

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 2, 2023

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

1. AHMED EL SAKA V. DYANA ANCHIETTA

PFL20200567

Motion to be Relieved as Counsel

Counsel for Respondent, Karie J. Boyd and Matt Cadwell, filed their Notice of Motion and Motion to be Relieved as Counsel and Ms. Boyd's supporting declaration on August 29, 2023. The motion was mail served on all parties on August 30th. On September 18th Respondent filed a Substitution of Attorney, therefore, the motion is moot and the court declines to rule on it.

Child Support

Petitioner filed a Request for Order (RFO) on June 26, 2023, seeking to modify child support. It was electronically served on June 27th along with his Income and Expense Declaration and several other documents. On October 20th Respondent filed and served the following: Responsive Declaration to Request for Order, Declaration of Dayana Anchietta in Opposition to Petitioner's Request for Order re Child Support Modification, and Memorandum of Points and Authorities in Opposition to Petitioner's Request for Order Re Child Support Modification. Petitioner filed his reply by way of an MC-030 Declaration which was filed on October 26th and electronically served on October 27th.

Petitioner is seeking to modify the current child support order. He argues the changed circumstance to warrant amending the order is the fact that his worker's compensation payments have ended, and he no longer has a source of income. He further states that Respondent is able to work and should be ordered to do so to contribute to the support of the child. He asks the court to issue a seek work order for both Respondent and Petitioner as well as temporary relief from the current child support order until he is able to find a new job.

Respondent opposes the motion stating that she is a full-time homeschool teacher who teaches their minor child. She also spends her days driving the minor, who is 12 years old, to extracurricular activities. Respondent does not believe Petitioner's claims regarding his income as, she states, he has been deceptive throughout the course of the proceedings. She also points to the fact that Respondent has never produced any documentation of his alleged disability or worker's compensation claim. Respondent requests the current child support order remain in effect or, that Petitioner be imputed with income based on his earning capacity.

"For all hearings involving child, spousal, or domestic partner support, both parties must complete, file, and serve a current Income and Expense Declaration." Cal. Rule Ct. 5.260(1); *See also* Cal. Fam. Code §2100. "'Current' means the form has been completed within the past three months providing no facts have changed." Cal. Rule Ct. 5.260(3). The party responding to a request for support must file an Income and Expense Declaration with his or her responsive documents or, in the alternative, no less than 5 days prior to the hearing date. El Dorado Sup. Ct. Rule 8.03.01.

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Respondent did not file her Income and Expense Declaration until October 30th, less than the requisite 5 days and after her responsive papers. The parties are ordered to appear for hearing.

TENTATIVE RULING #1: THE COURT DECLINES TO RULE ON THE MOTION TO BE RELIEVED AS COUNSEL AS IT IS NOW MOOT. THE PARTIES ARE ORDERED TO APPEAR FOR HEARING ON PETITIONER'S REQUEST TO MODIFY CHILD SUPPORT.

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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2. ANDREW SELLEN V. REBECCA SELLEN

22FL0615

Request for Order

On August 17, 2023, Respondent filed a Request for Order (RFO) seeking attorney's fees and costs as well as payment for her portion of the parties' joint 2022 tax refund. Concurrently therewith she filed her Income and Expense Declaration and Attorney Kristen L. Bruce's Declaration in Support of Respondent's Request for Order Regarding Attorney's Fees. All documents were served on August 18th. Petitioner filed and served his Responsive Declaration to Request for Order and his Income and Expense Declaration on October 18th.

Respondent is requesting attorney's fees and costs in the amount of \$3,000. This is an estimate of amounts she is going to incur, though she notes that Petitioner was previously ordered to pay \$5,000 in attorney's fees but the payment has not been made.

In addition to the request for attorney's fees, Respondent is seeking payment for her half of the tax refund the parties received for the 2022 tax year. Respondent informed Petitioner that she was agreeable to filing jointly for the 2022 tax year so long as they equally split any tax refund. Despite this, Petitioner filed jointly and received a refund in the amount of \$18,054. She is now requesting \$9,027 as her portion of the refund. Petitioner claims to have sent \$4,513.11, though as of the date of filing the RFO, Respondent had yet to receive the check and she disputes the amount. Respondent argues that Petitioner's filing of the joint tax return after she proposed an equal split of the refund should be treated as acceptance of her offer. She further notes that the total tax credit received for the children was \$7,322. She argues Petitioner would not have been able to claim the children had they filed separately.

Petitioner opposes the request for attorney's fees stating that 60% of his income is being withheld and his bank account has been seized. He is living off his credit cards and has accumulated substantial debt. He further argues that Respondent is not entitled to half of the 2022 tax refund as she did not have any income for the 2022 tax year. He argues that \$4,513.11 accounts for Respondent's community property share of the return.

From a community property perspective, Petitioner's argument may have some merit. However, because the parties were engaged in negotiations as to whether or not Respondent would consent to filing a joint tax return, the confines of contract law apply.

Where an offer is proposed and the offeree accepts that offer contingent upon newly proposed terms, the qualified acceptance constitutes a rejection of the initial offer and amounts to a new proposal or counteroffer that must be accepted by the original offeror. Civ. Code § 1585. "Performance of the conditions of a proposal, or acceptance of the consideration offered with a proposal, is an acceptance of the proposal." Cal. Civ. Code § 1584.

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The facts at hand are reminiscent of a basic law school contracts exam. According to the filings of the parties, on February 23rd Respondent's counsel sent the email agreeing to the joint return so long as the refund would be split equally. This constituted a rejection of the initial offer (to file a joint tax return), and the assertion of a counteroffer (to file the joint return only if they equally split the refund). Petitioner admittedly "did not contest or disagree" to the counteroffer. Dec'l, Oct. 18, 2023, pg. 2 ¶4. But, that same day, after receiving Respondent's counteroffer, Petitioner proceeded with contacting the accountant to file the joint return. In doing so, Petitioner accepted the consideration offered with the proposal (Respondent's consent to file a joint return) and therefore he accepted the counteroffer in whole including the condition that the parties equally split the refund. In light of this fact, Petitioner is ordered to pay Respondent \$9,027 forthwith to account for her half of the joint tax refund.

