

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 13, 2022

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

1. ALBA BOJORQUEZ V. GABRIEL GODSEY

PFL20210496

On August 5, 2021, Petitioner filed a Petition to Determine Parental Relationship and Request for Order (RFO) requesting custody orders. On October 12, 2021 Respondent filed a response along with an RFO requesting custody orders and a request for referral to Child Custody Recommending Counseling (CCRC). The parties were referred to CCRC and a hearing on both RFOs was set on January 6, 2022.

On December 16, 2021, both parties participated in CCRC and reached a nearly full agreement as to custody, which provided for joint legal custody with parties sharing parenting time on a 50/50 basis utilizing a 2-2-3 parenting schedule. Parties were unable to reach an agreement as to when to initiate this schedule. A CCRC report was issued on December 22, 2021 with copies mailed to the parties on December 23, 2021.

On January 6, 2022, both parties appeared for the hearing. The court modified its tentative ruling and ordered the parties to exchange the minors at the El Dorado County Sheriff substation in El Dorado Hills. Petitioner's parenting time would be every weekend, Saturday, and Sunday from 9:00 am to 6:00 pm, for one month. After one month Petitioner's parenting time would be every Friday from 5:00 pm until Sunday at 5:00 pm for six weeks. The court appointed CASA and set a review hearing for March 17, 2022. The court was to address progressing to the 2-2-3 schedule at the March 17, 2022 hearing.

On March 17, 2022, the matter was continued to June 16, 2022 for CASA to be assigned and prepare a report.

CASA filed a report on June 3, 2022. Copies were mailed to the parties on the same day. CASA had the opportunity to meet with the minors in each party's respective home. CASA reported both homes are appropriate, and the minors appear to be well behaved and respectful in each party's home. CASA further reported the minors appear to enjoy the time they spend with each party.

The court adopted the CCRC report as the order of the court at the June 16th hearing. The 2-2-3 schedule was ordered to commence on Friday June 10, 2022. CASA was relieved and the court terminated the previous order for both parties to drug test. The parties were ordered to ensure that the minor G.G. was to commence counseling immediately. A review hearing was scheduled for August 11, 2022 to address the issue of counseling.

Petitioner filed and served her Supplemental Declaration Regarding Custody and Visitation on August 2, 2022. At that time Petitioner stated that the 2-2-3 schedule was going well and Petitioner and Respondent were doing well co-parenting together. However, the minor G.G. had not yet begun therapy though the parties had taken steps to get it started.

On August 11th the matter was again continued to the present hearing date to ensure the minor would be enrolled in counseling.

Petitioner filed a Supplemental Declaration on September 29, 2022. Petitioner requests for the current 2-2-3 plan to remain in place and she and Respondent will continue working together and

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communicating through the Talking Parents app. She states that the parties are attending parenting classes. Once classes have been completed, the minor G.G. can begin play time therapy. Notwithstanding the foregoing, she does indicate that the minor G.G. did not turn in homework as ordered to do after vacationing in Hawaii with Respondent.

Respondent has not filed a declaration updating the court on the status of the case.

TENTATIVE RULING #1: ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT.

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2. ALEAH MCNABB V. TYLER SWINNEY

22FL0507

On June 7, 2022, Petitioner filed a Request for Order (RFO) requesting joint legal and physical custody as well as an order directing the minor to be enrolled in school in Latrobe, California. There is no Proof of Service on file indicating the RFO was served. However, Respondent filed a responsive declaration, so the court finds Respondent to have had actual knowledge of the pending RFO and the defect in service is effectively waived. The matter was set for hearing on August 11th.

Respondent's Responsive Declaration to Request for Order was filed on July 7, 2022. Respondent filed a Proof of Service that same day, however it does not indicate the date of service.

By way of her RFO, Petitioner seeks an order regarding the school where the minor is to be enrolled. She provides several documents to support her contention that the schools in Labrobe are superior to those in Galt, where Respondent resides.

In his responding declaration, Respondent does not address the issue of schooling. Instead, he requests matter be transferred to Sacramento County or, in the alternative, that the present matter be dismissed for improper venue. Respondent states that the minor did not reside in El Dorado County as of May 12, 2022. Respondent claims that there is a contemporaneous child custody/visitation case ongoing in Sacramento County, which he claims is proper venue given the fact that the minor has resided there since birth, was residing there at the time the petition was filed and continues to reside there in part.

Petitioner responds to the contentions made by Respondent in her Reply Declaration of Aleah McNabb, which was served and filed on July 26th and 27th respectively. Petitioner notes that the issue of venue is not properly before the court. Nonetheless she asserts that she has not been served with any documents regarding an ongoing Sacramento County case. Petitioner reiterates her position that the schools in Latrobe are superior and that with scheduling and the proximity of the school it would be convenient for the minor to attend the Latrobe kindergarten. It appears from her declaration that Petitioner has registered the minor with Latrobe Elementary, while Respondent has registered her with Lake Canyon.

The court issued its tentative ruling and adopted it as the order of the court at the August 11th hearing. At that time the court denied Respondent's request for a change of venue and referred the parties to Child Custody Recommending Counseling (CCRC) to further discuss the issue of schooling. The court set a review hearing for the present date.

The parties attended CCRC on August 25th, and a report was issued thereafter on August 29th. CCRC recommended the minor attend Lake Canyon Elementary School though she did mention that perhaps the minor's prior school, Merryhill, where she was doing well would be the best option. She indicated that neither party brought this up as an option so it is unclear if it is not financially feasible or if there are other reasons for the parties looking to change schools for the minor. While the parties did not agree on a school, they did agree to joint legal custody as well as several additional provisions. They also agreed to a parenting time schedule contingent on the court choosing a school for the minor to attend.

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After receiving the CCRC report, Petitioner filed and served a Request That Private CCRC Be Ordered and Declaration in Support Thereof on September 30th. Petitioner believes that Mrs. Iremonger's school recommendation is based on the misrepresentations of Respondent regarding the minor's mental health. Petitioner feels that private CCRC would allow the parties to better delve into these issues as the minor has since been enrolled in therapy and the therapist has indicated that the minor is well adjusted. In the alternative, she requests the following modifications to the visitation schedule as stated in the CCRC report: (1) On Petitioner's weekends her parenting time would begin on Thursdays after school and continue until Mondays at school drop off; (2) On Petitioner's weekend prior to Respondent's weekend, she would like her weekend extended to Tuesday mornings at school drop off and after Respondent's weekend, Petitioner would get the following Tuesday overnight; (3) Petitioner would like to have each Spring Break; (4) Christmas break is to be divided; (5) If weekends are not extended, Petitioner would like to have primary custody of the minor during the summer with Respondent having alternate weekends from Friday to Tuesday mornings or, in the alternative, alternating weeks during the summer; (6) Each party to have two non-consecutive vacation weeks with the minor during the summer.

