting the court institute the following orders: (1) Petitioner to have the children after school on Monday, Wednesdays, and Fridays from 3pm to 8pm; (2) Overnights with Petitioner every other weekend from Friday after school to Sunday at 8pm; and (3) The children to stay with Petitioner during the occasions that Respondent is out of town.

The court has reviewed the filings of the parties as outlined above. Given the tumultuous nature of the visits in the past the court is not inclined to substantially increase Petitioner's parenting time when she and the minors have finally reached a place where visits are going well. That said, the court recognizes Petitioner's request for increased time with the minors. As such Petitioner shall have a minimum of 6 hours of unsupervised visitation time per week. This may be done in one visit or broken up into more than one visit of at least one hour per visit. The minors are to choose the date, time, and place for the visit/visits. No overnight visits are allowed. The minors may choose to have additional visitation time if they would like. All prior orders not in conflict with this order shall remain in full force and effect.

TENTATIVE RULING #10: PETITIONER SHALL HAVE A MINIMUM OF 6 HOURS OF UNSUPERVISED VISITATION TIME PER WEEK. THIS MAY BE DONE IN ONE VISIT OR BROKEN UP INTO MORE THAN ONE VISIT OF AT LEAST ONE HOUR PER VISIT. THE MINORS ARE TO CHOOSE THE DATE, TIME, AND PLACE FOR THE VISIT/VISITS. NO OVERNIGHT VISITS ARE ALLOWED. THE MINORS MAY CHOOSE TO HAVE ADDITIONAL VISITATION TIME IF THEY WOULD LIKE. ALL

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER SHALL REMAIN IN FULL FORCE AND EFFECT. MINOR'S COUNSEL IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

11. REBECCA BURT-ORTIZ V. DAVID ORTIZ

23FL0384

On June 6, 2023, Petitioner filed a Request for Order (RFO) seeking orders regarding child support, spousal support, property control, and attorney's fees. Concurrently with the RFO, Petitioner filed her Income and Expense Declaration. Both documents, along with all other required documents, were mail served on June 14th.

A Tentative Ruling was issued on August 17, 2023, which continued the matter to September 14, 2023, as Respondent had not filed a Responsive Declaration to Request for Order, nor an Income and Expense Declaration, and had recently filed a Substitution of Attorney. The court ordered both parties to file Income and Expense Declarations no later than 10 calendar days prior to the hearing date. The court also ordered Petitioner to provide notice of the continued hearing to Respondent's counsel no later than August 24, 2023. Petitioner has not filed anything indicating that notice of the continued hearing has been provided to Respondent, though she did file her Income and Expense Declaration on September 6th, which is late filed pursuant to the court's order. To date, Respondent has not filed his Income and Expense Declaration.

On August 18, 2023, a Stipulation and Order for Temporary Spousal Support, Child Support, Custody & Parenting Time, and Other was filed, indicating the parties have reached agreements regarding custody and visitation, child support, temporary spousal support and real property. All parties have signed the stipulation. However, it references attachments pertaining to child support and custody agreements, which were not actually attached. The parties are ordered to appear to address the missing attachments to the stipulation and to discuss the issue of attorney's fees which is still pending before the court. Respondent is ordered to bring his completed Income and Expense Declaration with him to the hearing.

TENTATIVE RULING #11: THE PARTIES ARE ORDERED TO APPEAR TO ADDRESS THE MISSING ATTACHMENTS TO THE STIPULATION AND TO DISCUSS THE ISSUE OF ATTORNEY'S FEES WHICH IS STILL PENDING BEFORE THE COURT. RESPONDENT IS ORDERED TO BRING HIS COMPLETED INCOME AND EXPENSE DECLARATION WITH HIM TO THE HEARING. PLEASE NOTE, HEARINGS WILL BE HELD AT 10:00 A.M.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

12. URZA KHURSAND V. YAMA KHURSAND

PFL20180089

On April 29, 2022, Respondent filed a Request for Order (RFO). The RFO was served via U.S. Mail on May 10, 2022.

Respondent's RFO requested, among other things, a complete child custody evaluation under Family Code section 3111. This request was granted, and a review hearing was set for November 10th to review the 3111/730 report and choose trial dates.