Regarding Respondent's request for 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). 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).

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).

After reviewing the filings of the parties, the court finds an award of further attorney's fees would not be just or reasonable given Petitioner's strained financial situation. And while there is a disparity in income, taking into account support orders, that disparity is significantly decreased and the court does not find that Petitioner has the ability to pay for both his fees and those of Respondent. As such, Respondent's request for attorney's fees is denied.

Respondent also makes her request pursuant to Family Code § 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). While the purpose of Section 271

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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.*

Respondent’s request for attorney’s fees pursuant to Section 271 is denied. Again, the court finds that imposing such fees would result in an unreasonable financial burden to Petitioner. Further, the court does not find that Petitioner acted solely with the intent of frustrating the policy of the law and incurring costs and fees. Therefore, Section 271 sanctions are denied.

Review Hearing

The parties are also before the court on a review hearing to assess Petitioner’s compliance with the court’s May 25th orders and his progress in anger management and parenting classes and to assess Petitioner’s living situation and determine if moving to Step 3 is appropriate. Petitioner filed a Supplemental Declaration on September 11th. Respondent’s Reply Declaration to Petitioner’s Supplemental Declaration was filed and served on October 23rd.

Petitioner states he has enrolled in a fifty-two-week batterer’s intervention program as well as a domestic violence counseling program. He has also enrolled in, and completed, a sixteen-hour parenting class and anger management classes. He has also completed the requisite alcohol assessment, begun attending AA and has begun therapy.

Despite the progress made by Petitioner, Respondent still requests the court assess Petitioner’s housing to determine if it is suitable for overnight visits with all six children. Respondent requests Petitioner provide a plan for accommodations and sleeping arrangements for the children. She also proposes having an inspector review the home.

The court shares in Respondent’s concerns regarding accommodations for overnight visits with the children. Prior to progressing to Step 3, the court and Respondent are in need of more information in this regard. As such, Petitioner is to choose one of the home inspectors proposed by Respondent no later than November 9th. The parties shall equally share in the cost of the inspection. Petitioner shall timely comply with all requests of the inspector in the completion of his or her inspection. Petitioner is to provide Respondent with the following information no later than November 9th: (1) The names of his roommates; and (2) Petitioner’s proposed sleeping arrangements for the children. The court sets a review hearing for 12/7/2023 at 8:30 AM to assess Petitioner’s living arrangements and determine if a move to Step 3 in the visitation plan is warranted. Parties are ordered to file updating declarations no later than ten days prior to the hearing date.

All prior orders shall remain in full force and effect. Respondent shall prepare and file the Findings and Orders After Hearing.

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TENTATIVE RULING #2: PETITIONER IS ORDERED TO PAY RESPONDENT \$9,027 FORTHWITH TO ACCOUNT FOR HER HALF OF THE JOINT TAX REFUND. RESPONDENT'S REQUESTS FOR ATTORNEY'S FEES PURSUANT TO SECTION 2030 AND SECTION 271 ARE DENIED. REGARDING VISITATION, PRIOR TO PROGRESSING TO STEP 3, THE COURT AND RESPONDENT ARE IN NEED OF MORE INFORMATION IN THIS REGARD. AS SUCH, PETITIONER IS TO CHOOSE ONE OF THE HOME INSPECTORS PROPOSED BY RESPONDENT NO LATER THAN NOVEMBER 9TH. THE PARTIES SHALL EQUALLY SPLIT THE COST OF THE INSPECTION. PETITIONER SHALL TIMELY COMPLY WITH ALL REQUESTS OF THE INSPECTOR IN THE COMPLETION OF HIS OR HER INSPECTION. PETITIONER IS TO PROVIDE RESPONDENT WITH THE FOLLOWING INFORMATION NO LATER THAN NOVEMBER 9TH: (1) THE NAMES OF HIS ROOMMATES; AND (2) PETITIONER'S PROPOSED SLEEPING ARRANGEMENTS FOR THE CHILDREN. THE COURT SETS A REVIEW HEARING FOR 12/7/2023 AT 8:30 AM TO ASSESS PETITIONER'S LIVING ARRANGEMENTS AND DETERMINE IF A MOVE TO STEP 3 IN THE VISITATION PLAN IS WARRANTED. PARTIES ARE ORDERED TO FILE UPDATING DECLARATIONS NO LATER THAN TEN DAYS PRIOR TO THE HEARING DATE. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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3. ANGELA FINDLETON V. RYAN FINDLETON

PFL20180821

Respondent filed a Request for Order (RFO) on July 7, 2023 seeking custody and visitation orders as well as a variety of other orders regarding the minor child. The parties were referred to Child Custody Recommending Counseling (CCRC) and the referral, the RFO and all other required documents were electronically served on July 11th.

The parties attended CCRC on September 13th but were unable to reach any agreements. As such, the CCRC counselor prepared a report with recommendations dated October 23rd. After receiving the report Respondent filed and served Supplemental Declaration of Ryan Findleton on October 25th.

Petitioner has not filed a Responsive Declaration to Request for Order nor a response to the CCRC report.

The parties are currently on a stipulated visitation schedule but according to Respondent, circumstances have changed which warrant a change in the visitation schedule. Respondent is now requesting a week-on/week-off schedule with alternating holidays and a designated vacation schedule. He further requests the minor attend Sutter's Mill school in-person full-time commencing the next school year and continuing thereafter. He requests orders precluding either parent from administering corporal punishment and asks that Petitioner be ordered not to administer or request medication for the minor without Respondent's prior knowledge and consent. He asks that the parties be ordered to use Our Family Wizard, or similar application, for communication. Finally, he would like the CCRC counselor to speak directly with the minor prior to issuing a report.

