

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
October 19, 2023
8:30 a.m./1:30 p.m.

1. BRIAN BURKS V. MELISSA BURKS

PFL20180047

Respondent filed an Order to Show Cause and Affidavit for Contempt (OSC) on May 11, 2023 and a second on May 19, 2023, alleging Petitioner is in violation of court orders, including an order for the parties to participate in co-parenting counseling and for reimbursement of medical expenses. Petitioner was personally served on May 29, 2023.

Parties appeared on July 13, 2023. The court appointed the Public Defender to represent Petitioner and continued the matter. The court ordered Petitioner to file and serve an updated Income and Expense Declaration at least 10 days prior to the continued hearing date.

On September 20, 2023, the court issued an ex parte minute order which continued the hearing to October 5, 2023, due to a calendaring error. Copies of the minute order were mailed to both parties and the Public Defender's office.

Petitioner filed an Income and Expense Declaration on August 14, 2023. Respondent was served by mail on August 11, 2023.

Parties appeared for the arraignment on October 5, 2023. Petitioner stipulated to receiving a copy of the two citations, as well as Petitioner being advised of his constitutional rights. Petitioner entered not guilty please and denials to the allegations. Petitioner waived time and requested the matter be continued.

Neither party has filed a supplemental declaration.

The parties are ordered to appear to select Mandatory Settlement and Trial dates.

TENTATIVE RULING #1: THE PARTIES ARE ORDERED TO APPEAR TO SELECT MANDATORY SETTLEMENT AND TRIAL DATES.

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2. CASSANDRA TULLER V. ROBERT TULLER

23FL0474

On June 30, 2023, Petitioner filed a Request for Order (RFO), requesting child custody, child support, visitation, spousal support, and attorney's fees. A Declaration of Gregory S. Clark in Support of Attorney's Fees and Costs and an Income and Expense Declaration were filed concurrently. A Proof of Personal Service was filed on July 7, 2023. Respondent has not filed a Responsive Declaration to Request for Order nor a Response to the Petition for Dissolution.

Petitioner is requesting sole legal and physical custody with no visitation for the Respondent. This request is based upon Respondent's threats to harm Petitioner and the children with a loaded gun, for which he is currently facing charges. According to Petitioner there is a Temporary Restraining Order in effect. Petitioner requests child and spousal support based on Respondent's income after August 7, 2023. Additionally, Petitioner is requesting attorney's fees in the amount of \$7,500 pursuant to Family Code § 2030.

The parties attended CCRC on September 12, 2023. Agreements were reached, including Petitioner and Respondent sharing joint legal custody of the child, Petitioner shall have sole physical custody, and visitations will be at the child's request. The court has reviewed the agreements of the parties and finds them to be in the best interests of the minor, they are therefore hereby adopted as the orders of the court.

Respondent has not filed an Income and Expense Declaration, though he was properly served with Petitioner's RFO. Due to Respondent's failure to file the requisite documents, the court is making support orders utilizing Petitioner's estimate of Respondent's average monthly income.

Utilizing the figures as stated above, the court finds that spousal support per the Alameda formula is \$734 per month. The court finds that child support is \$1,697 per month. See attached DissoMaster report. The court adopts the attached DissoMaster report and orders Respondent to pay Petitioner \$2,431 per month as and for temporary spousal support and child support, payable on the 1st of the month until further order of the court or legal termination. These support orders are effective as of July 1, 2023.

The court finds the above order results in arrears in the amount of \$9,724 through and including October 1, 2023. The court orders Respondent pay Petitioner \$810.33 on the 15th of each month commencing November 15th and continuing until paid in full (approximately 12 months). If a payment is late or missed the remaining balance is due in full with legal interest within five (5) days.

The court further finds Petitioner routinely earns a stipend and therefore, has included a bonus table with the DissoMaster. The parties are to adjust support based on the bonus table for the month or months that Petitioner receives a stipend.

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

Family Code section 2032 works in tandem with Section 2030 to ensure that any award of costs and fees is just and reasonable. Fam. Code § 2032. "In determining what is just and reasonable under the relative circumstances, the court shall take into consideration the need for the award to enable each party, to the extent practical, to have sufficient financial resources to present the party's case adequately." *Id.* at (b).

Here, there is a slight disparity in income, though after the above stated support orders, Petitioner will actually have a higher net spendable income than Respondent. Therefore, the court does not find it to be just or reasonable to order attorney's fees at this time. Petitioner's request for attorney's fees is denied.

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

TENTATIVE RULING #2: THE AGREEMENTS OF THE PARTIES AS STATED IN THE SEPTEMBER 12, 2023 CCRC REPORT ARE ADOPTED AS THE ORDERS OF THE COURT. THE COURT FINDS THAT SPOUSAL SUPPORT PER THE ALAMEDA FORMULA IS \$734 PER MONTH. THE COURT FINDS THAT CHILD SUPPORT IS \$1,697 PER MONTH. SEE ATTACHED DISSOMASTER REPORT. THE COURT ADOPTS THE ATTACHED DISSOMASTER REPORT AND ORDERS RESPONDENT TO PAY PETITIONER \$2,431 PER MONTH AS AND FOR TEMPORARY SPOUSAL SUPPORT AND CHILD SUPPORT, PAYABLE ON THE 1ST OF THE MONTH UNTIL FURTHER ORDER OF THE COURT OR LEGAL TERMINATION. THESE SUPPORT ORDERS ARE EFFECTIVE AS OF JULY 1, 2023.

THE COURT FINDS THE ABOVE ORDER RESULTS IN ARREARS IN THE AMOUNT OF \$9,724 THROUGH AND INCLUDING OCTOBER 1, 2023. THE COURT ORDERS RESPONDENT PAY PETITIONER \$810.33 ON THE 15TH OF EACH MONTH COMMENCING NOVEMBER 15TH AND CONTINUING UNTIL PAID IN FULL (APPROXIMATELY 12 MONTHS). IF A PAYMENT IS LATE OR MISSED THE REMAINING BALANCE IS DUE IN FULL WITH LEGAL INTEREST WITHIN FIVE (5) DAYS.

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THE COURT FURTHER FINDS PETITIONER ROUTINELY EARNS A STIPEND AND THEREFORE, HAS INCLUDED A BONUS TABLE WITH THE DISSOMASTER. THE PARTIES ARE TO ADJUST SUPPORT BASED ON THE BONUS TABLE FOR THE MONTH OR MONTHS THAT PETITIONER RECEIVES A STIPEND.

PETITIONER'S REQUEST FOR ATTORNEY'S FEES IS DENIED. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

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

Mother's Gross Bonus	Basic CS%	Basic CS	Alameda SS%	Alameda SS	Total Basic CS	Total SS	Total Support CS+SS
0	0.00	0	0.00	0	20,369 R	8,802 R	29,171 R
100	2.92	3	23.64	24	20,366 R	8,779 R	29,145 R
200	2.92	6	23.64	47	20,363 R	8,755 R	29,118 R
300	2.92	9	23.64	71	20,360 R	8,731 R	29,091 R
400	2.92	12	23.64	95	20,357 R	8,708 R	29,065 R
500	2.92	15	23.64	118	20,354 R	8,684 R	29,038 R
600	2.90	17	23.63	142	20,351 R	8,661 R	29,012 R
700	2.91	20	23.63	165	20,348 R	8,637 R	28,985 R
800	2.91	23	23.63	189	20,346 R	8,613 R	28,959 R
900	2.91	26	23.63	213	20,343 R	8,590 R	28,932 R
1,000	2.91	29	23.63	236	20,340 R	8,566 R	28,906 R
1,100	2.91	32	23.62	260	20,337 R	8,543 R	28,879 R
1,200	2.90	35	23.62	283	20,334 R	8,519 R	28,853 R
1,300	2.90	38	23.62	307	20,331 R	8,495 R	28,826 R
1,400	2.90	41	23.62	331	20,328 R	8,472 R	28,800 R
1,500	2.90	44	23.62	354	20,325 R	8,448 R	28,773 R
1,600	2.90	46	23.62	378	20,322 R	8,425 R	28,747 R
1,700	2.90	49	23.62	401	20,320 R	8,401 R	28,720 R
1,800	2.90	52	23.61	425	20,317 R	8,377 R	28,694 R
1,900	2.90	55	23.61	449	20,314 R	8,354 R	28,667 R
2,000	2.90	58	23.61	472	20,311 R	8,330 R	28,641 R
2,100	2.89	61	23.61	496	20,308 R	8,307 R	28,615 R
2,200	2.89	64	23.61	519	20,305 R	8,283 R	28,588 R
2,300	2.89	67	23.61	543	20,302 R	8,259 R	28,562 R
2,400	2.89	69	23.61	567	20,299 R	8,236 R	28,535 R
2,500	2.89	72	23.61	590	20,296 R	8,212 R	28,509 R
2,600	2.89	75	23.60	614	20,294 R	8,189 R	28,482 R
2,700	2.89	78	23.60	637	20,291 R	8,165 R	28,456 R
2,800	2.89	81	23.60	661	20,288 R	8,142 R	28,429 R
2,900	2.89	84	23.60	684	20,285 R	8,118 R	28,403 R
3,000	2.88	87	23.60	708	20,282 R	8,094 R	28,377 R
3,100	2.88	89	23.60	732	20,279 R	8,071 R	28,350 R
3,200	2.88	92	23.60	755	20,276 R	8,047 R	28,324 R
3,300	2.88	95	23.60	779	20,274 R	8,024 R	28,297 R
3,400	2.88	98	23.60	802	20,271 R	8,000 R	28,271 R
3,500	2.88	101	23.59	826	20,268 R	7,977 R	28,245 R

PETITIONER:	CASE NUMBER:
RESPONDENT:	

Mother Annual Bonus Wages Report, cont'd

Mother's Gross Bonus	Basic CS%	Basic CS	Alameda SS%	Alameda SS	Total Basic CS	Total SS	Total Support CS+SS
3,600	2.88	104	23.59	849	20,265 R	7,953 R	28,218 R
3,700	2.88	106	23.59	873	20,262 R	7,930 R	28,192 R
3,800	2.88	109	23.59	896	20,259 R	7,906 R	28,165 R
3,900	2.88	112	23.59	920	20,257 R	7,882 R	28,139 R
4,000	2.87	115	23.59	944	20,254 R	7,859 R	28,113 R

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

Input Data	Father	Mother	Guideline (2023)	Cash Flow Analysis	Father	Mother
Number of children	0	1	Nets (adjusted)	Guideline		
% time with Second Parent	0%	0%	Father	10,122	Payment (cost)/benefit	(2,431) 2,431
Filing status	MFJ->	<-MFJ	Mother	6,654	Net spendable income	7,692 9,085
# Federal exemptions	1*	2*	Total	16,776	% combined spendable	45.8% 54.2%
Wages + salary	14,500	9,448	Support (Nondeductible)	Total taxes	4,378	2,682
401(k) employee contrib	0	1,020	CS Payor	Father	Comb. net spendable	16,776
Self-employment income	0	0	Presumed	1,697	Proposed	
Other taxable income	0	0	Basic CS	1,697	Payment (cost)/benefit	(2,431) 2,431
Short-term cap. gains	0	0	Add-ons	0	Net spendable income	7,692 9,085
Long-term cap. gains	0	0	Presumed Per Kid		NSI change from gdl	0 0
Other gains (and losses)	0	0	Child 1	1,697	% combined spendable	45.8% 54.2%
Ordinary dividends	0	0	SS Payor	Father	% of saving over gdl	0% 0%
Tax. interest received	0	0	Alameda	734	Total taxes	4,378 2,682
Social Security received	0	0	Total	2,431	Comb. net spendable	16,776
Unemployment compensation	0	0	Proposed, tactic 9		Percent change	0.0%
Operating losses	0	0	CS Payor	Father	Default Case Settings	
Ca. operating loss adj.	0	0	Presumed	1,697		
Roy, partnerships, S corp, trusts	0	0	Basic CS	1,697		
Rental income	0	0	Add-ons	0		
Misc ordinary tax. inc.	0	0	Presumed Per Kid			
Other nontaxable income	0	0	Child 1	1,697		
New-spouse income	0	0	SS Payor	Father		
SS paid other marriage	0	0	Alameda	734		
CS paid other relationship	0	0	Total	2,431		
Adj. to income (ATI)	0	0	Savings	0		
Ptr Support Pd. other P'ships	0	0	No releases			
Health insurance	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				
State sales tax paid	0	0				
Required union dues	0	112				
Cr. for Pd. Sick and Fam. L.	0	0				
Mandatory retirement	0	0				
Hardship deduction	0*	0*				
Other gdl. adjustments	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	0				

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3. CHRISTINA BASS V. DAVID BASS

PFL20120626

Petitioner filed an ex parte motion for emergency temporary custody of the minors on June 22, 2023. On June 23, 2023, the court granted Petitioner's request and referred the parties to an emergency set Child Custody Recommending Counseling (CCRC) appointment on July 11, 2023, and a review hearing on August 17, 2023. Petitioner filed a Request for Order (RFO) making the same requests as set forth in the ex parte motion on June 23, 2023. Respondent was served by first class mail, with address verification on July 6, 2023.