Respondent filed his Reply Declaration of Tyler Swinney to Petitioner's Request That Private CCRC Be Ordered on October 11th. Respondent indicates that the parties already participated in private CCRC prior to the court ordered CCRC and that both CCRC mediators have recommended Galt. He states that the therapist referred to by Petitioner has only seen the minor twice. Respondent requests the minor be removed from the current private therapist and enrolled in therapy through Kaiser which is available to the parties for free.

Since CCRC, Respondent states the minor has been attending Galt and the parties have been following the parenting plan enumerated therein. Respondent feels this is working rather well, but he is agreeable to some modification to the parenting plan. Respondent's proposed modifications to the visitation schedule are as follows: (1) Petitioner's weekends to begin on Thursdays in exchange for Petitioner waiving her shorter "hourly" mid-week visits; (2) Petitioner to have electronic communication (Facetime, Skype, telephone) with the minor at any time during the weekdays; (3) Share equally all extended weekend holidays, major holidays, spring/winter/summer breaks; (4) At least one week notice be given by either parent for adjustments to visitation that fall outside the normal set schedule; (5) Either parent may request up to two weeks of vacation time which can be used together or split into no more than 3 allocations so long as the request for vacation does not interfere with existing holiday periods for the other parent; (6) If there is a conflict about visitation days then the parents will rotate the following weekend to equalize the make-up time; (7) Right of first refusal to either parent if the other parent is unavailable for more than 5 hours to care for the child, the care provided shall not detract from any existing scheduled parenting time.

Having reviewed the filings of the parties and the CCRC report, the court finds the agreements and recommendations of the CCRC report to be in the best interest of the minor and therefore adopts them as the orders of the court with the parenting time schedule to be revised as follows: (1) Respondent shall provide the primary residence for the minor during the school week; (2) Petitioner shall have parenting time every weekend, except the last weekend of every month that falls on

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Respondent's weekend off. Parenting time for Petitioner is to begin on Thursdays after school (3:00 pm if no school) until Mondays at school drop off (8:00 am if no school); (3) Respondent shall have one weekend a month. Parenting time will be the last weekend of every month when Respondent has the weekend off from work; (4) On Petitioner's weekend prior to Respondent's weekend, Petitioner's weekend will end Tuesday mornings at school drop off (8:00 am if school is not in session) and after Respondent's weekend, Petitioner's next weekend is to begin the following Tuesday at school pick up (3:00pm if no school); (5) Respondent shall make the minor available to Petitioner during the week for electronic communications (Facetime, Skype, phone, etc.) at a time and frequency as agreeable by the parties; (5) Each party to have up to two non-consecutive vacation weeks with the minor during the year which may be split into no more than 3 allocations. Each party is to give the other at least 30 days notice prior scheduling vacation time. Any visitation time for the other parent that is missed due to the vacation is to be made up either before or after the vacation; (6) Right of first refusal to either parent if the other parent is unavailable for more than 10 hours to care for the child, the care provided shall not detract from any existing scheduled parenting time. The parties are to meet and confer and come to an agreed upon holiday schedule.

While the responding party may request relief related to the orders requested in the moving papers, unrelated relief must be sought by scheduling a separate hearing and filing a separate FL-300 form. Cal. Rule Ct. Section 5.92(g)(2). Respondent's request to have the minor ordered to attend therapy within the Kaiser system is denied as it was raised in Respondent's responsive declaration and is therefore not properly before the court.

TENTATIVE RULING #2: HAVING REVIEWED THE FILINGS OF THE PARTIES AND THE CCRC REPORT, THE COURT FINDS THE AGREEMENTS AND RECOMMENDATIONS OF THE CCRC REPORT TO BE IN THE BEST INTEREST OF THE MINOR AND THEREFORE ADOPTS THEM AS THE ORDERS OF THE COURT WITH THE PARENTING TIME SCHEDULE TO BE REVISED AS FOLLOWS: (1) RESPONDENT SHALL PROVIDE THE PRIMARY RESIDENCE FOR THE MINOR DURING THE SCHOOL WEEK; (2) PETITIONER SHALL HAVE PARENTING TIME EVERY WEEKEND, EXCEPT THE LAST WEEKEND OF EVERY MONTH THAT FALLS ON RESPONDENT'S WEEKEND OFF. PARENTING TIME FOR PETITIONER IS TO BEGIN ON THURSDAYS AFTER SCHOOL (3:00 PM IF NO SCHOOL) UNTIL MONDAYS AT SCHOOL DROP OFF (8:00 AM IF NO SCHOOL); (3) RESPONDENT SHALL HAVE ONE WEEKEND A MONTH. PARENTING TIME WILL BE THE LAST WEEKEND OF EVERY MONTH WHEN RESPONDENT HAS THE WEEKEND OFF FROM WORK; (4) ON PETITIONER'S WEEKEND PRIOR TO RESPONDENT'S WEEKEND, PETITIONER'S WEEKEND WILL END TUESDAY MORNINGS AT SCHOOL DROP OFF (8:00 AM IF SCHOOL IS NOT IN SESSION) AND AFTER RESPONDENT'S WEEKEND, PETITIONER'S NEXT WEEKEND IS TO BEGIN THE FOLLOWING TUESDAY AT SCHOOL PICK UP (3:00PM IF NO SCHOOL); (5) RESPONDENT SHALL MAKE THE MINOR AVAILABLE TO PETITIONER DURING THE WEEK FOR ELECTRONIC COMMUNICATIONS (FACETIME, SKYPE, PHONE, ETC.) AT A TIME AND FREQUENCY AS AGREEABLE BY THE PARTIES; (5) EACH PARTY TO HAVE UP TO TWO NON-CONSECUTIVE VACATION WEEKS WITH THE MINOR DURING THE YEAR WHICH MAY BE SPLIT INTO NO MORE THAN 3 ALLOCATIONS. EACH PARTY IS TO GIVE THE OTHER AT LEAST 30 DAYS NOTICE PRIOR SCHEDULING VACATION TIME. ANY VISITATION TIME FOR THE OTHER PARENT THAT IS MISSED DUE TO THE VACATION IS TO BE MADE UP EITHER BEFORE OR AFTER THE VACATION; (6)

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RIGHT OF FIRST REFUSAL TO EITHER PARENT IF THE OTHER PARENT IS UNAVAILABLE FOR MORE THAN 10 HOURS TO CARE FOR THE CHILD, THE CARE PROVIDED SHALL NOT DETRACT FROM ANY EXISTING SCHEDULED PARENTING TIME. THE PARTIES ARE TO MEET AND CONFER AND COME TO AN AGREED UPON HOLIDAY SCHEDULE. RESPONDENT'S REQUEST TO HAVE THE MINOR ORDERED TO ATTEND THERAPY WITHIN THE KAISER SYSTEM IS DENIED AS IT IS NOT PROPERLY BEFORE THE COURT.