In his supplemental declaration Respondent concedes that the parties have since agreed to send the minor to in-person school, full time, at Gold Oak Union Elementary. He further states that he has reviewed the CCRC report and he asks the court to adopt the CCRC recommendations with some additional clarification. Under the section entitled Parenting Time, Respondent asks the court to make the following additions: (1) The 2-2-5-5 parenting rotation shall start on Monday, November 6, with Petitioner having parenting time from Monday after school to Wednesday after school. Then Respondent shall have parenting time from Wednesday after school to Friday after school. Then Petitioner shall have parenting time from Friday after school to Wednesday after school and then Respondent to have parenting time from Wednesday after school to Monday after school. Thereafter, Petitioner shall have parenting time every Monday after school to Wednesday after school and Respondent shall have parenting time every Wednesday after school to Friday after school. The parties will alternate their weekend parenting time from Friday after school to Monday after school. (2) All exchanges shall be at school if school is in session. If school is not in session then exchanges shall occur at 3 pm at the Raley's located at 166 Placerville Dr. (3) He asks the court to implement the holiday and

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vacation schedule as proposed by Respondent in his FL-341(C) attached to his supplemental declaration.

In addition to the changes to the Parenting Time section, Respondent is requesting the following changes to the "Additional Provisions" section. (1) The parents shall not administer corporal punishment to the child. (2) All communications between the parents that relate to the child's health, education and/or welfare shall be through Our Family Wizard, except in case of emergencies in which case text messages or phone calls are preferred.

The court has reviewed the filings of the parties as outlined above and is in agreement that the recommendations of the CCRC counselor, with Respondent's proposed modifications, are in the best interests of the minor. The court hereby adopts them as the orders of the court. All prior orders not in conflict with this order remain in full force and effect. Respondent shall prepare and file the findings and orders after hearing.

TENTATIVE RULING #3: THE COURT ADOPTS THE RECOMMENDATIONS OF THE CCRC REPORT WITH RESPONDENT'S PROPOSED MODIFICATIONS. THE PARENTING TIME SECTION SHALL BE MODIFIED TO ADD THE FOLLOWING PROVISIONS: (1) THE 2-2-5-5 PARENTING ROTATION SHALL START ON MONDAY, NOVEMBER 6, WITH PETITIONER HAVING PARENTING TIME FROM MONDAY AFTER SCHOOL TO WEDNESDAY AFTER SCHOOL. THEN RESPONDENT SHALL HAVE PARENTING TIME FROM WEDNESDAY AFTER SCHOOL TO FRIDAY AFTER SCHOOL. THEN PETITIONER SHALL HAVE PARENTING TIME FROM FRIDAY AFTER SCHOOL TO WEDNESDAY AFTER SCHOOL AND THEN RESPONDENT TO HAVE PARENTING TIME FROM WEDNESDAY AFTER SCHOOL TO MONDAY AFTER SCHOOL. THEREAFTER, PETITIONER SHALL HAVE PARENTING TIME EVERY MONDAY AFTER SCHOOL TO WEDNESDAY AFTER SCHOOL AND RESPONDENT SHALL HAVE PARENTING TIME EVERY WEDNESDAY AFTER SCHOOL TO FRIDAY AFTER SCHOOL. THE PARTIES WILL ALTERNATE THEIR WEEKEND PARENTING TIME FROM FRIDAY AFTER SCHOOL TO MONDAY AFTER SCHOOL. (2) ALL EXCHANGES SHALL BE AT SCHOOL IF SCHOOL IS IN SESSION. IF SCHOOL IS NOT IN SESSION THEN EXCHANGES SHALL OCCUR AT 3 PM AT THE RALEY'S LOCATED AT 166 PLACERVILLE DR. (3) THE PARTIES SHALL EXERCISE THE HOLIDAY AND VACATION SCHEDULE AS PROPOSED BY RESPONDENT IN HIS FL-341(C) ATTACHED TO RESPONDENT'S SUPPLEMENTAL DECLARATION. THE "ADDITIONAL PROVISIONS" SECTION SHALL BE MODIFIED TO INCLUDE THE FOLLOWING: (1) THE PARENTS SHALL NOT ADMINISTER CORPORAL PUNISHMENT TO THE CHILD. (2) ALL COMMUNICATIONS BETWEEN THE PARENTS THAT RELATE TO THE CHILD'S HEALTH, EDUCATION AND/OR WELFARE SHALL BE THROUGH OUR FAMILY WIZARD, EXCEPT IN CASE OF EMERGENCIES IN WHICH CASE TEXT MESSAGES OR PHONE CALLS ARE PREFERRED. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER SHALL REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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4. ASHLEE NICOLE SCHMIDT V. JACOB SCHMIDT

22FL1154

Petitioner filed and electronically served a Request for Order (RFO) on July 18, 2023 seeking custody orders. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on September 28th. Respondent has not filed a response to the RFO, nor did he appear at the scheduled Child Custody Recommending Counseling (CCRC) appointment. As such, the CCRC counselor was unable to make any recommendations.

Petitioner is requesting primary physical custody of the minor with Respondent to have visitation on alternating weekends from Friday after school (or 6:00pm if no school), to Monday morning return to school (or 8:00am if no school). She requests a holiday schedule per the attachment to her RFO. She is also seeking sole legal custody.

The court has reviewed Petitioner's filing and the CCRC report and finds that granting Petitioner's request for primary physical custody is in the best interests of the minor. The court is adopting the visitation, transportation, travel, holiday schedule and vacation time provisions as stated in Petitioner's FL-311 and FL-341(C) which are attached to her July 18th RFO.

Petitioner's request for sole legal custody is denied without prejudice. The parties are ordered to continue their use of Talking Parents and to discuss all matters of legal custody. If Petitioner does not receive a response from Respondent on Talking Parents within 24 hours of sending a message regarding a matter of legal custody, then Petitioner shall have final decision-making authority.

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

TENTATIVE RULING #4: THE COURT IS ADOPTING THE FOLLOWING REQUESTS AS THE ORDERS OF THE COURT: THE VISITATION, TRANSPORTATION, TRAVEL, HOLIDAY SCHEDULE AND VACATION TIME PROVISIONS AS STATED IN PETITIONER'S FL-311 AND FL-341(C) WHICH ARE ATTACHED TO HER JULY 18TH RFO.

