

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 27, 2022

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

13. ALEXIUS WHITE V. CARTER WHITE

PFL20200532

Petitioner filed a Request for Order (RFO) on May 27, 2022, requesting a modification of child custody, parenting time, and child support orders. Petitioner also requests the court maintain the current orders regarding medical and dental care costs not covered by insurance. Petitioner concurrently filed an Income and Expense Declaration. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on July 1, 2022 and a review hearing on August 11, 2022. Proof of Service filed with the court indicated Respondent was served by mail at an address in Reno on June 9, 2022.

Petitioner states in her Declaration that Respondent has moved out of his apartment as of February 22, 2022 and has not had either minor in his care since. Petitioner further states the eldest minor has not spent time in Respondent's care for the last two years. Petitioner is requesting the court order sole legal custody of the eldest minor, B.W. to Petitioner and joint legal custody of A.W. to Petitioner. Petitioner requests sole physical custody of both minors. Petitioner also requests guideline child support for both minors. Finally, Petitioner requests the court order Respondent reimburse Petitioner for one half the minors uncovered dental expenses.

Respondent filed a Responsive Declaration and Income and Expense Declaration on July 22, 2022. Petitioner was served by mail on July 21, 2022. Respondent states he will be relocating out of state. Respondent objects to Petitioner's request for sole physical custody. Respondent requests joint custody of both minors. Respondent requests parenting time 42 days each summer, alternating holidays, and every spring break. Respondent request the parties split the travel costs equally. Respondent objects to the request for guideline child support and ask the court take into consideration the Petitioner only works 24 hours per week.

Child Custody and Parenting Time

Only Petitioner attended CCRC on July 1, 2022. As such, a single parent CCRC report was filed on July 8, 2022 without agreements or recommendations. A copy was mailed to the parties on August 3, 2022, less than 10 days prior to the hearing. The court notes Petitioner served Respondent with the RFO and referral to CCRC at the address Respondent has listed on his Responsive Declaration, yet Respondent failed to appear.

On August 11, 2022, the parties were rereferred to CCRC for an appointment on September 8, 2022 and a further review hearing on October 27, 2022.

Both parties and the minors appeared for the CCRC appointment. The parties were unable to reach any agreements. A report with recommendations was filed on October 14, 2022. A copy of the report was mailed to the parties on October 18, 2022. The court has read and considered the CCRC report and finds the recommendations to be in the best interest of the minors. The court adopts the recommendations as its orders. The parties shall have joint legal custody. Petitioner shall have sole physical custody of the minors. Respondent shall have parenting time as set forth in the report. The court adopts the holiday schedule. The court adopts the provisions for transportation and telephone contact. The parties shall use talkingparents.com to relay information to each other about the minors'

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 27, 2022

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

education, health, and general welfare. The court adopts the respect guidelines. The court adopts the provision for counseling with the following modification: the minors are to be assessed for counseling. If it is determined further counseling services are necessary, the minors shall participate at a frequency and duration as directed by the counselor.

Child Support

The court adopted its tentative ruling on August 11, 2022, ordering child support payable from Respondent to Petitioner in the amount of \$1,452 per month. The court further order Respondent to pay Petitioner \$363 per month as and for child support arrears.

The court reserved jurisdiction to modify child support to August 1, 2022. The court found the parties had been referred back to CCRC and the current timeshare may change. The court set a further review hearing for child support to join with the child custody review hearing.

Based on the child custody and parenting time order made herein, the court finds this results in an in a timeshare of approximately 7% for Respondent for the minor A.W. Prior to Respondent's relocation to Montana, the minor B.W. had a 0% timeshare with Respondent. The court finds that timeshare remains appropriate given the court's orders.

The timeshare modification as set forth above results in an adjustment to guideline child support. The court finds guideline child support to be \$1,376. (See attached DissoMaster) The court orders Respondent to pay \$1,376 as and for child support effective November 1, 2022. All prior orders as to arrears remain in full force and effect.

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 #13: THE COURT FINDS THE RECOMMENDATIONS IN THE CCRC REPORT TO BE IN THE BEST INTEREST OF THE MINORS. THE COURT ADOPTS THE RECOMMENDATIONS AS ITS ORDERS. THE PARTIES SHALL HAVE JOINT LEGAL CUSTODY. PETITIONER SHALL HAVE SOLE PHYSICAL CUSTODY OF THE MINORS. RESPONDENT SHALL HAVE PARENTING TIME AS SET FORTH IN THE REPORT. THE COURT ADOPTS THE HOLIDAY SCHEDULE. THE COURT ADOPTS THE PROVISIONS FOR TRANSPORTATION AND TELEPHONE CONTACT. THE PARTIES SHALL USE TALKINGPARENTS.COM TO RELAY INFORMATION TO EACH OTHER ABOUT THE MINORS' EDUCATION, HEALTH, AND GENERAL WELFARE. THE COURT ADOPTS THE RESPECT GUIDELINES. THE COURT ADOPTS THE PROVISION FOR COUNSELING WITH THE FOLLOWING MODIFICATION: THE MINORS ARE TO BE ASSESSED FOR COUNSELING. IF IT IS DETERMINED FURTHER COUNSELING SERVICES ARE NECESSARY, THE MINORS SHALL PARTICIPATE AT A FREQUENCY AND DURATION AS DIRECTED BY THE COUNSELOR. THE COURT FINDS GUIDELINE CHILD SUPPORT TO BE \$1,376. (SEE ATTACHED DISSOMASTER) THE COURT ORDERS RESPONDENT TO PAY \$1,376 AS AND FOR CHILD SUPPORT EFFECTIVE NOVEMBER 1, 2022. ALL PRIOR ORDERS AS TO ARREARS REMAIN IN FULL FORCE AND EFFECT. 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.

