

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 16, 2023

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

1. APRIL ROBINSON V. GORDON ROBINSON

PFL20210147

The parties appeared before the court on September 26, 2023 for long cause trial on several issues. The parties represented to the court that they had reached a stipulation on all issues except the issue of spousal support. They indicated that the stipulation would be filed shortly, and they requested spousal support be placed on the law and motion calendar. The request was granted, and a hearing was set for the present date. Parties were ordered to file supplemental declarations and updated Income and Expense Declarations no later than 10 days prior to the hearing date.

There have been no filings since the September 26th hearing. The court is in possession of Income and Expense Declarations from both parties which were filed in August but there is no indication as to the amount of child support the parties stipulated to, if any, which is to be considered in ruling on spousal support. The parties are ordered to appear for hearing.

TENTATIVE RULING #1: THE PARTIES ARE ORDERED TO APPEAR FOR HEARING.

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4. JENNIFER COWLES V. BENJAMIN COWLES

PFL20180808

Respondent filed and served a Request for Order (RFO) and supporting documents on August 24, 2023. Petitioner has not filed a Responsive Declaration to Request for Order.

Respondent brings his RFO seeking to compel Petitioner to comply with the Request to Produce served on May 1, 2023. Not having received the discovery responses, Respondent attempted to meet and confer via email on June 2nd and June 10th but did not receive a response to either correspondence. He states that the requests are relevant to the issue of community property which was set for trial in October, and he asks the court to impose sanctions in the amount of \$1,590.

The court notes this matter has already gone to trial and the issues of community property have been adjudicated other than the retirement accounts. The requests do not appear to be specific to the retirement account issue and Respondent has not provided the court with any indication as to why the requested information is still necessary post-trial. Therefore, the court finds this matter to be moot and it is dropped from calendar.

TENTATIVE RULING #4: THE COURT FINDS THIS MATTER TO BE MOOT AND IT IS DROPPED FROM CALENDAR.

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.

5. JENNIFER OWINGS V. ANTONETTE ROMO

23FL0651

On September 7, 2023, Respondent filed a Request for Order (RFO) seeking spousal support, attorney's fees and property control orders. Her Income and Expense Declaration was filed concurrently therewith. Both documents, along with all other required documents, were served on September 15th.

Petitioner filed her Responsive Declaration to Request for Order and her Income and Expense Declaration on November 13th. The court finds these to be late filed pursuant to Civil Procedure section 1005(b) which 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. Section 1005(b) in conjunction with Section 12c would have made November 3rd the last day for filing the responsive documents; therefore, these documents are late filed, and the court has not read or considered them.

Respondent is requesting guideline spousal support based on the parties' marital standard of living which they enjoyed due to Petitioner's position as a high-income earner. Respondent is also requesting the imposition of an Ostler-Smith bonus/overtime table to account for any income Petitioner receives above her base salary including, but not limited to, income resulting from self-employment such as commissions, bonus income, overtime wages, double time wages and inspection wages. She asks that Petitioner be ordered to provide a copy of any earning statement or document related to the additional income along with the bonus support payment within seven days of receipt. Given the disparity in income between the parties, Respondent is requesting attorney's fees and costs in the amount of \$7,500 pursuant to Family Code § 2030.

Respondent is also requesting an order directing Petitioner to pay Respondent the entire amount of the Geico General Insurance Company check which resulted from the settlement of a class action lawsuit. The check was made out to Respondent only and amounted to \$2,234.08.

Respondent asks that access to her daughter's Apple iCloud account be restored so she can continue parental oversight of the daughter's phone activity.

The parties are ordered to appear for hearing.

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

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

7. MARCOS GOMEZ V. HOLLI GROSS

22FL0740

On September 6, 2023, Respondent filed a Request for Order (RFO) seeking child support and attorney's fees. She followed her RFO with the filing of her Income and Expense Declaration on September 8th. Both documents were mail served on September 12th.

Petitioner's Responsive Declaration to Request for Order, his Declaration of Christopher F. Whitaker CPA, ABV, CFF, MBA, MST and his Income and Expense Declaration were all filed and served on November 1st.

Respondent is requesting guideline child support for the parties' one minor child who is 8 years old. She estimates guideline support to be \$79,742 per her submitted DissoMaster report but she would agree to less than guideline in the amount of \$60,000 per month. According to Respondent, the parties have agreed to backdate child support to May 1, 2023 and calculate it based on an equal timeshare.

Respondent is also requesting attorney's fees and costs in the amount of \$40,000 pursuant to Family Code § 7605. This is an estimate of the amount needed for the duration of the proceedings.

Petitioner is agreeable to guideline support based on his actual income and he is requesting a credit for voluntary support paid to date which amounts to \$6,400 per month plus half of the private school tuition of \$1,100 per month. He also asks the court to impute income to Respondent in the amount of her earning capacity or, in the alternative, order Respondent to seek work. Petitioner does not consent to the request for attorney's fees.

Based on Respondent's proposed DissoMaster, Petitioner earns a monthly salary of \$27,653 but he has additional taxable income in the amount of \$1,491,453. Petitioner opposes this citing a forbearance agreement reached between his company and its lender wherein the company was forced to cap shareholder salaries at \$300,000 and receive no distributions moving forward. He has retained Chris Whitaker to calculate his actual available income. Petitioner has submitted two proposed XSpouse reports. One with income imputed to Respondent and one without.

Family Code § 3900 codifies the general obligation of both parties to support their minor children. The court maintains broad discretion in determining the amount of child support based on each party's earning capacity. *See* Fam. Code § 4050. In doing so, the court has the ability to impute an unemployed, or under employed party with income commensurate with his or her earning capacity. State of Oregon v. Vargas, 70 Cal. App. 4th 1123 (1999). Such imputation is warranted where the parent has the ability and opportunity to work but simply lacks the willingness to do so. In re Marriage of Regnery, 214 Cal. App. 3d 1367 (1989).

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Here, it does appear that Respondent is underemployed and therefore not fulfilling her duty to equally support the minor child. The parties have been separated for a year and a half and Respondent is still young enough to be gainfully employed. She is both registered and certified as a dental assistant and admittedly works only minimal hours per week. Given that the minor is 8 years of age, attends school, and custody is split 50/50 there does not appear to be any reason why Respondent cannot, or has not, become employed commensurate with her earning abilities. Therefore, Petitioner's request to impute Respondent with full time income at \$25 per hour is granted.

After reviewing the filings of the parties, including Mr. Whitaker's declaration and his C.V. the court finds Petitioner's monthly income to be \$41,317. With the imputation of income, the court finds Respondent's monthly income to be \$4,333.

Utilizing the same figures as outlined above, the court finds that child support is \$2,584 per month. See attached DissoMaster report. The court adopts the attached DissoMaster report and orders Petitioner to pay Respondent \$2,584 per month as and for child support, payable on the 1st of the month until further order of the court or legal termination. The court orders this child support order effective May 1, 2023.

The court finds the above order results in arrears in the amount of \$18,088 through and including November 1, 2023. However, Respondent has voluntarily been paying \$6,400 per month since May 1, 2023, which results in a credit of \$44,800. Subtracting the arrears from the credit results in a remaining credit of \$26,712. Therefore, monthly support is temporarily reduced to \$584 commencing December 1, 2023 and continuing until the credit has been fully repaid (approximately 13 months with the 14th month reduced to \$1,872). Once the credit has been fully repaid, child support will automatically return to the full \$2,584 per month.

Respondent's request for attorney's fees is denied. Respondent did not file an FL-185 nor did she include a declaration providing the court with the information necessary to consider a request for attorney's fees. Perhaps most glaring is the fact that there is no explanation for her estimated \$40,000 in legal fees and why this amount is just, necessary, and reasonable given the nature of the litigation or its difficulty. Without providing this information with her moving papers, as she is required to do, Petitioner is left unable to adequately respond to the request and the court cannot rule on it. Therefore, the request for attorney's fees and costs is denied.