Only Petitioner appeared for the CCRC appointment on July 11, 2023. As such, a single parent report was filed with the court. Parties were served a copy by mail on July 12, 2023.

Petitioner filed an Updating Declaration on August 7, 2023. Respondent was served by mail on August 7, 2023. Petitioner requests the court maintain the ex parte orders and rerefer the parties to CCRC. Petitioner states in her declaration Respondent was on a psychiatric hold on the date of the prior CCRC appointment, however, was released the following day. Petitioner asserts Respondent is still exhibiting concerning behavior. Petitioner is also requesting the court order Respondent to turn over the minors' health insurance information, birth certificates, and social security cards.

Both parties appeared for the hearing on August 17, 2023. The court rereferred the parties to CCRC. The court ordered a minimum of two professionally supervised visits per week for Respondent. If the professionally supervised visits were going well, the court authorized non-professionally supervised visits twice a week for two hours each, with the paternal grandparents to provide non-professional supervision. The paternal grandparents were ordered to file the FL-324(NP) prior to commencing their supervision of Respondent. Respondent was ordered to provide to Petitioner either original or copies of the minors' birth certificate, medical card, and social security card, no later than the close of business on August 18, 2023. The court admonished the parties that failure to appear for CCRC may result in sanctions being ordered. The court set a further review hearing for October 12, 2023.

On August 24, 2023, the court issued an ex parte minute order modifying the date of the CCRC appointment and review hearing. Copies were mailed to the parties on August 24, 2023.

Both parties appeared for the CCRC appointment on September 8, 2023. The parties were able to reach many agreements. A report with recommendations and agreements was filed with the court on September 12, 2023. Copies were mailed to the parties on the same day.

The paternal grandparents filed the FL-324 forms as required on September 6, 2023.

Respondent filed a declaration requesting a change in orders with several attachments on October 18, 2023. Petitioner was personally served on October 18, 2023, rather than service

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on her counsel. The court finds this is not proper service, and the court further notes this document was filed and served less than 10 days prior to the hearing and therefore, has not considered it.

Petitioner filed a Notice of Objection to Respondent's Declaration on October 20, 2023. Respondent was served by mail on October 20, 2023. Petitioner objects to the Declaration as untimely and not being properly served. The court sustains both objections. Petitioner objects to the unsigned and unverified letter from Joel Cady Psy.D as hearsay. The court sustains the hearsay objections. Petitioner objects to the attached letter from Jamie Bass as hearsay. The court sustains the objection. Petitioner objects to the attached letter from Brenda Heotzler Bass as hearsay. The court sustains the objection. Petitioner objects to Respondent's statement on page one as improper basis of opinion and lack of foundation. The court sustains the objections.

The court has read and considered the filings as outlined above. The court finds the recommendations and agreements as set forth in the September 12, 2023 CCRC report to be in the best interest of the minors. The court adopts the recommendations and agreements as its orders. The court sets a review hearing on January 25, 2024 at 8:30 am in Department 5, to review Respondent's progress in supervised visitation and assess a further step-up plan for Respondent's parenting time. Any Supplemental Declarations are due 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.

TENTATIVE RULING #3: THE COURT SUSTAINS PETITIONER'S OBJECTIONS TO RESPONDENT'S DECLARATION AS SET FORTH ABOVE. THE COURT FINDS THE RECOMMENDATIONS AND AGREEMENTS AS SET FORTH IN THE SEPTEMBER 12, 2023 CCRC REPORT TO BE IN THE BEST INTEREST OF THE MINORS. THE COURT ADOPTS THE RECOMMENDATIONS AND AGREEMENTS AS ITS ORDERS. THE COURT SETS A REVIEW HEARING ON JANUARY 25, 2024 AT 8:30 AM IN DEPARTMENT 5, TO REVIEW RESPONDENT'S PROGRESS IN SUPERVISED VISITATION AND ASSESS A FURTHER STEP-UP PLAN FOR RESPONDENT'S PARENTING TIME. ANY SUPPLEMENTAL DECLARATIONS ARE DUE 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.

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

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ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.

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4. KATELYN STAYER V. ADAM STAYER

23FL0084

Vocational Evaluation

Respondent filed a Request for Order (RFO) and a Declaration in Support of Respondent's Request for Vocational Assessment of Petitioner on July 19, 2023. The aforementioned documents, and all other required documents were served on July 21st.

On September 11, 2023, Petitioner filed a Request to Reschedule Hearing. The court granted the order on September 12, 2023 and rescheduled the hearing to the present date.

On October 5, 2023, Respondent filed and served a Declaration of Kenneth Stanton Regarding Sanctions for Failing to Meet and Confer or Provide Notice. Respondent's counsel requests sanctions under Family Code § 271 against Petitioner's counsel for failing to meet and confer before filing the Request to Reschedule Hearing, and for failure to serve the request. He is under the belief Petitioner's counsel filed without serving so he would not have the opportunity to oppose the request.

Petitioner filed and served a Responsive Declaration to Request for Order on October 11, 2023. On October 13th Respondent filed Respondent's Declaration in Response to Petitioner's Request Orders for Disagreement and Non-Consent to a Vocational Evaluation. There is no Proof of Service for this document and therefore the court has not read or considered it.

Respondent requests the court order a vocational assessment of Petitioner to be conducted by Alice Rush, MA. He argues Petitioner is underemployed and has the capacity to make significantly more earnings than what is reflected. He also requests sanctions for having to bring this motion due to Petitioner's opposition to an assessment.

Petitioner does not consent to a vocational evaluation, as she states her self-employment income has considerably increased and requiring her to take time off work to participate in a vocational evaluation will decrease her earning capacity. Additionally, Petitioner states Respondent did not ask for a return hearing for reassessment of support after completion of the evaluation; therefore, she objects to any request for the same if an evaluation is ordered. Further, she requests attorney's fees in the amount of \$500 because Respondent's attorney deliberately increased fees by choosing to file a Request for Order instead of raising it in his Responsive Declaration.

"In a proceeding for dissolution of marriage or for legal separation of the parties, the court may order a party to submit to an examination by a vocational training counselor...The focus of the examination shall be on an assessment of the party's ability to obtain employment that would allow the party to maintain their marital standard of living." Fam. Code § 4331(a).

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Prior to making an order for a vocational rehabilitation assessment, the court must make a finding of good cause to do so. *Id.* at (b).

Here, the court finds good cause to order the requested evaluation. Petitioner is highly educated and, prior to 2019, she was earning significantly more than she is now. While the court recognizes the special needs of the minor, the minor is eleven years old and attends school full time. For these reasons, Petitioner is ordered to undergo a vocational rehabilitation assessment which shall be conducted by Alice Rush, MA. Respondent shall pay the cost of the evaluation subject to reallocation.

An award for attorney's fees and sanctions may also be made pursuant to Family Code section 271 which states, in pertinent part, "...the court may base an award of attorney's fees and costs on the extent to which the conduct of each party or attorney furthers or frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation by encouraging cooperation of the parties and attorneys." Fam. Code § 271(a). Here the court does not find that either party acted in a manner that frustrates the policy of the law to such an extent that the actions of either party give rise to Section 271 sanctions. Both requests for Section 271 sanctions are denied.

Civil Procedure § 128.5 vests the court with authority to order a party or that party's attorney to pay the reasonable costs and expenses, including attorney's fees, incurred by the sanctioned party's actions or tactics which were made in bad faith. While counsel's actions regarding service of the motion to continue and her providing only portions of the emails are questionable, Respondent failed to provide the court and the opposing party with any information regarding the amount of sanctions requested. Therefore, the request for sanctions pursuant to Civil Procedure § 128.5 is denied.

Support

Petitioner filed a Request for Order (RFO) on May 17, 2023, requesting custody and support orders as well as orders for attorney's fees and proceeds from the sale of the marital residence. On July 13, 2023, Respondent filed his Income and Expense Declaration, and a Proof of Service by Mail. On August 28, 2023, Petitioner filed an updated Income and Expense Declaration. Respondent filed and served his Responsive Declaration to Request for Order and Respondent's Declaration in Response to Petitioner's Request Orders for Custody, Support, and Attorney's Fees on August 31st. Petitioner filed, and mail served her Reply/Updating Declaration on September 5th.

Petitioner is requesting guideline child and spousal support retroactive to January 30, 2023, the date of filing the Petition for Dissolution. She notes the parties shared a high marital standard of living with a large home and expensive cars. She also reduced her employment

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during the marriage in order to care for the minor child. Petitioner has provided the court with a proposed DissoMaster report.

In addition to guideline support, Petitioner is requesting child support add-ons, such as uninsured medical, dental, vision, psychiatric, and other special needs including childcare costs. She asks that these add-ons be apportioned between the parties based on their respective incomes.

In calculating support, Respondent requests the court impute full-time wages to Petitioner at her current rate of pay \$50.00 per hour. He further requests a seek work order and the issuance of a *Gavron* Warning. For any support award that is made, Respondent requests the award be effective as of September 1, 2023 and he asks for a credit towards support for amounts he has paid to cover Petitioner's living expenses since separation. Moving forward, he asks that Petitioner be ordered to pay her own living expenses.

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

An award of temporary spousal support lies solely within the trial court's discretion regarding each party's respective need and ability to pay. See Marriage of Tong & Samson, 197 Cal. App. 4th 23, 29 (2011). While the factors listed in Family Code section 4320 may be considered by the court, an award for temporary support is generally unrestricted by any statutory authority. *Id.* Support is appropriate where it is necessary to enable a spouse to advance their earning capacity and obtain marketable skills sufficient to become self-supporting. Marriage of Watt, 24 Cal. App. 3d 340, 347-348 (1989). However, it is not an abuse of discretion for the court to decrease an award for support, or deny it altogether, based on the requesting spouse's delay or refusal to seek employment consistent with *existing* marketable skills and ability. In re Marriage of Dennis, 35 Cal. App. 3d 279, 283 (1973); See also Marriage of Mason, 93 Cal. App. 3d 215, 221 (1979).

Here, Petitioner's work history coupled with the fact that she is currently charging \$50 per hour supports the fact that she can earn well above minimum wage. Further, the Profit and Loss statement she provided the court indicates that her business has little to no overhead expenses. The parties have been separated since October of 2022 and the minor is eleven years old and attending school. Given that he is attending school and there is no indication that his condition would render him unfit to attend childcare the court finds that Petition does have the ability to work full time. As such, the court finds it appropriate to calculate support based on a \$50 per hour rate at 40 hours per week.