#13

ATTORNEY (NAME AND ADDRESS): EDC Court California		TELEPHONE NO:	Superior Court Of The State of California, County of
ATTORNEY FOR:		CASE NUMBER:	PFL20200532

Input Data	Father	Mother	Guideline (2022)	Cash Flow Analysis	Father	Mother	
Number of children	0	2	Nets (adjusted)	Guideline			
% time with Second Parent	3.5%	0%	Father	4,783	Payment (cost)/benefit	(1,376)	1,376
Filing status	Single	HH/MLA	Mother	6,696	Net spendable income	3,407	8,072
# Federal exemptions	1*	3*	Total	11,479	% combined spendable	29.7%	70.3%
Wages + salary	6,612	8,358	Support	Total taxes	1,728	1,592	
401(k) employee contrib	0	0	CS Payor	Father	# WHA	2	9
Self-employment income	0	0	Presumed	(1,376)	Net wage paycheck/mo	4,835	6,666
Other taxable income	0	0	Basic CS	(1,376)	Comb. net spendable	11,479	
Short-term cap. gains	0	0	Add-ons	0	Proposed		
Long-term cap. gains	0	0	Presumed Per Kid		Payment (cost)/benefit	(1,376)	1,376
Other gains (and losses)	0	0	Child 1	(463)	Net spendable income	3,407	8,072
Ordinary dividends	0	0	Child 2	(913)	NSI change from gdl	0	0
Tax. interest received	0	0	Spousal support	blocked	% combined spendable	29.7%	70.3%
Social Security received	0	0	Total	(1,376)	% of saving over gdl	0%	0%
Unemployment compensation	0	0	Proposed, tactic 9	Total taxes	1,728	1,592	
Operating losses	0	0	CS Payor	Father	# WHA	2	9
Ca. operating loss adj.	0	0	Presumed	(1,376)	Net wage paycheck/mo	4,835	6,666
Roy, partnerships, S corp, trusts	0	0	Basic CS	(1,376)	Comb. net spendable	11,479	
Rental income	0	0	Add-ons	0	Percent change	0.0%	
Misc ordinary tax. inc.	0	0	Presumed Per Kid		Default Case Settings		
Other nontaxable income	0	0	Child 1	(463)			
New-spouse income	0	0	Child 2	(913)			
Adj. to income (ATI)	0	0	Spousal support	blocked			
SS paid other marriage	0	0	Total	(1,376)			
Ptr Support Pd. other P'ships	0	0	Savings	0			
CS paid other relationship	0	0	No releases				
Health ins.	0	0					
Qual. Bus. Inc. Ded.	0	0					
Itemized deductions	0	0					
Other medical expenses	0	0					
Property tax expenses	0	0					
Ded. interest expense	0	0					
Charitable contribution	0	0					
Miscellaneous itemized	0	0					
Required union dues	0	0					
Cr. for Pd. Sick and Fam. L.	0	0					
Mandatory retirement	16	15					
Hardship deduction	0*	0*					
Other gdl. deductions	85	55					
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

October 27, 2022

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

14. AMBER COOKE V. DAVID WEST

22FL0126

On August 25, 2022, parties appeared for a review hearing. The court ordered Respondent's parenting time to increase to Monday at 5:30 p.m. to Wednesday at 5:30 p.m. with the exchanges to take place at the minor's daycare. Respondent was also to have parenting time on Saturday at 1:00 p.m. until Sunday at 1:00 p.m. with exchanges to take place at the El Dorado County Sheriff's Office. The court set a further review hearing for the parenting plan for October 27, 2022.

On July 14, 2022, the court appointed CASA to the case to observe the parties home and note any safety concerns. The court set a hearing on October 6, 2022 to review the CASA report. CASA filed a report on September 20, 2022. The parties were served electronically on September 20, 2022. The CASA report notes no safety concerns at either parties' home. The minor appears to be comfortable in both parties' respective homes.

On October 6, 2022, the court adopted its tentative ruling finding the current orders remained in the minor's best interest. The court on its own motion found good cause to consolidate case number 22FL0127 with case number 22FL0126 and make 22FL0126 the lead case. The court confirmed October 27, 2022 at 1:30 for a review hearing on the parenting plan. The court ordered any supplemental declarations to be filed at least 10 days prior to the next hearing date.

Neither party has filed a Supplemental Declaration regarding the parenting plan. The court has reviewed the CASA report. The court finds the step-up plan remains in the best interest of the minor. The parents shall follow the 2-2-3 schedule. Week 1-Respondent shall have Monday from 5:30 pm to Wednesday at 5:30 pm. Petitioner shall have Wednesday at 5:30 pm until Friday at 5:30 pm. Respondent shall have Friday at 5:30 pm. until Monday at 5:30 pm. Week 1-Petitioner shall have Monday at 5:30 pm. To Wednesday at 5:30 pm. Respondent shall have Wednesday at 5:30 pm to Friday at 5:30 pm. Petitioner shall have Friday at 5:30 pm to Monday at 5:30 pm. The schedule will then go back to Week 1. All exchanges shall take place at the minor's day care, as they are all weekday exchanges. If the day care is closed, the exchanges shall take place at the El Dorado County Sheriff's Office. The court adopts the Holidays schedule as set forth in the CCRC report. The court modifies the exchange location as set forth above. The court adopts the vacation provision, as well as the additional provisions, and respect guidelines as set forth in the CCRC report. To the extent the court had not previously adopted the counseling provision of the CCRC report recommendations, the court adopts those provisions as well.