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

TENTATIVE RULING #7: THE COURT FINDS THAT CHILD SUPPORT IS \$2,584 PER MONTH. SEE ATTACHED DISSOMASTER REPORT. THE COURT ADOPTS THE ATTACHED DISSOMASTER REPORT AND ORDERS PETITIONER TO PAY RESPONDENT \$2,584 PER MONTH AS AND FOR CHILD SUPPORT, PAYABLE ON THE 1ST OF THE MONTH UNTIL FURTHER ORDER OF THE COURT

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OR LEGAL TERMINATION. THE COURT ORDERS THE TEMPORARY SPOUSAL SUPPORT ORDER EFFECTIVE MAY 1, 2023.

THE COURT FINDS THE ABOVE ORDER RESULTS IN ARREARS IN THE AMOUNT OF \$18,088 THROUGH AND INCLUDING NOVEMBER 1, 2023. HOWEVER, RESPONDENT HAS VOLUNTARILY BEEN PAYING \$6,400 PER MONTH SINCE MAY 1, 2023, WHICH RESULTS IN A CREDIT OF \$44,800. SUBTRACTING THE ARREARS FROM THE CREDIT RESULTS IN A REMAINING CREDIT OF \$26,712. THEREFORE, MONTHLY SUPPORT IS TEMPORARILY REDUCED TO \$584 COMMENCING DECEMBER 1, 2023 AND CONTINUING UNTIL THE CREDIT HAS BEEN FULLY REPAID (APPROXIMATELY 13 MONTHS WITH THE 14TH MONTH REDUCED TO \$1,872). ONCE THE CREDIT HAS BEEN FULLY REPAID, CHILD SUPPORT WILL AUTOMATICALLY RETURN TO THE FULL \$2,584 PER MONTH.

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

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

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

| 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 | 27,369 Payment (cost)/benefit | (2,584) | 2,584 |
| Filing status | Single | Single | Mother | 3,730 Net spendable income | 24,786 | 6,314 |
| # Federal exemptions | 1* | 2* | Total | 31,099 % combined spendable | 79.7% | 20.3% |
| Wages + salary | 25,733 | 4,333 | Support | Total taxes | 13,947 | 603 |
| 401(k) employee contrib | 0 | 0 | CS Payor | Father Comb. net spendable | 31,100 | |
| Self-employment income | 0 | 0 | Presumed | 2,584 Proposed | | |
| Other taxable income | 9,583 | 0 | Basic CS | 2,584 Payment (cost)/benefit | (2,584) | 2,584 |
| Short-term cap. gains | 0 | 0 | Add-ons | 0 Net spendable income | 24,786 | 6,314 |
| Long-term cap. gains | 0 | 0 | Presumed Per Kid | NSI change from gdl | 0 | 0 |
| Other gains (and losses) | 0 | 0 | Child 1 | 2,584 % combined spendable | 79.7% | 20.3% |
| Ordinary dividends | 0 | 0 | Spousal support | blocked % of saving over gdl | 0% | 0% |
| Tax. interest received | 0 | 0 | Total | 2,584 Total taxes | 13,947 | 603 |
| Social Security received | 0 | 0 | Proposed, tactic 9 | Comb. net spendable | 31,100 | |
| Unemployment compensation | 0 | 0 | CS Payor | Father Percent change | 0.0% | |
| Operating losses | 0 | 0 | Presumed | 2,584 Default Case Settings | | |
| Ca. operating loss adj. | 0 | 0 | Basic CS | 2,584 | | |
| Roy, partnerships, S corp, trusts | 0 | 0 | Add-ons | 0 | | |
| Rental income | 0 | 0 | Presumed Per Kid | | | |
| Misc ordinary tax. inc. | 9,583 | 0 | Child 1 | 2,584 | | |
| Other nontaxable income | 6,000 | 0 | Spousal support | blocked | | |
| New-spouse income | 0 | 0 | Total | 2,584 | | |
| 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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9. MELISSA FLANIGAN V. SHAUN FLANIGAN

23FL0255

On September 6, 2023, Respondent filed a Request for Order (RFO) seeking orders regarding Petitioner's employment and earning capacity. The RFO was mail served on September 8th. Respondent has not filed a Responsive Declaration to Request for Order.

Respondent brings his RFO requesting the court issue a Gavron Warning and order Petitioner to seek work and undergo a vocational evaluation. The parties separated in March of 2023, and they share one child who is 9 years of age. Petitioner is highly educated and was employed up until the child was born.

"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). Prior to making an order for a vocational rehabilitation assessment, the court must make a finding of good cause to do so.

Here, there does appear to be good cause to order a rehabilitation evaluation. Though the parties have not been separated long, it does appear that Petitioner is earning well under her earning capacity. The minor is old enough to attend school, after school activities, and childcare, so there is no reason Petitioner cannot work additional hours. Additionally, the parties share 50/50 custody and Respondent works full-time. Accordingly, Petitioner is ordered to undergo a vocational evaluation with Patrick Sullivan. Respondent shall incur the cost of the evaluation. Petitioner is ordered to follow the recommendations of the vocational evaluator and seek full-time employment.

Respondent's request for a Gavron Warning is likewise granted – The parties are 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. Parties are further advised that, at some future date, should they fail to become self-supporting the other party 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. Parties are 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).

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

TENTATIVE RULING #9: PETITIONER IS ORDERED TO UNDERGO A VOCATIONAL EVALUATION WITH PATRICK SULLIVAN. RESPONDENT SHALL INCUR THE COST OF THE EVALUATION.

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PETITIONER IS ORDERED TO FOLLOW THE RECOMMENDATIONS OF THE VOCATIONAL EVALUATOR AND SEEK FULL-TIME EMPLOYMENT.

RESPONDENT'S REQUEST FOR A GAVRON WARNING IS LIKEWISE GRANTED – THE PARTIES ARE 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. PARTIES ARE FURTHER ADVISED THAT, AT SOME FUTURE DATE, SHOULD THEY FAIL TO BECOME SELF-SUPPORTING THE OTHER PARTY 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. PARTIES ARE 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).

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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10. YESENIA RAMIREZ MACIAS V. JULIO RAMOS SOLORZANO

23FL0285

On June 8, 2023, Petitioner filed a Request for Entry of Default, and a Prove-Up Hearing was set for August 21, 2023. Respondent filed a Request to Set Aside Default which was set to be heard on the same date. Ultimately, the parties stipulated to set aside the default and Respondent was allowed to file a Response to the Petition for Dissolution. The court referred the parties to Child Custody Recommending Counseling (CCRC) and set a review hearing for the present date.

On September 8th Petitioner filed and served a Request for Order (RFO) seeking custody and visitation orders, as well as orders for support and attorney's fees. She concurrently filed and served an Income and Expense Declaration.

Respondent filed his Responsive Declaration to Request for Order and his Income and Expense Declaration on October 30th. Both documents were mail served on October 27th.

The parties attended CCRC on October 2nd and a report was prepared and mailed to the parties on November 3, 2023. Petitioner filed and served her Supplemental Declaration to CCRC Report/Responsive Declaration on November 9th.

Petitioner is requesting sole legal and sole physical custody. The parties have been operating under their stipulation that Respondent would have reasonable visitation upon 48-hours-notice. Since they reached that stipulation in October, Respondent has only exercised visitation on Sundays from 11:00 am to 7:00 pm with supervision by Petitioner. Petitioner requests guideline child and spousal support in addition to the custody and visitation orders. She asks the court to use \$15,000 as Respondent's earning capacity to calculate support on the basis that Respondent is deliberately hiding money from Petitioner and has blocked her out of all community accounts. Finally, she requests attorney's fees and costs in the amount of \$25,000.