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Utilizing the same figures as outlined above, the court finds that spousal support per the Alameda formula is \$1,814 per month and child support is \$929. See attached DissoMaster report. The court adopts the attached DissoMaster report and orders Respondent to pay Petitioner \$2,743 per month as and for child support and temporary spousal support, payable on the 15th of the month until further order of the court or legal termination. The court orders the temporary spousal support order effective as of June 1, 2023.

The court finds the above order results in arrears in the amount of \$13,715 through and including October 1, 2023. The court orders Respondent pay Petitioner \$1,142.91 on the 1st of each month until paid in full (approximately 12 months). If a payment is late or missed the remaining balance is due in full with legal interest within five (5) days. The court reserves jurisdiction to retroactively modify these orders back to June 1, 2023 pending the results of the vocational rehabilitation evaluation.

Respondent's request for a credit toward support is granted in part. Respondent shall receive a credit for amounts paid toward Petitioner's Verizon cell phone bill and Petitioner's automobile insurance since May 17, 2023. The court reserves jurisdiction to rule on the remaining requested amounts until trial on the issue of property division. Commencing November 1, 2023, Petitioner is ordered to begin paying for her own cell phone and automobile insurance.

Petitioner's request for child support add-ons is granted. The parties are to split uninsured medical, dental, vision, psychiatric, or other special needs including the division of childcare costs related to employment. Petitioner is to pay 30% of the aforementioned costs while Respondent is to pay the remaining 70%.

Respondent's request for a *Gavron* Warning is granted. Petitioner is advised that it is the goal of the State of California that both parties shall become and remain self-supporting to the best of their ability. Petitioner is further advised that, at some future date, should you fail to become self-supporting Respondent may argue that your failure to become self-supporting is a factor which may be considered by the court to modify a spousal support order or terminate the court's jurisdiction to order spousal support. Petitioner is further advised that if you voluntarily terminate employment, the court can impute income to you without application of the ability and opportunity requirement and the court can deny a modification of support. In Re Marriage of Gavron, 203 Cal.App.3d 705 (1988).

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

TENTATIVE RULING #4: PETITIONER IS ORDERED TO UNDERGO A VOCATIONAL REHABILITATION ASSESSMENT WHICH SHALL BE CONDUCTED BY ALICE RUSH, MA. RESPONDENT SHALL PAY THE COST OF THE EVALUATION SUBJECT TO REALLOCATION. EACH

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PARTY'S REQUEST FOR SECTION 271 SANCTIONS IS DENIED. RESPONDENT'S REQUEST FOR SANCTIONS PURSUANT TO SECTION 128.5 IS ALSO DENIED.

UTILIZING THE SAME FIGURES AS OUTLINED ABOVE, THE COURT FINDS THAT SPOUSAL SUPPORT PER THE ALAMEDA FORMULA IS \$1,814 PER MONTH AND CHILD SUPPORT IS \$929. SEE ATTACHED DISSOMASTER REPORT. THE COURT ADOPTS THE ATTACHED DISSOMASTER REPORT AND ORDERS RESPONDENT TO PAY PETITIONER \$2,743 PER MONTH AS AND FOR CHILD SUPPORT AND TEMPORARY SPOUSAL SUPPORT, PAYABLE ON THE 15TH OF THE MONTH UNTIL FURTHER ORDER OF THE COURT OR LEGAL TERMINATION. THE COURT ORDERS THE TEMPORARY SPOUSAL SUPPORT ORDER EFFECTIVE AS OF JUNE 1, 2023.

THE COURT FINDS THE ABOVE ORDER RESULTS IN ARREARS IN THE AMOUNT OF \$13,715 THROUGH AND INCLUDING OCTOBER 1, 2023. THE COURT ORDERS RESPONDENT PAY PETITIONER \$1,142.91 ON THE 1ST OF EACH MONTH UNTIL PAID IN FULL (APPROXIMATELY 12 MONTHS). IF A PAYMENT IS LATE OR MISSED THE REMAINING BALANCE IS DUE IN FULL WITH LEGAL INTEREST WITHIN FIVE (5) DAYS. THE COURT RESERVES JURISDICTION TO RETROACTIVELY MODIFY THESE ORDERS BACK TO JUNE 1, 2023 PENDING THE RESULTS OF THE VOCATIONAL REHABILITATION EVALUATION.

RESPONDENT'S REQUEST FOR A CREDIT TOWARD SUPPORT IS GRANTED IN PART. RESPONDENT SHALL RECEIVE A CREDIT FOR AMOUNTS PAID TOWARD PETITIONER'S VERIZON CELL PHONE BILL AND PETITIONER'S AUTOMOBILE INSURANCE SINCE MAY 17, 2023. THE COURT RESERVES JURISDICTION TO RULE ON THE REMAINING REQUESTED AMOUNTS UNTIL TRIAL ON THE ISSUE OF PROPERTY DIVISION. COMMENCING NOVEMBER 1, 2023, PETITIONER IS ORDERED TO BEGIN PAYING FOR HER OWN CELL PHONE AND AUTOMOBILE INSURANCE.

PETITIONER'S REQUEST FOR CHILD SUPPORT ADD-ONS IS GRANTED. THE PARTIES ARE TO SPLIT UNINSURED MEDICAL, DENTAL, VISION, PSYCHIATRIC, OR OTHER SPECIAL NEEDS INCLUDING THE DIVISION OF CHILDCARE COSTS RELATED TO EMPLOYMENT. PETITIONER IS TO PAY 30% OF THE AFOREMENTIONED COSTS WHILE RESPONDENT IS TO PAY THE REMAINING 70%.

RESPONDENT'S REQUEST FOR A GAVRON WARNING IS GRANTED. PETITIONER IS ADVISED THAT IT IS THE GOAL OF THE STATE OF CALIFORNIA THAT BOTH PARTIES SHALL BECOME AND REMAIN SELF-SUPPORTING TO THE BEST OF THEIR ABILITY. PETITIONER IS FURTHER ADVISED THAT, AT SOME FUTURE DATE, SHOULD YOU FAIL TO BECOME SELF-SUPPORTING RESPONDENT MAY ARGUE THAT YOUR FAILURE TO BECOME SELF-SUPPORTING IS A FACTOR WHICH MAY BE CONSIDERED BY THE COURT TO MODIFY A SPOUSAL SUPPORT ORDER OR TERMINATE THE COURT'S JURISDICTION TO ORDER SPOUSAL SUPPORT. PETITIONER IS FURTHER ADVISED THAT IF YOU VOLUNTARILY TERMINATE EMPLOYMENT, THE

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COURT CAN IMPUTE INCOME TO YOU WITHOUT APPLICATION OF THE ABILITY AND OPPORTUNITY REQUIREMENT AND THE COURT CAN DENY A MODIFICATION OF SUPPORT.

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

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

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

Input Data	Father	Mother	Guideline (2023)	Cash Flow Analysis	Father	Mother
Number of children	0	1	Nets (adjusted)	Guideline		
% time with Second Parent	50%	0%	Father	13,457	Payment (cost)/benefit	(2,743) 2,743
Filing status	MFJ->	<-MFJ	Mother	5,791	Net spendable income	10,715 8,533
# Federal exemptions	1*	2*	Total	19,248	% combined spendable	55.7% 44.3%
Wages + salary	20,100	8,667	Support (Nondeductible)	Total taxes	6,186	2,876
401(k) employee contrib	0	0	CS Payor	Father	Comb. net spendable	19,248
Self-employment income	0	0	Presumed	929	Proposed	
Other taxable income	0	0	Basic CS	929	Payment (cost)/benefit	(2,743) 2,743
Short-term cap. gains	0	0	Add-ons	0	Net spendable income	10,715 8,533
Long-term cap. gains	0	0	Presumed Per Kid		NSI change from gdl	0 0
Other gains (and losses)	0	0	Child 1	929	% combined spendable	55.7% 44.3%
Ordinary dividends	0	0	SS Payor	Father	% of saving over gdl	0% 0%
Tax. interest received	0	0	Alameda	1,814	Total taxes	6,186 2,876
Social Security received	0	0	Total	2,743	Comb. net spendable	19,248
Unemployment compensation	0	0	Proposed, tactic 9		Percent change	0.0%
Operating losses	0	0	CS Payor	Father	Default Case Settings	
Ca. operating loss adj.	0	0	Presumed	929		
Roy, partnerships, S corp, trusts	0	0	Basic CS	929		
Rental income	0	0	Add-ons	0		
Misc ordinary tax. inc.	0	0	Presumed Per Kid			
Other nontaxable income	0	0	Child 1	929		
New-spouse income	0	0	SS Payor	Father		
SS paid other marriage	0	0	Alameda	1,814		
CS paid other relationship	0	0	Total	2,743		
Adj. to income (ATI)	0	0	Savings	0		
Ptr Support Pd. other P'ships	0	0	No releases			
Health insurance	457	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				
State sales tax paid	0	0				
Required union dues	0	0				
Cr. for Pd. Sick and Fam. L.	0	0				
Mandatory retirement	0	0				
Hardship deduction	0*	0*				
Other gdl. adjustments	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	0				

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5. KIMBERLY KING V. SHANE VANEK-KARSTENS

22FL1152

On July 11, 2023, the parties presented the court with a stipulation in which they agreed to return to Child Custody Recommending Counseling (CCRC). The court adopted the stipulation as its orders and referred the parties to CCRC. A review hearing was set for the present date.

The parties attended CCRC as ordered, and a report dated September 21, 2023 was prepared with recommendations by the CCRC counselor. Petitioner's Reply Declaration to CCRC Report was filed on October 17, 2023. She disagrees with CCRC's recommendations and proposes an initial visitation schedule of Wednesdays and Thursdays from 8:30am through 4:30pm for six months and then a step-up plan to follow. She does not specify if these initial visits are to be supervised.

The court has reviewed the recommendations as contained in the CCRC report and finds them to be in the best interests of the minor. The visitation facilitators state they do not have any concerns regarding Respondent's ability to parent or his behavior. Therefore, in the interest of ensuring the minor has frequent and continuing contact with both parents the court finds it to be in the minor's best interest to institute the step-up plan as proposed by CCRC. The recommendations contained in the September 21, 2023 CCRC report are hereby adopted as the orders of the court.

TENTATIVE RULING #5: THE RECOMMENDATIONS CONTAINED IN THE SEPTEMBER 21, 2023 CCRC REPORT ARE ADOPTED AS THE ORDERS OF THE COURT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

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6. LISA THOMASON V. LOUIS MOLAKIDES

PFL20210494

This matter is before the court on a Motion for Joinder filed by Norma and John Thomason (hereinafter "Claimants"). The Notice of Motion and Declaration for Joinder was filed on August 23, 2023. A Summons was issued the same date. The Proof of Service does not specify the date Petitioner was served with the Summons, though it does indicate that Respondent was mail served on August 29th. Despite the potentially defective service, Petitioner timely filed an objection to the request for joinder without raising any argument regarding timely service. She therefore has waived any such argument and the court finds good cause to reach the matter on the merits.

Claimants request to join the case in hopes of obtaining joint custody rights as well as reasonable visitation of the minor children. Generally, a petition for grandparent visitation must be served via certified mail, return receipt requested, postage prepaid. Cal. Fam. Code §3103(c). However, both Petitioner and Respondent timely filed responses to the request for joinder thereby once again waiving any defect in service.

Respondent filed a Responsive Declaration to the Motion for Joinder on October 10, 2023. Respondent consents to the requested joinder. Petitioner and Claimants were served electronically on October 5, 2023.

Petitioner filed an objection to the request for joinder and declaration on October 13, 2023. Respondent and Claimants were served electronically on October 13, 2023. Petitioner asserts the Claimants do not actually want custody of the minors, but are rather making the request as a means of punishing her for setting boundaries in March 2022. Petitioner further asserts Claimants are not credible. Petitioner additionally states she believes the Family Code 3111 report was disclosed to the Claimants and their counsel by Respondent. Petitioner is seeking sanctions for the alleged disclosure.