Respondent filed a Request for Order (RFO) on October 4, 2022 in case number 22FL0127. As stated above, the cases have been consolidated, with 22FL0126 as the lead case. The matter was set for a hearing on October 27, 2022, to join with the previously set review hearing. The court notes, an Order Shortening Time would not be required for the hearing if personal service was made on Petitioner on or before October 5, 2022. The Proof of Service along with the attached declaration, state Petitioner was served at 11:50 P.M. on October 5, 2022, by leaving the moving papers on Petitioner's front door. The court does not find this to be timely personal service. As such, the court finds the service to be untimely. However, because Petitioner was served, the court finds good cause to continue the matter

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 27, 2022

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

to allow adequate time for Petitioner to respond to the RFO. The court continues Respondent's October 4, 2022 filed RFO to January 12, 2022 at 1:30 pm in Department 5.

Petitioner filed an RFO on October 17, 2022. The matter was set for a hearing on October 27, 2022. The court finds this to be a clerical error, as the matter was not filed with an Order Shortening Time, and this would not allow enough time for Petitioner to properly serve Respondent. Therefore, the court continues Petitioner's October 17, 2022 filed RFO to January 12, 2023 at 1:30 pm in Department 5.

Parties are ordered to file and served updated Income and Expense Declarations at least 10 day prior to the next hearing.

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

TENTATIVE RULING #14: THE COURT FINDS THE STEP-UP PLAN REMAINS IN THE BEST INTEREST OF THE MINOR. THE PARENTS SHALL FOLLOW THE 2-2-3 SCHEDULE. WEEK 1-RESPONDENT SHALL HAVE MONDAY FROM 5:30 PM TO WEDNESDAY AT 5:30 PM. PETITIONER SHALL HAVE WEDNESDAY AT 5:30 PM UNTIL FRIDAY AT 5:30 PM. RESPONDENT SHALL HAVE FRIDAY AT 5:30 PM. UNTIL MONDAY AT 5:30 PM. WEEK 1-PETITIONER SHALL HAVE MONDAY AT 5:30 PM. TO WEDNESDAY AT 5:30 PM. RESPONDENT SHALL HAVE WEDNESDAY AT 5:30 PM TO FRIDAY AT 5:30 PM. PETITIONER SHALL HAVE FRIDAY AT 5:30 PM TO MONDAY AT 5:30 PM. THE SCHEDULE WILL THEN GO BACK TO WEEK 1. ALL EXCHANGES SHALL TAKE PLACE AT THE MINOR'S DAY CARE, AS THEY ARE ALL WEEKDAY EXCHANGES. IF THE DAY CARE IS CLOSED, THE EXCHANGES SHALL TAKE PLACE AT THE EL DORADO COUNTY SHERIFF'S OFFICE. THE COURT ADOPTS THE HOLIDAYS SCHEDULE AS SET FORTH IN THE CCRC REPORT. THE COURT MODIFIES THE EXCHANGE LOCATION AS SET FORTH ABOVE. THE COURT ADOPTS THE VACATION PROVISION, AS WELL AS THE ADDITIONAL PROVISIONS, AND RESPECT GUIDELINES AS SET FORTH IN THE CCRC REPORT. TO THE EXTENT THE COURT HAD NOT PREVIOUSLY ADOPTED THE COUNSELING PROVISION OF THE CCRC REPORT RECOMMENDATIONS, THE COURT ADOPTS THOSE PROVISIONS AS WELL. THE COURT CONTINUES RESPONDENT'S OCTOBER 4, 2022 FILED RFO TO JANUARY 12, 2022 AT 1:30 PM IN DEPARTMENT 5. THE COURT CONTINUES PETITIONER'S OCTOBER 17, 2022 FILED RFO TO JANUARY 12, 2023 AT 1:30 PM IN DEPARTMENT 5. PARTIES ARE ORDERED TO FILE AND SERVE UPDATED INCOME AND EXPENSE DECLARATIONS AT LEAST 10 DAYS PRIOR TO THE NEXT COURT DATE. 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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 27, 2022

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

15. AMY FETTERLEY V. ALFREDO TEIXEIRA-MONIZ

PFL20190918

Respondent filed a Request for Order (RFO) on August 9, 2022, requesting the court modify the child custody and parenting time orders. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on September 7, 2022 and a review hearing on October 27, 2022. Upon review of the court file, there is no Proof of Service showing Petitioner was properly served with the RFO. The court notes this is a request for post-judgment modification of child custody, which requires compliance with Family Code section 215. There is no documentation in the court file that Respondent has given notice to Petitioner in compliance with Family Code section 215.

On Respondent appeared at CCRC on September 7, 2022. As such, a single parent report was filed on October 5, 2022. A copy of the report was mailed to the parties on October 6, 2022.