Respondent requests joint legal and physical custody of the minor. He asks the court to adopt the agreements reached by the parties in CCRC which afford him one full weekday with the minor each week and one overnight each weekend, either from Friday afternoon through Saturday at 8:00 pm or Saturday at 8:00 am through Sunday at 8:00 am. He consents to guideline child support but states that he works a seasonal job, and his income varies greatly. He does not consent to spousal support as he argues his income is seasonal and once averaged out results in monthly income lower than that of Petitioner's. If support is awarded, he requests a credit for the \$2,000 a month he has been paying in voluntary support since the parties separated as well as a set termination date of November 2025 given that it was a marriage of short duration (4 years and 5 months). Finally, he asks that each party bear their own attorney's

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fees and costs as he has already paid \$3,500 in fees they were paid directly to Petitioner's counsel.

Petitioner has produced the 2022 corporate tax return for Respondent's business which shows a gross income in excess of three million dollars and a net of approximately \$1.2 million. Respondent relies heavily on depreciation to reduce his income, but Petitioner provides several case cites which preclude the court from doing so in matters of support. She argues that based on the taxes, with depreciation added back in, Respondent's monthly income actually increases by \$48,448 per month.

According to the CCRC report the parties were able to reach agreements regarding legal custody, parenting time, travel, and additional provisions. Petitioner, in her response to the CCRC report, requests an order removing the overnight visits with Respondent and removing the provision for childcare for 4 hours or more.

Respondent states that his average monthly income is \$4,726.67, while Petitioner claims it is \$11,000. The court does not find Respondent's claim to be credible for two primary reasons. First and foremost, his mortgage payment alone is \$5,341.33, well in excess of his alleged average monthly income. Second, the paystubs provided show gross salary payment of \$5,500 twice per month, i.e. \$11,000 per month. Therefore, the court uses \$11,000 per month for the purposes of calculating support.

The court has reviewed the filings of the parties and the CCRC report as outlined above and finds the agreements of the parties as stated in the November 2, 2023 CCRC report to be in the best interests of the minor. The court hereby adopts the agreements therein as the orders of the court. Petitioner's requests to remove the overnight visits and the provision for childcare for 4 hours or more are denied as she agreed to the terms at CCRC, and she provides no reason in her declaration why they should now be changed.

On the issue of support, given the extreme disparity between each party's analysis of Respondent's income, the court is in need of additional information. The parties are ordered to appear to select dates for an evidentiary hearing on child and spousal support. Temporary support orders based on Respondent's monthly income of \$11,000 will be put in place until the time of the evidentiary hearing. The court reserves jurisdiction to retroactively modify support back to the date of the filing of the RFO pending the findings at the hearing. The court also reserves jurisdiction on Respondent's request for a credit based on voluntary support being paid to date and his request for a termination date.

Utilizing the same figures as outlined above, the court finds that spousal support per the Alameda formula is \$1,844 per month and child support is \$1,554. See attached DissoMaster report. The court adopts the attached DissoMaster report and orders Respondent to pay

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Petitioner \$3,398 per month as and for child support and temporary spousal support, payable on the 1st of the month until further order of the court or legal termination. These orders are effective December 1, 2023, though the court reserves jurisdiction to modify support back to the date of filing the RFO.

Petitioner's request for attorney's fees is granted in part. 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 clearly a disparity in income which results in a disparity in access to funds to retain counsel. The issue, however, is that it is unclear just how much of a disparity exists. Relying on Respondent's representation of his income and savings, there is little to no disparity after the support orders are put in place. However, relying on Petitioner's representations there remains a significant disparity. Regardless, the court does find that there is not parity between the parties at this time and therefore an award of attorney's fees is warranted. This is especially in light of the pending evidentiary hearing. As such, Petitioner's request for attorney's fees is granted in the amount of \$10,000. Respondent is to pay this amount directly to Petitioner's attorney; it may be paid in one lump sum or in monthly increments of \$1,000 due and payable on the 15th of each month commencing on December 15th and continuing until paid in full (approximately 10 months).

TENTATIVE RULING #10: THE COURT HEREBY ADOPTS THE AGREEMENTS AS STATED IN THE NOVEMBER 2, 2023 CCRC REPORT AS THE ORDERS OF THE COURT.

THE PARTIES ARE ORDERED TO APPEAR TO SELECT DATES FOR AN EVIDENTIARY HEARING ON CHILD AND SPOUSAL SUPPORT. TEMPORARY SUPPORT ORDERS BASED ON RESPONDENT'S MONTHLY INCOME OF \$11,000 WILL BE PUT IN PLACE UNTIL THE TIME OF THE

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EVIDENTIARY HEARING. THE COURT RESERVES JURISDICTION TO RETROACTIVELY MODIFY SUPPORT BACK TO THE DATE OF THE FILING OF THE RFO PENDING THE FINDINGS AT THE HEARING. THE COURT ALSO RESERVES JURISDICTION ON RESPONDENT'S REQUEST FOR A CREDIT BASED ON VOLUNTARY SUPPORT BEING PAID TO DATE AND HIS REQUEST FOR A TERMINATION DATE.

UTILIZING THE SAME FIGURES AS OUTLINED ABOVE, THE COURT FINDS THAT SPOUSAL SUPPORT PER THE ALAMEDA FORMULA IS \$1,844 PER MONTH AND CHILD SUPPORT IS \$1,554. SEE ATTACHED DISSOMASTER REPORT. THE COURT ADOPTS THE ATTACHED DISSOMASTER REPORT AND ORDERS RESPONDENT TO PAY PETITIONER \$3,398 PER MONTH AS AND FOR CHILD SUPPORT AND TEMPORARY SPOUSAL SUPPORT, PAYABLE ON THE 1ST OF THE MONTH UNTIL FURTHER ORDER OF THE COURT OR LEGAL TERMINATION. THESE ORDERS ARE EFFECTIVE DECEMBER 1, 2023, THOUGH THE COURT RESERVES JURISDICTION TO MODIFY SUPPORT BACK TO THE DATE OF FILING THE RFO.

PETITIONER'S REQUEST FOR ATTORNEY'S FEES IS GRANTED IN THE AMOUNT OF \$10,000. RESPONDENT IS TO PAY THIS AMOUNT DIRECTLY TO PETITIONER'S ATTORNEY; IT MAY BE PAID IN ONE LUMP SUM OR IN MONTHLY INCREMENTS OF \$1,000 DUE AND PAYABLE ON THE 15TH OF EACH MONTH COMMENCING ON DECEMBER 15TH AND CONTINUING UNTIL PAID IN FULL (APPROXIMATELY 10 MONTHS).

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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 16, 2023

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

11. YURI WENTLING V. MICHAEL N. WENTLING

PD3051

Respondent filed a Request for Order (RFO) on September 5, 2023 seeking to have the clerk appointed as elisor to sign the QDRO. A Declaration of Jacqueline Eston in Support of Request for Order of Michael Wentling was filed concurrently therewith. A Declaration of Jacqueline Eston Regarding Service Attempts was filed on October 24th. Finally, a Declaration of Jacqueline Eston Regarding Revised Letter from Moon, Schwartz & Madden was filed on November 9th.

According to Respondent, the parties have been divorced for over 25 years but the QDROs were not completed at the time the divorce became final in 1998. Respondent now seeks to begin collecting his retirement benefits, but he has been unable to locate Petitioner, whom he believes resides somewhere in Japan. Respondent has provided the court with declarations regarding the efforts made to locate and serve Petitioner. Respondent now requests the court appoint the clerk as elisor to sign the QDROs which have been prepared by Moon, Schwartz, and Madden.