The review hearing was continued several times as Respondent maintained that he was unable to afford the custody evaluation, though he believed it to be critical. Ultimately, the parties were ordered to appear for hearing on June 22nd, at which time the court vacated the order for the 3111 Evaluation, ordered the parties to participate in co-parenting counseling, and referred them to Child Custody Recommending Counseling (CCRC). The present hearing was set as a CCRC review. The parties were ordered to file supplemental declarations at least 10 days prior to the hearing date.

Only Petitioner attended CCRC on July 24, 2023. On August 23rd, Respondent filed a Declaration of Wallace E. Francis RE: Child Recommended Counseling indicating that neither Respondent nor his attorney received notice of the date and time set for CCRC counseling. According to the Clerk's Certificate of Mailing, the CCRC referral and questionnaire were mailed to Wallace Francis at 111 Santa Rosa Ave. Ste. 401, Santa Rosa, CA 95404 which was the address given for Mr. Francis when he filed his Notice of Limited Scope on December 21, 2021. According to the pleadings, the address for Mr. Francis is now 3333 Mendocino Ave.

Minor's Counsel's Statement of Issues and Contentions and Request for Orders was filed and served on August 28th. Minor's Counsel notes that the initial request to modify the visitation schedule was made by Respondent. Minor's Counsel therefore asks that the request be denied. She points to the fact that Respondent has not presented any evidence that a modification is in the minor's best interest. Further, Respondent is clearly discussing the court proceedings with the minor and instructed the minor to lie to Minor's Counsel.

Rule of Court 2.200 requires an attorney "whose mailing address, telephone number, fax number, or e-mail address... changes while an action is pending" to serve on all parties, and file with the court, a written notice of the change. Cal. Rule Ct. 2.200. When a matter is pending before the court, the burden is on each attorney to notify the court and the other parties of any change in address; failure to do so does not afford that party the right to avoid judgment on the substance of the matter by claiming improper service. *Kramer v. Traditional Escrow, Inc.*, 56 Cal. App. 5th 13 (2020). That said, the court is willing to re-refer the parties to CCRC this time.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

The parties are referred to CCRC with an appointment on 11/9/2023 at 9:00 am. A review hearing is set for 1/4/2024 at 8:30 am in Department 5. Respondent is admonished to ensure he appears and fully participates this time, failure to do so will result in sanctions and the matter being dropped from calendar. Respondent's counsel is ordered to immediately file a Notice of Change of Address form with the court.

TENTATIVE RULING #12: THE PARTIES ARE REFERRED TO CCRC WITH AN APPOINTMENT ON 11/9/2023 at 9:00 am. A REVIEW HEARING IS SET FOR 1/4/2024 at 8:30 AM IN DEPARTMENT 5. RESPONDENT IS ADMONISHED TO ENSURE HE APPEARS AND FULLY PARTICIPATES THIS TIME, FAILURE TO DO SO WILL RESULT IN SANCTIONS AND THE MATTER BEING DROPPED FROM CALENDAR. RESPONDENT'S COUNSEL IS ORDERED TO IMMEDIATELY FILE A NOTICE OF CHANGE OF ADDRESS FORM WITH THE COURT.

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

PLEASE NOTE, IF A HEARING IS REQUESTED, IT WILL BE HELD AT 10:00 A.M.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

13. AARON FREDERICK LUKIANOW V. CINDY ANN LUKIANOW

23FL0373

Respondent filed a Request for Order (RFO) on July 14, 2023 requesting spousal support as well as an order compelling Petitioner to serve his financial disclosures. The RFO was served on August 1st. On August 28th, Petitioner filed his Responsive Declaration to Request for Order, however there is no Proof of Service therefore the court cannot consider this document. On August 30th he filed a Declaration Regarding Service of Declaration of Disclosure and Income and Expense Declaration. Petitioner did not file an Income and Expense Declaration with the court and the one on file is out of date. Respondent did not file an Income and Expense Declaration concurrently with her RFO, though there is one on file dated July 7th.

This matter is continued to 11/16/2023 at 1:30 p.m. in Department 5. Both parties are ordered to file and serve Income and Expense Declarations no later than 10 days prior to the hearing date. Petitioner is ordered to serve his Responsive Declaration to Request for Order in accordance with the California Code of Civil Procedure. Petitioner is to file a Proof of Service with the court.