Petitioner filed a Responsive Declaration on October 11, 2022. Respondent was served by overnight delivery on October 12, 2022. Petitioner requests the court deny Respondent's RFO as she was not properly served. Further, Petitioner asserts Respondent has failed to comply with the court's June 24, 2022 order for professionally supervised visits and for Respondent to submit to random, observed, professional drug testing twice a month. Petitioner requests all current orders remain in full force and effect.

The court drops the matter from calendar due to lack of proper service. All prior orders remain in full force and effect.

TENTATIVE RULING #15: THE COURT DROPS THE MATTER FROM CALENDAR DUE TO LACK OF PROPER SERVICE. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 27, 2022

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

16. ANGELA PARSONS V. MARK PARSONS

PFL20200195

Petitioner filed a Request for Order (RFO) on August 23, 2022 requesting the court modify spousal support orders. Upon review of the court file, there is no Proof of Service showing Respondent was served with the RFO.

The court drops the matter from calendar due to lack of proper service.

TENTATIVE RULING #16: THE MATTER IS DROPPED FROM CALENDAR DUE TO LACK OF SERVICE.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 27, 2022

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

17. CAMERON BOWERS V. JESLYN BOWERS

PFL20130618

Respondent filed a Request for Order (RFO) on September 9, 2022, requesting the court make child custody, parenting time, and child support orders. Petitioner was served by mail on September 9, 2022. The parties were not referred to Child Custody Recommending Counseling (CCRC) as parties had been referred in the previous six months. Respondent did not file an Income and Expense Declaration.

Petitioner has not filed a Responsive Declaration.

The court grants Respondent's request for sole legal and physical custody of the minors. Petitioner shall have professionally supervised visitation. The court notes this maintains the orders that were made July 13, 2018. The court denies Respondent's request for child support orders. Respondent has failed to file the documents required by both the California Rules of Court as well as the Local Rules.

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 #17: THE COURT GRANTS RESPONDENT'S REQUEST FOR SOLE LEGAL AND PHYSICAL CUSTODY OF THE MINORS. PETITIONER SHALL HAVE PROFESSIONALLY SUPERVISED VISITATION. THE COURT DENIES RESPONDENT'S REQUEST FOR CHILD SUPPORT ORDERS. RESPONDENT HAS FAILED TO FILE THE DOCUMENTS REQUIRED BY BOTH THE CALIFORNIA RULES OF COURT AS WELL AS THE LOCAL RULES. 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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 27, 2022

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

19. JENESE OWEN V. RUSSELL OWEN

22FL807

Petitioner filed a Request for Order (RFO) on August 26, 2022, requesting the court make child custody and parenting time orders. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on September 22, 2022 with a review hearing on October 27, 2022. Petitioner filed a Proof of Service showing Respondent was served with the FL-300 as well as the blank FL-320 on September 6, 2022, but the Proof of Service does not indicate Respondent was served with the referral to CCRC or the Notice of Tentative Ruling.

Only Petitioner appeared at the CCRC appointment on September 22, 2022. As such, a single parent report with no agreements or recommendations was file on September 22, 2022. A copy of the report was mailed to the parties on September 22, 2022.

Respondent filed a Responsive Declaration on September 26, 2022. There is no Proof of Service showing Petitioner was served with this document, therefore, the court cannot consider it.

Petitioner filed a request for a Domestic Violence Restraining Order (DVRO) on August 24, 2022 (Case # 22FL0799). The court granted a temporary DVRO on August 26, 2022. Respondent was served with the temporary DVRO on August 27, 2022. The court made temporary custody orders in the temporary DVRO, with the parties sharing joint legal custody and Petitioner having sole physical custody. The court ordered supervised parenting time for Respondent twice a week for two hours each. The DVRO is set for a hearing on October 28, 2022 at 8:30 in Department 5.

The court finds good cause to refer the parties to CCRC, as it appears Respondent did not receive notice of the CCRC appointment. The court sets a CCRC appointment for 11/17/2022 at 9:00 AM with Rebecca Nelson and a further review hearing on 1/5/2023 at 1:30 PM in department 5.

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 #19: THE PARTIES ARE REFERRED TO CCRC FOR AN APPOINTMENT ON 11/17/2022 AT 9:00 AM WITH REBECCA NELSON AND A FURTHER REVIEW HEARING ON 1/5/2023 AT 1:30 PM IN DEPARTMENT 5. 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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 27, 2022

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

21. MARIA VARGAS-COOK V. RILEY COOK

PFL20180521

Petitioner filed a Request for Order (RFO) on September 14, 2022, requesting the court change the child custody and parenting time orders, as well as for attorney's fees and cost. Parties were referred to CCRC for an appointment on October 4, 2022 with a review hearing on October 27, 2022. Minors' Counsel was served electronically on September 14, 2022. Petitioner attempted to served Respondent by personal service but was unsuccessful. Respondent was served by mail on September 22, 2022.

Minors' Counsel filed a Statement of Issues and Contentions on October 3, 2022. Parties were served by mail and electronically on October 3, 2022. Minors' Counsel has met with her clients extensively, as well as with the parties, and the conjoint family therapist. Minors' Counsel states she does not have a position regarding custody of the minors. She hopes to obtain additional information from the CCRC before making a request for orders to the court.

Parties attended CCRC on October 4, 2022 and presented the counselor with an agreement between the parties as well as Minors' Counsel. The counselor also interviewed the minors. The report was filed on October 12, 2022. Copies were mailed to the parties on October 14, 2022.

