

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 7, 2024

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

1. AMANDA RENFROE V. ANDREW RENFROE

PFL20160677

On February 27, 2024, Petitioner filed a Request for Order (RFO) seeking custody and visitation orders. The RFO was personally served on May 14, 2024. Respondent filed a Responsive Declaration to Request for Order on June 3rd. It was mail served on May 30th.

Hearing on the RFO was originally set to be held on June 6th however at that time the court noted that it had been more than six months since the parties had been to Child Custody Recommending Counseling (CCRC). The parties were referred to CCRC and a review hearing was set for September 5th. The parties later stipulated to continue the CCRC appointment and the review hearing to the present date.

Petitioner filed her RFO requesting the court change the existing custody order with regard to the minor, Violet. Petitioner requests sole legal and sole physical custody of the minor with Respondent to have visitation only at the discretion of the minor. Petitioner also requests that the minor be permitted to change her school from Bella Vista High School to Ponderosa High School.

Respondent agrees to the requested school change, though he does not agree to the request to change custody. Instead, he asks the court to decrease Petitioner's parenting time with the minor. He also requests a change of counselors for Violet only so long as Petitioner signs an irrevocable release as previously ordered, the parties agree to one of the providers recommended by Ms. James, and an irrevocable release of information to be signed between the new provider and Ms. James.

The parties attended CCRC on September 11th. A report with recommendations was prepared on October 24th and mailed to the parties on October 25th. Neither party has filed a declaration in response to CCRC's recommendations.

The court has reviewed the filings as outlined above and finds that the recommendations contained in the October 24, 2024 CCRC report are in the best interests of the children. The recommendations are hereby adopted as the orders of the court. The request to change Violet's school from Bella Vista High School to Ponderosa High School is also granted. 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 #1: THE COURT HAS REVIEWED THE FILINGS AS OUTLINED ABOVE AND FINDS THAT THE RECOMMENDATIONS CONTAINED IN THE OCTOBER 24, 2024 CCRC REPORT ARE IN THE BEST INTERESTS OF THE CHILDREN. THE

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RECOMMENDATIONS ARE HEREBY ADOPTED AS THE ORDERS OF THE COURT. THE REQUEST TO CHANGE VIOLET'S SCHOOL FROM BELLA VISTA HIGH SCHOOL TO PONDEROSA HIGH SCHOOL IS ALSO GRANTED. 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 PHONE CALL 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 PHONE CALL 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. ANNE MCNELIS V. FERRIS NUESMEYER

PFL20160411

Order to Show Cause

On March 21, 2024, Petitioner filed an Order to Show Cause and Affidavit for Contempt (OSC). The OSC was personally served on March 29th.

On April 17th the parties filed a stipulation that included a conditional settlement of the OSC. Should Respondent comply with the terms of the stipulation, Petitioner agreed to dismiss the OSC. Respondent failed to comply and therefore the parties were ordered to appear for the arraignment on June 13, 2024. Respondent did not appear, therefore the court issued a bench warrant and continued the arraignment to the present date. The bench warrant was stayed pending the continued arraignment.

The parties appeared before the court on September 5th, at which time the court appointed a Public Defender and continued the matter to the present date.

Counsel for both parties and Petitioner appeared for hearing on the OSC on September 19th. Respondent once again did not appear. His counsel requested, and the court granted, another continuance. The matter was set for the present date. The court reserved on Petitioner's request for sanctions.

The parties are ordered to appear for the arraignment.

Request for Order

On August 13, 2024, Petitioner filed a Request for Order (RFO) seeking custody and visitation orders and sanctions. She filed a Declaration of Samuel H. Park, an Income and Expense Declaration, and a Declaration of Anne McNelis concurrently with the RFO. This is a post judgment request for modification of custody orders and therefore was required to be personally served on Respondent or, in the alternative, a Declaration Regarding Address Verification is required. Petitioner did file a Declaration Regarding Address Verification on August 13th, however the declaration is not properly filled out as section 3(b) is left blank.