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3. BRAD SIMI V. TRACI VREEDE

PFL20130039

Respondent filed an ex parte request for temporary emergency custody orders on August 23, 2022. The court denied the request on August 24, 2022. Respondent filed a Request for Order (RFO) on August 24, 2022, requesting sole legal and physical custody of the minor and supervised parenting time for Petitioner. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on September 13, 2022 and a review hearing on October 13, 2022. Petitioner was served electronically and by mail on August 25, 2022.

Respondent asserts Petitioner is suffering from a substance abuse problem and/or mental health issues. Respondent asserts Petitioner has acted inappropriately around the minor, including driving recklessly and disparaging the Respondent and maternal family to the minor. Respondent further states the Petitioner spends his parenting time out working, therefore, leaving the minor with the stepmother. Respondent requests the court grant her sole legal and physical custody, order Petitioner to substance abuse test, and that his parenting time be supervised. In the alternative, Respondent requests she be given final decision-making authority, and Respondent's parenting time be limited to one overnight every other weekend.

Both parties attended CCRC on September 13, 2022, but were unable to reach any agreements. The CCRC counselor also interviewed the minor. A report with recommendations was filed on September 30, 2022 and mailed to the parties on October 3, 2022. The recommendation is to maintain the current parenting plan, except during the summer. Previously the parties utilized a 2-2-5-5 parenting plan for the summer. The recommendation is to continue the every other weekend plan throughout the year. The report also recommends the minor be enrolled in individual counseling. The report recommends the parties use the talkingparents.com application for all communication about the minor. The report also recommends that neither parent may consume alcohol, narcotics, or restricted dangerous drugs within 24 hours before or during their parenting time. The report reaffirms the respect guidelines.

Petitioner filed a Responsive Declaration on September 27, 2022. Respondent was served by mail and electronically on September 27, 2022. Petitioner objects to Respondent's requested changes. Petitioner admits he lost his temper and did make inappropriate comments about Respondent and the maternal family in front of the minor. Petitioner also states he apologized to the minor for this behavior. Petitioner requests the court affirm the current orders, and further clarify that Petitioner shall have the minor until 5:00 pm on Monday holidays that fall on his weekends and the court set one additional weekend each quarter. Petitioner also requests the parties have a 2-2-3 schedule for the summer. Petitioner also requests the Respondent only use the minor's legal last name.

Respondent filed a Supplemental Declaration on October 5, 2022. Petitioner was served electronically on October 5, 2022. Respondent also filed two additional Declarations on October 4, 2022, both of which were served electronically on October 4, 2022. Respondent reiterates her original request for sole legal and physical custody of the minor. Respondent states Petitioner has "interrogated" the minor about her interview with the CCRC counselor causing the minor additional anxiety. Respondent asserts Petitioner continues to violate the respect guidelines by disparaging her

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and the maternal family to the minor. Respondent requests Petitioner be ordered to complete an anger management course and co-parenting class.

The court has read and considered the filings as outlined above. The court finds the recommendations contained in the CCRC report to be in the minor's best interest, with some modifications. The parties shall continue to share joint custody, with Petitioner having parenting time every other weekend. This shall be the parenting plan throughout the year. The minor is to be assessed for individual counseling and if further counseling is recommended, she shall participate at a frequency and duration as directed by the therapist. The parties shall use the talkingparents.com application to communicate about the needs of the minor. Petitioner shall not consume alcohol, narcotics, or restricted dangerous drugs within 24 hours before or during their parenting time. The court adopts and reaffirms the respect guidelines. Both parties are ordered to enroll in and complete a co-parenting class. Parties shall file proof of completion with the court and serve the other party. Petitioner shall enroll in and complete an anger management class. Petitioner shall file proof of completion with the court and serve Respondent. Respondent shall ensure the minor uses her legal last name for all purposes.

The court denies Respondent's request for sole legal and physical custody and supervised visitation. The court denies Petitioner's request to modify the prior parenting plan to specify an extra weekend per quarter and to extend parenting time to 5:00 pm on three-day weekends that fall during Petitioner's parenting time.

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 #3: THE COURT FINDS THE RECOMMENDATIONS CONTAINED IN THE CCRC REPORT TO BE IN THE MINOR'S BEST INTEREST, WITH SOME MODIFICATIONS. THE PARTIES SHALL CONTINUE TO SHARE JOINT CUSTODY, WITH PETITIONER HAVING PARENTING TIME EVERY OTHER WEEKEND. THIS SHALL BE THE PARENTING PLAN THROUGHOUT THE YEAR. THE MINOR IS TO BE ASSESSED FOR INDIVIDUAL COUNSELING AND IF FURTHER COUNSELING IS RECOMMENDED, SHE SHALL PARTICIPATE AT A FREQUENCY AND DURATION AS DIRECTED BY THE THERAPIST. THE PARTIES SHALL USE THE TALKINGPARENTS.COM APPLICATION TO COMMUNICATE ABOUT THE NEEDS OF THE MINOR. PETITIONER SHALL NOT CONSUME ALCOHOL, NARCOTICS, OR RESTRICTED DANGEROUS DRUGS WITHIN 24 HOURS BEFORE OR DURING THEIR PARENTING TIME. THE COURT ADOPTS AND REAFFIRMS THE RESPECT GUIDELINES. BOTH PARTIES ARE ORDERED TO ENROLL IN AND COMPLETE A CO-PARENTING CLASS. PARTIES SHALL FILE PROOF OF COMPLETION WITH THE COURT AND SERVE THE OTHER PARTY. PETITIONS SHALL ENROLL IN AND COMPLETE AN ANGER MANAGEMENT CLASS. PETITIONER SHALL FILE PROOF OF COMPLETION WITH THE COURT AND SERVE RESPONDENT. RESPONDENT SHALL ENSURE THE MINOR USES HER LEGAL LAST NAME FOR ALL PURPOSES. THE COURT DENIES RESPONDENT'S REQUEST FOR SOLE LEGAL AND PHYSICAL CUSTODY AND SUPERVISED VISITATION. THE COURT DENIES PETITIONER'S REQUEST TO MODIFY THE PRIOR PARENTING PLAN TO SPECIFY AN EXTRA WEEKEND PER QUARTER AND TO EXTEND PARENTING TIME TO 5:00 PM ON THREE-DAY WEEKENDS THAT FALL DURING PETITIONER'S PARENTING TIME. ALL PRIOR ORDERS NOT

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

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4. BRANDIE ERIN LYONS V. WILLIAM EDWARD COLLINS

PFL20200772

On August 15, 2022, Respondent filed a Request for Order (RFO) for child custody, visitation, and child support orders. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on September 8, 2022, and a hearing was set for the present date. There is no Proof of Service for the RFO and CCRC referral on file and neither party appeared at CCRC. As such, the matter is dropped from calendar.