TENTATIVE RULING #13: THIS MATTER IS CONTINUED TO 11/16/2023 AT 1:30 P.M. IN DEPARTMENT 5. BOTH PARTIES ARE ORDERED TO FILE AND SERVE INCOME AND EXPENSE DECLARATIONS NO LATER THAN 10 DAYS PRIOR TO THE HEARING DATE. PETITIONER IS ORDERED TO SERVE HIS RESPONSIVE DECLARATION TO REQUEST FOR ORDER IN ACCORDANCE WITH THE CALIFORNIA CODE OF CIVIL PROCEDURE. PETITIONER IS TO FILE A PROOF OF SERVICE WITH THE COURT.

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

14. ADAM MINOR V. MELINA SCHIFF

23FL0434

On May 12, 2023, Petitioner filed a Request for Order (RFO) seeking custody and visitation orders. The RFO was personally served on May 18th. An amended RFO was filed and served on July 13th. Respondent filed and served her Responsive Declaration to Request for Order on August 29th. Petitioner's Reply Declaration was filed and served on September 6th.

Petitioner brings his RFO requesting the following: (1) He be granted sole physical custody of the minor child with professionally supervised visitation to Respondent; (2) He be granted sole legal custody; (3) All visitation to occur in El Dorado County; and (4) Petitioner to enroll in drug abuse counseling.

The parties attended Child Custody Recommending Counseling (CCRC) on July 26th. A report was prepared the same day enumerating several agreements reached by the parties.

Respondent states she did not understand the terms of the agreement reached by the parties in CCRC. Instead, she requests the following: (1) Deny Petitioner's request for sole legal and sole physical custody; (2) Award sole legal and sole physical custody to Respondent; (3) Order parenting time to Petitioner on the 1st, 3rd, and 5th weekends of the month from Friday at 9:00 p.m. until Sundays at 5:00 p.m.; (4) Prohibit Petitioner from taking the minor to his home; (5) Order exchange location to be at the midway point between the parties' homes at north side of the Davis Police Department located at 2600 Fifth Street in Davis; (5) Order each party to complete Forensic Substance Abuse Evaluations with Colleen Moore DeVere with each party to bear their own costs; (6) Order each party to follow the recommendations of Ms. Moore DeVere; and (7) Set a review hearing.

After reviewing the filings of the parties as outlined above, the court finds the agreements as contained in the July 26, 2023 CCRC to be in the best interest of the minor and they are therefore adopted as the orders of the court.

TENTATIVE RULING #14: THE AGREEMENTS AS CONTAINED IN THE JULY 26, 2023 CCRC REPORT ARE HEREBY ADOPTED AS THE ORDERS OF THE COURT. PETITIONER IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

15. ASHLYN HARDIN V. ANTHONY GORDON POLLO

23FL0357

On April 21, 2023, Petitioner filed a request for a domestic violence restraining order. A temporary restraining order was granted with a trial on the permanent restraining order set on November 29, 2023. Pending trial, the court referred the parties to a CCRC session on July 26, 2023 with a hearing set on September 14, 2023.

On August 18, 2023, Petitioner filed a Request for Judicial Notice, served on Respondent by mail on August 21, 2023. On August 24, 2023, Petitioner filed an Amended Request for Judicial Notice, served on Respondent by mail that same day. On September 7, 2023, Respondent filed a Response to Petitioner's Request for Judicial Notice and Response to Mediator's Report and a Memorandum of Points and Authorities. The following day, Respondent filed amended versions of both of these filings, served on Petitioner electronically on September 8, 2023.

Petitioner requests that Respondent have no contact with the parties' two minors due to his criminal history. Respondent requests that the court make a finding that there is no significant risk to the children of him having contact with them.

Both parties participated in the CCRC session but did not reach any agreements. The CCRC report, issued on August 18, 2023 and mailed to the parties on August 21, 2023, recommends sole legal and physical custody to Petitioner, that the parties communicate about the children via talkingparent.com, that the children have no contact with Respondent until such contact is deemed therapeutically appropriate, that the older minor be enrolled in therapy with the therapist to determine if, when, and under what circumstances the child shall have contact with Respondent, and that the younger minor be enrolled in therapy when appropriate to be introduced to Respondent.

The court grants sole legal and physical custody to Petitioner. To address the other recommendations, including whether it is appropriate for Respondent to have contact in a therapeutic setting with the minors, the court orders the parties to appear.