The parties were referred to Child Custody Recommending Counseling (CCRC) though neither party appeared at the scheduled appointment.

This matter is dropped from calendar due to lack of proper service.

TENTATIVE RULING #2: THE PARTIES ARE ORDERED TO APPEAR FOR THE ARRAIGNMENT.

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THE AUGUST 13, 2024 RFO 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 PHONE CALL 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 PHONE CALL 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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3. CHELSEA HARRISON V. JOSEPH HARRISON

23FL0289

On September 24, 2024, Petitioner filed an Ex Parte Application and Declaration for Orders and Notice seeking sole legal and sole physical custody with professionally supervised visits to Respondent at Respondent's cost. She filed a Request for Order (RFO) concurrently therewith. The court granted the request for temporary sole legal and sole physical custody and awarded Respondent professionally supervised visits at his cost. Parties were referred to an emergency set Child Custody Recommending Counseling (CCRC) appointment and a review hearing was set for the present date.

The parties attended CCRC on October 8, 2024. A report with recommendations was prepared on October 30th and mailed to the parties on November 5th. The court has reviewed the filings and finds the CCRC recommendations to be in the best interests of the minors. They are hereby adopted as the orders of the court. Petitioner shall prepare and file the Findings and Orders After Hearing.

TENTATIVE RULING #3: THE RECOMMENDATIONS CONTAINED IN THE OCTOBER 30, 2024 CCRC REPORT ARE ADOPTED AS THE ORDERS OF THE COURT. 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 PHONE CALL 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 PHONE CALL OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.

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4. COMFREY LIM V. NORMAN LIM

23FL0722

On August 16, 2024, Petitioner filed and served a Request for Order (RFO), an Income and Expense Declaration, and a Declaration of Lilka B. Martinez. She filed and served a Supplemental Declaration of Comfrey Lim on October 28th.

Respondent filed and served his Responsive Declaration to Request for Order and his Income and Expense Declaration on October 29th. The court finds the Responsive Declaration to be late filed and therefore it cannot be considered. Civil Procedure section 1005(b) mandates that all opposition papers are to be filed at least nine court days before the hearing date. This would have made October 25th the last day for filing the Responsive Declaration. The Income and Expense Declaration, on the other hand, may be considered as it has been filed at least 5 days prior to the hearing in accordance with El Dorado Superior Court rule 8.03.01.

Petitioner brings her request for order seeking joint legal and joint physical custody of the parties' three minor children with a step-up plan for visitation with the minor Mason. She also requests child support, spousal support, and attorney's fees in the amount of \$25,000 pursuant to Family Code § 2030. \$10,000 of which is for the cost of a forensic accountant. She is also requesting conjoint therapy between herself and Mason, an order for Mason to resume treatment with Dr. Shorrock, and an order for Respondent to address the mold issue in his home.

Respondent is seeking sole physical custody of Mason and continued shared physical custody of the other two minors. He requests sole legal custody of all three children.

The parties attended Child Custody Recommending Counseling (CCRC) on September 18th. A report with recommendations was prepared and mailed to the parties on October 18th. Given that the report contains a recommendation awarding sole legal custody to Respondent, Petitioner is asking for a continuance. As of the date of her October 28th declaration she had not received a Responsive Declaration and therefore, was unaware that Respondent was seeking sole custody. In the interim, she asks that the court adopt the recommendation that she and Mason are to participate in an assessment for therapy and follow the therapist's recommendations.

Petitioner's request for therapy with Mason is granted. Mason and Petitioner shall participate in an assessment for therapy to determine if it is appropriate for them to work

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on their relationship and continue therapeutic treatment. The parties are ordered to follow the treatment recommendations of the therapist.

Petitioner's request for a continuance is granted. This matter is continued to 1/2/2025 at 8:30 AM in department 5. The parties are ordered to file updated Income and Expense Declarations and Updating Declarations no later than 10 days prior to the hearing date. The court reserves jurisdiction on the request for spousal support and child support back to the date of filing the RFO. The court further reserves on the issue of attorney's fees.