TENTATIVE RULING #4: THE MATTER IS DROPPED FROM CALENDAR.

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5. CAITLIN OSBORNE V. CAMERON SANTO

22FL0257

On May 16, 2022, Petitioner filed a Request for Order (RFO) requesting joint legal custody of both minor children, with primary physical custody to Petitioner and guideline child support. The parties were referred to Child Custody Recommending Counseling (CCRC) and a hearing date was set for August 11th. The RFO was served on May 18, 2022. Respondent did not file a response.

The parties attended CCRC on June 16, 2022 and reached several agreements. The agreements of the parties are set forth in the CCRC report, which was issued on June 17, 2022, and mailed to the parties on June 22, 2022. Thereafter, Petitioner filed a Supplemental Declaration of Caitlin Osborne in Support of the Request for Order wherein she indicates that she is no longer in agreement with the contents of the CCRC report. Petitioner's supplemental declaration was served on July 20, 2022. Once again, Respondent did not file a response to the CCRC report or to Petitioner's declaration.

Both parties appeared for hearing on August 11th. At that time the court adopted the agreements listed in the CCRC report as the order of the court and the issue of support was continued to the present date. The parties were ordered to file Income and Expense Declarations no later than ten days prior to the hearing. To date, only Petitioner has filed an Income and Expense Declaration. The parties are ordered to appear.

TENTATIVE RULING #5: THE PARTIES ARE ORDERED TO APPEAR.

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6. CAMERON CALDWELL V. ALICIA CRECELIUS

PFL20210337

On April 22, 2022, Petitioner filed a Request for Order (RFO) requesting a change in child custody and visitation. Petitioner and Respondent have one minor child. Petitioner is requesting sole legal and sole physical custody with Respondent to have only supervised visitation. Petitioner is concerned for the safety of the minor while in the care of Respondent given Respondent's habitual use of alcohol. Petitioner notes a court order dated February 3, 2022 wherein the court ordered, among other things, "neither parent shall consume alcohol, narcotics, or non-prescribed drugs 24 hours prior to or during times of custody..." On February 18, 2022, Petitioner received a phone call notifying him that Respondent was intoxicated while with the minor at Knotty Pine Lanes, a bowling alley in Pollock Pines.

The parties were referred to Child Custody Recommending Counseling (CCRC) on June 3, 2022, and a hearing on the RFO was scheduled for July 28, 2022. There is no proof of service on file indicating that Respondent was served with the RFO and CCRC referral forms. However, on June 2, 2022, Respondent filed a Responsive Declaration to the Request for Order, so the court finds her to have had actual notice of the pending RFO.

Respondent opposes the orders requested by Petitioner. Instead, Respondent requests that the physical custody schedule be changed to Respondent having custody on Monday through Thursday, and Petitioner to have the minor Friday through Sunday. Respondent feels the current arrangement, which is a 2-2-3 schedule, is adversely affecting the minor's sleep and behavior. She is further requesting that the minor attend school in Pollock Pines. She asserts that this was agreed to by her and Petitioner previously but the two have since had a disagreement and Petitioner is no longer consenting to it.

The parties attended CCRC on June 3, 2022. A report containing the recommendations of the CCRC counselor was prepared on July 18, 2022 and mailed to the parties on July 22, 2022. To date, the court has not received an objection, or response, to the CCRC report by either party.

The parties appeared for hearing on July 28th and the matter was continued to the present date.

Having reviewed the filings of the parties as well as the CCRC report, the court finds the recommendations contained in the CCRC report to be in the best interest of the minor child and therefore adopts them as the orders of the court.

TENTATIVE RULING #6: THE COURT ADOPTS THE RECOMMENDATIONS OF THE CCRC REPORT AS THE ORDERS OF THE COURT. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER ARE TO REMAIN IN FULL FORCE AND EFFECT. PETITIONER IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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7. HEIDI BALEME V. PAUL BALEME

PFL20190344

On August 5, 2022, Respondent filed a Request for Order (RFO) for bifurcation and sanctions against Petitioner. In support of his RFO, Respondent filed a Declaration of Attorney Amber White in Support of Respondent's Request for Order to Bifurcate Marital Status and For Attorney's Fees as Sanctions. Both documents were electronically served on August 10th. Respondent requests an order terminating the marital status of the parties and bifurcating the issues of property and support to be resolved at a later date. He further requests sanctions pursuant to Family Code Section 271 in the amount of \$1,900 or some other amount as the court deems reasonable.

On August 16, 2022, Respondent filed an Ex Parte Application and Declaration for Orders and Notice seeking an order compelling Petitioner to sign the 2018 income tax return, or to have the court sign in her stead. If the court cannot sign, then Respondent asked the court to issue sanctions against Petitioner that would accrue on a daily basis until Petitioner signs the returns. Respondent also sought Section 271 sanctions in the amount of \$1,000 or some other amount as the court deems reasonable.

Petitioner opposed the ex parte motion and filed Petitioner's Declaration in Opposition to Respondent's Emergency Request for Orders, and Declaration of Nicholas Musgrove in Opposition to Respondent's Emergency Request for Orders on August 17th. Petitioner requested Section 271 sanctions in the amount of \$1,500 against Respondent. The court denied the ex parte motion.

On August 17th Respondent filed his RFO reiterating the requests made in his ex parte motion. The matter was set to be heard on October 13th.

On September 28, 2022, Petitioner filed a Supplemental Declaration of Nicholas Musgrove in Support of Petitioner's Request for Sanctions. After the court's denial of Respondent's ex parte application, counsel for Petitioner reached out to Respondent's counsel to once again ask for an opportunity to speak with the stated 'tax attorney' to discuss the issue of the 2018 tax returns. Counsel for Petitioner was able to speak with Robert Forsythe, who is an enrolled agent, not a tax attorney, the same day as the ex parte hearing. Following the call between counsel and Mr. Forsythe, Petitioner signed the 2018 tax returns. Petitioner maintains that if this meeting had been arranged, as was requested prior to the filing of the ex parte, the ex parte and the present motion could have been avoided. For that reason, Petitioner requests \$3,000 in Family Code Section 271 sanctions. It is unclear if this request is in addition to the previous request for \$1,500 or if Petitioner is requesting a total of \$3,000.

On September 30th Petitioner filed and served her Responsive Declaration to Request for Order and Petitioner's Declaration in Opposition to Respondent's Request for Orders opposing Respondent's request to bifurcate made in his August 5th RFO. Petitioner opposes the bifurcation because she is concerned her health insurance will be discontinued and she has a variety of conditions for which she needs treatment. Further, while the parties have agreed to retain Moon, Schwartz and Madden to draft the QDROs they have not yet been provided the intake information and the QDROs have yet to be prepared. If the matter is bifurcated, she requests items 3b, 5b, 5c, 5d, 5e, 5g, and 5h to all be checked which would require Respondent to maintain her health and dental insurance, and require Respondent

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to hold Petitioner harmless from any adverse consequences resulting from the termination of the marriage. Petitioner opposes the request for sanctions as she maintains she has legitimate concerns with bifurcating.