TENTATIVE RULING #15: THE COURT GRANTS SOLE LEGAL AND PHYSICAL CUSTODY TO PETITIONER. TO ADDRESS THE OTHER RECOMMENDATIONS, INCLUDING WHETHER IT IS APPROPRIATE FOR RESPONDENT TO HAVE CONTACT IN A THERAPEUTIC SETTING WITH THE MINORS, THE COURT ORDERS THE PARTIES TO APPEAR.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

16. BAYLEIGH LAREE MARK V. NOAH WAYNE BINGAMAN

22FL0514

Petitioner filed a Request for Order on August 1, 2023 seeking custody and visitation orders. The RFO was mail served the same day as filing. Respondent has not filed a Responsive Declaration to Request for Order.

Petitioner requests sole legal and sole physical custody of the minors upon Respondent's release from incarceration. She asks that Respondent have no visitation until he has completed a 52-week batterer's intervention program and the court ordered co-parenting classes. The court notes these issues were encompassed in the court's July 20, 2023 ruling, therefore, this is essentially a request for reconsideration.

Any party may move for reconsideration of a court's order where the moving party (1) has been affected by the court's order; and (2) moves for reconsideration within 10 days of the service upon the moving party written notice of the entry of the order. Cal. Civ. Pro. § 1008. The moving party must establish "...new or different facts, circumstances, or law..." that would warrant reconsideration of the order and such facts, circumstances or law shall be set forth in a written affidavit including "...what application was made before, when and to what judge, [and] what order or decisions were made..." *Id.*

Here, Petitioner has not established any change in circumstances that would warrant a change to the court's prior orders. Petitioner's RFO is denied. All prior orders remain in full force and effect. Petitioner shall prepare and file the findings and orders after hearing.

The parties are ordered to appear for trial setting.

TENTATIVE RULING #16: PETITIONER'S RFO IS DENIED. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING. THE PARTIES ARE ORDERED TO APPEAR TO CHOOSE TRIAL AND MSC DATES.

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

17. CAROL CARLISLE V. WILLIAM CARLISLE

PFL20150037

On June 12, 2023, Respondent filed a Request for Order (RFO) asking the court to determine any spousal support overpayments owed by Petitioner to Respondent and requesting to stay the contempt proceedings pending the resolution of that issue. On August 14, 2023, Petitioner filed an RFO requesting \$5,000 in sanctions for Respondent allegedly engaging in bad faith conduct related to his motion to quash and subsequent withdrawal of the motion, which Petitioner contends ultimately was to delay the proceedings and increase litigation costs.

On August 14, 2023, Petitioner also filed a Responsive Declaration, objecting to Respondent's requests. Petitioner argues that pending appeals preclude the court from considering the Respondent's overpayment request and that the contempt proceeding need not be stayed as the prior orders were to be followed regardless of the outcome of the overpayment issue.

Petitioner also filed a Supplemental Declaration on August 25, 2023, which included another request for \$3,000 in sanctions for Respondent's June 12, 2023 RFO which Petitioner argues is frivolous.

On September 7, 2023, Respondent filed his own Supplemental Declaration as well as a Reply to Petitioner's Opposition and a Responsive Declaration to Petitioner's RFO. As to the overpayment issue, Respondent argues that the appeal in probate court has resolved making the overpayment issue ripe; other pending appeals in the matter, contends Respondent, do not impact this issue and therefore should not preclude the court's consideration of it. Respondent requests \$5,000 in sanctions for Petitioner's alleged bad conduct.

Finally, Petitioner in her August 14, 2023 RFO requests the court to accept her RFO as satisfaction of her reporting requirement under recently amended Rule 8.3 of the California Rules of Professional Conduct.

The court finds that it needs to inquire further of the parties to clarify each's position and to determine whether it needs to set an evidentiary hearing on the overpayment issue, provided that the issue is ripe for resolution. The parties are ordered to appear.

TENTATIVE RULING #17: PARTIES ARE ORDERED TO APPEAR

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

18. GEORGIA WANLAND V. DONALD WANLAND

PFL20190812

On July 20, 2023, Petitioner filed an Order to Show Cause and Affidavit for Contempt (OSC). The OSC was personally served on August 12th. In support of her OSC, Petitioner has provided a declaration asserting several instances in which she claims Respondent has failed to comply with court orders. The parties are ordered to appear for arraignment.

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

19. JESSICA CORTEZ V. JUSTEN CORTEZ

23FL0564

On June 20, 2023, Petitioner filed a Request for Order (RFO) seeking custody orders, support orders, property control orders and an order for attorney's fees. There is no Proof of Service indicating that this document was ever served, however, Respondent did file a Responsive Declaration to Request for Order thereby waiving any potential defect in service. Respondent's Responsive Declaration and his Income and Expense Declaration, along with several other documents were mail served on July 15th.