The court has read and considered the above filings. The court finds the agreement of the parties as set forth in the CCRC report is in the best interest of the minors. The court adopts the agreement as its order. Parties shall maintain joint legal custody. The minors shall reside primarily with Petitioner. The court adopts the parenting plan as well as the holiday schedule.

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 #21: THE COURT ADOPTS THE AGREEMENT OF THE PARTIES AS ITS ORDER. 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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 27, 2022

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

22. MICHAEL HOLZER V. LESLIE RICH

22FL0755

Petitioner filed an ex parte application for emergency child custody orders on August 12, 2022. On August 17, 2022, the court denied the request. Petitioner filed a Request for Order (RFO) requesting the court makes orders as to child custody on August 17, 2022. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on September 12, 2022 and a review hearing on October 27, 2022. Respondent was personally served August 18, 2022.

Both parties attended CCRC on September 16, 2022. The minor was interviewed on September 19, 2022. The parties were unable to reach any agreements. A report with recommendations was filed on September 26, 2022. A copy was mailed to the parties on September 29, 2022.

A Supplemental CCRC report was filed on October 24, 2022. A copy was mailed to the parties on October 24, 2022. The Supplemental Report provides clarification as to legal custody as well as the parenting plan.

Respondent has not filed a Responsive Declaration.

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

The court finds the recommendations as set forth in the CCRC report are in the minor's best interest. Petitioner shall have temporary sole legal and physical custody of the minor. Respondent shall have unsupervised parenting time on alternating weekends; respondent will have parenting time Saturday and Sunday from 10:00 am to 2:00 pm, for a total of eight hours every other weekend. If the minor wishes to return to Petitioner's care during Respondent's parenting time, she may do so. If the minor wishes to have additional parenting time, during the opposing weeks, she shall inform Petitioner a minimum of seven days in advance. Petitioner will relay the request to Respondent via the talkingparents.com application and Respondent will confirm the additional parenting time. The parties are to agree to a holiday schedule in co-parenting counseling. Parties must have written permission from the other parent to travel out of the state of California. The court does not adopt the recommendation for the right of first option. The court adopts the recommendation as to phone contact between the minor and parents. The court adopts the additional provisions, with the following modifications. Respondent shall participate in individual counseling. Respondent shall select a licensed therapist no later than November 10, 2022. Respondent shall participate at a frequency and durations as determined by the therapist. Respondent and minor shall participate in conjoint therapy. The minor shall continue to participate in individual counseling at a frequency and duration as directed by the therapist. Petitioner and Respondent shall participate in co-parenting counseling. Petitioner shall provide Respondent with the names of three potential therapists who are currently available and taking on new clients on or before November 17, 2022. Respondent shall select one of the three on or before December 1, 2022. Parties shall engage in co-parenting counseling at the soonest available appointment, and for a frequency and duration as directed by the therapist. Neither party shall allow the minor to be exposed to marijuana smoke. Neither party shall make or allow third parties to make disparaging remarks about the other parent to the minor or within hearing distance of the minor.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 27, 2022

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

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 #22: THE COURT ADOPTS THE RECOMMENDATIONS OF THE CCRC REPORT AS MODIFIED. PETITIONER SHALL HAVE TEMPORARY SOLE LEGAL AND PHYSICAL CUSTODY OF THE MINOR. RESPONDENT SHALL HAVE UNSUPERVISED PARENTING TIME ON ALTERNATING WEEKENDS; RESPONDENT WILL HAVE PARENTING TIME SATURDAY AND SUNDAY FROM 10:00 AM TO 2:00 PM, FOR A TOTAL OF EIGHT HOURS EVERY OTHER WEEKEND. IF THE MINOR WISHES TO RETURN TO PETITIONER'S CARE DURING RESPONDENT'S PARENTING TIME, SHE MAY DO SO. IF THE MINOR WISHES TO HAVE ADDITIONAL PARENTING TIME, DURING THE OPPOSING WEEKS, SHE SHALL INFORM PETITIONER A MINIMUM OF SEVEN DAYS IN ADVANCE. PETITIONER WILL RELAY THE REQUEST TO RESPONDENT VIA THE TALKINGPARENTS.COM APPLICATION AND RESPONDENT WILL CONFIRM THE ADDITIONAL PARENTING TIME. THE PARTIES ARE TO AGREE TO A HOLIDAY SCHEDULE IN CO-PARENTING COUNSELING. PARTIES MUST HAVE WRITTEN PERMISSION FROM THE OTHER PARENT TO TRAVEL OUT OF THE STATE OF CALIFORNIA. THE COURT DOES NOT ADOPT THE RECOMMENDATION FOR THE RIGHT OF FIRST OPTION. THE COURT ADOPTS THE RECOMMENDATION AS TO PHONE CONTACT BETWEEN THE MINOR AND PARENTS. THE COURT ADOPTS THE ADDITIONAL PROVISIONS, WITH THE FOLLOWING MODIFICATIONS. RESPONDENT SHALL PARTICIPATE IN INDIVIDUAL COUNSELING. RESPONDENT SHALL SELECT A LICENSED THERAPIST NO LATER THAN NOVEMBER 10, 2022. RESPONDENT SHALL PARTICIPATE AT A FREQUENCY AND DURATIONS AS DETERMINED BY THE THERAPIST. RESPONDENT AND MINOR SHALL PARTICIPATE IN CONJOINT THERAPY. THE MINOR SHALL CONTINUE TO PARTICIPATE IN INDIVIDUAL COUNSELING AT A FREQUENCY AND DURATION AS DIRECTED BY THE THERAPIST. PETITIONER AND RESPONDENT SHALL PARTICIPATE IN CO-PARENTING COUNSELING. PETITIONER SHALL PROVIDE RESPONDENT WITH THE NAMES OF THREE POTENTIAL THERAPISTS WHO ARE CURRENTLY AVAILABLE AND TAKING ON NEW CLIENTS ON OR BEFORE NOVEMBER 17, 2022. RESPONDENT SHALL SELECT ONE OF THE THREE ON OR BEFORE DECEMBER 1, 2022. PARTIES SHALL ENGAGE IN CO-PARENTING COUNSELING AT THE SOONEST AVAILABLE APPOINTMENT, AND FOR A FREQUENCY AND DURATION AS DIRECTED BY THE THERAPIST. NEITHER PARTY SHALL ALLOW THE MINOR TO BE EXPOSED TO MARIJUANA SMOKE. NEITHER PARTY SHALL MAKE OR ALLOW THIRD PARTIES TO MAKE DISPARAGING REMARKS ABOUT THE OTHER PARENT TO THE MINOR OR WITHIN HEARING DISTANCE OF THE MINOR. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 27, 2022