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

TENTATIVE RULING #4: PETITIONER'S REQUEST FOR THERAPY WITH MASON IS GRANTED. MASON AND PETITIONER SHALL PARTICIPATE IN AN ASSESSMENT FOR THERAPY TO DETERMINE IF IT IS APPROPRIATE FOR THEM TO WORK ON THEIR RELATIONSHIP AND CONTINUE WITH THERAPEUTIC TREATMENT. THE PARTIES ARE ORDERED TO FOLLOW THE TREATMENT RECOMMENDATIONS OF THE THERAPIST. PETITIONER'S REQUEST FOR A CONTINUANCE IS GRANTED. THIS MATTER IS CONTINUED TO 1/2/2025 AT 8:30 AM IN DEPARTMENT 5. THE PARTIES ARE ORDERED TO FILE UPDATED INCOME AND EXPENSE DECLARATIONS AND UPDATING DECLARATIONS NO LATER THAN 10 DAYS PRIOR TO THE HEARING DATE. THE COURT RESERVES JURISDICTION ON THE REQUEST FOR SPOUSAL SUPPORT AND CHILD SUPPORT BACK TO THE DATE OF FILING THE RFO. THE COURT FURTHER RESERVES ON THE ISSUE OF ATTORNEY'S FEES. 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 PHONE CALL 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 PHONE CALL 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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5. JASON GILLESPIE V. BARBARA GILLESPIE

24FL0722

On August 13, 2024, Petitioner filed an Ex Parte Application and Declaration for Order and Notice, along with a Request for Order (RFO). Petitioner's requests were denied on an ex parte basis, but the RFO was set for hearing on the regular law and motion calendar.

The parties attended Child Custody Recommending Counseling (CCRC) on September 12th and a report with recommendations was prepared and mailed to the parties on October 1st.

Respondent filed and served his Responsive Declaration to Request for Order on October 22nd.

Petitioner brings his RFO seeking sole legal and sole physical custody of the parties' minor children. He asks that Respondent have only supervised visits with the children. Finally, he is requesting an order for the children to remain enrolled at Gold Trail school.

Respondent is also requesting sole legal and sole physical custody of the children. She is agreeable to Petitioner having visits every other weekend and one day during the week. She asks that safeguards be put in place to address Petitioner's use of alcohol. Such safeguards to include testing before and after visits and an order directing Petitioner to refrain from consuming alcohol during his parenting time.

The court has reviewed the filings as outlined above and finds the recommendations contained in the October 1, 2024, CCRC report to be in the best interests of the minors. As such, they are hereby adopted as the orders of the court. Additionally, the children are to remain enrolled in their current schools.

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

TENTATIVE RULING #5: THE RECOMMENDATIONS CONTAINED IN THE OCTOBER 1, 2024 CCRC REPORT ARE IN THE BEST INTERESTS OF THE MINORS AND ARE HEREBY ADOPTED AS THE ORDERS OF THE COURT. THE CHILDREN ARE ORDERED TO REMAIN IN THEIR CURRENT SCHOOLS. 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 PHONE CALL TO THE COURT AT (530) 621-6725 BY 4:00 P.M. ON THE DAY THE

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

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6. LEELO ARVISAIS V. JONAH GRIFFIN

24FL0346

On May 13, 2024, Respondent filed a Request for Order (RFO) seeking a variety of orders as listed therein. The parties appeared before the court for hearing on the RFO on August 8th at which time the court granted Respondent's request to set aside the stipulation and judgment dated April 12, 2024, appointed the paternal grandmother as guardian ad litem for Respondent and maternal grandfather as guardian ad litem for Petitioner, and referred the parties to Child Custody Recommending Counseling (CCRC) to establish custody and visitation orders. A review hearing was set for the present date.