The court finds that Respondent has established good cause to grant the request to appoint the clerk as elisor. Respondent has submitted multiple declarations regarding the extensive efforts put in to locating Petitioner. She was last traced to Japan so any additional attempts at service by publication would likely prove fruitless. Further, the QDROs are simply allocating Petitioner's share of the retirement so there does not appear to be any prejudice to her. For the aforementioned reasons Respondent's request is granted. The clerk is appointed as elisor to sign the QDROs. Respondent shall prepare and file the Findings and Orders After Hearing.

TENTATIVE RULING #11: RESPONDENT'S REQUEST IS GRANTED. THE CLERK IS APPOINTED AS ELISOR TO SIGN THE QDROS. 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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 16, 2023

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

12. ZACHARY MOODY V. SAMANTHA ESCOBAR

23FL0805

This matter is before the court on several pending Request for Orders (RFO). Petitioner filed and served an RFO on August 18, 2023 seeking custody and visitation orders and an order directing Respondent to return the children to El Dorado County. The parties were referred to Child Custody Recommending Counseling (CCRC) and a review hearing was set for the present date. Respondent filed an RFO on August 25th seeking custody and visitation orders, child support, attorney's fees, and a move away order. Petitioner filed an RFO on September 12, 2023 seeking custody and visitation orders, sanctions, and a 730 evaluation of Respondent. Petitioner filed another RFO on September 28, 2023 seeking an order directing the children to be enrolled in Indian Creek Elementary School. On October 26th, Respondent filed a Request for Order (RFO) seeking sanctions against Petitioner. This RFO was filed again on November 9th.

Custody and Visitation

Petitioner is requesting joint legal and joint physical custody of the parties' three children. He proposes either a 2-2-5 or a 3-3-4 schedule. Respondent is agreeable to joint legal custody but requests sole physical custody as she states she has been the primary caretaker of the children their entire lives. She feels they need to work up to a 50/50 timeshare.

The parties attended CCRC on September 25th and were able to reach agreements regarding legal custody, physical custody, the exchange location, a holiday schedule, phone contact, child counseling, co-parenting counseling, and respect guidelines. The CCRC counselor made additional recommendations regarding a parenting plan, transportation for parenting time, and additional provisions. The court has reviewed the agreements and recommendations contained in the September 28, 2023 CCRC report and finds them to be in the best interests of the minors. The court therefore adopts them as the orders of the court. Given the contentious nature of the relationship between the parties to date, the court sets a review hearing for 2/15/2024 at 8:30 a.m. in Department 5 to address compliance with the court's custody orders. Parties are to file and serve updated declarations no later than 10 days prior to the hearing date. If the parties are in agreement that there are no issues to address at that time, they may stipulate to take the review hearing off calendar and file their stipulation with the court.

School

Respondent requests an order allowing her to continue home schooling the children through Clarksville Charter School in El Dorado Hills, while Petitioner asks that the children be enrolled in the public elementary school in their home district, Indian Creek Elementary School.

It appears the children are currently being homeschooled. Given the immense amount of changes the children have been going through recently, the court is not inclined to order an

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 16, 2023

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

additional drastic change at this time. For this reason, Petitioner's request to enroll the children in Indian Creek Elementary School is denied. The children are to continue being homeschooled. Each party will homeschool the children during their respective parenting time. The parties are to cooperate with one another in allowing the other access to all homeschooling necessities including access to any online platforms, supervising teachers, textbooks, workbooks, etc.

730 Evaluation

Petitioner requests the court order a 730 psychological evaluation of Respondent to determine the best interests of the children. He asks for supervised visitation only pending the results of the evaluation.

Given that Petitioner agreed to joint physical custody of the children, it does not appear that his concerns regarding the safety of the children while in Respondent's care are ongoing. Accordingly, Petitioner's requests for a 730 psychological evaluation of Respondent, and supervised visits, are denied without prejudice.

Child Support

Respondent is requesting guideline child support. Petitioner consents to guideline child support. The court is in receipt of an Income and Expense Declaration from Respondent dated September 28, 2023 and from Petitioner dated August 24, 2023. The court finds these to be current for purposes of calculating support.

Reviewing Petitioner's Income and Expense Declaration he lists his average monthly self-employment income to be \$3,125 though the year-to-date Profit and Loss Statement provided indicates that his average monthly net income is \$4,562.45. The court finds this to be more reliable regarding Petitioner's current financial position for support and therefore the court feels this is the amount that should be used to calculate support.

Utilizing the same figures as outlined in the attached DissoMaster report, the court finds that child support is \$1,913 per month. The court adopts the attached DissoMaster report and orders Petitioner to pay Respondent \$1,913 per month as and for child support, payable on the 1st of the month until further order of the court or legal termination. This child support order is effective as of September 1, 2023.

The court finds the above order results in arrears in the amount of \$5,739 through and including November 1, 2023. The court orders Petitioner to pay Respondent \$478.25 on the 15th of each month commencing December 15, 2023 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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 16, 2023

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

Return of the Children

Petitioner requests an order directing Respondent to immediately return the children to El Dorado County. He further asks that Respondent not be allowed to remove the children from El Dorado, Placer, or Sacramento County without a court order or written permission from Petitioner. These orders were granted via ex parte on August 17th. The parties were referred to CCRC and a hearing was set for the present date. As of the date of CCRC, September 25th, the children were residing with Respondent in Colfax, CA, not in El Dorado County. Petitioner, in his August 24, 2023, declaration stated that he has no issue with Respondent staying in Santa Cruz or Colfax. Respondent requests the court allow the children to reside within the tri-county area of El Dorado, Amador, Placer, or Sacramento County.

Respondent's request is granted. During Respondent's parenting time the children may reside with Respondent in either El Dorado, Amador, Placer, or Sacramento County.

§271 Sanctions

The parties have each requested sanctions against one another pursuant to Family Code § 271. Petitioner requests sanctions against Respondent in the amount of \$10,000.

The court reserves jurisdiction on both parties' request for Section 271 sanctions until the time of the review hearing.

Respondent's Request for Attorney Fees

Respondent is requesting attorney's fees and costs in the amount of \$8,000 pursuant to Family Code § 7605. Petitioner opposes this request on the basis that he cannot afford to pay the fees of both parties. He is self-employed and cannot even afford his own attorney's fees.

The public policy of Family Code section 7605 is to "...ensure that each party has access to legal representation to preserve each party's rights by ordering...one party...to pay to the other party, or the other party's attorney, whatever amount is reasonably necessary for attorney's fees and for the cost of maintaining or defending..." a proceeding for custody or visitation. Cal. Fam. Code § 7605(a). 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 § 7605(b). Additionally,

"When considering a request for attorney fees, 'the trial court must determine what is just and reasonable under the circumstances, taking into consideration the parties' needs and ability to pay *and the conduct of each party*. [Citations]" Darab Cody N. v. Olivera, 31 Cal. App. 5th 1134, 1143 (2019) (italics in original). A party's "tactics are relevant to evaluate the relative

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 16, 2023

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

need-based fees between the parties and support the trial court's decision to deny such." In Re Marriage of Falcone & Fyke, 203 Cal. App. 4th 964, 977 (2012).

While the court recognizes that there is a disparity in income, that disparity is significantly decreased given the support orders made herein. The court is concerned with Petitioner's ability to pay the entire \$8,000 in requested fees. Additionally, given the extreme number of filings by both parties, on issues that are already pending before the court, it does not appear that ordering Petitioner to pay the entire amount of Respondent's fees would be either just or reasonable when many of those fees were unnecessarily incurred on her own volition. This matter does not involve issues of extreme complexity that would warrant such a large amount of fees at this stage in the litigation. Thus, Respondent is awarded \$2,000 as and for costs and fees. This amount is to be paid directly to Respondent's counsel and may be paid in one lump sum or in monthly increments of \$500 due and payable on the 15th of each month commencing December 15, 2023.