PETITIONER'S REQUEST FOR SOLE LEGAL CUSTODY IS DENIED WITHOUT PREJUDICE. THE PARTIES ARE ORDERED TO CONTINUE THEIR USE OF TALKING PARENTS AND TO DISCUSS ALL MATTERS OF LEGAL CUSTODY. IF PETITIONER DOES NOT RECEIVE A RESPONSE FROM RESPONDENT ON TALKING PARENTS WITHIN 24 HOURS OF SENDING A MESSAGE REGARDING A MATTER OF LEGAL CUSTODY

THEN PETITIONER SHALL HAVE FINAL DECISION-MAKING AUTHORITY.

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

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5. DAVID KRELL V. JOSEPHINE CONNELLY

23FL0335

The parties appeared before the court on August 2, 2023 for hearing on Respondent's request for a permanent restraining order. The court denied the request but made several custody and visitation orders. A review hearing was set for the present date.

On September 8th Petitioner filed and served a Request for Order (RFO) requesting sole legal custody with regard to counseling for the minor Auroura and an order directing her to begin counseling with Holly Stone as soon as possible. Petitioner also requested the court confirm that he has satisfied the court's prior orders. There is no Proof of Service showing Respondent was served with the RFO, however, there is a Proof of Service showing Respondent was served with the ex parte orders after hearing. The court therefore, drops Petitioner's RFO from calendar due to lack of proper service.

Respondent filed a Declaration on September 12th but there is no Proof of Service for this document so the court has not read or considered it.

On October 3rd Respondent filed an Ex Parte Application and Declaration for Orders and Notice requesting amendments to the custody and visitation orders. The court denied the ex parte request and confirmed the review hearing.

Supplemental Declaration of David Krell for Review Hearing of November 2, 2023 was filed on October 23, 2023, though there is no Proof of Service for this document. Likewise, Respondent filed a Declaration on October 24th which also does not have a Proof of Service. Additionally, Respondent's Declaration is untimely.

The parties are ordered to appear for the hearing to determine if there is a waiver as to notice of the reciprocal Declarations as well as a waiver of Respondent's untimely Declaration.

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

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6. JESSICA ETHLEEN ORMAN V. HARLAND WADE HARMON

PFL20180755

On July 7, 2023, Respondent filed a Request for Order (RFO) seeking to commence reunification therapy with the minors. Petitioner filed her Responsive Declaration to Request for Order on September 1st.

The parties attended Child Custody Recommending Counseling (CCRC) on September 11, 2023. The counselor, thereafter, prepared a report and recommended all prior orders remain in full force and effect.

After reviewing the file, it is apparent there is a Criminal Protective Order (CPO) in place issued by Sacramento County Superior Court which lists the children as protected parties. The CPO is in force until 2032. Additionally, the parties appeared for hearing on Petitioner's request to renew the Domestic Violence Restraining Order (DVRO) which was granted. The children are included on the DVRO unless and until such time as a reunification therapist deems it appropriate for reunification therapy to begin.

Respondent's RFO is denied. With the CPO in place, Respondent is to abide by its terms regarding contact with the children. All prior orders remain in full force and effect.

TENTATIVE RULING #6: RESPONDENT'S RFO IS DENIED. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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7. KRISTIN FRANCE V. JAMES FRANCE

PFL20170514

On July 10, 2023, Petitioner filed a Request for Order (RFO) requesting: 1) an adjustment of weekend visits; 2) change in transportation of children during parenting time; 3) clarification of holiday orders; 4) clarification of weekend visits; 5) enrollment of minor child in math tutoring; 6) require parties to meet and confer before each calendar year; 7) clarification of summer vacation; and 8) share cost of orthodontist. Petitioner asserts she and Respondent have joint legal and physical custody of their three minor children; however, the current parenting plan ordered July 13, 2022, is no longer working. Petitioner is asking the court to allow their children to have greater control over their schedule to reduce parental disagreements and give them their weekends back. Petitioner would like the pick-up time to be 4pm for exchanges, greater flexibility with weekend schedules (specifically Respondent has 1st, 3rd, 5th weekends with Petitioner on the 2nd and 4th), one parent having parenting time during Thanksgiving and the other gets Christmas with each parent alternating (Respondent gets odd years and Petitioner gets even years), Respondent having 4th of July and Petitioner having Easter, and Petitioner having two uninterrupted weeks of parenting time during the summer.

Petitioner filed a Declaration Regarding Address Verification with the court on July 13, 2023 as required for a post-judgment RFO.

The parties were referred to an emergency set Child Custody Recommending Counseling (CCRC) appointment on October 3, 2023.

Respondent filed and served a Responsive Declaration to Request for Order on September 27, 2023, wherein he did not consent to Petitioner's requests. Respondent asserts the minor children have never complained about travel fatigue and that he frequently foregoes his parenting time for the children to attend extracurricular activities. He states that Petitioner has repeatedly challenged the visitation schedule and does not foster his time with the children. Furthermore, Respondent asserts Petitioner elected for the child to obtain braces, but the cost was excessive based on his research. Lastly, he asserts that as the primary custodial parent, Petitioner should be able to help their minor child in math, given she has a master's degree in education. He has also used his parenting time over the summer to facilitate online math courses.

The parties attended CCRC as scheduled, and a report dated October 23, 2023, was prepared and mailed to the parties. Mr. Labat noted that the parties have difficulties co-parenting their children and being able to reach agreements that are centered around their children. Since both parents were unable to reach an agreement, Mr. Labat recommended a parenting time schedule, holiday schedule, transportation schedule, vacation schedule, and respect guidelines.

The court has reviewed the filings of the parties as outlined above and finds the recommendations of the CCRC counselor to be in the best interests of the children. The court therefore

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adopts the recommendations stated in the October 23, 2023 report as the orders of the court with the following modifications: (1) Paragraph 3 of the Parenting Time section shall be amended to read – “In the event that there is a federally recognized holiday, or a non-school day as indicated by the school calendar during the 1st, 3rd, or 5th weekend of the month, the child exchange will occur on Thursday, if the non-school day is a Friday, and on Monday if the non-school day is a Monday.” (2) Section 2 of the Vacations section shall be amended to read – “Mother shall notify Father in writing of the vacation plans minimum of 30 days in advance and provide Father with an itinerary that includes dates of leaving and returning, destinations, flight information, and telephone number for emergency purposes. Once Father has received notification in accordance with this section and a vacation has been agreed upon, Father may not rescind his consent for the vacation except in the case of an emergency.”