Respondent filed a Supplemental Declaration on October 16, 2023. Respondent is not opposed to the motion for joinder. Respondent requests Petitioner's parenting time remain supervised. Respondent asserts Petitioner has not disclosed a proposed third-party supervisor to him or his counsel though she claims to have filed the appropriate Judicial Council forms with the court. Respondent further states Petitioner has failed to take advantage of all the parenting time made available to her and has missed 21/28 visits. Respondent refers to attached exhibits in his Declaration, however, no such exhibits are attached. Respondent requests the court maintain the current orders for Petitioner to have supervised parenting time.

The court has read and considered the filings as outlined above. The court notes Petitioner's objection to the request for joinder. The court grants Claimants' request for joinder. The court finds there is a preexisting relationship between Claimants and the minors and that

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has engendered a bond such that visitation is in the best interest of the minors. The court reserves on the request for visitation and custody, as well as the mutual requests for sanctions due to alleged breaches of confidentiality of the Family Code section 3111 report until the time of trial on November 20, 2023 at 1:30 pm in Department 5.

The court maintains all current orders as to Petitioner's parenting time. The court notes, Petitioner has not filed the FL-324(NP) for a non-professional supervisor. The parties are directed to meet and confer on the potential for third-party non-professional supervisors. Any objection to the proposed non-professional supervisor must be reasonable. The court has previously found Mr. Monty Whitaker to not be an appropriate non-professional supervisor.

All prior orders not in conflict with this order remain in full force and effect. Claimants, now Joined Parties, shall prepare and file the Findings and Orders After Hearing.

TENTATIVE RULING #6: THE COURT NOTES PETITIONER'S OBJECTION TO THE REQUEST FOR JOINDER. THE COURT GRANTS CLAIMANTS' REQUEST FOR JOINDER. THE COURT FINDS THERE IS A PREEXISTING RELATIONSHIP BETWEEN CLAIMANTS AND THE MINORS AND THAT HAS ENGENDERED A BOND SUCH THAT VISITATION IS IN THE BEST INTEREST OF THE MINORS. THE COURT RESERVES ON THE REQUEST FOR VISITATION AND CUSTODY, AS WELL AS THE MUTUAL REQUESTS FOR SANCTIONS DUE TO ALLEGED BREACHES OF CONFIDENTIALITY OF THE FAMILY CODE SECTION 3111 REPORT UNTIL THE TIME OF TRIAL ON NOVEMBER 20, 2023 AT 1:30 PM IN DEPARTMENT 5. THE COURT MAINTAINS ALL CURRENT ORDERS AS TO PETITIONER'S PARENTING TIME. THE COURT NOTES, PETITIONER HAS NOT FILED THE FL-324(NP) FOR A NON-PROFESSIONAL SUPERVISOR. THE PARTIES ARE DIRECTED TO MEET AND CONFER ON THE POTENTIAL FOR THIRD-PARTY NON-PROFESSIONAL SUPERVISORS. ANY OBJECTION TO THE PROPOSED NON-PROFESSIONAL SUPERVISOR MUST BE REASONABLE. THE COURT HAS PREVIOUSLY FOUND MR. MONTY WHITAKER TO NOT BE AN APPROPRIATE NON-PROFESSIONAL SUPERVISOR. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. CLAIMANTS, NOW JOINED PARTIES, SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

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7. LORI LYNN ERMSHAR V. DAVID EDWIN DWIGHT ERMSHAR

PFL20180544

On August 2, 2023 Petitioner filed a Request for Order (RFO) seeking guideline spousal support and attorney's fees and costs in the amount of \$7,533.50. The RFO was electronically served on August 14th.

This is a post-judgment request for modification of spousal support. As such, it was required to be personally served pursuant to Family Code §215. However, despite the defective service, Respondent filed a Responsive Declaration to Request for Order and an Amended Responsive Declaration to Request for Order, both of which were filed and served on October 9, 2023.

Petitioner brings her RFO requesting spousal support and attorney's fees. Specifically, she states that the Judgment set both child and spousal support to \$0 but if an application for child support is made then spousal support shall automatically also be set at issue. She asks that both remain at \$0 but if Respondent is granted child support, then she requests spousal support be ordered to offset child support. She also requests \$7,533.50 in attorney's fees for prior settlement negotiations between each party's respective attorney on the basis that "Ms. Alexander's communication has not been timely, complete or accurate."

Respondent notes the matter is already set for trial on the issues of child and spousal support and therefore no orders in this regard are appropriate at this time. Further, Respondent asks that Petitioner's request for attorney's fees be continued to the time of trial as it appears Petitioner is making her request pursuant to Family Code § 271 and deferring a decision would allow the court to obtain additional information regarding the actions of both parties in finalizing the judgment.

The court concurs in Respondent's analysis of the request for attorney's fees. Given that Petitioner is arguing that communication has not been timely, complete, or accurate it is reasonably inferred that her request is being made pursuant to Family Code § 271. The court reserves jurisdiction to rule on this request until the time of trial which is currently set for January 9, 2024.

The court declines to rule on the request for spousal support as the issue of spousal support is already set to begin trial on January 9, 2024.

TENTATIVE RULING #7: THE COURT RESERVES JURISDICTION TO RULE ON PETITIONER'S REQUEST FOR ATTORNEY'S FEES PURSUANT TO SECTION 271 UNTIL THE TIME OF TRIAL WHICH IS CURRENTLY SET FOR JANUARY 9, 2024. THE COURT DECLINES TO AWARD SPOUSAL

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SUPPORT AT THIS TIME AS THE ISSUE IS ALREADY SET FOR TRIAL. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

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8. MICHAEL ERIC JOHNSON V. CHRISTINE MARIE JOHNSON

22FL1067

On July 12, 2023, Petitioner filed a Request for Order (RFO) seeking custody and visitation orders, child support, and property control orders. Concurrently therewith Petitioner filed his Income and Expense Declaration. Both documents, along with all other required documents, were mail served on July 18th. Respondent filed her Responsive Declaration to Request for Order and her Income and Expense Declaration on October 13th. These documents were personally served on October 16th. On October 19th Petitioner filed an updated Income and Expense Declaration and a Declaration of Michael E. Johnson Re: Hearing on October 26, 2023.

Petitioner filed his RFO requesting the following orders: (1) Joint legal custody of the parties' minor child with a week on/week off visitation schedule; (2) Guideline child support with an annual true-up payment based on each party's respective bonuses/commissions for the year; (3) Petitioner to continue to provide medical insurance coverage for the minor child with FL-192 rights of reimbursement for uninsured co-pays; (4) Order the marital residence listed for sale with a mutually agreed upon realtor and the proceeds to be split equally between the parties except for \$100,000 which shall be held in Petitioner's Counsel's IOLTA trust account to be used for any future equalization payment that may be required; (5) If the residence is not listed for sale, Petitioner payment from Respondent to Petitioner in the amount of \$440.52 per month to account for her portion of the Watts/Epstein Charges/Credits back to the date of separation; (6) If the court declines to rule on Watts/Epstein Charges/Credits, Petitioner requests 50% contribution from Respondent as to the community HELOC. Petitioner notes he has been solely making this payment since separation and would like the court to reserve on the prior payments until trial; (7) Finally, Petitioner requests trial be set on all issues.

First and foremost, Respondent notes that documents attached to Petitioner's moving papers contain her entire social security number. She requests these documents be sealed immediately. She notes that the parties attended mediation and reached agreements regarding custody and visitation. Though for purposes of support she states that the child has spent approximately 5% of her time with Petitioner since separation and the remainder of the time with Respondent. She argues that Petitioner has not paid support since he filed the Petition for Dissolution on November 4, 2022, and she would like child support back to that date. She also requests that Petitioner be ordered to share in the cost of extracurricular activities for the child.

Regarding the property control requests, Respondent states these requests are moot. Petitioner has purchased a new home and is moving out of the marital residence. The mortgage on the residence has been refinanced to Respondent and the HELOC has been closed.

Petitioner verified that the parties came to a complete agreement regarding custody and visitation as well as an agreement to sell the family residence from Respondent to Petitioner.

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Notwithstanding the foregoing, Petitioner states he did not receive Respondent's response until October 17th, without a Proof of Service. He objects to the response being considered.

Civil Procedure section 1005(b) states all opposition papers are to be filed at least nine court days before the hearing date. Section 12c states, "[w]here any law requires an act to be performed no later than a specified number of days before a hearing date, the last day to perform that act shall be determined by counting backward from the hearing date, *excluding the day of the hearing* as provided by Section 12." Cal. Civ. Pro. § 12c (emphasis added). "[A]ll papers opposing a motion and all reply papers shall be served by personal delivery, facsimile transmission, express mail, or other means...*reasonably calculated to ensure delivery to the other party or parties not later than the close of the next business day after the time the opposing papers or reply papers...are filed.*" Cal. Civ. Pro. § 1005(c) (emphasis added).

Civil Procedure § 1005, in conjunction with Section 12c would have made October 13th the last day for filing Respondent's opposing documents. The 13th was a Friday and the Proof of Service filed with the court indicates they were personally served on Monday the 16th. Unless the Proof of Service is incorrect, the documents were timely, and the court has read and considered them.

Based on the changed circumstances as noted in Petitioner's Reply, he updated his requests as follows: (1) The court to adopt the custody agreement entered into by the parties on September 27th; (2) Adopt the agreement regarding the transfer of the marital residence entered into by the parties on October 7th; (3) Deny Respondent's proposed timeshare of 5% and retroactive support or, in the alternative, reserve on these issues until the time of trial; (4) Petitioner agrees to the standard add-on regarding equal sharing of medical insurance co-pays but he asks the court to reserve on co-pays that have not properly been shared during the period of support; (5) Reserve on the issue of spousal support or set support to \$0; (6) Reserve on the issue of Watts/Epstein Charges/Credits from prior to the sale of the residence until the time of trial; (7) Petitioner requests a review hearing on child support if the court chooses to calculate it based on anything less than a 50/50 timeshare; (8) Set the matter for trial on all issues.

All documents containing Respondent's social security number which are attached to Petitioner's RFO are ordered to be sealed immediately.

The parties attended Child Custody Recommending Counseling (CCRC) on September 27, 2023 and were able to reach full agreements on custody and visitation. The court has reviewed the aforementioned agreements and finds them to be in the best interests of the minor. The court therefore adopts the agreements of the parties as codified in the CCRC report dated September 27, 2023 as the orders of the court.

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Given that the agreed upon visitation schedule leaves the minor with discretion regarding her visits with Petitioner the court finds it is most appropriate to set the issue of child support for trial. The court reserves jurisdiction to award support back to the date of filing the RFO on July 12, 2023. Commencing immediately, however, the parties are ordered to share equally in the costs of all agreed upon extracurricular activities and medical costs not covered by insurance. The court reserves jurisdiction to address co-pays paid prior to this order.

It does not appear there is a request for spousal support pending, therefore the court will not rule on this issue.

The court adopts the agreements of the parties regarding the sale and purchase of the marital residence as stated in the October 7, 2023 written stipulation. Though the court reserves jurisdiction on the issue of all Watts/Epstein Charges/Credits incurred prior to the sale to be ruled on at trial.

The parties are ordered to appear to select trial and Mandatory Settlement Conference dates. Petitioner shall prepare and file the Findings and Orders After Hearing.