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

TENTATIVE RULING #12: THE COURT ADOPTS THE AGREEMENTS AND RECOMMENDATIONS CONTAINED IN THE SEPTEMBER 28, 2023 CCRC REPORT AS THE ORDERS OF THE COURT. GIVEN THE CONTENTIOUS NATURE OF THE RELATIONSHIP BETWEEN THE PARTIES TO DATE, THE COURT SETS A REVIEW HEARING FOR 2/15/2024 AT 8:30 A.M. IN DEPARTMENT 5 TO ADDRESS COMPLIANCE WITH THE COURT'S CUSTODY ORDERS. PARTIES ARE TO FILE AND SERVE UPDATED DECLARATIONS NO LATER THAN 10 DAYS PRIOR TO THE HEARING DATE. IF THE PARTIES ARE IN AGREEMENT THAT THERE ARE NO ISSUES TO ADDRESS AT THAT TIME, THEY MAY STIPULATE TO TAKE THE REVIEW HEARING OFF CALENDAR AND FILE THEIR STIPULATION WITH THE COURT. RESPONDENT'S REQUEST TO RESIDE WITH THE CHILDREN IN THE TRI-COUNTY AREA IS GRANTED. DURING RESPONDENT'S PARENTING TIME THE CHILDREN MAY RESIDE WITH RESPONDENT IN EITHER EL DORADO, AMADOR, PLACER, OR SACRAMENTO COUNTY. THE COURT RESERVES JURISDICTION ON EACH PARTY'S REQUEST FOR SECTION 271 SANCTIONS UNTIL THE TIME OF THE REVIEW HEARING. PETITIONER'S REQUESTS FOR A 730 PSYCHOLOGICAL EVALUATION OF RESPONDENT, AND SUPERVISED VISITS, ARE DENIED WITHOUT PREJUDICE.

PETITIONER'S REQUEST TO ENROLL THE CHILDREN IN INDIAN CREEK ELEMENTARY SCHOOL IS DENIED. THE CHILDREN ARE TO CONTINUE BEING HOMESCHOOLED. EACH PARTY WILL HOMESCHOOL THE CHILDREN DURING THEIR RESPECTIVE PARENTING TIME. THE PARTIES ARE TO COOPERATE WITH ONE ANOTHER IN ALLOWING THE OTHER ACCESS TO ALL HOMESCHOOLING NECESSITIES INCLUDING ACCESS TO ANY ONLINE PLATFORMS, SUPERVISING TEACHERS, TEXTBOOKS, WORKBOOKS, ETC.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 16, 2023

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

THE COURT FINDS THAT CHILD SUPPORT IS \$1,913 PER MONTH. THE COURT ADOPTS THE ATTACHED DISSOMASTER REPORT AND ORDERS PETITIONER TO PAY RESPONDENT \$1,913 PER MONTH AS AND FOR CHILD SUPPORT, PAYABLE ON THE 1ST OF THE MONTH UNTIL FURTHER ORDER OF THE COURT OR LEGAL TERMINATION. THIS CHILD SUPPORT ORDER IS EFFECTIVE AS OF SEPTEMBER 1, 2023.

THE COURT FINDS THE ABOVE ORDER RESULTS IN ARREARS IN THE AMOUNT OF \$5,739 THROUGH AND INCLUDING NOVEMBER 1, 2023. THE COURT ORDERS PETITIONER TO PAY RESPONDENT \$478.25 ON THE 15TH OF EACH MONTH COMMENCING DECEMBER 15, 2023 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.

RESPONDENT IS AWARDED \$2,000 AS AND FOR COSTS AND FEES. THIS AMOUNT IS TO BE PAID DIRECTLY TO RESPONDENT'S COUNSEL AND MAY BE PAID IN ONE LUMP SUM OR IN MONTHLY INCREMENTS OF \$500 DUE AND PAYABLE ON THE 15TH OF EACH MONTH COMMENCING DECEMBER 15, 2023.

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

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

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

| Input Data | Father | Mother | Guideline (2023) | Cash Flow Analysis | Father | Mother |
|-----------------------------------|--------|--------|---------------------------|--------------------|------------------------------|------------------|
| Number of children | 0 | 3 | Nets (adjusted) | Guideline | | |
| % time with Second Parent | 50% | 0% | Father | 5,102 | Payment (cost)/benefit | (1,913) 1,913 |
| Filing status | HH/MLA | Single | Mother | 0 | Net spendable income | 3,189 1,913 |
| # Federal exemptions | 1* | 4* | Total | 5,102 | % combined spendable | 62.5% 37.5% |
| Wages + salary | 4,562 | 0 | Support | | Total taxes | 960 0 |
| 401(k) employee contrib | 0 | 0 | CS Payor | Father | Comb. net spendable | 5,102 |
| Self-employment income | 0 | 0 | Presumed | 1,913 | Proposed | |
| Other taxable income | 1,500 | 0 | Basic CS | 1,913 | Payment (cost)/benefit | (2,130) 2,130 |
| Short-term cap. gains | 0 | 0 | Add-ons | 0 | Net spendable income | 3,549 2,130 |
| Long-term cap. gains | 0 | 0 | Presumed Per Kid | | NSI change from gdl | 360 217 |
| Other gains (and losses) | 0 | 0 | Child 1 | 383 | % combined spendable | 62.5% 37.5% |
| Ordinary dividends | 0 | 0 | Child 2 | 574 | % of saving over gdl | 62.5% 37.5% |
| Tax. interest received | 0 | 0 | Child 3 | 957 | Total taxes | 383 0 |
| Social Security received | 0 | 0 | Spousal support | blocked | Comb. net spendable | 5,679 |
| Unemployment compensation | 0 | 0 | Total | 1,913 | Percent change | 11.3% |
| Operating losses | 0 | 0 | Proposed, tactic 9 | | Default Case Settings | |
| Ca. operating loss adj. | 0 | 0 | CS Payor | Father | | |
| Roy, partnerships, S corp, trusts | 0 | 0 | Presumed | 2,130 | | |
| Rental income | 0 | 0 | Basic CS | 2,130 | | |
| Misc ordinary tax. inc. | 1,500 | 0 | Add-ons | 0 | | |
| Other nontaxable income | 0 | 0 | Presumed Per Kid | | | |
| New-spouse income | 0 | 0 | Child 1 | 476 | | |
| SS paid other marriage | 0 | 0 | Child 2 | 658 | | |
| CS paid other relationship | 0 | 0 | Child 3 | 995 | | |
| Adj. to income (ATI) | 0 | 0 | Spousal support | blocked | | |
| Ptr Support Pd. other P'ships | 0 | 0 | Total | 2,130 | | |
| Health insurance | 0 | 0 | Savings | 576 | | |
| Qual. Bus. Inc. Ded. | 0 | 0 | Total releases to Father | 3 | | |
| 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 | | | | |

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 16, 2023

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

13. AARON LUKIANOW V. CINDY LUKIANOW

23FL0373

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

On September 14, 2023, the court adopted its tentative ruling continuing the matter to November 16, 2023, and ordered both parties to file and serve Income and Expense Declarations no later than 10 days prior to the hearing date. Petitioner was ordered to serve his Responsive Declaration to Request for Order in accordance with the California Code of Civil Procedure and to file a Proof of Service with the court.

Petitioner filed an Income and Expense Declaration on September 19, 2023. Upon review of the court file, there is a Declaration Regarding service of Declaration of Disclosure and Income and Expense Declaration filed on September 29, 2023, showing Petitioner served Respondent with the FL-140; FL-150 and FL-142 and/or FL160. There is no Proof of Service showing Respondent was served with Petitioner's Responsive Declaration.