Respondent is ordered to pay half of the orthodontia costs that are not covered by insurance for Taryn. However, Petitioner is reminded that the parties share joint legal custody and neither parent can make unilateral decisions regarding the health, education, and welfare of the children. Failure to abide by this term in the future may result in Petitioner bearing the entirety of the cost incurred as a result of her failure to confer with Respondent.

Petitioner’s request that the parties meet and confer to implement a calendar at the beginning of each year is denied. The court agrees with Respondent that such an order would cause further confrontation given the current level of coparenting between the parties.

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 #7: THE COURT THEREFORE ADOPTS THE RECOMMENDATIONS STATED IN THE OCTOBER 23, 2023 REPORT AS THE ORDERS OF THE COURT WITH THE FOLLOWING MODIFICATIONS: (1) PARAGRAPH 3 OF THE PARENTING TIME SECTION SHALL BE AMENDED TO READ – “IN THE EVENT THAT THERE IS A FEDERALLY RECOGNIZED HOLIDAY, OR A NON-SCHOOL DAY AS INDICATED BY THE SCHOOL CALENDAR DURING THE 1ST, 3RD, OR 5TH WEEKEND OF THE MONTH, THE CHILD EXCHANGE WILL OCCUR ON THURSDAY, IF THE NON-SCHOOL DAY IS A FRIDAY, AND ON MONDAY IF THE NON-SCHOOL DAY IS A MONDAY.” (2) SECTION 2 OF THE VACATIONS SECTION SHALL BE AMENDED TO READ – “MOTHER SHALL NOTIFY FATHER IN WRITING OF THE VACATION PLANS MINIMUM OF 30 DAYS IN ADVANCE AND PROVIDE FATHER WITH AN ITINERARY THAT INCLUDES DATES OF LEAVING AND RETURNING, DESTINATIONS, FLIGHT INFORMATION, AND TELEPHONE NUMBER FOR EMERGENCY PURPOSES. ONCE FATHER HAS RECEIVED NOTIFICATION IN ACCORDANCE WITH THIS SECTION AND A VACATION HAS BEEN AGREED UPON, FATHER MAY NOT RESCIND HIS CONSENT FOR THE VACATION EXCEPT IN THE CASE OF AN EMERGENCY.”

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RESPONDENT IS ORDERED TO PAY HALF OF THE ORTHODONTIA COSTS THAT ARE NOT COVERED BY INSURANCE FOR TARYN. HOWEVER, PETITIONER IS REMINDED THAT THE PARTIES SHARE JOINT LEGAL CUSTODY AND NEITHER PARENT CAN MAKE UNILATERAL DECISIONS REGARDING THE HEALTH, EDUCATION AND WELFARE OF THE CHILDREN. FAILURE TO ABIDE BY THIS TERM IN THE FUTURE MAY RESULT IN PETITIONER BEARING THE ENTIRETY OF THE COST INCURRED BY HER FAILURE TO CONFER WITH RESPONDENT.

PETITIONER'S REQUEST THAT THE PARTIES MEET AND CONFER TO IMPLEMENT A CALENDAR AT THE BEGINNING OF EACH YEAR IS DENIED. 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 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.

8. TINA R. STRICKLAND V. MATTHEW R. STRICKLAND

PFL20190792

On July 6, 2023, Respondent filed a Request for Order (RFO) seeking orders regarding custody, support, and property division. The parties were scheduled to attend Child Custody Recommending Counseling (CCRC) and the CCRC referral, the RFO and all other required documents were mail served on August 14th. Respondent then filed a Declaration Regarding Address Verification as required given that this is a post-judgment request to modify support and custody. The Department of Child Support Services (DCSS) filed a Responsive Declaration to Request for Order on August 23, 2023 though there is no Proof of Service. Petitioner has not filed a Responsive Declaration to Request for Order.

Neither party appeared for the scheduled CCRC appointment. Given that Respondent did not appear at the appointment scheduled on his RFO, the court denies Respondent's request to modify child custody orders.

The court grants the DCSS's request to set the matter regarding modification of support on the child support calendar in Department 8 before the child support commissioner in accordance with Family Code section 4251. The request to modify support is set for 12/11/2023 at 8:30 AM in Department 8.

The court drops Respondent's request to modify the property division orders. The court finds this to be a post-judgment request for modification which requires personal service on the Petitioner. While Respondent did file the address verification for the issues of child custody and support, the request for modification of property division is not within the scope of Family Code section 215(b).

TENTATIVE RULING #8: THE COURT DENIES RESPONDENT'S REQUEST TO MODIFY CHILD CUSTODY ORDERS DUE TO HIS FAILURE TO APPEAR FOR THE CCRC APPOINTMENT WHICH WAS SET ON HIS MOTION. THE COURT GRANTS THE DCSS'S REQUEST TO SET THE MATTER REGARDING MODIFICATION OF SUPPORT ON THE CHILD SUPPORT CALENDAR IN DEPARTMENT 8 BEFORE THE CHILD SUPPORT COMMISSIONER IN ACCORDANCE WITH FAMILY CODE SECTION 4251. THE REQUEST TO MODIFY SUPPORT IS SET FOR 12/11/2023 AT 8:30 AM IN DEPARTMENT 8. THE COURT DROPS RESPONDENT'S REQUEST TO MODIFY THE PROPERTY DIVISION ORDERS. THE COURT FINDS THIS TO BE A POST-JUDGMENT REQUEST FOR MODIFICATION WHICH REQUIRES PERSONAL SERVICE ON THE PETITIONER. WHILE RESPONDENT DID FILE THE ADDRESS VERIFICATION FOR THE ISSUES OF CHILD CUSTODY AND SUPPORT, THE REQUEST FOR MODIFICATION OF PROPERTY DIVISION IS NOT WITHIN THE SCOPE OF FAMILY CODE SECTION 215(B).