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

23. SHAUNA COX V. MICHAEL BRYANT

22FL0270

Petitioner filed a Request for Order (RFO) on August 23, 2022, requesting the court make orders as to child support and spousal support. Petitioner concurrently filed an Income and Expense Declaration. Respondent was personally served on September 14, 2022. Petitioner is requesting guideline child support in the amount of \$5,000 per month. Petitioner is requesting spousal support as well. In the August 23, 2022 filed Income and Expense Declaration, Petitioner states she has no income.

Respondent filed a Responsive Declaration and Income and Expense Declaration on October 21, 2022. Petitioner was served on October 21, 2022 by mail. The court finds the Responsive Declaration and Income and Expense Declaration were not filed or served timely.

Parties are ordered to appear.

TENTATIVE RULING #23: PARTIES ARE ORDERED TO APPEAR.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 27, 2022

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

24. STEVEN GAMEROS V. NOELLE GAMEROS

PFL20120786

On August 25, 2022, Petitioner filed a Request for Order (RFO) requesting the court vacate the Renewal of Judgment and requesting final division of outstanding assets and debts. Respondent was personally served on August 29, 2022. The court notes there is a Substituted Party, George Sommers, DBA Interstate Judgement Enforcement. Respondent assigned the Judgment to George Sommers, DBA Interstate Judgement Enforcement on July 19, 2022; the Notice of Acknowledgement of Judgement was filed with the court on July 27, 2022. There is no Proof of Service showing Substituted Party was served with the RFO.

Petitioner requests the court vacate the Renewal of Judgment, as he asserts no such Judgment exists. Petitioner also asserts, the Judgment was assigned to the Department of Child Support Services and has been paid in full. Petitioner also requests a final division of assets and adjudication of remaining assets and debt. Petitioner asserts Respondent failed to disclose all assets in her declarations and therefore, those issues should be resolved. Petitioner cites no authority on which the court could make such orders.

Substituted Party filed a Responsive Declaration on September 22, 2022. Petitioner was served by mail on October 4, 2022. There is no Proof of Service showing Respondent was served with the Responsive Declaration. In his declaration, Substituted Party states that although Petitioner timely filed the motion to vacate the Renewal of Judgment, he received Petitioner's motion in September, though provides no date or how service was effectuated. Substituted Party requests the court deny Petitioner's requests, as the issue is moot, as a Renewal of Judgement is a ministerial action, and not required as Family Law Judgments do not expire pursuant to Family Code section 291(b). Substituted Party correctly asserts the Judgment which is being sought to be enforced is not the child support order, but rather an order wherein parties stipulated to a division of community property wherein Petitioner agreed to pay Respondent \$19,500. This order was filed with the court in a Finding and Order After Hearing on October 6, 2016. It included a copy of the parties handwritten stipulation signed by Judge Ashworth on October 15, 2015.

Respondent filed a Responsive Declaration on October 5, 2022. Proof of Shows Petitioner was served by mail on October 13, 2022. There is no Proof of Service showing Substituted party was served with the Responsive Declaration. Respondent requests the court deny Petitioner's motion. Respondent states in her declaration, Petitioner has previously attempted to have the October 6, 2015 stipulation set aside. The court ruled on the matter on December 10, 2015, finding no evidence to support Petitioner's claim of duress. The stipulation remained an enforceable order of the court.