Petitioner filed two additional declarations on July 14th, however there are no Proofs of Service for these declarations therefore they cannot be considered by the court. Likewise, Respondent filed a series of declarations on July 21st, none of which include a Proof of Service. As such, none of these documents have been read or considered by the court.

On July 19th Petitioner filed another RFO seeking additional property control orders and an order for "breach of fiduciary duties." There is no Proof of Service for this RFO and Respondent has not filed a Responsive Declaration to Request for Order therefore this matter is dropped from calendar due to lack of proper service.

Petitioner filed her RFO seeking custody and visitation orders, though she does not specify exactly what orders she is requesting. She also requests guideline child support and spousal support and attorney's fees in the amount of \$15,000. Finally, she is requesting exclusive use and control of a king mattress leased by the parties by Progressive Leasing. She requests Respondent continue to make payments on the mattress.

Respondent consents to guideline child and spousal support but opposes the request for attorney's fees. He also requests joint custody with a fair amount of visitation for each party and he asks that the matter be transferred to Sacramento County.

While "[t]he responding party may request relief related to the orders requested in the moving papers...unrelated relief must be sought by scheduling a separate hearing using *Request for Order* (form FL-300)..." Cal. Rule Ct. § 5.92(g)(2). Respondent's request to transfer is denied as it is outside the scope of the original RFO.

The parties attended CCRC on July 24th but were unable to reach any agreements. A report containing several recommendations was prepared on August 14th. The court has reviewed the recommendations of the CCRC counselor and finds them to be in the best interests of the children, as such, they are hereby adopted as the orders of the court.

Utilizing the same figures as outlined in the attached DissoMaster report, the court finds that spousal support per the Alameda formula is \$312 per month and child support is \$1,398.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

The court adopts the attached DissoMaster report and orders Respondent to pay Petitioner \$1,710 per month as and for child support and temporary spousal support, payable on the 1st of the month until further order of the court or legal termination. The court orders the temporary spousal support and child support order effective July 1, 2023.

The court finds the above order results in arrears in the amount of \$5,130 through and including September 1, 2023. The court orders Respondent pay Petitioner \$427.50 on the 15th of each month until paid in full (approximately 12 months). If a payment is late or missed the remaining balance is due in full, with legal interest, within five (5) days.

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

The public policy of Family Code section 2030 is to provide “at the outset of litigation, consistent with the financial circumstances of the parties, parity between spouses in their ability to obtain effective legal representation.” *In Re Marriage of Keech*, 75 Cal. App. 4th 860, 866(1999). This assures each party has access to legal representation to preserve each party’s rights. It “is not the redistribution of money from the greater income party to the lesser income party,” but rather “parity.” *Alan S. v Superior Court*, 172 Cal. App. 4th 238,251(2009). In the face of a request for attorney’s fees and costs, the court is to make findings on “whether there is a disparity in access to funds to retain counsel, and whether one party is able to pay for legal representation of both parties.” Fam. Code § 2030(a)(2).

Here, prior to the support orders, there is a disparity in monthly income between the parties. However, after support, that disparity has decreased significantly. Further, taking into account the support payments, the court is not of the opinion that Respondent has the ability to pay for both his attorney and Petitioner’s. For the aforementioned reasons, Petitioner’s request for attorney’s fees is denied.

Petitioner’s request for exclusive use and possession of the king mattress leased by the parties by Progressive Leasing is granted. However, Petitioner is ordered to make lease payments on the mattress in full, commencing the date she takes possession of the mattress.

TENTATIVE RULING #19: PETITIONER’S JULY 19TH RFO IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE. THE COURT ADOPTS THE RECOMMENDATIONS AS CONTAINED IN THE AUGUST 14, 2023 CCRC REPORT AS THE ORDERS OF THE COURT. UTILIZING THE SAME FIGURES AS OUTLINED IN THE ATTACHED DISSOMASTER REPORT, THE COURT FINDS THAT SPOUSAL SUPPORT PER THE ALAMEDA FORMULA IS \$312 PER MONTH AND CHILD SUPPORT

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

IS \$1,398. THE COURT ADOPTS THE ATTACHED DISSOMASTER REPORT AND ORDERS RESPONDENT TO PAY PETITIONER \$1,710 PER MONTH AS AND FOR CHILD SUPPORT AND TEMPORARY SPOUSAL SUPPORT, PAYABLE ON THE 1ST OF THE MONTH UNTIL FURTHER ORDER OF THE COURT OR LEGAL TERMINATION. THE COURT ORDERS THE TEMPORARY SPOUSAL SUPPORT AND CHILD SUPPORT ORDER EFFECTIVE JULY 1, 2023.