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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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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November 2, 2023

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

9. JULIE RAWLINS V. JOE RAWLINS

PFL20170060

Petitioner filed a Request for Order (RFO) on July 25, 2022, requesting the court order Respondent provide Petitioner within five business days all documents relative to the sale of the LRW Props, LLC; Fair Oaks Oral Surgery; and Rawlins & Wittwer DDS, an order that Respondent transfer, if he has not already done so, within five business days, half the gross proceeds from the sale of Fair Oaks Oral Surgery, Rawlins & Wittwer DDS and LRW Props, LLC minus any loan payments, or in the alternative, that he deposit these funds into the trust account of his attorney until further written agreement or order of the court, an order that Respondent pay Petitioner's outstanding attorney's fees from the funds in his attorney's trust account as agreed upon by the parties in the amount of \$10,755, and order that Respondent authorize a pay for Darren Silva's outstanding fees from the funds in his counsel's trust account as agreed upon by the parties in the amount of \$32,397.19, and an order for Family Code section 271 sanctions in the amount of \$5,000 for having to file this motion. Proof of Service shows the RFO was served on Respondent on July 29, 2022 by overnight delivery. The matter was continued multiple times by agreement of the parties.

Petitioner filed another RFO on August 4th seeking attorney's fees, a true up payment and disbursement of the client trust. The RFO and Petitioner's Income and Expense Declaration were served on August 7th. Petitioner filed and served an updated Income and Expense Declaration on October 19th.

Respondent filed Responsive Declarations to each RFO on October 20th along with a Motion to Strike Petitioner's October 19, 2023 Income and Expense Declaration, and a Memorandum of Points and Authorities in Response to Petitioner's Requests for Order Re: 1. Documents, Sale Proceeds, Attorney's Fees and Costs and Sanctions; and 2. Payment of "True Up" Support and Disbursement of Funds in Trust Accounts. All the aforementioned were served on October 20th. Petitioner filed and served her Reply Declaration of Juliane Rawlins in Support of Requests for Order on October 25th.

According to the parties all issues regarding document production and sales proceeds that were raised in the July 25, 2022 RFO have been resolved. Petitioner agrees to continue the issues of attorney's fees and sanctions that were raised in that RFO to the time of trial. Therefore, the court declines to rule on all issues regarding documents and sales proceeds raised in the July 25, 2022 RFO as moot. The issues of attorney's fees and sanctions are continued to the time of trial.

In her August 4th RFO, Petitioner requests attorney's fees in the amount of \$25,000. She is also requesting an order directing Respondent to make a "true-up" support payment as calculated by their joint forensic accountant forthwith. This amounts to \$290,284. If any of the amounts that are currently held in the client trust account are needed to satisfy this payment

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Petitioner requests those funds be deemed an advance of Respondent's share of the community property. Finally, she is seeking an order directing half of the amount held in client trust accounts to be disbursed to her to pay her outstanding attorney's fees as well as ongoing living expenses.

Respondent asks that all issues be continued to trial which is currently set for February 6, 2024, and an evidentiary hearing to be set for three to four days with specified witnesses.

Respondent's Motion to Strike Petitioner's Income and Expense Declaration is denied. Given the nominal nature of the changes between the former and the updated Income and Expense Declaration the court finds there to be no prejudice to Respondent by considering the Income and Expense Declaration.

Petitioner's Motion to Strike Respondent's responsive pleading is denied. The responsive pleading is a Memorandum of Points and Authorities, while there is little in the way of cited authorities the pleading amounts to argument made by counsel which the court may consider in ruling on the motion before it.

Petitioner makes her request for attorney's fees pursuant to Family Code section 2030. 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. 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).

To assist the court in making the aforementioned findings, each party is required to file an Income and Expense Declaration. El Dorado Sup. Ct. Rule 8.03.01. Here, Respondent failed to file an Income and Expense Declaration, therefore the court is left to rely on Petitioner's estimate of Respondent's income. According to Petitioner, Respondent has an annual income of approximately \$600,000 per year. This is in stark contrast to Petitioner's income which is limited to the support paid by Respondent. There is clearly a disparity in income sufficient to warrant an order of attorney's fees pursuant to Section 2030 and Respondent has not established any circumstances which would make him unable to pay for the legal representation of both parties.

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Further, the court finds the requested amount to be reasonable given that Petitioner still owes her attorneys \$51,994 and the matter is set for trial which is expected to be relatively long. As such, Petitioner's request for \$25,000 in attorney's fees and costs is granted. Respondent is ordered to pay directly to Petitioner's attorney \$25,000 as and for attorney's fees no later than November 16th.

The issues of a true-up payment and distribution of half of the funds in the trust account are continued to the time of trial.

TENTATIVE RULING #9: THE COURT DECLINES TO RULE ON ALL ISSUES REGARDING DOCUMENTS AND SALES PROCEEDS RAISED IN THE JULY 25, 2022 RFO AS MOOT. THE ISSUES OF ATTORNEY'S FEES AND SANCTIONS ARE CONTINUED TO THE TIME OF TRIAL. RESPONDENT'S MOTION TO STRIKE PETITIONER'S INCOME AND EXPENSE DECLARATION IS DENIED. PETITIONER'S MOTION TO STRIKE RESPONDENT'S MEMORANDUM OF POINTS AND AUTHORITIES IS DENIED. PETITIONER'S REQUEST FOR \$25,000 IN ATTORNEY'S FEES AND COSTS IS GRANTED. RESPONDENT IS ORDERED TO PAY DIRECTLY TO PETITIONER'S ATTORNEY \$25,000 AS AND FOR ATTORNEY'S FEES NO LATER THAN NOVEMBER 16TH. THE ISSUES OF A TRUE-UP PAYMENT AND DISTRIBUTION OF HALF OF THE FUNDS IN THE TRUST ACCOUNT ARE CONTINUED TO THE TIME OF TRIAL.

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.

10. KATELYN BOLLINGER V. RYAN BOLLINGER

23FL0365

On August 3, 2023, the court made orders regarding custody, visitation, and support. The court set the present hearing to review the orders, determine whether liberalizing visitation is appropriate and determine whether support orders should be amended pursuant to current Income and Expense Declarations filed by both parties. The court reserved jurisdiction to modify support back to the date of filing. The parties were ordered to file supplemental declarations as well as Income and Expense Declarations no later than 10 days prior to the hearing date.

On October 5, 2023, the court continued the matter to November 2, 2023, as both parties failed to file their documents timely.