TENTATIVE RULING #8: ALL DOCUMENTS CONTAINING RESPONDENT'S SOCIAL SECURITY NUMBER WHICH ARE ATTACHED TO PETITIONER'S RFO ARE TO BE SEALED IMMEDIATELY. THE COURT ADOPTS THE AGREEMENTS OF THE PARTIES AS CODIFIED IN THE CCRC REPORT DATED SEPTEMBER 27, 2023 AS THE ORDERS OF THE COURT. THE COURT DECLINES TO RULE ON THE ISSUE OF SPOUSAL SUPPORT AS THERE IS NO SUPPORT REQUEST PENDING. COMMENCING IMMEDIATELY, THE PARTIES ARE ORDERED TO SHARE EQUALLY IN THE COSTS OF ALL AGREED UPON EXTRACURRICULAR ACTIVITIES AND MEDICAL COSTS NOT COVERED BY INSURANCE. THE COURT RESERVES JURISDICTION TO ADDRESS CO-PAYS PAID PRIOR TO THIS ORDER.

THE COURT ADOPTS THE AGREEMENTS OF THE PARTIES REGARDING THE SALE AND PURCHASE OF THE MARITAL RESIDENCE AS STATED IN THE OCTOBER 7, 2023 WRITTEN STIPULATION. THOUGH THE COURT RESERVES JURISDICTION ON THE ISSUE OF ALL WATTS/EPSTEIN CHARGES/CREDITS INCURRED PRIOR TO THE SALE TO BE RULED ON AT TRIAL.

THE PARTIES ARE ORDERED TO APPEAR TO SELECT TRIAL AND MANDATORY SETTLEMENT CONFERENCE DATES. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

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ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.

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9. OKSANA KRYLOV V. VICTOR KRYLOV

PFL20210267

This matter is before the court to be heard on a Request for Order (RFO) filed by Respondent on June 2, 2023, and a review hearing on the one filed by Petitioner on June 6, 2023. Both RFOs came before the court on August 24th at which time the court continued the June 2nd RFO to allow Respondent time to effect service. The court then made temporary child and spousal support orders relying on Respondent's untimely and unserved Income and Expense Declaration. The court reserved jurisdiction on these issues back to June 6, 2023.

Review Hearing on June 6th RFO

Respondent filed his Income and Expense Declaration along with his Responsive Declaration to Request for Order on August 14th. A Proof of Service dated October 12th indicates that an RFO and a Responsive Declaration to Request for Order were served on October 3rd. It is unclear if this is meant to refer to the responsive declaration filed on August 14th. Respondent filed and served his Supplemental Declaration Regarding Spousal Support and Attorney Fees on October 10th. Petitioner filed and served her updated Income and Expense Declaration on October 16th. She thereafter filed and served a Reply Declaration to Respondent's Supplemental Declaration Re: Retro Support on October 17th.

Petitioner filed her RFO requesting orders for child support, spousal support, and attorney's fees in the amount of \$2,500 a month. Currently child support is set to \$578 per month and spousal support is \$0 per month. These orders were made on January 25, 2023, however Petitioner is now asking that each of these be adjusted to guideline support based on a change in income for both parties. She states that the current orders were made based on her monthly income of \$2,100 and Respondent's monthly income of \$2,773. She states that Respondent now has a second job, and he receives an additional \$2,000 per month. Also, according to her Income and Expense Declaration, Petitioner's current monthly income is \$0. It is on this basis that she also makes her request for Family Code § 2030 attorney's fees.

Respondent asks the court to amend its support orders which he argues were made based on incorrect information provided by Petitioner. He further requests the court deny Petitioner's request for attorney's fees due to the alleged incorrect, dishonest, and fraudulent information Petitioner included on her Income and Expense Declaration. He states that Petitioner had been receiving EDD disability payments beginning in April of 2023, but she failed to disclose this to the court. Finally, Respondent requests Petitioner be sanctioned in the amount of \$2,450 which accounts for his attorney's fees on this issue.

Petitioner states that she did not intentionally defraud the court but was mistaken in her last Income and Expense Declaration due to health issues she has been dealing with. Petitioner

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states that she notified Respondent of the disability amounts received as soon as she became aware of the mistake and asked to stipulate to backed support. Respondent did not respond.

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

With Petitioner’s updated Income and Expense Declaration, the court finds there to be only a slight disparity in income between the parties. While Respondent has an average monthly income of \$3,400, Petitioner’s is only slightly less at \$2,899. Further, the court finds that with a monthly income of \$3,400 and little in the way of other liquid assets Respondent is not in a position to pay for the legal fees of both parties. For these reasons, Petitioner’s request for attorney’s fees is denied.

Respondent’s request for Section 271 sanctions is likewise denied. While it is clear that Petitioner’s prior Income and Expense Declaration was incomplete, she did notify Respondent as soon as she realized the mistake and offered to stipulate to amend the support based on her EDD income. The remaining amounts in the account the court finds to be attributable to the other parties on the account which were therefore rightly left off of the prior Income and Expense Declaration. For these reasons, the court does not find that Petitioner’s actions intentionally frustrated the policy of the law and therefore Section 271 sanctions are not warranted.

On the matter of support, utilizing the figures as outlined in each party’s Income and Expense Declaration, the court finds that spousal support per the Alameda formula is \$0 per month. The court further finds that child support is \$732 per month. See attached DissoMaster report. The court adopts the attached DissoMaster report and orders Respondent to pay Petitioner \$732 per month as and for child support and \$0 per month as and for spousal support, payable on the 1st of the month. The child and spousal support orders are effective as of June 6, 2023. The spousal support order shall continue until further order of the court or legal termination. The court finds the child support order to have terminated on August 22, 2023 when the minor reached the age of majority.

The court is in need of additional information to calculate arrears or determine if an overpayment has been made. The parties are ordered to appear on this issue.

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June 2nd RFO

In response to the June 2nd RFO, Petitioner filed and served a Responsive Declaration to Request for Order on October 13th.

Respondent requests the court bifurcate and terminate marital status at a hearing to be held at the time of hearing on the RFO. According to Respondent the parties have been separated since 2020 and there are no retirement plans that would need to be joined as a party.

Petitioner opposes the bifurcation on the basis that if marital status is severed, Respondent will have no reason to finalize the remainder of the issues. She is asking the court to deny the requested bifurcation and set the matter for trial on all issues. If the request is granted, she asks that the court make orders enumerated on her FL-315.

“The court may separately try one or more issues before the trial of the other issues if resolution of the bifurcated issue is likely to simplify the determination of the other issues.” Cal. Rules of Ct. Rule 5.390(c). In dissolution proceedings, the court may bifurcate the issue of the dissolution of the marriage and enter a status only judgment. *Id.* at (c)(7); Fam. Code § 2337. In fact, it is the public policy of the state to favor bifurcation where the dissolution of marriage would otherwise be postponed due to issues of property, support, custody or attorney’s fees. In re Marriage of Fink, 54 Cal. App. 3d 357 (1976). In furtherance of that policy, the party moving for bifurcation need only show slight evidence in support of its motion. Girons v. Sup. Ct., 202 Cal. App. 3d 786 (1988). In contrast, the party opposing the motion “must present compelling reasons for denial.” *Id.* at 790. Of course, despite the general policy in favor of bifurcation, the moving party must ensure that “[a]ll pension plans that have not been divided by court order that require joinder ...” have been joined. Cal. Rule Ct. 5.390(d)(1). A party seeking bifurcation is to submit a completed FL-315 evidencing such. Cal. Rule Ct. 5.390(a).

Respondent has complied with all of the aforementioned requirements for bifurcation. Further, Petitioner has failed to provide a compelling reason why the bifurcation should not be granted. The parties are therefore ordered to appear for hearing on the bifurcation.

TENTATIVE RULING #9: THE PARTIES ARE ORDERED TO APPEAR FOR HEARING ON THE BIFURCATION. PETITIONER’S REQUEST FOR ATTORNEY’S FEES IS DENIED. RESPONDENT’S REQUEST FOR SANCTIONS IS DENIED.

UTILIZING THE FIGURES AS OUTLINED IN EACH PARTY’S INCOME AND EXPENSE DECLARATION, THE COURT FINDS THAT SPOUSAL SUPPORT PER THE ALAMEDA FORMULA IS \$0 PER MONTH. THE COURT FURTHER FINDS THAT CHILD SUPPORT IS \$732 PER MONTH. SEE ATTACHED DISSOMASTER REPORT. THE COURT ADOPTS THE ATTACHED DISSOMASTER REPORT AND ORDERS RESPONDENT TO PAY PETITIONER \$732 PER MONTH AS AND FOR CHILD SUPPORT AND \$0 PER MONTH AS AND FOR SPOUSAL SUPPORT, PAYABLE ON THE 1ST OF THE

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MONTH. THE CHILD AND SPOUSAL SUPPORT ORDERS ARE EFFECTIVE AS OF JUNE 6, 2023. THE SPOUSAL SUPPORT ORDER SHALL CONTINUE UNTIL FURTHER ORDER OF THE COURT OR LEGAL TERMINATION. THE COURT FINDS THE CHILD SUPPORT ORDER TO HAVE TERMINATED ON AUGUST 22, 2023 WHEN THE MINOR REACHED THE AGE OF MAJORITY. THE PARTIES ARE ORDERED TO APPEAR TO CALCULATE ARREARS OR DETERMINE IF AN OVERPAYMENT HAS BEEN MADE.

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

ATTORNEY (NAME AND ADDRESS): <div style="font-size: 1.2em; font-weight: bold; margin-top: 20px;">California</div> ATTORNEY FOR: Father	TELEPHONE NO: <div style="font-size: 0.8em;"> Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME: </div>
DISSOMASTER REPORT 2023, Monthly	CASE NUMBER: <div style="color: blue; font-weight: bold;">Krylov</div>

Input Data	Father	Mother	Guideline (2023)	Cash Flow Analysis	Father	Mother
Number of children	0	1	Nets (adjusted)	Guideline		
% time with Second Parent	0%	0%	Father	2,928	Payment (cost)/benefit	(732) 732
Filing status	HH/MLA	<-MFS	Mother	2,627	Net spendable income	2,196 3,359
# Federal exemptions	1*	2*	Total	5,555	% combined spendable	39.5% 60.5%
Wages + salary	3,400	2,899	Support		Total taxes	472 272
401(k) employee contrib	0	0	CS Payor	Father	Comb. net spendable	5,554
Self-employment income	0	0	Presumed	732	Proposed	
Other taxable income	0	0	Basic CS	732	Payment (cost)/benefit	(732) 732
Short-term cap. gains	0	0	Add-ons	0	Net spendable income	2,196 3,359
Long-term cap. gains	0	0	Presumed Per Kid		NSI change from gdl	0 0
Other gains (and losses)	0	0	Child 1	732	% combined spendable	39.5% 60.5%
Ordinary dividends	0	0	Alameda	0	% of saving over gdl	0% 0%
Tax. interest received	0	0	Total	732	Total taxes	472 272
Social Security received	0	0	Proposed, tactic 9		Comb. net spendable	5,554
Unemployment compensation	0	0	CS Payor	Father	Percent change	0.0%
Operating losses	0	0	Presumed	732	Default Case Settings	
Ca. operating loss adj.	0	0	Basic CS	732		
Roy, partnerships, S corp, trusts	0	0	Add-ons	0		
Rental income	0	0	Presumed Per Kid			
Misc ordinary tax. inc.	0	0	Child 1	732		
Other nontaxable income	0	0	Alameda	0		
New-spouse income	0	0	Total	732		
SS paid other marriage	0	0	Savings	0		
CS paid other relationship	0	0	No releases			
Adj. to income (ATI)	0	0				
Ptr Support Pd. other P'ships	0	0				
Health insurance	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				
State sales tax paid	0	0				
Required union dues	0	0				
Cr. for Pd. Sick and Fam. L.	0	0				
Mandatory retirement	0	0				
Hardship deduction	0*	0*				
Other gdl. adjustments	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	0				

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10 & 21. RYAN LOMBARDI V. CARISSA LOMBARDI

PFL20200774

The court notes, there appears to be some discrepancy regarding the designation of each party as Petitioner or Respondent. For the avoidance of confusion, the term Petitioner is used herein to refer to Ryan Lombardi and the term Respondent is used in reference to Carissa Lombardi.