Respondent filed an updated Income and Expense Declaration on October 30, 2023. Proof of Service shows Petitioner was served on November 1, 2023, by mail.

The court finds Petitioner has complied with the requirement to serve Respondent with the Declaration of Disclosure. Therefore, the court finds Respondent's request to compel to be moot.

The court has reviewed both parties Income and Expense Declarations and finds both to be improperly completed. Respondent's Income and Expense Declaration is missing page four. Petitioner has not properly completed pages two through four, nor has Petitioner included any profit and loss statements. Additionally, Respondent states in her Income and Expense Declaration that Petitioner resides in the home and contributes to the monthly expenses.

The court denies Respondent's request for temporary guideline spousal support. First, for her failure to properly file a complete Income and Expense Declaration. The court also denies the request based on the continuing cohabitation of the parties.

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 16, 2023

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

TENTATIVE RULING #13: THE COURT FINDS RESPONDENT'S MOTION TO COMPEL TO BE MOOT AS PETITIONER HAS SERVED RESPONDENT THE NECESSARY DOCUMENTS. THE COURT DENIES RESPONDENT'S REQUEST FOR TEMPORARY GUIDELINE SPOUSAL SUPPORT. FIRST FOR HER FAILURE TO PROPERLY FILE A COMPLETE INCOME AND EXPENSE DECLARATION. THE COURT ALSO DENIES THE REQUEST BASED ON THE CONTINUING COHABITATION OF THE PARTIES. 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 ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 16, 2023

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

14. CANDICE HAILE V. ANDREW CHAVEZ

23FL0137

On July 21, 2023, the court denied Petitioner's request for a Domestic Violence Restraining Order (DVRO). The court made parenting time orders, rereferred the parties to Child Custody Recommending Counseling (CCRC), and set a further review hearing. The court made additional orders as set forth in the July 21, 2023, minute order.

The parties attended CCRC on October 4, 2023 and were unable to reach any agreements. A report with recommendations was filed with the court on November 6, 2023 and mailed to the parties the same day.

Neither party has filed a proof of completion of a co-parenting class. Neither party has filed a supplemental declaration.

The court has read and considered the November 6, 2023 CCRC report and finds the recommendations to be in the minor's best interest. The court adopts the recommendations with the following modification: on page five of 10, item #3, is modified to state that Father's visitation time will increase to Saturday and Sunday from 10:00 am to 5:00 pm.

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

TENTATIVE RULING #14: THE COURT FINDS THE RECOMMENDATIONS TO BE IN THE MINOR'S BEST INTEREST. THE COURT ADOPTS THE RECOMMENDATIONS WITH THE FOLLOWING MODIFICATION: ON PAGE FIVE OF 10, ITEM #3, IS MODIFIED TO STATE THAT FATHER'S VISITATION TIME WILL INCREASE TO SATURDAY AND SUNDAY FROM 10:00 AM TO 5:00 PM. 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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 16, 2023

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

15. CARLY TYLER V. ZACHARY ALLEN

23FL0824

Petitioner filed a Request for Order (RFO) on August 22, 2023, requesting a change in child custody and parenting plan orders. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on September 29, 2023 and a review hearing on November 16, 2023. Upon review of the court file, there is no Proof of Service showing Respondent was properly served with the RFO and referral to CCRC.

Only Petitioner appeared for the CCRC appointment, and as such, a single parent report with no agreements or recommendations was filed with the court on October 5, 2023. Copies were mailed to the parties on the same day.

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

TENTATIVE RULING #15: THE MATTER IS DROPPED FROM 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

DEPARTMENT 5

November 16, 2023

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

16. CHAELA GRAVES V. MATTHEW GRAVES

22FL0522

Respondent filed a Request for Order (RFO) requesting the court modify the current custody orders. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on September 28, 2023 and a review hearing on November 16, 2023. Upon review of the court file, there is no Proof of Service showing Petitioner was properly served with the RFO or referral to CCRC.

Nevertheless, both parties appeared for the CCRC appointment and were able to reach several agreements. A report with agreements and recommendations was filed with the court on October 9, 2023 and mailed to the parties on the same day.

Petitioner filed a Responsive Declaration on November 1, 2023. Respondent was served by mail on November 6, 2023. Petitioner requests the court keep the current orders for custody and parenting time in place.

The court finds good cause to proceed with the matter despite the lack of Proof of Service to Petitioner. The court finds Petitioner fully participated in the CCRC appointment and filed a Responsive Declaration, and as such is aware of the requested orders and has had the opportunity to respond.

The court has read and considered the filings as outlined above. The court finds the recommendations and agreements as set forth in the October 9, 2023 CCRC report to be in the best interests of the minors. The court adopts the agreements and recommendations as set forth as its orders.

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 #16: THE COURT FINDS GOOD CAUSE TO PROCEED WITH THE MATTER DESPITE THE LACK OF PROOF OF SERVICE TO PETITIONER. THE COURT FINDS PETITIONER FULLY PARTICIPATED IN THE CCRC APPOINTMENT AND FILED A RESPONSIVE DECLARATION, AND AS SUCH IS AWARE OF THE REQUESTED ORDERS AND HAS HAD THE OPPORTUNITY TO RESPOND TO THEM. THE COURT HAS READ AND CONSIDERED THE FILINGS AS OUTLINED ABOVE. THE COURT FINDS THE AGREEMENTS OF THE PARTIES AND RECOMMENDATIONS AS SET FORTH IN THE OCTOBER 9, 2023 CCRC REPORT TO BE IN THE BEST INTERESTS OF THE MINORS. THE COURT ADOPTS THE AGREEMENTS AND RECOMMENDATIONS AS SET FORTH AS ITS ORDERS. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 16, 2023

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

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 16, 2023

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

17. DAKOTA HENDERSON V. MICKAYLA KILLION

23FL0630

Respondent filed a Request for Order (RFO) on July 18, 2023, following the denial of an ex parte application for emergency court orders. Respondent requests the court make orders as to child custody and parenting time. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on September 25, 2023 and a review hearing on November 16, 2023. Upon review of the court file, there is no Proof of Service showing Respondent was properly served with the RFO or referral to CCRC.

Nevertheless, both parties appeared for the CCRC appointment on September 25, 2023, however, were unable to reach any agreements. A report with recommendations was filed with the court on November 6, 2023 and mailed to the parties on the same date.

The court finds good cause to proceed despite the lack of service as Respondent appeared for the CCRC appointment and is aware of Petitioner's requested orders. The court further finds Petitioner was granted a three-year Domestic Violence Restraining Order (DVRO) on August 11, 2023. As such, the presumptions of Family Code section 3044 apply.

The court has read and considered the November 6, 2023 CCRC report and finds the recommendations as set forth are in the best interest of the minors. All prior orders regarding custody and parenting time remain in full force and effect.

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

TENTATIVE RULING #17: THE COURT FINDS GOOD CAUSE TO PROCEED DESPITE THE LACK OF SERVICE AS RESPONDENT APPEARED FOR THE CCRC APPOINTMENT AND IS AWARE OF PETITIONER'S REQUESTED ORDERS. THE COURT FURTHER FINDS PETITIONER WAS GRANTED A THREE-YEAR DOMESTIC VIOLENCE RESTRAINING ORDER (DVRO) ON AUGUST 11, 2023. AS SUCH, THE PRESUMPTIONS OF FAMILY CODE SECTION 3044 APPLY. THE COURT HAS READ AND CONSIDERED THE NOVEMBER 6, 2023 CCRC REPORT AND FINDS THE RECOMMENDATIONS AS SET FORTH ARE IN THE BEST INTEREST OF THE MINORS. ALL PRIOR ORDERS REGARDING CUSTODY AND PARENTING TIME 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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 16, 2023

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

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 16, 2023

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

18. DINNIELLE SARAVIA V. MAURICE MONGEON

PFL20180461

Petitioner filed an ex parte request for emergency orders regarding parenting time on August 15, 2023. On August 16, 2023, the court granted Petitioner's request in part and denied the request in part, ordering Respondent to have professionally supervised parenting time twice a week for two hours each. All other requests were denied on an ex parte basis. Petitioner filed a Request for Order (RFO) making the same requests as set forth in the ex parte request on August 16, 2023. Parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on September 18, 2023 and a review hearing on November 16, 2023. Upon review of the court file, there is no Proof of Service showing Respondent was properly served with the ex parte orders, RFO, or referral to CCRC.