Both parties filed Income and Expense Declaration as well as Supplemental Declarations on September 28, 2023. Both were served by mail. Petitioner's September 28, 2023 filed Declaration exceeds that 10 page limit. The court has not reviewed the Declaration past page 10.

Petitioner filed a Responsive Declaration to the RFO on October 2, 2023, as well as an additional Declaration. Both were personally served on October 3, 2023.

Petitioner filed an Income and Expense Declaration, and two additional Declarations on October 20, 2023. All were served by mail on October 24, 2023.

Respondent filed a Second Supplemental Declaration on October 23, 2023. It was served on October 20, 2023.

Petitioner filed yet another Declaration on October 23, 2023. It was served by mail on October 24, 2023.

Respondent filed a DV-815 on October 25, 2023. Proof of Service shows it was served on Petitioner on October 18, 2023.

The court orders the parties to appear for the hearing at 8:30 a.m. in Department 5.

TENTATIVE RULING #10: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING AT 8:30 AM IN DEPARTMENT 5.

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

11. KENNETH CROMPTON V. DAYNA CROMPTON

23FL0077

Petitioner filed a Request for Order (RFO) on August 14, 2023, requesting the court reconsider its August 3, 2023 orders. Upon review of the court file, there is no Proof of Service showing Respondent was served with the RFO.

The court drops Petitioner's August 14, 2023 RFO from calendar due to lack of proper service.

Respondent filed an ex parte application for emergency orders on August 21, 2023, requesting unsupervised visits, a different type of drug testing, and early court date. Petitioner filed and served a Responsive Declaration on August 21, 2023. The court denied the ex parte request on August 22, 2023. Respondent filed an RFO making the same requests as set forth in the ex parte application. There is no Proof of Service showing Petitioner was served with the RFO filed on August 22, 2023.

The court drops Respondent's August 22, 2023 RFO from calendar due to lack of proper service.

On August 3, 2023, the court adopted its tentative ruling which adopted the recommendations of the June 21, 2023 Child Custody Recommending Counseling (CCRC) report. The court set a review hearing for November 2, 2023 to determine whether to proceed to unsupervised visits. The parties were directed to file updating declarations as to the status of the therapeutic visits and other issues relevant to custody at least 10 days prior to the hearing.

Petitioner filed a Declaration on October 20, 2023. Respondent was served by mail on October 23, 2023. Petitioner objects to any change in the current orders. Petitioner has suggested an alternate form of substance abuse testing.

Respondent filed and served a brief on October 26, 2023. The court finds this brief to be untimely, as parties were directed to file any updating declarations at least 10 days prior to the hearing.

The court finds the current orders remain in the minors' best interests. Respondent has failed to follow through with the court's prior orders. The court maintains all current orders and will not set a further review hearing.

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

TENTATIVE RULING #11: ALL PRIOR ORDERS 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

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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.

ANY REQUESTS FOR ORAL ARGUMENT WILL BE HEARD AT 8:30 A.M. IN DEPARTMENT

5.

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

12. MICHAEL HOLZER V. LESLIE RICH

22FL0755

Respondent filed a Request for Order (RFO) on August 15, 2023, requesting the court modify the current orders for child custody and parenting time. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on September 14, 2023, and a review hearing on November 2, 2023. Petitioner was served by mail on August 21, 2023.

Only Respondent participated in CCRC on September 14, 2023. As such, a single parent report was filed on September 15, 2023. Copies were mailed to the parties the same day.

Petitioner filed a Responsive Declaration and CCRC questionnaire on October 16, 2023. There is no Proof of Service showing Respondent was served with the Responsive Declaration, therefore, the court cannot consider it.

The court orders the parties to appear for the hearing at 8:30 a.m. in Department 5.

TENTATIVE RULING #12: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING AT 8:30 A.M. IN DEPARTMENT 5.

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November 2, 2023

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

13. MICHELLE MASTERS V. GUY SORBER

22FL0424

Respondent filed a Request for Order (RFO) along with an application for an Order Shortening Time (OST) on October 6, 2023. The court granted the OST and set the RFO for a hearing on November 2, 2023, at 1:30 pm. The court directed Respondent to serve Petitioner on or before October 10, 2023. The court allowed Respondent until October 27, 2023, to file a Responsive Declaration. Proof of Service shows Petitioner was served both electronically and by mail on October 9, 2023.

Respondent requests the court order Petitioner to release \$50,000 to Respondent from the proceeds of the sale of the community business. The parties filed a Stipulation and Order with the court on July 20, 2023, which allocated the proceeds of the sale 60% to Petitioner and 40% to Respondent. Respondent asserts Petitioner has refused to release any portion of the funds since the Stipulation and Order was filed. Respondent asserts that he is unable to pay his living expenses, and Petitioner has stopped paying the mortgage on the former marital residence. Respondent states he has taken a loan against his vehicle to pay his expenses. Respondent requests \$50,000 from his portion of the proceeds of the sale to be credited against the amount he is ultimately due.

Petitioner did not file her Responsive Declaration to Request for Order until October 31st. This is late filed despite the fact that Petitioner maintains that Respondent agreed to the late filing.

The parties are ordered to appear for hearing at 8:30 a.m. in Department 5.

TENTATIVE RULING #13: THE PARTIES ARE ORDERED TO APPEAR FOR HEARING AT 8:30 A.M. IN DEPARTMENT 5.

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November 2, 2023

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

14. ROB GRONEWOLD V. KATHERINE GRONEWOLD

PFL20190313

Respondent filed an Order to Show Cause and Affidavit Re Contempt on September 15, 2023. Petitioner was personally served on September 28, 2023. Respondent asserts Petitioner has violated the courts orders from September 29, 2022. Respondent raises 16 counts of contempt of court.

Parties are ordered to appear for arraignment.

TENTATIVE RULING #14: PARTIES ARE ORDER TO APPEAR AT 8:30 AM IN DEPARTMENT 5 FOR ARRAIGNMENT.