Petitioner's September 19th Request for Order

On September 13, 2023, Petitioner filed a Request for Temporary Emergency (Ex Parte) Orders. Respondent filed her Responsive Declaration to Request for Order on September 18th. The court denied the ex parte request on September 19th and Petitioner filed his Request for Order (RFO) reiterating the ex parte requests to be set on the regular law and motion calendar. The RFO was personally served the same date as filing. Respondent filed and served a supplemental declaration on October 12th.

Petitioner is before the court requesting (1) dismissal of Respondent's DVTRO due to protections under Penal Code §1172(a) as well as the ambiguity of Respondent's allegations as stated in the DVRO request or, in the alternative, strike the ambiguous claims, (2) continue the November 8th DVRO trial and reopen discovery as Petitioner's ability to conduct discovery has been impaired by the ambiguity in Respondent's claims, and (3) permit Petitioner's witness Marcus Fowler to appear at trial remotely as he currently resides in Tennessee.

Respondent opposes all the aforementioned requests and asks the court to award her sanctions pursuant to Family Code § 271.

Motion to Dismiss or Strike

Petitioner asks the court to strike page 2, lines 7-12 of Respondent's declaration in support of her DVRO request as they are lacking foundation and contain hearsay. Petitioner requests page 2, lines 19-28 be stricken as they are vague and ambiguous. He further requests the DVRO be dismissed in its entirety pursuant to the privileges afforded to mandated reporters under Penal Code § 11172(a).

Petitioner's reliance on Section 11172(a) is misplaced. The immunity afforded to mandated reporters is limited to "...any report required or authorized by this article..." Cal. Pen. Code § 11172(a). The referenced article only requires or authorizes a report of abuse "...to any police department or sheriff's department, not including a school district police or security department, county probation department, if designated by the county to receive mandated reports, or the county welfare department." Cal. Pen. Code § 11165.9. Because Petitioner's report to Respondent's employer was not encompassed by the mandated reporter laws, he is

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not protected by the immunity afforded therein and as such his request for dismissal on this basis is denied.

Petitioner further requests dismissal, or portions of the declaration be struck on the basis that they are vague and ambiguous and therefore violate his rights to due process. However, Respondent states that Petitioner has since been provided with additional information to clarify the allegations as requested and the matter is being continued (see below) to allow Petitioner time to conduct additional discovery. As such, there is no violation of due process and the request to dismiss, or strike is denied.

Motion to Continue and Re-Open Discovery

According to Petitioner, the DVRO trial was set for November 8th with the understanding that it would be continued should he be unable to fully conduct discovery by that time. He argues Respondent will in no way be prejudiced by the requested continuance.

Respondent opposes the request to continue the trial dates as she argues no good cause exists to do so. She argues that Petitioner has been provided the additional details he requested about the allegations against him and therefore trial should move forward as scheduled.

Generally speaking, “[a]ll parties and their counsel must regard the date set for trial as certain.” Cal. Rule of Ct. 3.1332(a). “Although continuances of trials are disfavored, each request for a continuance must be considered on its own merits. The court may grant a continuance only on an affirmative showing of good cause requiring a continuance.” *Id.* at (c). California Rule of Court, rule 3.1332 specifies numerous examples of “good cause” as well as other factors to be considered in making such a finding. Among the factors to be considered are “[t]he prejudice the parties...will suffer as a result of the continuance” and “[w]hether the interests of justice are best served by a continuance...” *Id.* at (d). Furthermore, “[a] party’s excused inability to obtain essential testimony, documents, or other material evidence despite diligent efforts” is recognized as good cause. *Id.* at (c).

Neither party fully addressed the Rule 3.1332 factors in their briefs though Petitioner does argue that the alleged ambiguities in the DVRO request and Respondent’s subsequent failure to provide him with clarification resulted in his inability to conduct the necessary discovery. Though this argument seems somewhat tenuous given that Petitioner appears to have sufficient knowledge of the allegations against him, the pleading is vague and the interests of justice require that Petitioner have sufficient clarity in those allegations to ensure he is conducting the necessary discovery. This is especially in light of the fact that the court sees little prejudice that will result for Respondent should a continuance be granted. For the foregoing reasons the motion to continue trial is granted. Discovery shall be reopened, and all future

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discovery cut off dates are to be pursuant to the newly set trial date. The parties are ordered to appear to select trial dates.

Motion for Remote Appearance

Petitioner states that the testimony of Marcus Fowler is central to his defense and Mr. Fowler has agreed to testify though he lives in Tennessee. Respondent opposes this request arguing that Mr. Fowler's testimony is irrelevant. She further argues that the issues at hand are regarding Petitioner's harassment and abuse of Respondent, not whether or not Respondent engaged in past inappropriate conduct with a student.

While Mr. Fowler may not have been present when the alleged domestic violence occurred (i.e. the sending of the email to Respondent's employer), Mr. Fowler's testimony is still strongly relevant to Respondent's allegations that Petitioner made "extremely damaging *false* statements" which were "*slanderous*" and defamatory. DVRO Dec'l, pg.1 ln.27-28 & pg. 2 ln.8-12. The truth of statements made is a defense to all cases of alleged defamation, whether libel or slander, and therefore Mr. Fowler's testimony is directly relevant to the aforementioned allegations. See Swan v. Thompson, 124 Cal. 193 (1899); See also Draper v. Hellman Comm. Trust & Savings Bank, 203 Ca. 26 (1928). Respondent repeatedly refers to the statements being false, slanderous, and defamatory and in doing so she herself put the truth of the allegations at issue. There is a material difference between alleging that Petitioner made slanderous and defamatory statements about her, and alleging only that her employer was contacted with information intending to have her fired. Mr. Fowler's testimony is relevant to the allegations as plead and therefore the request to have Mr. Fowler testify remotely is granted.

Request for Sanctions

Respondent has made a request for sanctions pursuant to Family Code section 271 which states in pertinent part, "...the court may base an award of attorney's fees and costs on the extent to which the conduct of each party or attorney furthers or frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation by encouraging cooperation of the parties..." Fam. Code § 271(a). Petitioner's filing of the present motion did not frustrate the policy of the law where the issues contained therein were contested by both parties, had a valid legal basis, and was not filed solely for harassing or frivolous purposes. Therefore, Respondent's request for sanctions is denied.

Respondent's July 5th Request for Order

Respondent filed a Request for Order (RFO) on July 5, 2023 requesting orders for visitation as well as additional orders regarding the parties' minor children. The RFO and all other required documents were personally served on July 11th. The parties attended Child Custody Recommending Counseling (CCRC) on September 7th and a report dated September 8th

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was prepared and mailed to the parties. Respondent filed and served a reply to the CCRC report on October 13th. Petitioner has not filed a Responsive Declaration to Request for Order.

Respondent brings her RFO requesting visitation orders for a 2-2-5-5 schedule with specified holiday and exchange orders. She also requests the court enforce its prior Judgment which ordered the parties to split payment of agreed upon extracurricular activities within 30 days. She would like the right of first refusal portion of the Judgment modified to state that the opposing party has the right of first refusal when a blood relative is unable to watch the children. She asks that the children be ordered to attend therapy with Dr. Marta Pickens at Veritas Psychological Center, and she asks the court to order all communication between the parties to be conducted through Talking Parents.

The parties were able to reach agreements on all issues at CCRC. After her receipt of the report codifying the agreements, Respondent filed a declaration with several requested clarifications. Despite the agreements of the parties, there is a pending hearing for a Domestic Violence Restraining Order and, given the presumptions that would arise should that DVRO be granted, the court is hesitant to accept the agreements at this time. As such, Respondent's July 5th RFO is continued to trial the DVRO hearing. The parties are ordered to appear to select hearing dates.

TENTATIVE RULING #10: THE REQUEST TO DISMISS THE PETITION FOR DVRO OR, IN THE ALTERNATIVE, TO STRIKE PORTIONS OF THE DECLARATION IS DENIED. THE MOTION TO CONTINUE TRIAL IS GRANTED. DISCOVERY SHALL BE REOPENED AND ALL FUTURE DISCOVERY CUT OFF DATES SHALL BE PURSUANT TO THE NEWLY SET TRIAL DATE. THE PARTIES ARE ORDERED TO APPEAR TO SELECT TRIAL DATES. THE COURT FINDS MR. FOWLER'S TESTIMONY IS RELEVANT TO THE ALLEGATIONS AS PLEAD AND THEREFORE THE REQUEST TO HAVE MR. FOWLER TESTIFY REMOTELY IS GRANTED. RESPONDENT'S REQUEST FOR SECTION 271 SANCTIONS IS DENIED. THE HEARING ON RESPONDENT'S JULY 5TH RFO IS CONTINUED TO TRAIL THE DVRO HEARING. THE PARTIES ARE ORDERED TO APPEAR TO SELECT HEARING DATES.

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

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11A. MICHELLE HAWKINS V. MICHAEL HAWKINS

PFL20200538

Respondent brings his Request for Order (RFO) seeking to compel Petitioner's responses to discovery. The RFO and Respondent's Memorandum of Points and Authorities in Support of Motion to Compel Responses to Properly Propounded Discovery and Request for Sanctions were filed on August 15th and mail served on August 16th.

Respondent served Petitioner with a Request for Production of Documents, Set One, on April 6, 2023 thereby making responses due on or before May 11, 2023. As of the date of filing the Motion to Compel, Petitioner had not provided responses. Respondent now seeks and order compelling Petitioner's responses within 30 days of the date of the hearing, and sanctions in the amount of \$7,500 pursuant to Family Code § 271. Respondent also asks that the court set a review hearing to confirm Petitioner's compliance with the court's orders and award additional sanctions should she fail to comply.

The Civil Discovery Act authorizes all parties to request documents from the opposing party by way of a Request for Production of Documents. Cal. Civ. Pro. §2031.210. Responses to requests for production are due within 30 days of the date of service. Where a party fails to provide timely responses the party to whom the discovery was directed waives "any objection...including one based on privilege or on the protection of work product..." and "[t]he party making the demand may move for an order compelling response[s]..." Cal Civ. Pro. §2031.300(a).

Here, Respondent has sufficiently established Petitioner's failure to comply with her discovery obligations. Respondent has provided the court with a copy of the discovery as well as a proof of service thereof. As such, Respondent's Motion to Compel is granted. Petitioner shall provide full and complete verified responses including all responsive documents, without objections, to Requests for Production of Documents, Set One no later than November 24, 2023.

Under the circumstances it appears monetary sanctions are also warranted. An award for attorney's fees and sanctions may be made pursuant to Family Code section 271 which states, in pertinent part, "...the court may base an award of attorney's fees and costs on the extent to which the conduct of each party or attorney furthers or frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation by encouraging cooperation of the parties and attorneys. An award of attorney's fees and costs pursuant to this section is in the nature of a sanction." Fam. Code § 271(a). While the purpose of Section 271 is to impose a punitive sanction, the court is not to impose a sanction that would create an "unreasonable financial burden on the party against whom the sanction is imposed." *Id.*

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By failing to provide full and complete, verified responses within the allotted timeframe, Petitioner has engaged in misuse of the discovery process which is and of itself is sanctionable under the Civil Discovery Act. Further, such action quite clearly frustrates the policy of the law to promote settlement and reduce litigation costs. The same goes for Petitioner's failure to meaningfully engage in Respondent's attempts to resolve the matter prior to the filing of the RFO. That said, the court is concerned that \$7,500 in sanctions would pose a financial burden to Petitioner. As such, Petitioner is ordered to pay \$750 directly to Respondent's counsel as and for sanctions pursuant to Family Code § 271. This amount may be paid in one lump sum or in monthly increments of \$125 commencing on November 1, 2023 and continuing until paid in full (approximately 6 months). If any payment is missed or late, the entire amount shall become immediately due and payable with legal interest.