THE COURT FINDS THE ABOVE ORDER RESULTS IN ARREARS IN THE AMOUNT OF \$5,130 THROUGH AND INCLUDING SEPTEMBER 1, 2023. THE COURT ORDERS RESPONDENT PAY PETITIONER \$427.50 ON THE 15TH OF EACH MONTH UNTIL PAID IN FULL (APPROXIMATELY 12 MONTHS). IF A PAYMENT IS LATE OR MISSED THE REMAINING BALANCE IS DUE IN FULL, WITH LEGAL INTEREST, WITHIN FIVE (5) DAYS.

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

PETITIONER'S REQUEST FOR ATTORNEY'S FEES IS DENIED. PETITIONER'S REQUEST FOR EXCLUSIVE USE AND POSSESSION OF THE KING MATTRESS LEASED BY THE PARTIES BY PROGRESSIVE LEASING IS GRANTED. HOWEVER, PETITIONER IS ORDERED TO MAKE LEASE PAYMENTS ON THE MATTRESS IN FULL, COMMENCING THE DATE SHE TAKES POSSESSION OF THE MATTRESS.

PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

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

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

Father's Gross Overtime	Basic CS%	Basic CS	Alameda SS%	Alameda SS	Total Basic CS	Total SS	Total Support CS+SS
0	0.00	0	0.00	0	1,398	312	1,709
100	21.92	22	5.11	5	1,420	317	1,736
200	23.08	46	5.38	11	1,444	322	1,766
300	25.31	76	5.91	18	1,474	329	1,803
400	26.43	106	6.17	25	1,503	336	1,840
500	27.11	136	6.32	32	1,533	343	1,876
600	27.55	165	6.43	39	1,563	350	1,913
700	27.87	195	6.50	46	1,593	357	1,950
800	28.11	225	6.56	52	1,623	364	1,987
900	27.13	244	7.39	67	1,642	378	2,020
1,000	26.21	262	8.15	81	1,660	393	2,053
1,100	25.45	280	8.77	96	1,678	408	2,086
1,200	24.81	298	9.30	112	1,695	423	2,118
1,300	24.25	315	9.76	127	1,713	438	2,151
1,400	23.76	333	10.16	142	1,730	454	2,184
1,500	23.33	350	10.51	158	1,748	469	2,217
1,600	22.95	367	10.82	173	1,765	485	2,249
1,700	22.60	384	11.10	189	1,782	500	2,282
1,800	22.29	401	11.35	204	1,799	516	2,315
1,900	22.01	418	11.58	220	1,816	532	2,347
2,000	21.74	435	11.80	236	1,832	547	2,380

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

Input Data	Father	Mother	Guideline (2023)	Cash Flow Analysis	Father	Mother
Number of children	0	3	Nets (adjusted)	Guideline		
% time with Second Parent	50%	0%	Father	4,893	Payment (cost)/benefit	(1,709) 1,709
Filing status	MFJ->	<-MFJ	Mother	1,166	Net spendable income	3,184 2,875
# Federal exemptions	1*	4*	Total	6,059	% combined spendable	52.5% 47.5%
Wages + salary	5,113	0	Support (Nondeductible)	Total taxes	201	0
401(k) employee contrib	0	0	CS Payor	Father	Comb. net spendable	6,059
Self-employment income	0	0	Presumed	1,398	Proposed	
Other taxable income	0	0	Basic CS	1,398	Payment (cost)/benefit	(1,709) 1,709
Short-term cap. gains	0	0	Add-ons	0	Net spendable income	3,184 2,875
Long-term cap. gains	0	0	Presumed Per Kid		NSI change from gdl	0 0
Other gains (and losses)	0	0	Child 1	340	% combined spendable	52.5% 47.5%
Ordinary dividends	0	0	Child 2	428	% of saving over gdl	0% 0%
Tax. interest received	0	0	Child 3	630	Total taxes	201 0
Social Security received	0	0	SS Payor	Father	Comb. net spendable	6,059
Unemployment compensation	0	0	Alameda	312	Percent change	0.0%
Operating losses	0	0	Total	1,710	Default Case Settings	
Ca. operating loss adj.	0	0	Proposed, tactic 9			
Roy, partnerships, S corp, trusts	0	0	CS Payor	Father		
Rental income	0	0	Presumed	1,398		
Misc ordinary tax. inc.	0	0	Basic CS	1,398		
Other nontaxable income	0	1,166	Add-ons	0		
New-spouse income	0	0	Presumed Per Kid			
SS paid other marriage	0	0	Child 1	340		
CS paid other relationship	0	0	Child 2	428		
Adj. to income (ATI)	0	0	Child 3	630		
Ptr Support Pd. other P'ships	0	0	SS Payor	Father		
Health insurance	19	0	Alameda	312		
Qual. Bus. Inc. Ded.	0	0	Total	1,710		
Itemized deductions	0	0	Savings	0		
Other medical expenses	0	0	No releases			
Property tax expenses	0	0				
Ded. interest expense	0	0				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
State sales tax paid	0	0				
Required union dues	0	0				
Cr. for Pd. Sick and Fam. L.	0	0				
Mandatory retirement	0	0				
Hardship deduction	0*	0*				
Other gdl. adjustments	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	0				