On October 6, 2022, Supplemental Declaration of Respondent Paul Beleme was filed and served. According to Respondent, he has already represented to Petitioner that he will continue to pay for health insurance that is equal to, or better than, her current coverage after the bifurcation. Regarding Petitioner's requested changes to the judgment, Respondent maintains that Petitioner has had since July 25th to make these revisions but instead has outright refused the bifurcation. Further, while the QDROs have not yet been prepared, the parties have entered a stipulation which was signed by the court noting the division of the retirement plans. Respondent maintains that that stipulation is sufficient to preserve Petitioner's rights to the retirement plans. Nevertheless, Respondent would be agreeable to including 3b and 5e on the bifurcation judgment. Respondent opposes the inclusions of 5c, 5d, 5g, and 5h. He agrees to the checking of "respondent" in the second paragraph of FL-347 5b.

Taxes

According to Mr. Musgrove's September 28th declaration, Petitioner has signed the 2018 tax returns. Because the taxes have been signed, the court declines to rule on this issue as the matter is now moot.

Bifurcation

Unless otherwise precluded by applicable law, Family Code Section 2337(d) requires the joinder of each party's respective retirement or pension plan before a court may enter judgment granting a status only dissolution. Here, the retirement plans have not been joined as claimants to the action nor have the QDROs been prepared or signed, which would preclude the required inclusion of the plans. As such, until one of those events occurs, the court cannot issue a dissolution only judgment. Respondent's request for bifurcation is denied.

Sanctions

The parties have repeatedly requested sanctions against one another pursuant to Family Code Section 271 which vests the court with authority to "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."

From a review of the aforementioned pleadings, it appears neither party has been particularly cooperative with one another. The court notes previous delays on Petitioner's behalf, however, it is unclear if those delays were due to Petitioner herself or her attorney at the time, who is no longer representing her. Respondent, too, was uncooperative in allowing Petitioner to speak directly with the tax representative prior to his filing of the ex parte and the following RFO. Regarding the bifurcation, Petitioner initially refused to agree to the bifurcation without elaboration. Again, it is unclear if this was the result of her actions or those of her prior attorney. Though, from the filings, it does not appear that Respondent made an effort to ask for Petitioner's rationale after her refusal.

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While the conduct of each party seems to have frustrated the policy of the law to some extent, the court does not find sanctions are warranted at this time. All requests for sanctions are denied. The parties are admonished to engage in timely, good faith, cooperation with one another moving forward or the court may be inclined to award sanctions if requested at a future date.

TENTATIVE RULING #7: THE COURT DECLINES TO RULE ON THE ISSUE OF SIGNING THE 2018 TAXES AS IT IS NOW MOOT. RESPONDENT'S REQUEST FOR BIFURCATION IS DENIED. ALL REQUESTS FOR SANCTIONS ARE DENIED. RESPONDENT IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS

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October 13, 2022

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

8. JAMES MILLIMAN V. ERICA E. MORALES-MILLIMAN

PFL20170881

On October 6, 2021, Respondent filed a Request for Order (RFO) asking the court to modify the custody and visitation orders, order the CCRC counselor to speak with the reunification therapist, issue \$2,500 in sanctions against Petitioner under Family Code 271, and take judicial notice of the March 26, 2021 RFO and May 3, 2021 Ruling on Submitted Matter. A CCRC session was scheduled on November 4, 2021 with a hearing on the RFO set for January 6, 2021. On October 13, 2021, Petitioner and Minor's Counsel were served by mail with the RFO and Referral to CCRC.

On November 2, 2021, Petitioner filed a Responsive Declaration, served on Respondent and Minor's Counsel electronically that same day. In addition to objecting to the requested relief in the RFO, Petitioner requested sanctions under Family Code 271.

Both parties participated in the CCRC session and came to a full agreement, granting Respondent parenting time on the 1st and 3rd Friday of the month and the 2nd and 4th Sunday of the month. A CCRC report was issued on December 1, 2021 with copies mailed to the parties on December 9, 2021.

The parties appeared for hearing on January 6, 2022. At that time the court ordered a 3111 evaluation. The matter was set for a follow up hearing on March 24th to review the 3111 report.

Wendy Campbell was appointed as the evaluator. As of March 24th the court had not yet received the 3111 report so the matter was continued to June 16th. On June 9th a Supplemental Declaration of Respondent, Erica Morales (fka Milliman) was filed with the court, indicating that the 3111 evaluation was not scheduled until August due to Ms. Campbell's schedule. The court once again continued the 3111 review hearing, this time to October 13th.

Petitioner filed Petitioner's Supplemental Declaration RE: FC Section 3111 and Custody on October 4th. Petitioner requests the court drop the 3111 evaluation and leave current custody orders in place. According to Petitioner, the evaluation has not been completed due to Respondent's failure to participate in the evaluation process. Further, Petitioner seeks sanctions pursuant to Family Code §271.

Petitioner's request to drop the 3111 evaluation is granted. All current orders remain in place. Ms. Campbell did not mince words in her email that the sole reason for her inability to conduct the evaluation is due to Respondent's non-responsiveness. Given that Respondent filed the initial RFO and it was Respondent who requested the 3111 evaluation, the court finds her failure to participate in the evaluation or, at the very least, her failure to notify Petitioner and the court if she no longer wishes to have an evaluation done does frustrate "the policy of the

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law to...reduce the cost of litigation by encouraging cooperation between the parties and attorneys” and sanctions are warranted. Fam. Code § 271.

Petitioner is requesting \$3,000 in sanctions to cover the cost of the multiple hearings on this issue since January of this year. However, the court notes that Section 271 sanctions are not to impose an “unreasonable financial burden” on the party being sanctioned. Based on Petitioner’s last Income and Expense Declaration he estimates that Petitioner’s monthly income is less than the total amount requested. As such, the court cannot find a sanction of \$3,000 would be appropriate. Instead, Respondent is sanctioned \$1,000 to be paid to Petitioner’s counsel in monthly increments of \$200 starting November 15, 2022 and due the 15th of each month until paid in full. If a payment is missed or late, the entire amount shall become immediately due.