The parties attended CCRC on September 9th and were able to reach agreements on some issues. A report with the agreements, as well as recommendations from the CCRC counselor, was prepared on October 7th. The report was mailed to the parties on October 9th. Neither party has filed a declaration in response to the report.

The court has reviewed the agreements and recommendations contained in the October 7, 2024 CCRC report and finds them to be in the best interests of the minors they are therefore hereby adopted as the orders of the court with the exception of the no contact order with Mr. Hillhouse. The court does not see sufficient grounds for this order at this time.

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

TENTATIVE RULING #6: THE COURT HAS REVIEWED THE AGREEMENTS AND RECOMMENDATIONS CONTAINED IN THE OCTOBER 7, 2024 AND FINDS THEM TO BE IN THE BEST INTERESTS OF THE MINORS, THEY ARE THEREFORE HEREBY ADOPTED AS THE ORDERS OF THE COURT WITH THE EXCEPTION OF THE NO CONTACT ORDER WITH MR. HILLHOUSE. THE COURT DOES NOT SEE SUFFICIENT GROUNDS FOR THIS ORDER AT THIS TIME. 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 PHONE CALL 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 PHONE CALL OR IN PERSON BY 4:00 P.M. ON

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**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.

7. MARIA VARGAS-COOK V. REILLY COOK

PFL20180521

On August 13, 2024, Respondent filed an Ex Parte Application and Declaration for Orders and Notice seeking the suspension of spousal support to Petitioner. The ex parte was denied. Respondent then filed a Request for Order (RFO) on August 14th reiterating his ex parte request. There is no Proof of Service for this document. The matter is dropped from calendar due to lack of proper service.

TENTATIVE RULING #7: THE MATTER IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE.

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8. NICOLE SMITH V. BRANDON CORNS

24FL0194

Petitioner filed a Request for Order (RFO) on June 6, 2024, requesting child custody and parenting plan orders, as well as child support, and an order for the minors to attend a wedding on June 22, 2024. Petitioner concurrently filed an Income and Expense Declaration. The matter was originally set to be heard on August 15th however, Petitioner requested a continuance to allow additional time to serve Respondent. The court granted the continuance, re-referred the parties to Child Custody Recommending Counseling (CCRC) and a review hearing was set for the present date.

Upon review of the court file there still is no Proof of Service of the RFO or the CCRC referral and Respondent did not appear at the rescheduled CCRC appointment. The matter is dropped from calendar due to lack of proper service.

TENTATIVE RULING #8: THE MATTER IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE.

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9. REBECCA BURT-ORTIZ V. DAVID J. ORTIZ

23FL0384

Order to Show Cause

On August 16, 2024, Petitioner filed an Order to Show Cause and Affidavit for Contempt (OSC). It was personally served on September 5th.

The parties are ordered to appear for the arraignment.

Request for Order

On August 14, 2024, Petitioner filed a Request for Order (RFO) and an Income and Expense Declaration. She filed an additional RFO and another Income and Expense Declaration on August 20th. All documents were personally served on September 5th. Petitioner's Supplemental Declaration was filed and served on October 28th along with another Income and Expense Declaration.

Respondent filed his Income and Expense Declaration on November 4th however there is no Proof of Service for this Document therefore it cannot be considered. Respondent has not filed a Responsive Declaration to Request for Order.

Petitioner brings her RFOs requesting attorney's fees in the amount of \$25,000 pursuant to Family Code § 2030. She also requests the following additional orders: (1) an order compelling Respondent to provide his preliminary financial disclosures within 15 days; (2) sanctions pursuant to Family Code § 2107 in the amount of \$5,000; (3) an order compelling Respondent to provide responses to discovery requests served on him on June 27, 2023; (4) sanctions pursuant to Code of Civil Procedure §§ 2030.290(c) and 2031.300(c) in the amount of \$1,500; (5) sanctions pursuant to Family Code § 271 in the amount of \$5,000; and (6) bifurcation and termination of marital status. She includes an FL-157 Spousal or Domestic Partner Support Declaration with her moving papers, but she has not made a request for spousal support.