The court finds there are deficiencies in notice to Substituted Party, in that there is no Proof of Service showing Petitioner properly served the motion on George Sommers, DBA Interstate Judgement Enforcement. The matter could be dropped from calendar as proper notice was not provided. However, given Substitute Party and Respondent have both filed Responsive Declarations which accurately and adequately address the issues raised in Petitioner's motion, the court finds good cause to rule on the merits of the motion.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 27, 2022

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

The court denies Petitioner's request to vacate the Renewal of Judgment as moot. Petitioner has stated no authority or grounds upon which the court could set the Renewal of Judgment aside. The Judgment was ordered on October 6, 2015, by stipulation of the parties. Petitioner has previously requested the court set aside the judgment, which was denied on December 10, 2015. The court finds those issues are denied by res judicata. Additionally, the court finds the Renewal of Judgment is as described by Substituted Party, a ministerial action. In a civil case, a ten-year period exists (starting on the date of issuance of the judgment) within which to enforce a money judgment or judgment for possession or sale of property. However, the judgment must be renewed by the Clerk of the Superior Court at any time after five years from the date of its issuance and before the end of the ten-year period. (Code Civ. Pro. sec. 683.110, subd. (a), (b).) If it is not renewed, the judgment becomes legally unenforceable after the expiration of the ten-year period. However, a money judgment or judgment for possession and sale of property under the Family Code is exempt from renewal, including judgments for child, family, or spousal support until paid in full. (Fam. Code sec. 291, subd. (a).) Failure to renew a judgment filed under the Family Code "has no effect on enforceability" in California (Fam. Code sec. 291, subd. (b)). On the other hand, renewal is permitted. (Fam. Code sec. 291, subd. (c).)

The court also denies Petitioner's request for final distribution and/or division of assets and debts. The court finds this issue is also barred by res judicata. The October 6, 2015 stipulation of the parties states: "As of October 15, 2015. There are no other omitted assets or debts." Therefore, the court finds this issue was resolved by the Stipulation of the parties. Petitioner has previously requested the court set aside the judgment, which was denied on December 10, 2015. Further, Petitioner has set forth no legal authority upon which the court could grant his request.

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 #24: PETITIONER'S REQUESTS ARE DENIED AS SET FORTH ABOVE. 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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 27, 2022

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

25. TINNAMARIE BROWN V. AMBER MILTZREY

22FL0847

On September 7, 2022, Petitioner filed a Petitioner for Visitation along with a Request for Order (RFO) requesting grandparent visitation. Respondent was personally served On September 26, 2022. Petitioner is the Paternal Grandmother to the minor and requests the court grant her visitation the 1st and 3rd weekend of each month. Petitioner asserts she has had limited visitation with the minor since the death of her son, the minor's father. Petitioner requests the parties be referred to mediation to potentially reach an agreement on a visitation schedule.

Respondent filed a Responsive Declaration on October 11, 2022. Petitioner was served by mail on October 11, 2022. Respondent objects to the requested orders, however, does agree to two supervised visits of up to four hours each, per year. Respondent asserts she has been the sole care provider for the minor since the father's death, when the minor was three months old. Respondent asserts it is not in the minor's best interest to have extensive contact with the paternal family due to mental health concerns since the minor's father's passing.

Petitioner filed a Reply Declaration on October 17, 2022. Respondent was served by mail on October 17, 2022. Petitioner asserts she has an established relationship with the minor. Petitioner also raises concerns about Respondent's drinking habits. Petitioner reiterates her request for visitation with the minor as it is in the minor's best interest.

If either parent of an unemancipated minor dies, the deceased parent's children, siblings, parents, and grandparents "may be granted reasonable visitation" rights during the child's minority upon a finding visitation would be in the child's best interest. (Family Code section 3102(a); *Ian J. v. Peter M.* (2013) 213 Cal. App. 4th 189,203) The parent's death does not instill the grandparents with the deceased parent's parental rights; not does it diminish the surviving parent's parental rights. "Nothing in the unfortunate circumstance of one biological parent's death affects the surviving parent's (constitutionally protected) fundamental right to make parenting decisions concerning their child's contact with grandparents." (*Kyle O. v. Donald R.* (2000) 85 Cal. App. 4th 848, 863.) Therefore, courts ordinarily defer to the surviving parent's constitutional right to determine the child's care, custody, and control, where there is no evidence of the surviving parent's "unfitness" as a parent, and they are not seeking to cut off grandparent visitation completely. The nonparent petitioners bear a heavy burden of rebutting the presumption favoring a fit parent's visitation decisions. (*Kyle O. v. Donald R.*, supra, 85 Cal. App. 4th at 863-864.) To overcome the presumption that a fit parent will act in the best interests of their child, a grandparent has the burden of proving by clear and convincing evidence that denial of visitation is not in the best interests of the child, that is, that denying visitation would be detrimental to the child. (*Ian J. v. Peter M.* (2013) 213 Cal. App. 4th 189,203.) "To adequately protect a fit sole surviving parent's constitutional right to raise a child, a 'mere preponderance' burden as to 'best interest' is not sufficient. The 'clear and convincing' burden...promotes a parent's constitutionally protected 'first' choice. The higher evidentiary burden preserves the constitutionality of Family Code section 3102 and insures against erroneous fact finding. (*Rich v. Thatcher* (2011) 200 Cal. App. 4th 1176, 1181.)

The court finds, Petitioner has not established Respondent to not be a fit parent. Further, Respondent not seeking to cutoff grandparent visitation completely. Respondent has set forth in her

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 27, 2022

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

Responsive Declaration she is willing to facilitate grandparent visitation twice a year. Even if Respondent was seeking to cut off all contact, Petitioner has not established by clear and convincing evidence that denying visitation would be detrimental to the minor. Therefore, the court denies Petitioner's request for court ordered grandparent visitation.

Petitioner shall prepare and file the Findings and Orders After Hearing.