TENTATIVE RULING #8: PETITIONER’S REQUEST TO DROP THE 3111 EVALUATION IS GRANTED. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. RESPONDENT IS SANCTIONED \$1,000 TO BE PAID TO PETITIONER’S COUNSEL IN MONTHLY INCREMENTS OF \$200 STARTING NOVEMBER 15, 2022 AND DUE THE 15TH OF EACH MONTH UNTIL PAID IN FULL. IF A PAYMENT IS MISSED OR LATE, THE ENTIRE AMOUNT SHALL BECOME IMMEDIATELY DUE. PETITIONER IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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October 13, 2022

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

9. JEFFREY JONES V. LACEY MARR-JONES

PFL20200249

On May 16, 2022 the parties filed a Stipulation and Order for Disposition of the Marital Residence. The court adopted the stipulation as its order the same day. The stipulation states, in pertinent part, that Respondent is to transfer to Petitioner all of her right, title and interest in the family residence located on Green Valley Road in exchange for a lump sum payment of \$135,000. To make this payment Petitioner intended to take out a loan from his brother-in-law. In the event Petitioner is unable to obtain the financing required to make said payment, "...the parties shall resume trial on the issues of division of the marital residence and Respondent's request for sanctions."

Respondent filed an ex parte Motion to Enforce Settlement; Request for Monetary Sanctions in the Sum of \$2,000; Memorandum and [sic] Points of [sic] Authorities and [Proposed] Order. Petitioner opposed the ex parte citing Respondent's failure to show that irreparable harm would occur if the motion was regularly set. The court denied the ex parte request and Respondent then filed her Request for Order (RFO) which was set to be heard on October 13th.

In her RFO, Respondent requests the court enter judgment against Petitioner and in favor of Respondent in the amount of \$135,000 pursuant to Code of Civil Procedure Section 664.6 and the terms of the May 16th settlement agreement. Respondent asserts that Petitioner has not made a good faith effort to obtain the financing to purchase her portion of the house and his failure to do so is a breach of their agreement. Respondent seeks sanctions in the amount of \$2,000 pursuant to Family Code §271.

On September 23rd Petitioner served Petitioner's Declaration in Opposition to Respondent's Request to Enforce Settlement and for Monetary Sanctions and the Declaration of Edvard Nazaryan in Support of Petitioner's Request for Monetary Sanctions. Both were filed with the court on September 26th. Petitioner asks the court to deny Respondent's request to enforce settlement and her request for sanctions, and instead award sanctions to Petitioner in the amount of \$1,575. Petitioner asserts that he has made a good faith effort to obtain financing from his brother-in-law but the two were unable to come to an agreement as to the terms of the loan. He provides letters from two other lenders both of which denied him a loan.

Respondent's moving papers provide no facts to support her contention that Petitioner has not made a good faith effort to secure financing. The failure to secure financing itself is not evidence of a lack of good faith effort, nor is it a breach of the settlement agreement. To the contrary, Petitioner has provided evidence that he and his brother-in-law did attempt to reach an agreement, and he sought financing from two other sources. The settlement agreement foresees this exact circumstance and mandates the parties to "...resume trial on the issues of

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division of the marital residence and Respondent's request for sanctions." In keeping with the terms of the settlement agreement the parties are to resume preparations for trial on the issue of the division of the marital residence and Respondent's request for sanctions.

As a result of Respondent filing this motion, Petitioner has incurred \$1,050 in attorney's fees. Pursuant to Family Code Section 271, "...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 reduce the cost of litigation by encouraging the cooperation between the parties and attorneys." Respondent has not provided any facts to support the assertion that Petitioner did not operate in good faith. Further, Respondent was fully aware of the terms of the settlement agreement, which include a provision for this exact circumstance, prior to the filing of the present motion. Therefore, the court finds Respondent's actions not in keeping with the court's policy to reduce litigation costs. Respondent is to pay Petitioner or Petitioner's attorney \$1,050 in sanctions. The court reserves the right to increase this amount in the event that a hearing is called and additional attorney's fees are incurred by Petitioner. Respondent may pay the full amount outright or she may choose to make payments of \$100 per month (with a final payment of \$50) starting November 1, 2022 and due and payable on the 1st of each month. If any payment is missed or late, the entire amount shall become immediately due.

TENTATIVE RULING #9: THE PARTIES ARE TO RESUME PREPARATIONS FOR TRIAL ON THE ISSUE OF THE DIVISION OF THE MARITAL RESIDENCE AND RESPONDENT'S REQUEST FOR SANCTIONS. RESPONDENT ORDERED TO PAY PETITIONER OR PETITIONER'S ATTORNEY \$1,050 IN SANCTIONS. THE COURT RESERVES THE RIGHT TO INCREASE THIS AMOUNT IN THE EVENT THAT A HEARING IS CALLED AND ADDITIONAL ATTORNEY'S FEES ARE INCURRED BY PETITIONER. RESPONDENT MAY PAY THE FULL AMOUNT OUTRIGHT OR SHE MAY CHOOSE TO MAKE PAYMENTS OF \$100 PER MONTH (WITH A FINAL PAYMENT OF \$50) STARTING NOVEMBER 1, 2022 AND DUE ON THE 15TH OF EACH MONTH. IF ANY PAYMENT IS MISSED OR LATE, THE ENTIRE AMOUNT SHALL BECOME IMMEDIATELY DUE. PETITIONER IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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October 13, 2022

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

10. JESSICA A. CLINGMAN V. MICHAEL A. CLINGMAN

PFL20130273

On September 27, 2021, the court reserved jurisdiction on the right to retroactively modify child support back to the date of filing the subject Request for Order. The parties were ordered to file and serve updated Income and Expense Declarations at least 10 days prior to the next hearing date. Respondent was ordered to serve his 2021 federal and state taxes on Petitioner and the Department of Child Support Services (DCSS) at least 10 days prior to the next hearing date. The matter was continued to May 9th.

On April 26th the matter was reassigned to Judge Bowers and the hearing was continued to May 19th.

On April 7th, DCSS filed child support audits to assist the court in its determination of child support and arrears. Neither party filed their Income and Expense Declaration. The parties appeared before the court on May 19th, at which time they agreed all current orders were to remain in place. The issue of child support was once again continued to October 13, 2022 and the parties were once again ordered to file updated Income and Expense Declarations at least 10 days prior to the hearing date.

To date, neither party has filed an updated Income and Expense Declaration. The matter is dropped from calendar.

TENTATIVE RULING #10 : THE MATTER IS DROPPED FROM CALENDAR.

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October 13, 2022

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

11. JUSTIN G. REEDY V. KAYLA A. MCKINNEY

PFL20180289

On July 29, 2022, Petitioner filed a Request for Order (RFO) requesting, among other things, school selection orders. Respondent was served by mail on August 5, 2022. On August 16, 2022, Respondent filed an RFO requesting custody and visitation orders as well as an order regarding school selection. This RFO was properly served via U.S. mail on August 23rd. The parties were referred to Child Custody Recommending Counseling (CCRC) and a hearing on the RFO was set for October 13, 2022.

The July RFO came before the court for hearing on September 15, 2022. At that time the court noted the overlap in issues asserted by the July and August RFOs. The court then continued the issue of school selection to join with the present hearing date.