In dissolution proceedings, the court may bifurcate the issue of the dissolution of the marriage and enter a status only judgment. *Id.* at (c)(7); Fam. Code § 2337. Prior to granting such a request the court must ensure "[a]ll pension plans that have not been divided by court order that require joinder ..." have been joined. Cal. Rule Ct. 5.390(d)(1). A party seeking bifurcation is to submit a completed FL-315 evidencing such. Cal. Rule Ct. 5.390(a).

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Here, Petitioner has completed and filed the requisite FL-315, and it appears that all known pension plans have been joined therefore the court finds good cause to bifurcate the case and grant a separate trial on the issue of marital status only. The parties are ordered to appear for the hearing on this issue.

Regarding the request to compel Respondent's preliminary declaration of disclosure, the request is granted. Family Code section 2104 imposes on each party the obligation of making a preliminary disclosure of assets within the timeframe specified. Where a party fails to comply with Section 2104, the complying party may, among other things, file a motion to compel and seek sanctions against the noncomplying party. Fam. Code § 2107(b)(1). "...[T]he court *shall*...impose monetary sanctions against the noncomplying party. Sanctions shall be in an amount sufficient to deter repetition of the conduct or comparable conduct...unless the court finds that the noncomplying party acted with substantial justification or that other circumstances make the imposition of the sanction unjust." Fam. Code § 2107(c).

Here, Petitioner has established her compliance with Section 2104 as well as Respondent's failure to do the same. Respondent has not submitted an explanation for his failure to comply with his disclosure obligations therefore the court cannot find that he acted with substantial justification. As such, Respondent is ordered to submit his full and complete preliminary declaration of disclosure no later than November 22, 2024. Respondent is sanctioned \$1,000 pursuant to Family Code § 2107(c).

Petitioner's motion to compel discovery responses is likewise granted. The party to whom interrogatories have been propounded shall respond in writing under oath within 30 days of the date of service. Cal. Civ. Pro. § 2030.260. If a party fails to provide timely responses, that party waives any right to object to the interrogatories and the party who served the interrogatories may move for an order compelling responses. Cal. Civ. Pro. §2030.300 (a).

In addition to Form Interrogatories, the Civil Discovery Act authorizes all parties to request documents from the opposing party by way of a Request for Production of Documents. Cal. Civ. Pro. §2031.210. As with form interrogatories, responses to requests for production are due within 30 days of the date of service, where a party fails to provide timely responses the party to whom the discovery was directed waives "any objection...including one based on privilege or on the protection of work product..." and

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“[t]he party making the demand may move for an order compelling response[s]...” Cal Civ. Pro. §2031.300(a).

Here, Petitioner has sufficiently established Respondent’s failure to comply with his discovery obligations. Petitioner has provided the court with copies of the discovery as well as the proofs of service thereof. As such, Petitioner’s Motion to Compel is granted. Respondent shall provide full and complete verified responses, without objections, to Form Interrogatories – Family Law, Set One, and Request for Production of Documents – By Petitioner to Respondent, Set One no later than November 22, 2024.

Under the circumstances it appears monetary sanctions are also warranted. Where a party engages in the misuse of the discovery process, the court “shall” impose monetary sanctions “unless it finds that one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.” Cal. Civ. Pro. 2023.030(a)(emphasis added) & 2023.020. Misuse of the discovery process includes, but is not limited to, failing to respond or submit to an authorized method of discovery. Cal. Civ. Pro. § 2023.010. A party requesting sanctions for reasonable expenses that were incurred as a result of discovery abuse must already be liable for those expenses before the court can award the costs as sanctions. See Tucker v. Pacific Bell Mobile Servs., 186 Cal. App. 4th 1548 (2010) (anticipated costs for future deposition could not be included in award of sanctions).