TENTATIVE RULING #11A: RESPONDENT'S MOTION TO COMPEL IS GRANTED. PETITIONER SHALL PROVIDE FULL AND COMPLETE VERIFIED RESPONSES INCLUDING ALL RESPONSIVE DOCUMENTS, WITHOUT OBJECTIONS, TO REQUESTS FOR PRODUCTION OF DOCUMENTS, SET ONE NO LATER THAN NOVEMBER 24, 2023. PETITIONER IS ORDERED TO PAY \$750 DIRECTLY TO RESPONDENT'S COUNSEL AS AND FOR SANCTIONS PURSUANT TO FAMILY CODE § 271. THIS AMOUNT MAY BE PAID IN ONE LUMP SUM OR IN MONTHLY INCREMENTS OF \$125 COMMENCING ON NOVEMBER 1, 2023 AND CONTINUING UNTIL PAID IN FULL (APPROXIMATELY 6 MONTHS). IF ANY PAYMENT IS MISSED OR LATE, THE ENTIRE AMOUNT SHALL BECOME IMMEDIATELY DUE AND PAYABLE WITH LEGAL INTEREST.

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

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12. AMANDA YOUNG V. CHRISTOPHER YOUNG

PFL20190149

Respondent filed a Request for Order (RFO) on July 3, 2023. Respondent requests a change in parenting time. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on September 7, 2023. Respondent is requesting shared physical custody. Petitioner was served on July 13, 2023. The court notes the service was by mail. The court further notes this is a post judgment request for modification and as such Family Code section 215 applies. Respondent did not file an address verification form as required by Family Code section 215.

Petitioner filed a Responsive Declaration on August 8, 2023. Respondent was served by mail on August 8, 2023. Petitioner objects to Respondent's requested change in orders. Petitioner asserts Respondent has failed to visit with the minors for at least two years although visitation was made available to him. However, Petitioner also states in her declaration that Respondent saw the minors on Christmas 2022.

Both parties appeared for the CCRC appointment on September 7th. However, the parties were unable to reach any agreements. A report with recommendations was filed with the court on September 21st. Copies were mailed to the parties on October 18, 2023.

Respondent filed an emergency request for orders on October 16, 2023, requesting the children maintain their current enrollment at Sutter's Mill elementary. Respondent asserted that Petitioner had unilaterally removed the minors from their school without any consultation with him despite the parties sharing joint legal custody. The court granted the ex parte request on October 16, 2023, and ordered the minors to remain in their school of origin pending the hearing on October 26, 2023. The court set Respondent's RFO regarding the minor's school for a hearing to coincide with the review hearing of the CCRC appointment. Proof of Service shows Petitioner was served electronically on October 16, 2023.

Respondent filed a supplemental declaration on October 17, 2023. Proof of Service shows petitioner was served with the supplemental declaration both electronically and by mail on October 17, 2023. Respondent disputes Petitioner's allegation that he has not seen the minors for two years. Respondent asserts that he had the children in his care and custody multiple times throughout 2022. Respondent asserts Petitioner has withheld the minors due to his inability to pay child support.

The court finds good cause to proceed with this matter despite the lack of address verification as required by Family Code section 215. The court finds that Petitioner received the RFO at the address and has filed a Responsive Declaration and has participated in the CCRC appointment. The court notes the mailing of the CCRC report was not timely and therefore, the parties did not receive the CCRC report 10 days prior to the hearing.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 19, 2023

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

The court orders parties to appear for the hearing to determine if they are willing to waive the defect in notice of the CCRC report and to address the issue of the minor's school.

TENTATIVE RULING #12: THE PARTIES ARE ORDERED TO APPEAR FOR THE HEARING TO DETERMINE IF THEY ARE WILLING TO WAIVE THE DEFECT IN NOTICE OF THE CCRC REPORT AND TO ADDRESS THE ISSUE OF THE MINORS' SCHOOL.

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DEPARTMENT 5
October 19, 2023
8:30 a.m./1:30 p.m.

13. COURTNEY KNIGHT V. FRANK HERNANDEZ

PFL20210427

Respondent filed a Request for Order (RFO) regarding modification of visitation orders on June 20, 2023. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on September 6, 2023. Upon review of the court file there is no Proof of Service showing Petitioner was served with Respondent's RFO or the referral to CCRC.

Only Respondent appeared for the CCRC appointment on September 6th. As such a single parent report was issued with no agreements and no recommendations. A copy of the report was mailed to the parties on October 6, 2023.

The court notes the parties reached a global settlement and entered a Judgment with a Marital Settlement Agreement on October 3, 2023. The Judgment includes provisions for child custody and parenting time. The Judgment also includes the language that these orders are final orders pursuant to *Montenegro v. Diaz*.

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

TENTATIVE RULING #13: THE MATTER IS DROPPED FROM THE COURT'S CALENDAR DUE TO LACK OF PROPER SERVICE.

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

LAW & MOTION TENTATIVE RULINGS

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October 19, 2023

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

15. DCSS V. ARTURO MEDINA (OTHER PARENT: ANDREA ZAMORA)

PFS20200049

Other Parent filed a request for order (RFO) on July 17, 2023. Other Parent requests a modification of child custody and visitation orders. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on September 28, 2023. Proof of service shows Respondent was personally served on July 28, 2023. DCCS was not served.

Neither party appeared for the CCRC appointment on September 28th.

The court drops the matter from calendar for both parties' failure to appear add the CCRC appointment as well as the lack of proper service to DCSS.

TENTATIVE RULING #15: THE MATTER IS DROPPED FROM CALENDAR DUE TO BOTH PARTIES' FAILURE TO APPEAR ADD THE CCRC APPOINTMENT AS WELL AS THE LACK OF PROPER SERVICE TO DCSS.

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

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

16. DONNA DAVIS V. MICHAEL DAVIS

PFL20160614

Petitioner filed a Request for Order (RFO) to issue an earnings assignment to include arrearages on August 24, 2023. Petitioner concurrently filed a declaration of payment history of spousal support as well as an earnings assignment order. Petitioner did not file an Income and Expense Declaration at that time. Upon review of the court file there is no Proof of Service showing respondent was properly served with the RFO.

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

Respondent filed an RFO requesting modification of permanent spousal support on September 5, 2023. Respondent concurrently filed an Income and Expense Declaration. Proof of service shows Petitioner was personally served on September 5, 2023. Respondent asserts in his declaration there has been a change in circumstances which warrants the modification of permanent spousal support.

Petitioner filed a Responsive Declaration on October 16, 2023, along with an Income and Expense Declaration. Proof of Service shows Respondent was served by mail on October 13, 2023. The court notes Petitioner's Responsive Declaration was not filed timely and therefore, the court has not considered it.

Petitioner filed an Amended Responsive Declaration on October 18, 2023. Respondent was served by first class mail on October 16, 2023. This filing is also untimely and therefore, the court has not considered it.

The court finds this is a post judgment request for modification of permanent spousal support. As such, the court must take evidence on the Family Code section 4320 factors. Therefore, the parties are ordered to appear to select Mandatory Settlement Conference and trial dates.

TENTATIVE RULING #16: THE COURT FINDS THIS IS A POST JUDGMENT REQUEST FOR MODIFICATION OF PERMANENT SPOUSAL SUPPORT. THE PARTIES ARE ORDERED TO APPEAR TO SELECT MANDATORY SETTLEMENT CONFERENCE AND TRIAL DATES.

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

17. DUSTIN HANSEN V. LAUREN SPARKS

22FL0142

Counsel for Respondent, Mr. Aaron Dosh, filed a motion to be relieved as counsel along with a declaration of counsel in support of the request to be relieved on September 12, 2023. Counsel for Respondent filed an application for an Order Shortening time on September 26, 2023. The court granted the application and shortened time for the hearing to October 26th, 2023, at 1:30 PM. The court ordered service to be effectuated by September 27, 2023, if by mail. Proof of Service shows Respondent was served by mail on September 27, 2023. Further Proof of Service shows both Petitioner and Respondent were served electronically on September 27th.

Neither party has filed a response.

After reviewing Counsel's moving papers, the court finds good cause has been established to relieve Mr. Dosh of his position as attorney of record for Respondent. The motion to be relieved is granted.

TENTATIVE RULING #17: THE COURT FINDS GOOD CAUSE HAS BEEN ESTABLISHED TO RELIEVE MR. DOSH OF HIS POSITION AS ATTORNEY OF RECORD FOR RESPONDENT. THE MOTION TO BE RELIEVED IS GRANTED. WITHDRAWAL WILL BE EFFECTIVE AS OF THE DATE OF FILING PROOF OF SERVICE OF THE FORMAL, SIGNED ORDER, UPON THE CLIENT.

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

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

18. JACOB FINDLETON V. MORGAN SLABAUGH

23FL0746

Respondent filed a Request for Order (RFO) on August 22, 2023 requesting spousal support and property control. Respondent did not file an Income and Expense Declaration concurrent with the RFO. Petitioner was served by mail on August 23, 2023. Respondent is requesting temporary guideline spousal support as well as property control of the 2018 BMW X5 and for petitioner to make the car payment of \$687 per month. Respondent asserts Petitioner gave the vehicle to her as a gift. Respondent requests exclusive use and control of the vehicle as it has been her daily driver. Respondent agrees to pay half the car payment each month until the vehicle is paid off in full. Respondent is also requesting Petitioner provide her with the key fob he currently has in his possession for the vehicle. Respondent asserts Petitioner has access to a 2015 GMC truck that he uses as his daily vehicle and therefore granting her possession of the BMW will not prejudice petitioner. Respondent also requests the court order guideline temporary spousal support.

Petitioner filed a declaration September 15, 2023. There is no proof of service of this declaration and therefore the court cannot consider it. Petitioner has not filed an Income and Expense Declaration.

The court denies Respondent's request for temporary guideline spousal support. Respondent has failed to file an Income and Expense Declaration as required both by the California Rules of Court and the El Dorado Superior Court Local Rules. The court grants Respondent's request for exclusive use and control of the 2018 BMW X5. The parties shall continue to make the monthly car payment with each party paying one half the payment, subject to reallocation at final division of property. Petitioner shall turn over the key fob in his possession to Respondent on or before October 30, 2023.

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

TENTATIVE RULING #18: THE COURT DENIES RESPONDENT'S REQUEST FOR TEMPORARY GUIDELINE SPOUSAL SUPPORT. RESPONDENT HAS FAILED TO FILE THE INCOME AND EXPENSE DECLARATION AS REQUIRED BOTH BY THE CALIFORNIA RULES OF COURT AND THE EL DORADO SUPERIOR COURT LOCAL RULES. THE COURT GRANTS RESPONDENT'S REQUEST FOR EXCLUSIVE USE AND CONTROL OF THE 2018 BMW X5. THE PARTIES SHALL CONTINUE TO MAKE THE MONTHLY CAR PAYMENT WITH EACH PARTY PAYING ONE HALF THE PAYMENT, SUBJECT TO REALLOCATION AT FINAL DIVISION OF PROPERTY. PETITIONER SHALL TURN OVER THE KEY FOB IN HIS POSSESSION TO RESPONDENT ON OR BEFORE OCTOBER 30, 2023. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY

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October 19, 2023

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

TELEPHONE TO THE COURT AT (530) 621-6725 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; *SEE ALSO* LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999). NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.

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

19. JAIME LUPER V. RICHARD LIMING

PFL20180266

Petitioner filed a Request for Order (RFO) on September 15, 2023 requesting modification of child custody and parenting plan orders. The court had denied Petitioner's request for ex parte emergency orders on September 15, 2023. The court referred the parties to Child Custody Recommending Counseling (CCRC) for an emergency set appointment on September 26, 2023 and a review hearing set for October 26, 2023. Upon review of the court file, there is no Proof of Service showing Respondent was served with the RFO or referral to CCRC.

Nevertheless, both parties appeared for the CCRC appointment. Parties were unable to reach any agreements. A report with recommendations was filed with the court on October 18, 2023. Copies were mailed to the parties the same day.