In Petitioner's July RFO he requested the court order Respondent to select three of the four schools she proposed in her April 25, 2022 declaration, which were Natomas Station, Sandra J. Gallardo, Silva Valley and Oak Meadow, and present them to Petitioner. Petitioner notes that during the May 12th hearing he was ordered to present three schools to Respondent. According to Petitioner it was the court's intent to have each parent choose three schools.

In Respondent's RFO, she requests the following: (1) Modify the current joint legal custody order to sole legal custody for Respondent; (2) Grant Respondent primary custody and award Respondent custody from Monday after school until Friday before school and Petitioner custody from Friday after school until Monday before school every week, except Respondent to have every fifth weekend; (3) Order Petitioner not to enroll the minor into transitional kindergarten at a Parochial school or any school as he is in contempt of court. Respondent maintains that she provided a list of four schools for the parties to utilize in choosing a school. Petitioner was then ordered to choose three of the four, with at least one midway between the parties. Respondent states that Petitioner has refused to do so.

On September 1st, Petitioner filed his Responsive Declaration to the RFO. He followed that with Petitioner's Supplemental Declaration on Midway Points which was filed on September 9th and then an amended version of this document on September 22nd. Petitioner asks the court to deny Respondent's requests and continue the current custody arrangement or grant Petitioner sole legal and primary physical custody of the child with Petitioner's parenting time from Sunday at 6:30 through Friday after school, remove the requirement to consent to religious activities/institutions from the legal custody orders, Order the minor's Medi-Cal coverage to be moved to Petitioner's case in Sacramento County and/or specify play therapy through Sac County – Pacific Clinics. Petitioner also requests that the court modify its previous order so that each parent will be required to select three schools between the residences of the parties, one of which must be midway. He asks that the court keep the exchange location at the Rancho Cordova Police Department instead of changing it per Respondent's request since she voluntarily chose to move.

The parties attended CCRC on September 9th and a report was issued on September 27th. The parties were unable to reach any agreements at CCRC but the mediator did recommend that the minor attend a Montessori or public school near Respondent, she also recommended Petitioner to have only

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supervised visits with the minor twice per week for two hours on each visit, and Respondent to have sole legal custody.

Petitioner filed a declaration in response to the CCRC report on October 10th. However, there is no Proof of Service for this document. As such, the court has not read or considered it.

The court has reviewed the above referenced filings of the parties as well as the CCRC report. The court finds and orders the following, which the court believe is in the best interest of the minor:

(1) The parties are to choose a school in the San Juan Unified Joint School District. Respondent is to provide Petitioner a list of three schools as close to the midpoint between the residences of the parties as possible. Respondent is to provide this list no later than October 20th. Petitioner will choose one of the three schools no later than October 27th. Respondent will be responsible for enrolling the minor in the chosen school as soon as possible after receiving Petitioner's choice. Respondent is to provide Petitioner with documentation of enrollment once it is in her possession.

(2) The court sees no reason for Petitioner to have only supervised visitation as it appears he does not pose a threat to the minor. The parties are to have joint physical custody with Respondent to have from Monday after school (3:00 pm if school is not in session) until Friday before school (8:00 am if school is not in session) and Petitioner custody from Friday after school (3:00 pm if school is not in session) until Monday before school (8:00am if school is not in session) every week. Respondent to have every fifth weekend with the minor from Friday after school (3:00 pm if school is not in session) until Monday before school (8:00am if school is not in session). Regarding legal custody, the parties are to continue joint legal custody as previously ordered. That said, the court does note that it previously admonished Petitioner regarding his actions. Further, the court notes Petitioner's repeated failure to abide by the court's prior order of joint legal custody. Petitioner is admonished once again that he is to abide by the court's order for joint legal custody or the court may be included to grant legal custody solely to Respondent if deemed necessary at a later date.

(3) Respondent has not made a request to modify the exchange location so all prior orders in that regard are to remain in full force and effect.

(4) Petitioner's request for an order changing the minor's Medi-Cal coverage to Sacramento County and/or an order specifying play therapy through Sacramento County – Pacific Clinics is denied without prejudice as it is not properly before the court. Petitioner makes his request in his declaration responding to the RFO. However, while the responding party may request relief related to the orders requested in the moving papers, unrelated relief must be sought by scheduling a separate hearing and filing a separate FL-300 form. Cal. Rule Ct. Section 5.92(g)(2).

TENTATIVE RULING #11: (1) THE PARTIES ARE TO CHOOSE A SCHOOL IN THE SAN JUAN UNIFIED JOINT SCHOOL DISTRICT. RESPONDENT IS TO PROVIDE PETITIONER A LIST OF THREE SCHOOLS AS CLOSE TO THE MIDPOINT BETWEEN THE RESIDENCES OF THE PARTIES AS POSSIBLE. RESPONDENT IS TO PROVIDE THIS LIST NO LATER THAN OCTOBER 20TH. PETITIONER WILL CHOOSE ONE OF THE THREE SCHOOLS NO

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LATER THAN OCTOBER 27TH. RESPONDENT WILL BE RESPONSIBLE FOR ENROLLING THE MINOR IN THE CHOSEN SCHOOL AS SOON AS POSSIBLE AFTER RECEIVING PETITIONER'S CHOICE. RESPONDENT IS TO PROVIDE PETITIONER WITH DOCUMENTATION OF ENROLLMENT ONCE IT IS IN HER POSSESSION; (2) THE PARTIES ARE TO HAVE JOINT PHYSICAL CUSTODY WITH RESPONDENT TO HAVE FROM MONDAY AFTER SCHOOL (3:00 PM IF SCHOOL IS NOT IN SESSION) UNTIL FRIDAY BEFORE SCHOOL (8:00 AM IF SCHOOL IS NOT IN SESSION) AND PETITIONER CUSTODY FROM FRIDAY AFTER SCHOOL (3:00 PM IF SCHOOL IS NOT IN SESSION) UNTIL MONDAY BEFORE SCHOOL (8:00AM IF SCHOOL IS NOT IN SESSION) EVERY WEEK. RESPONDENT TO HAVE EVERY FIFTH WEEKEND WITH THE MINOR FROM FRIDAY AFTER SCHOOL (3:00 PM IF SCHOOL IS NOT IN SESSION) UNTIL MONDAY BEFORE SCHOOL (8:00AM IF SCHOOL IS NOT IN SESSION). REGARDING LEGAL CUSTODY, THE PARTIES ARE TO CONTINUE JOINT LEGAL CUSTODY AS PREVIOUSLY ORDERED. THAT SAID, THE COURT DOES NOTE THAT IT PREVIOUSLY ADMONISHED PETITIONER REGARDING HIS ACTIONS. FURTHER, THE COURT NOTES PETITIONER'S REPEATED FAILURE TO ABIDE BY THE COURT'S PRIOR ORDER OF JOINT LEGAL CUSTODY. PETITIONER IS ADMONISHED ONCE AGAIN THAT HE IS TO ABIDE BY THE COURT'S ORDER FOR JOINT LEGAL CUSTODY OR THE COURT MAY BE INCLUDED TO GRANT LEGAL CUSTODY SOLELY TO RESPONDENT IF DEEMED NECESSARY AT A LATER DATE; (3) ALL PRIOR ORDERS REGARDING THE LOCATION OF EXCHANGES ARE TO REMAIN IN FULL FORCE AND EFFECT; (4) PETITIONER'S REQUEST FOR AN ORDER CHANGING THE MINOR'S MEDI-CAL COVERAGE TO SACRAMENTO COUNTY AND/OR AN ORDER SPECIFYING PLAY THERAPY THROUGH SACRAMENTO COUNTY – PACIFIC CLINICS IS DENIED WITHOUT PREJUDICE. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER ARE TO REMAIN IN FULL FORCE AND EFFECT. RESPONDENT IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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October 13, 2022