“... [I]n addition to any other sanctions imposed ...a court *shall* impose a one-thousand-dollar (\$1,000) sanction, payable to the requesting party...” if the court finds that the noncompliant party did not respond in good faith to a request for production of documents, or failed to make a reasonable good faith attempt to informally resolve a discovery dispute. Cal. Civ. Pro. § 2023.050(a).

By failing to provide full and complete, verified responses within the allotted timeframe, Respondent has engaged in misuse of the discovery process. As previously stated, he has provided no justification for his actions therefore the court finds sanctions to be warranted. That said, Petitioner may only be awarded sanctions that were incurred as a result of the misuse, not sanctions for costs that she would have otherwise incurred. Petitioner is therefore awarded \$2,500 as and for discovery sanctions against Respondent. This amount accounts for \$1,500 in attorney’s fees and costs as well as an additional \$1,000 for failing to produce documents.

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Petitioner also makes a request for sanctions 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 and attorneys. An award of attorney's fees and costs pursuant to this section is in the nature of a sanction." Fam. Code § 271(a). While the purpose of Section 271 is to impose a punitive sanction, the court is not to impose a sanction that would create an "unreasonable financial burden on the party against whom the sanction is imposed." *Id.*

Given that the court is issuing \$3,500 in discovery sanctions and sanctions for failure to serve his disclosures, the court finds that issuing additional sanctions under Section 271 would place an unreasonable financial burden on Respondent therefore, the request is denied.

Sanctions are to be paid directly to Petitioner's attorney. They may be paid in one lump sum or in monthly increments of \$250 due on the 15th of each month commencing on November 15, 2024, and continuing until paid in full (approximately 14 months). If any payment is missed or late the entire amount shall become immediately due and payable.

Turning to the issue of spousal support, Respondent's Income and Expense Declaration was late filed and cannot be considered and Petitioner did not provide the court with an estimate as to Respondent's monthly income. Therefore, the parties are ordered to appear for the hearing on this issue.

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

TENTATIVE RULING #9: THE PARTIES ARE ORDERED TO APPEAR FOR ARRAIGNMENT ON THE OSC. THE PARTIES ARE ORDERED TO APPEAR FOR THE HEARING ON THE ISSUE OF SPOUSAL SUPPORT. THE COURT FINDS GOOD CAUSE TO BIFURCATE THE CASE AND GRANT A SEPARATE TRIAL ON THE ISSUE OF MARITAL STATUS ONLY. THE PARTIES ARE ORDERED TO APPEAR FOR THE HEARING ON THE ISSUE OF BIFURCATION. RESPONDENT IS ORDERED TO SUBMIT HIS FULL AND COMPLETE PRELIMINARY DECLARATION OF DISCLOSURE NO LATER THAN NOVEMBER 22, 2024. RESPONDENT IS SANCTIONED \$1,000 PURSUANT TO FAMILY CODE § 2107(C). PETITIONER'S MOTION TO COMPEL IS GRANTED. RESPONDENT SHALL PROVIDE FULL AND COMPLETE VERIFIED RESPONSES, WITHOUT OBJECTIONS, TO FORM INTERROGATORIES – FAMILY LAW, SET ONE, AND REQUEST FOR PRODUCTION OF

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DOCUMENTS – BY PETITIONER TO RESPONDENT, SET ONE NO LATER THAN NOVEMBER 22, 2024. THE REQUEST FOR SECTION 271 SANCTIONS IS DENIED. SANCTIONS ARE TO BE PAID DIRECTLY TO PETITIONER’S ATTORNEY. THEY MAY BE PAID IN ONE LUMP SUM OR IN MONTHLY INCREMENTS OF \$250 DUE ON THE 15TH OF EACH MONTH COMMENCING ON NOVEMBER 15, 2024, AND CONTINUING UNTIL PAID IN FULL (APPROXIMATELY 14 MONTHS). IF ANY PAYMENT IS MISSED OR LATE THE ENTIRE AMOUNT SHALL BECOME IMMEDIATELY DUE AND PAYABLE. 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 PHONE CALL 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 PHONE CALL 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 7, 2024

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

10. SCOTT RONNINGEN V. ANGELINA RONNINGEN

23FL0127

Order to Show Cause

On August 12, 2024, Respondent filed an Order to Show Cause and Affidavit for Contempt (OSC) alleging five counts of violating court orders. It was personally served on August 22nd.