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November 2, 2023

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

15. ROBIN SAIA-RIOS V. VICTOR RIOS

PFL20150184

Respondent filed a Request for Order (RFO) on July 11, 2023, requesting modifications to the current orders for child custody and parenting time. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on September 14, 2023 and a review hearing on November 2, 2023. The court notes this is a post-judgment request for modification. Petitioner was personally served on July 18, 2023, in accordance with Family Code section 215.

Respondent is requesting joint legal and physical custody with a week-on/week-off parenting plan.

Only Petitioner appeared for the CCRC appointment on September 14, 2023. As such a single parent report was filed with the court on October 18, 2023. The court notes Respondent attempted to participate in the CCRC appointment telephonically due to illness, however, did not timely make the request to do so.

Petitioner has not filed a Responsive Declaration.

The court finds good cause to rerefer the parties to CCRC. Respondent is admonished that should he fail to appear or timely request to appear telephonically at the next appointment, the court may impose sanctions. Parties are to attend CCRC on 12/20/2023 at 1:00 PM with Norman Labat and return to court for a further review hearing on 2/8/2024 At 1:30 pm in Department 5. Any Supplemental Declarations are due at least 10 days prior to the next hearing.

All prior orders remain in full force and effect. Respondent shall prepare and file the Findings and Orders After Hearing.

TENTATIVE RULING #15: THE COURT FINDS GOOD CAUSE TO REREFER THE PARTIES TO CCRC. RESPONDENT IS ADMONISHED THAT SHOULD HE FAIL TO APPEAR OR TIMELY REQUEST TO APPEAR TELEPHONICALLY AT THE NEXT APPOINTMENT, THE COURT MAY IMPOSE SANCTIONS. PARTIES ARE TO ATTEND CCRC ON 12/20/2023 AT 1:00 PM WITH NORMAN LABAT AND RETURN TO COURT FOR A FURTHER REVIEW HEARING ON 2/8/2024 AT 1:30 PM IN DEPARTMENT 5. ANY SUPPLEMENTAL DECLARATIONS ARE DUE AT LEAST 10 DAYS PRIOR TO THE NEXT HEARING. ALL PRIOR ORDERS 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

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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.

ANY REQUESTS FOR ORAL ARGUMENT WILL BE HEARD AT 8:30 A.M. IN DEPARTMENT

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November 2, 2023

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

16. SHAWNTE FLEMING V. ANDREW FLEMING

22FL0216

Petitioner filed an ex parte motion requesting emergency child custody and child support orders on September 25, 2023. Petitioner concurrently filed an Income and Expense Declaration. The court denied the request on September 27, 2023, finding Petitioner had failed to provide notice to Respondent and there were no exigent circumstances to warrant the ex parte. Petitioner filed a Request for Order (RFO) making the same requests as set forth in the ex parte application. The parties were referred to an emergency set Child Custody Recommending Counseling (CCRC) appointment set on October 10, 2023, and a review hearing on November 2, 2023. There is no Proof of Service showing Respondent was served with the RFO or referral to CCRC.

Nevertheless, both parties appeared for the appointment and reached a full agreement. A report with the parties' agreement was filed with the court and mailed to the parties on October 10, 2023.

Respondent filed a Responsive Declaration to Request for Order on October 16, 2023. Petitioner was served by mail on October 16, 2023. Respondent objects to the requested orders as he was not properly served. Respondent asserts the parties reached an agreement at CCRC but he has not received a copy of it.

The court finds good cause to proceed with the custody portion of the RFO, as both parties appeared at CCRC and reached a full agreement. The court finds the parties agreement to be in the best interest of minors and adopts the agreement as its orders.

The court drops the remaining request for child support from calendar as Petitioner failed to properly serve Respondent.

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 #16: THE COURT FINDS GOOD CAUSE TO PROCEED WITH THE CUSTODY PORTION OF THE RFO, AS BOTH PARTIES APPEARED AT CCRC AND REACHED A FULL AGREEMENT. THE COURT FINDS THE PARTIES AGREEMENT TO BE IN THE BEST INTEREST OF MINORS AND ADOPTS THE AGREEMENT AS ITS ORDERS. THE COURT DROPS THE REMAINING REQUEST FOR CHILD SUPPORT FROM CALENDAR AS PETITIONER FAILED TO PROPERLY SERVE RESPONDENT. 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

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November 2, 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.

ANY REQUESTS FOR ORAL ARGUMENT WILL BE HEARD AT 8:30 A.M. IN DEPARTMENT

5.

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
November 2, 2023
8:30 a.m./1:30 p.m.

17. SHIRA WINKELMANN V. ROSS WINKELMANN

23FL0681

On September 28, 2023, the court granted Respondent's request for a Domestic Violence Restraining Order (DVRO). As part of his request for a DVRO, Respondent requested child and spousal support orders. The court noted neither party had filed an Income and Expense Declaration, and therefore the court could not proceed with child support orders at that time. The court continued the matter to November 2, 2023 and ordered both parties to file and serve Income and Expense Declarations at least 10 days prior to the hearing. As Petitioner was not present at the hearing, the court ordered she be provided with personal service of the DVRO, which included the orders regarding the child support hearing.

Petitioner was personally served by verbal notice of the DVRO by El Dorado County Sheriff's Deputy Duncan on October 6, 2023.

Neither party has filed their Income and Expense Declaration.

The court drops the matter from calendar due to Respondent's failure to file an Income and Expense Declaration which, as the moving party, he is required to do by both the California Rules of Court and the El Dorado County Local Rules.

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

TENTATIVE RULING #17: THE COURT DROPS THE MATTER FROM CALENDAR DUE TO RESPONDENT'S FAILURE TO FILE AN INCOME AND EXPENSE DECLARATION AS REQUIRED BY BOTH THE CALIFORNIA RULES OF COURT AND THE EL DORADO COUNTY LOCAL RULES. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT.

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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November 2, 2023
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18. RICHARD BAKER V KELSEY HICKENBOTTOM

23FL0229

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 29, 2023. Counsel for Respondent filed an application for an Order Shortening time on September 29, 2023. The court granted the application and shortened time for the hearing to November 2nd, 2023, at 1:30 PM. Proof of Service shows Respondent was served by mail on September 29, 2023. Further Proof of Service shows both Petitioner and Respondent were served electronically on September 29th.

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 #18: 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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