**TENTATIVE RULING #25: PETITIONER'S REQUEST FOR GRANDPARENT VISITATION IS DENIED.
PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 27, 2022

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

26. K.S. V. R.B.

22FL0324

Petitioner filed a Petition to Determine a Parental Relationship on April 14, 2022. The court issued a Summons on April 14, 2022. There is no Proof of Service showing Respondent was served with either the Petition or Summons.

On April 14, 2022, Petitioner filed a Request for Order (RFO) requesting child custody and parenting time orders. The parties were referred to Child Custody Recommending Counseling (CCRC). Upon review of the court file, there is no Proof of Service indicating Respondent was served with the RFO or referral to CCRC.

On May 16, 2022, Petitioner filed a request to reschedule the hearing, as he has been unable to serve Respondent. The court granted the request and rescheduled the hearing as well as CCRC. The parties were referred to CCRC for an appointment on June 16, 2022 and a review hearing on August 4, 2022. Once again, there is no Proof of Service showing Respondent was properly served with the new hearing date or referral to CCRC.

On June 16, 2022, only Petitioner appeared for the CCRC appointment and as such a single parent report was filed with the court. Parties were mailed a copy on June 17, 2022.

On July 22, 2022 Respondent filed a Response to the Petition to Establish a Parental Relationship as well as a Responsive Declaration. Petitioner was served by mail on July 25, 2022. Respondent concurs Petitioner is the biological father to two of the minors' named in the Petition, however, disagrees that that third minor is Petitioner's biological child. Respondent agrees to continue the current joint physical custody arrangement, but requests the court grant her sole legal custody. Respondent asserts Petitioner has a substance abuse problem and requests the court order substance abuse testing.

Parties appeared for a hearing on August 4, 2022 and reached a stipulation in which they agreed as to the paternity of the minors as well as to be rereferred to Child Custody Recommending Counseling (CCRC) and a further review hearing. The court adopted the parties' stipulation as its order.

Parties attended CCRC on September 7, 2022, however, were unable to reach any agreements. A report with recommendations was filed on October 17, 2022.

The court has read and considered the CCRC report and finds the recommendations to be in the minors' best interests. Parties shall have joint legal and physical custody. Parties shall continue the 2-2-3 schedule. The court adopts the recommendations as to transportation and travel with the minors. The court adopts the additional provisions with the following modification: parties must provide 45 days' notice of any change in address; parties must provide 90 days' notice prior to any proposed out of county or out of state move with the children. The court adopts the childcare provisions and right of first option provisions. The court adopts the phone contact provisions. The parties shall use talkingparents.com or similar application to relay information to each other about the minors' education, health, and general welfare. The court adopts the respect guidelines. Petitioner shall not consume alcoholic beverages, narcotics, or restricted dangerous drugs, except with a valid prescription

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 27, 2022

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

within 24 hours prior to and during his parenting time. Upon request from Respondent, Petitioner shall provide copies of his drug test results from BAART. The parties are to enrolling and complete a co-parenting class. Parties are to provide proof of completion to the court. Parties may select a class located on the court's resource list, available on the court's website.

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 #26: THE COURT FINDS THE RECOMMENDATIONS CONTAINED IN THE CCRC ARE IN THE BEST INTERESTS OF THE MINORS. THE COURT ADOPTS THE RECOMMENDATIONS AS SET FORTH IN THE CCRC REPORT AS ITS ORDERS. PARTIES SHALL HAVE JOINT LEGAL AND PHYSICAL CUSTODY. PARTIES SHALL CONTINUE THE 2-2-3 SCHEDULE. THE COURT ADOPTS THE RECOMMENDATIONS AS TO TRANSPORTATION AND TRAVEL WITH THE MINORS. THE COURT ADOPTS THE ADDITIONAL PROVISIONS WITH THE FOLLOWING MODIFICATION: PARTIES MUST PROVIDE 45 DAYS' NOTICE OF ANY CHANGE IN ADDRESS; PARTIES MUST PROVIDE 90 DAYS' NOTICE PRIOR TO ANY PROPOSED OUT OF COUNTY OR OUT OF STATE MOVE WITH THE CHILDREN. THE COURT ADOPTS THE CHILDCARE PROVISIONS AND RIGHT OF FIRST OPTION PROVISIONS. THE COURT ADOPTS THE PHONE CONTACT PROVISIONS. THE PARTIES SHALL USE TALKINGPARENTS.COM OR SIMILAR APPLICATION TO RELAY INFORMATION TO EACH OTHER ABOUT THE MINORS' EDUCATION, HEALTH, AND GENERAL WELFARE. THE COURT ADOPTS THE RESPECT GUIDELINES. PETITIONER SHALL NOT CONSUME ALCOHOLIC BEVERAGES, NARCOTICS, OR RESTRICTED DANGEROUS DRUGS, EXCEPT WITH A VALID PRESCRIPTION WITHIN 24 HOURS PRIOR TO AND DURING HIS PARENTING TIME. UPON REQUEST FROM RESPONDENT, PETITIONER SHALL PROVIDE COPIES OF HIS DRUG TEST RESULTS FROM BAART. THE PARTIES ARE TO ENROLLING AND COMPLETE A CO-PARENTING CLASS. PARTIES ARE TO PROVIDE PROOF OF COMPLETION TO THE COURT. PARTIES MAY SELECT A CLASS LOCATED ON THE COURT'S RESOURCE LIST, AVAILABLE ON THE COURT'S WEBSITE. 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.