Only Petitioner appeared for the CCRC appointment on September 18, 2023. As such, a single parent report with no agreements or recommendations was filed with the court and mailed to the parties on September 18, 2023.

The court vacates the ex parte emergency orders and drops the matter from calendar due to the lack of proper service on Respondent. All prior orders remain in full force and effect.

TENTATIVE RULING #18: THE COURT VACATES THE EX PARTE EMERGENCY ORDERS AND DROPS THE MATTER FROM CALENDAR DUE TO THE LACK OF PROPER SERVICE ON RESPONDENT. ALL PRIOR ORDERS 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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 16, 2023

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

20. JULIANA MCDONAGH V. JASON MCDONAGH

PFL20050223

Petitioner filed an ex parte request for emergency custody orders on October 10, 2023. On October 11, 2023, the court denied the request, but referred the parties to an emergency set Child Custody Recommending Counseling (CCRC) appointment on October 24, 2023 and a review hearing was set for November 16, 2023. Respondent was served by mail with address verification, as required by Family Code section 215, on October 18, 2023.

Only Petitioner appeared for the CCRC appointment on October 24, 2023. As such a single parent report with no agreements or recommendations was filed with the court and mailed to the parties on October 27, 2023.

Parties are ordered to appear for the hearing.

TENTATIVE RULING #20: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 16, 2023

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

21. RICHARD MACK V. MELISSA MACK

PFL20200458

Petitioner filed an ex parte application for emergency orders on September 12, 2023. On September 13, 2023, the court granted the ex parte request and referred the parties to an emergency set Child Custody Recommending Counseling (CCRC) appointment on September 26, 2023 and a review hearing was set for November 16, 2023. The court set the child support matter for a hearing before the Child Support Commissioner in Department 8 on September 25, 2023. Upon review of the court file, Respondent was served by mail on September 26, 2023, after the child support hearing and after the emergency set CCRC appointment. Further, this is a request for post judgment modification, which requires personal service or address verification. There was no address verification submitted for the address Respondent was served at on September 26th. Petitioner filed a Declaration on September 25, 2023, from James C. Atkinson, a licensed private investigation with a declaration of due diligence regarding the attempts to serve Respondent personally. Petitioner filed a Declaration of Address Verification on October 19, 2023, stating the PO Box address where Respondent was mail served on October 18, 2023, was an address provided by Respondent within the last 30 days.

The court orders parties to appear for the hearing.

TENTATIVE RULING #21: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 16, 2023

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

22. SARAH MACCHIA V. GEORGE MACCHIA

22FL1202

On July 13, 2023, Petitioner filed a Request for Order (RFO) seeking orders for spousal support and attorney's fees. The RFO along with Petitioner's Income and Expense Declaration and all other required documents were electronically served the same date as filing. On August 16th Respondent filed and served his Responsive Declaration to Request for Order and his Income and Expense Declaration. Petitioner has not filed a Reply.

Petitioner brings her RFO requesting spousal support back to the date of filing the Petition for Dissolution of Marriage on December 28, 2022. Petitioner makes her request on the basis that she did not work during the marriage. She has since obtained employment, but her income is not sufficient to maintain the marital standard of living. For this reason, she is also requesting attorney's fees in the amount of \$3,500 pursuant to Family Code § 2030.

Respondent objects to the requests. He maintains that Petitioner has the ability to pay her own attorney's fees. He also argues that, taking into account the child support order by DCSS, he is left with only \$4,350 per month while Respondent has \$4,484 per month. He argues his net spendable after taxes and child support is less than that of Petitioner's and his monthly expenses far outweigh his income. As of April 2023, child support was set at \$2,606. DCSS is currently withdrawing \$2,726 per month to collect on arrears. Respondent further points to several discrepancies in the amount Petitioner claims to be earning as opposed to the amount she told DCSS she was earning, and he has reason to believe she has a dog walking business that contributes to her earnings. He is requesting the court impute full time income at \$19.00 per hour which would result in a monthly income of \$3,293.33. If a support award is made, Respondent argues he will be forced to file bankruptcy.

In addition to responding to the support requests, Respondent makes requests for a credit of \$17,774.30 to cover separate property funds, his portion of community property funds, and his post-separation separate property payments of community expenses.

The matter came before the court for hearing on September 7, 2023, at which time the court noted several deficiencies in Petitioner's Income and Expense Declaration. The court therefore continued the matter and ordered Petitioner to file an updated and complete Income and Expense Declaration with paystubs attached no later than 10 days prior to the hearing date.

Petitioner filed and served her Income and Expense Declaration on October 11, 2023.

On October 12, 2023, following oral argument from counsel, the court granted Petitioner's counsel's request to continue the matter due to his error for not timely filing Petitioner's Income and Expense Declaration. The court reserved on Respondent's request for Family Code section 271 sanctions.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 16, 2023

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

Utilizing Petitioner's October 11, 2023 and Respondent's August 25, 2023 filed Income and Expense Declarations, as well as accounting for Respondent's current child support obligations, the court finds guideline temporary spousal support to be \$620 per month (see attached DissoMaster). The court orders Respondent to pay Petitioner \$620 per month as and for temporary guideline spousal support.

Given Petitioner's repeated delays in filing a full and complete Income and Expense Declaration, the court is exercising its discretion to deny Petitioner's request back to the date of filing the petition. Instead, the aforementioned spousal support order is effective as of November 1, 2023. This results in an arrears amount of \$620. Respondent is ordered to pay Petitioner \$620 no later than December 15, 2023.

The court further finds Respondent routinely earns bonus pay and therefore, has included a bonus table with the DissoMaster. When Respondent receives a bonus payment, Petitioner is ordered to make a true-up payment of support pursuant to the attached bonus table.

The court reserves on Respondent's request for a credit until the time of trial on the issue of property division. The court continues to reserve on Respondent's request for Section 271 sanctions.

Petitioner's request for attorney's fees is denied. 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, while there is a disparity in income prior to support, the court finds Petitioner to have the higher net spendable income after considering the award for support. Further, in light of both the child and spousal support orders, the court does not find that Respondent has the

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 16, 2023

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

ability to pay the attorney's fees of both parties at this time. Petitioner's request for attorney's fees and costs is denied.

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

TENTATIVE RULING #22: UTILIZING PETITIONER'S OCTOBER 11, 2023 AND RESPONDENT'S AUGUST 25, 2023 FILED INCOME AND EXPENSE DECLARATIONS, AS WELL AS ACCOUNTING FOR RESPONDENT'S CURRENT CHILD SUPPORT OBLIGATIONS, THE COURT FINDS GUIDELINE TEMPORARY SPOUSAL SUPPORT TO BE \$620 PER MONTH (SEE ATTACHED DISSOMASTER). THE COURT ORDERS RESPONDENT TO PAY PETITIONER \$620 PER MONTH AS AND FOR TEMPORARY GUIDELINE SPOUSAL SUPPORT.