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

20. JON GRGICH V. KIMBERLY GRGICH

PFL20190950

Respondent filed a Request for Order (RFO) on March 10, 2023, requesting, among other things, modification of child custody and parenting plan orders, and that the prior child custody counselor be excluded. Respondent also requested Family Code section 2030 attorney's fees and an order regarding the minor's school. Both of these issues have been ruled upon.

Petitioner filed a Responsive Declaration on April 20, 2023. Respondent was served by mail the same day. Respondent filed and served her Reply Declaration on April 27, 2023.

Respondent raised numerous concerns in her RFO, namely that there has been a finding that Petitioner perpetrated domestic violence against Respondent in the last five years and therefore, Family Code section 3044 applies. As such, various presumptions apply. At the time of the prior Child Custody Recommending Counseling (CCRC) appointment, certain protocols, per Respondent, were not followed. As such, Respondent requested a referral to CCRC with a new counselor and for that counselor to take into consideration all the Family Code section 3044 presumptions and protocols. Further, Respondent asserts Petitioner has substance abuse issues which impact his ability to care for the minors. Respondent asserts in her declaration that Petitioner drinks to the point of passing out during his parenting time despite there being orders for neither parent to consume alcohol in the presence of the children. Petitioner objected to the requested modifications to custody and parenting time and asked that the parties be referred to CCRC.

On May 11th the court reviewed its Judgement and Order after trial from the November 11, 2020 trial. The court found Respondent had met her burden to establish Family Code section 3044 presumptions applied as to three specific incidents. Two of the incidents occurred in 2017 and as such, are beyond the five-year limitation for Family Code 3044 presumptions. The latest incident occurred on June 10, 2019 which is within the last five years. Therefore, the court found the presumptions of Family Code section 3044 remain applicable.

Despite the Family Code section 3044 presumption, the parties have stipulated to joint legal custody and, eventually, joint physical custody. The parties stipulated to this arrangement from November 2020 through their stipulated judgement in December 2022.

After making the above referenced findings, the court referred the parties to attend separate CCRC sessions pursuant to Family Code section 3181. The counselor was directed to take into consideration the Family Code section 3044 presumptions, and what, if any, steps Petitioner has taken to overcome the presumptions.

As ordered, the parties attended CCRC on June 8, 2023. A report dated August 18th was prepared and sent to the parties. On August 31st, Respondent filed the following: (1)

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 14, 2023

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

Respondent's Memorandum of Points and Authorities in Support of, and Objection to, Recommendation Made in CCRC Report Dated 8/18/23; (2) Declaration regarding coparenting counseling; and (3) Respondent's Supplemental Declaration. The aforementioned were mail served on July 19th. Petitioner filed a Request to Strike Pleadings on September 8th.

The parties are ordered to appear for hearing. Petitioner is ordered to bring any documentary evidence he has supporting his assertion that he completed a parenting class and an anger management course.

TENTATIVE RULING #20: THE PARTIES ARE ORDERED TO APPEAR FOR HEARING. PETITIONER IS ORDERED TO BRING ANY DOCUMENTARY EVIDENCE HE HAS SUPPORTING HIS ASSERTION THAT HE COMPLETED A PARENTING CLASS AND AN ANGER MANAGEMENT COURSE.