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

13. NIKOLAS PAECH V. CAROLINE GIROUX

PFL20210276

The matter is currently set for a review hearing for receipt of the Evidence Code section 730 evaluation. The 730 evaluation was filed with the court on September 9, 2022. Proof of Service indicate parties were served on the same date.

Petitioner filed a Supplemental Declaration on October 3, 2022. Respondent and Minors' Counsel were served electronically on October 3, 2022.

Respondent filed a Status Brief on October 3, 2022. Petitioner and Minors' Counsel were served electronically on October 3, 2022.

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

The court has read and considered the above filings. Parties are ordered to appear.

TENTATIVE RULING #13: PARTIES ARE ORDERED TO APPEAR.

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DEPARTMENT 5

October 13, 2022

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

14. TARA GRUDIN V. KEVIN GRUDIN

PFL20190049

On July 7, 2022, the court adopted its tentative ruling with the following modifications, the step-up plan was adopted to Step 2; parties were to participate in a co-parenting class and file their certificate of completion along with what they had learned from the class no later than 10 days prior to the next court hearing; parties were to submit supplemental declarations 10 days prior to the next hearing; the court continued the request to modify child support and the issue of the tax credit to the next hearing; the court set a review hearing for October 13, 2022.

Petitioner filed a Supplemental Declaration and Income and Expense Declaration on October 3, 2022. Respondent was served by mail on October 3, 2022. Petitioner asserts the step-up plan has remained at Step 1 as it took some time for the minor to adjust to the new schedule. Petitioner is now agreeable to advancing to Step 2. Petitioner asserts the 6-week schedule for stepping up is too rapid a pace for the minor. Petitioner requests the step-ups be on a 90-day schedule. Petitioner requests the court deny Respondent's request to modify child support as he failed to comply with the local rules, as he failed to include a profit and loss statement for the last 12 months and he failed to include his state and federal tax returns for the last two years. Petitioner objects to Respondent receiving one-half the child tax credit payment for tax year 2020, as Petitioner had primary custody of the minor that year. Petitioner has enrolled, and is participating, in an online co-parenting class.

Respondent filed a Supplemental Declaration and Income and Expense Declaration on September 30, 2022. Respondent filed a Proof of Service indicating personal service on Petitioner's counsel. Respondent included in his declaration that he has completed a co-parenting class and his take-aways from that class.

The court orders Step-2 of the parenting plan shall commence October 14, 2022. Respondent shall have alternating weekends beginning Friday after school until Wednesday drop-off at school. Step 2 shall remain in place until winter break. Starting winter break the parenting plan will start with Step 3. The court sets a further review hearing for January 26, 2023.

As to modification of child support, the court finds that the parenting plan has remained at Step 1, and therefore, the current orders remain appropriate. Further, the court finds Respondent has failed to comply with the local rules when filing his Income and Expense Declaration, as it does not include a profit and loss statement for the last 12 month and does not include the necessary tax returns. The court continues Respondent's request to modify child support to January 26, 2023. Updated Income and Expense Declaration are due at least 10 days prior to the next hearing date and must comply with the local rules. Failure to comply with the local rules may result in the court ordering sanctions. The court reserves jurisdiction to retroactively modify child support to the date of the step up to Step 3 (winter break 2022).

The court denies Respondent's request to split the 2020 child tax credit equally between the parties. The court finds Petitioner had primary custody of the minor and therefore, is appropriate she receive the credit.

Any Supplemental Declarations are due at least 10 days prior to the next hearing.

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

TENTATIVE RULING #14: THE COURT ORDERS STEP-2 OF THE PARENTING PLAN SHALL COMMENCE OCTOBER 14, 2022. RESPONDENT SHALL HAVE ALTERNATING WEEKENDS BEGINNING FRIDAY AFTER SCHOOL UNTIL WEDNESDAY DROP-OFF AT SCHOOL. STEP 2 SHALL REMAIN IN PLACE UNTIL WINTER BREAK. STARTING WINTER BREAK THE PARENTING PLAN WILL PROGRESS TO STEP 3. THE COURT SETS A FURTHER REVIEW HEARING FOR JANUARY 26, 2023. THE COURT FINDS THAT THE PARENTING PLAN HAS REMAINED AT STEP 1, AND THEREFORE, THE CURRENT CHILD SUPPORT ORDERS REMAIN APPROPRIATE. THE COURT FINDS RESPONDENT HAS FAILED TO COMPLY WITH THE LOCAL RULES WHEN FILING HIS INCOME AND EXPENSE DECLARATION, AS IT DOES NOT INCLUDE A PROFIT AND LOSS STATEMENT FOR THE LAST 12 MONTH AND DOES NOT INCLUDE THE NECESSARY TAX RETURNS. THE COURT CONTINUES RESPONDENT'S REQUEST TO MODIFY CHILD SUPPORT TO JANUARY 26, 2023. UPDATED INCOME AND EXPENSE DECLARATION ARE DUE AT LEAST 10 DAYS PRIOR TO THE NEXT HEARING DATE AND MUST COMPLY WITH THE LOCAL RULES. FAILURE TO COMPLY WITH THE LOCAL RULES MAY RESULT IN THE COURT ORDERING SANCTIONS. THE COURT RESERVES JURISDICTION TO RETROACTIVELY MODIFY CHILD SUPPORT TO THE DATE OF THE STEP UP TO STEP 3 (WINTER BREAK 2022). THE COURT DENIES RESPONDENT'S REQUEST TO SPLIT THE 2020 CHILD TAX CREDIT EQUALLY BETWEEN THE PARTIES. THE COURT FINDS PETITIONER HAD PRIMARY CUSTODY OF THE MINOR AND THEREFORE, IS APPROPRIATE SHE RECEIVE THE CREDIT. ANY SUPPLEMENTAL DECLARATIONS ARE DUE AT LEAST 10 DAYS PRIOR TO THE NEXT HEARING. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.