GIVEN PETITIONER'S REPEATED DELAYS IN FILING A FULL AND COMPLETE INCOME AND EXPENSE DECLARATION, THE COURT IS EXERCISING ITS DISCRETION TO DENY PETITIONER'S REQUEST BACK TO THE DATE OF FILING THE PETITION. INSTEAD, THE AFOREMENTIONED SPOUSAL SUPPORT ORDER IS EFFECTIVE AS OF NOVEMBER 1, 2023. THIS RESULTS IN AN ARREARS AMOUNT OF \$620. RESPONDENT IS ORDERED TO PAY PETITIONER \$620 NO LATER THAN DECEMBER 15, 2023.

THE COURT FURTHER FINDS RESPONDENT ROUTINELY EARNS BONUS PAY AND THEREFORE, HAS INCLUDED A BONUS TABLE WITH THE DISSOMASTER. WHEN RESPONDENT RECEIVES A BONUS PAYMENT, PETITIONER IS ORDERED TO MAKE A TRUE-UP PAYMENT OF SUPPORT PURSUANT TO THE ATTACHED BONUS TABLE.

THE COURT RESERVES ON RESPONDENT'S REQUEST FOR A CREDIT UNTIL THE TIME OF TRIAL ON THE ISSUE OF PROPERTY DIVISION. THE COURT CONTINUES TO RESERVE ON RESPONDENT'S REQUEST FOR SECTION 271 SANCTIONS.

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

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

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

| Input Data | Father | Mother | Guideline (2023) | Cash Flow Analysis | Father | Mother |
|-----------------------------------|--------|--------|--------------------------------|--------------------|----------------------------|-------------------|
| Number of children | 0 | 2 | Nets (adjusted) | Guideline | | |
| % time with Second Parent | 5% | 0% | Father | 6,636 | Payment (cost)/benefit | (2,743) 2,801 |
| Filing status | Single | HH/MLA | Mother | 3,520 | Net spendable income | 3,835 6,322 |
| # Federal exemptions | 1* | 3* | Total | 10,156 | % combined spendable | 37.8% 62.2% |
| Wages + salary | 10,000 | 3,467 | Support (Nondeductible) | | Total taxes | 2,487 (54) |
| 401(k) employee contrib | 300 | 0 | CS Payor | Father | Comb. net spendable | 10,156 |
| Self-employment income | 0 | 0 | Presumed | 2,181 | Proposed | |
| Other taxable income | 0 | 0 | User CS | 2,181 | Payment (cost)/benefit | (2,930) 2,990 |
| Short-term cap. gains | 0 | 0 | Add-ons | 0 | Net spendable income | 4,061 6,168 |
| Long-term cap. gains | 0 | 0 | Presumed Per Kid | | NSI change from gdl | 226 (154) |
| Other gains (and losses) | 0 | 0 | Child 1 | 1,090 | % combined spendable | 39.7% 60.3% |
| Ordinary dividends | 0 | 0 | Child 2 | 1,090 | % of saving over gdl | 313.3% -213.3% |
| Tax. interest received | 0 | 0 | SS Payor | Father | Total taxes | 2,056 305 |
| Social Security received | 0 | 0 | Alameda | 620 | Comb. net spendable | 10,228 |
| Unemployment compensation | 0 | 0 | Total | 2,801 | Percent change | 0.7% |
| Operating losses | 0 | 0 | Proposed, tactic 9 | | 1 Setting Changed | |
| Ca. operating loss adj. | 0 | 0 | CS Payor | Father | Child Support Method: User | |
| Roy, partnerships, S corp, trusts | 0 | 0 | Presumed | 2,181 | | |
| Rental income | 0 | 0 | User CS | 2,181 | | |
| Misc ordinary tax. inc. | 0 | 0 | Add-ons | 0 | | |
| Other nontaxable income | 0 | 0 | Presumed Per Kid | | | |
| New-spouse income | 0 | 0 | Child 1 | 1,090 | | |
| SS paid other marriage | 0 | 0 | Child 2 | 1,090 | | |
| CS paid other relationship | 0 | 0 | SS Payor | Father | | |
| Adj. to income (ATI) | 0 | 0 | Alameda | 825 | | |
| Ptr Support Pd. other P'ships | 0 | 0 | Total | 3,006 | | |
| Health insurance | 877 | 0 | Savings | 72 | | |
| Qual. Bus. Inc. Ded. | 0 | 0 | Total releases to Father | 2 | | |
| 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 | | | | |

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

"R" denotes that Father 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

| Father'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 | 26,172 | 7,442 | 33,614 |
| 100 | 0.00 | 0 | 15.31 | 15 | 26,172 | 7,457 | 33,629 |
| 200 | 0.00 | 0 | 15.31 | 31 | 26,172 | 7,472 | 33,644 |
| 300 | 0.00 | 0 | 15.31 | 46 | 26,172 | 7,487 | 33,659 |
| 400 | 0.00 | 0 | 15.31 | 61 | 26,172 | 7,503 | 33,675 |
| 500 | 0.00 | 0 | 15.31 | 77 | 26,172 | 7,518 | 33,690 |
| 600 | 0.00 | 0 | 15.31 | 92 | 26,172 | 7,533 | 33,705 |
| 700 | 0.00 | 0 | 15.31 | 107 | 26,172 | 7,549 | 33,721 |
| 800 | 0.00 | 0 | 15.32 | 123 | 26,172 | 7,564 | 33,736 |
| 900 | 0.00 | 0 | 15.32 | 138 | 26,172 | 7,579 | 33,751 |
| 1,000 | 0.00 | 0 | 15.32 | 153 | 26,172 | 7,595 | 33,767 |
| 1,100 | 0.00 | 0 | 15.32 | 169 | 26,172 | 7,610 | 33,782 |
| 1,200 | 0.00 | 0 | 15.32 | 184 | 26,172 | 7,625 | 33,797 |
| 1,300 | 0.00 | 0 | 15.32 | 199 | 26,172 | 7,641 | 33,813 |
| 1,400 | 0.00 | 0 | 15.32 | 215 | 26,172 | 7,656 | 33,828 |
| 1,500 | 0.00 | 0 | 15.32 | 230 | 26,172 | 7,671 | 33,843 |
| 1,600 | 0.00 | 0 | 15.32 | 245 | 26,172 | 7,687 | 33,859 |
| 1,700 | 0.00 | 0 | 15.32 | 261 | 26,172 | 7,702 | 33,874 |
| 1,800 | 0.00 | 0 | 15.33 | 276 | 26,172 | 7,717 | 33,889 |
| 1,900 | 0.00 | 0 | 15.33 | 291 | 26,172 | 7,733 | 33,905 |
| 2,000 | 0.00 | 0 | 15.33 | 307 | 26,172 | 7,748 | 33,920 |



LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 16, 2023

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

23. SARAH VALDEZ V. DEVIN HECTOR

PFL20130850

Petitioner filed a Request for Order (RFO) on July 18, 2023, requesting a modification of child custody and parenting plan orders. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on September 25, 2023 and a review hearing on November 16, 2023. Respondent was served by mail on August 25, 2023. The court notes the Department of Child Support Services is a party to this matter and was not served. The court finds good cause to proceed in this matter as there is no request to modify child support.

Both parties attended the CCRC appointment on September 25, 2023 and reached a full agreement. The parties submitted a Stipulation and Order to the court which sets forth the agreements reached at CCRC. The court signed and adopted the parties' agreement as its order on September 27, 2023.

The court drops the matter from calendar as the court has adopted the parties' agreement as its order making the RFO moot.

All prior orders remain in full force and effect.

TENTATIVE RULING #23: THE COURT DROPS THE MATTER FROM CALENDAR AS THE COURT HAS ADOPTED THE PARTIES' AGREEMENT AS ITS ORDER MAKING THE RFO MOOT.

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