Respondent has not filed a Responsive Declaration.

The parties are ordered to appear for the hearing.

TENTATIVE RULING #19: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.

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

20. KAYLA BURGESS V. KYLE BURGESS

23FL0919

Petitioner filed a Request for Order (RFO) on September 18, 2023, requesting child and spousal support. Petitioner did not file an Income and Expense Declaration. Upon review of the court file there is no Proof of Service showing Respondent was served with the RFO.

The matter is dropped from the court's calendar due to lack of proper service.

TENTATIVE RULING #20: THE MATTER IS DROPPED FROM THE COURT'S CALENDAR DUE TO LACK OF PROPER SERVICE.

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

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

21. RYAN LOMBARDI V. CARISSA LOMBARDI

PFL20200774

Matter is advanced to join with the matter set on the morning calendar. See Tentative Ruling #10.

TENTATIVE RULING #21: SEE TENTATIVE RULING #10

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

22. ZANE DAVIS V. NICHOLE JORDAN DAVIS

PFL20190077

Contempt

Petitioner filed an Order to Show Cause (OSC) and Affidavit for Contempt on July 28, 2023. Petitioner asserts that Respondent has refused to enable the Talking Parents video call feature for over three weeks, despite a court order to do so. In addition, Respondent is not allowing phone calls during her vacation or holidays. In total, Petitioner alleges that Respondent has denied him 26 court ordered Talking Parents video calls since May 5, 2022.

Furthermore, Petitioner alleges that Respondent owes \$902.50 in therapy reimbursements. Pursuant to an adopted tentative ruling, the parties were ordered to share the costs of therapy equally. Petitioner declares that Respondent only gave him a two-day notice for out-of-state travel, instead of the required ten-day notice, and despite his lack of consent, Respondent traveled with the child. Petitioner also alleges that Respondent is not compliant with the exchange times, has tried to change the custody schedule, and does not want their child to attend therapy sessions.

Petitioner filed a Proof of Personal Service showing Respondent was personally served on September 6, 2023.

Parties are ordered to appear for arraignment on the July 28, 2023 contempt citation.

Request for Order

Respondent filed an ex parte application for emergency child custody and parenting plan orders on September 26, 2023. On September 27, 2023, the court granted the request, ordering the current safety plan to remain in place pending the October 26, 2023 hearing. The court scheduled an emergency set Child Custody Recommending Counseling (CCRC) appointment for October 3, 2023 and set a review hearing for October 26, 2023. Respondent filed the Request for Order (RFO) making the same requests as set forth in the ex parte application on September 27, 2023. The court vacated the October 16, 2023 CCRC appointment that had been previously set. Proof of Service shows Petitioner was personally served on September 27, 2023.

Respondent subsequently sought and was granted a Domestic Violence Temporary Restraining Order (DVTRO) on September 29, 2023. As a part of the DVTRO orders, Respondent was granted sole legal and physical custody of the minor with no visitation to Petitioner. The court set a hearing for a permanent Domestic Violence Restraining Order (DVRO) for October 20, 2023.

On October 20, 2023, only Respondent appeared for the DVRO hearing. The court found Petitioner had received proper notice of the hearing and proceeded in his absence. At the

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conclusion of the evidentiary hearing, the court granted Respondent's request for a permanent DVRO. The DVRO will expire on October 20, 2028. The court continued the custody and parenting plan orders as set forth in the DVTRO.

Both parties appeared for the CCRC appointment on October 6, 2023. The parties were able to reach some agreements. A report with recommendations and agreements was filed with the court on October 6, 2023. Copies were mailed to the parties on the same day.

Respondent filed two Declarations on October 16, 2023. Petitioner was served electronically on October 16, 2023. Respondent clarifies she did not agree to testing as set forth in the agreement section of the CCRC report. Respondent agreed to 30 days of inpatient treatment for Petitioner, followed by at least 90 days of outpatient, plus random substance abuse testing. Respondent objects to the recommendations as set forth in the CCRC report. Respondent does not believe Petitioner can safely parent the minor due to Petitioner's ongoing substance abuse. Respondent requests the court maintain the orders for legal and physical custody. Respondent requests the current no visitation order remain in place until Petitioner has completed a 30-day inpatient treatment program and enrolls in an outpatient program with a random substance abuse testing component. Respondent requests Petitioner's parenting time be professionally supervised twice a week for two hours each visit, contingent on Petitioner's on-going participation in outpatient treatment and random testing. Respondent requests the court set a review hearing in 120 days to review Petitioner's progress prior to any step up in parenting time. Respondent also requests the professional visitation supervisor have the authority to refuse or terminate a visit if Petitioner appears to be under the influence or intoxicated. Respondent also requests the greater Lake Tahoe/Reno/Sparks, NV area be exempt from requiring notice for out of state travel.

The second declaration filed on October 16, 2023, is from Petitioner's former significant other, Megan Vanasse.

Petitioner has not filed a Responsive Declaration.

The court has read and considered the filings as set forth above. The court finds the agreements of the parties are in the best interest of the minor. The court adopts the agreements of the parties as set forth in the October 6, 2023 CCRC report.

The court finds based on the granting of a permanent DVRO, the presumptions of Family Code section 3044 apply. The court finds Petitioner has not rebutted the presumptions. As such, the court finds an award of sole or joint legal and/or physical custody to Petitioner would be detrimental to the minor. Therefore, the court does not adopt the recommendations as set forth in the October 6, 2023 CCRC report. The court maintains the current orders granting Respondent temporary sole legal and physical custody of the minor.

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October 19, 2023

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

The court finds pursuant to Family Code section 3041.5, based on a preponderance of the evidence Petitioner has used controlled substances habitually and frequently. The court, therefore, orders Petitioner to participate in random urinalysis drug testing a minimum of one time per week. Any missed or diluted test will be considered positive. The court will review Petitioner's participation in random drug testing at the review hearing as set forth below. Petitioner shall bear the costs of substance abuse testing.

The court finds professionally supervised visitation is in the best interest of the minor. Petitioner shall have professionally supervised visitation one time per week for two hours. Anyone who appears to be under the influence of alcohol, or any controlled substance will not be allowed to participate in a scheduled visitation with the minor. The visitation supervisor may terminate the visit if this order is violated. Matters regarding the family law case or child custody and parenting time are not to be discussed with the minor during visits, except under the guidance of a counselor in a therapeutic setting. The visitation supervisor may terminate the visits if this order is violated. Upon completion of 30 days of random substance abuse testing with all negative results, and no missed tests, Petitioner's parenting time shall increase to two times per week for two hours each visit and remain professionally supervised. Petitioner shall be responsible for the costs of professional supervision.

The court adopts the respect guidelines as set forth in the October 6, 2023 CCRC report.

The court sets a further review hearing to assess Petitioner's compliance with drug testing orders and determine if a further step-up in parenting time is warranted. The review hearing is set for January 25, 2024, at 1:30 in Department 5. Any supplemental declarations are to be filed and served at least 10 days prior to the hearing. The court on its own motion continues the hearings currently set for December 7, 2023, to join with the review hearing on January 25, 2024 at 1:30, for judicial economy.

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 #22: PARTIES ARE ORDERED TO APPEAR FOR ARRAIGNMENT ON THE JULY 28, 2023 CONTEMPT CITATION.

THE COURT FINDS THE AGREEMENTS OF THE PARTIES ARE IN THE BEST INTEREST OF THE MINOR. THE COURT ADOPTS THE AGREEMENTS OF THE PARTIES AS SET FORTH IN THE OCTOBER 6, 2023 CCRC REPORT. THE COURT FINDS BASED ON THE GRANTING OF A PERMANENT DVRO, THE PRESUMPTIONS OF FAMILY CODE SECTION 3044 APPLY. THE COURT FINDS PETITIONER HAS NOT REBUTTED THE PRESUMPTIONS. AS SUCH, THE COURT FINDS AN AWARD OF SOLE OR JOINT LEGAL AND/OR PHYSICAL CUSTODY TO PETITIONER WOULD BE DETRIMENTAL TO THE MINOR. THEREFORE, THE COURT DOES NOT ADOPT THE

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October 19, 2023

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

RECOMMENDATIONS AS SET FORTH IN THE OCTOBER 6, 2023 CCRC REPORT. THE COURT MAINTAINS THE CURRENT ORDERS GRANTING RESPONDENT TEMPORARY SOLE LEGAL AND PHYSICAL CUSTODY OF THE MINOR. THE COURT FINDS PURSUANT TO FAMILY CODE SECTION 3041.5, BASED ON A PREPONDERANCE OF THE EVIDENCE PETITIONER HAS USED CONTROLLED SUBSTANCES HABITUALLY AND FREQUENTLY. THE COURT, THEREFORE, ORDERS PETITIONER TO PARTICIPATE IN RANDOM URINALYSIS DRUG TESTING A MINIMUM OF ONE TIME PER WEEK. ANY MISSED OR DILUTED TEST WILL BE CONSIDERED POSITIVE. THE COURT WILL REVIEW PETITIONER'S PARTICIPATION IN RANDOM DRUG TESTING AT THE REVIEW HEARING AS SET FORTH BELOW. PETITIONER SHALL BEAR THE COSTS OF SUBSTANCE ABUSE TESTING.

THE COURT FINDS PROFESSIONALLY SUPERVISED VISITATION IS IN THE BEST INTEREST OF THE MINOR. PETITIONER SHALL HAVE PROFESSIONALLY SUPERVISED VISITATION ONE TIME PER WEEK FOR TWO HOURS. ANYONE WHO APPEARS TO BE UNDER THE INFLUENCE OF ALCOHOL, OR ANY CONTROLLED SUBSTANCE WILL NOT BE ALLOWED TO PARTICIPATE IN A SCHEDULED VISITATION WITH THE MINOR. THE VISITATION SUPERVISOR MAY TERMINATE THE VISIT IF THIS ORDER IS VIOLATED. MATTERS RELATING TO THE FAMILY LAW CASE OR CHILD CUSTODY AND PARENTING TIME ARE NOT TO BE DISCUSSED WITH THE MINOR DURING VISITS, EXCEPT UNDER THE GUIDANCE OF A COUNSELOR IN A THERAPEUTIC SETTING. THE VISITATION SUPERVISOR MAY TERMINATE THE VISITS IF THIS ORDER IS VIOLATED. UPON COMPLETION OF A 30 DAYS OF RANDOM SUBSTANCE ABUSE TESTING WITH ALL NEGATIVE RESULTS, AND NO MISSED TESTS, PETITIONER'S PARENTING TIME SHALL INCREASE TO TWO TIMES PER WEEK FOR TWO HOURS EACH VISIT AND REMAIN PROFESSIONALLY SUPERVISED. PETITIONER SHALL BE RESPONSIBLE FOR THE COSTS OF PROFESSIONAL SUPERVISION. THE COURT ADOPTS THE RESPECT GUIDELINES AS SET FORTH IN THE OCTOBER 6, 2023 CCRC REPORT. THE COURT SETS A FURTHER REVIEW HEARING TO ASSESS PETITIONER'S COMPLIANCE WITH DRUG TESTING ORDERS AND DETERMINE IF A FURTHER STEP-UP IN PARENTING TIME IS WARRANTED. THE REVIEW HEARING IS SET FOR JANUARY 25, 2024, AT 1:30 IN DEPARTMENT 5. ANY SUPPLEMENTAL DECLARATIONS ARE TO BE FILED AND SERVED AT LEAST 10 DAYS PRIOR TO THE HEARING. THE COURT ON ITS OWN MOTION CONTINUES THE HEARINGS CURRENTLY SET FOR DECEMBER 7, 2023, TO JOIN WITH THE REVIEW HEARING ON JANUARY 25, 2024 AT 1:30, FOR JUDICIAL ECONOMY. 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.

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

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

ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.