The parties are ordered to appear for the arraignment.

Request for Order

On August 14, 2024, Respondent filed a Request for Order, Respondent's Separate Statement in Support of Motion to Compel Supplemental Responses, Declaration of Attorney Layla Cordero, and Respondent's Memorandum of Points and Authorities. All required documents were mail served on August 22nd. Petitioner has not filed a Responsive Declaration to Request for Order.

Respondent is requesting an order precluding anyone from driving with the minor in the vehicle without a written agreement between the parties and an order specifically precluding the minor from being left alone in the care of Leah Currier.

The parties attended Child Custody Recommending Counseling (CCRC) on September 16th and were able to reach agreements on all issues regarding custody and visitation. A report containing those agreements was prepared and mailed to the parties the same day. The court has reviewed the agreements of the parties as contained in the September 16, 2024 CCRC report and finds them to be in the best interest of the minor; they are hereby adopted as the orders of the court.

In addition to the custody orders, Respondent is asking the court to bifurcate and terminate marital status. A party may request bifurcation of the issue of marital status, however prior to doing so the party must ensure that "[a]ll pension plans that have not been divided by court order that require joinder ..." have been joined. Cal. Rule Ct. 5.390(d)(1). A party seeking bifurcation is to submit a completed FL-315. Cal. Rule Ct. 5.390(a). There is no FL-315 attached to Respondent's moving papers, nor does she address whether any pension plans require joinder. As such, the request for bifurcation is denied.

Finally, Respondent is seeking to compel responses to Form Interrogatories – Family Law, Set One and further responses to Request for Production, Inspection, and Photocopying of Documents, Records, and Things, Set One. All such discovery was served

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DEPARTMENT 5

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on April 25, 2024, thereby making responses due no later than June 3rd (30 days plus 5 for mailing). On May 28th Petitioner provided some documents to Respondent though he has never provided responses in the form required by the Civil Discovery Act, nor has he provided verifications to discovery. Respondent is seeking \$7,500 in discovery sanctions.

Respondent's motion seeks to compel "further" responses. A motion to compel further responses must be filed and served within 45 days of the date the responses were served. Cal. Civ. Pro. §2031.310(c). However, the 45 days does limit does not apply where the responses served were unverified. *Id.* Instead, an "unverified response is tantamount to no response at all" and therefore, a motion to compel responses may be filed at any time. See Appleton v. Sup. Ct., 206 Cal. App. 3d 632 (2014). As such, the court finds Respondent's motion to be timely and the matter can be reached on its merits.

In conducting discovery, each "party is permitted to use multiple methods of obtaining discovery..." Irvington-Moore, Inc. v. Sup. Ct., 14 Cal. App. 4th 733 (1993). Requests for Production of Documents and Form Interrogatories are both forms of discovery authorized by the Civil Discovery Act. See Cal. Civ. Pro. § 2031.010 et. seq.; See also Cal. Civ. Pro. § 2030.010. Verified and complete responses to both forms of discovery are due within 30 days of the date of the requests. Cal. Civ. Pro. §§ 2030.260, 2031.260. Where a party fails to timely respond to discovery, the responding party waives "any objection...including one based on privilege or on the protection of work product..." and "[t]he party making the demand may move for an order compelling response[s]..." Cal. Civ. Pro. §§ 2030.290, 2031.300.

Here, Respondent has successfully established grounds for an order compelling discovery responses. The requests were properly served on Petitioner and, when no verified responses were received, Respondent informally attempted to resolve the issue offering to extend time to respond, though she was not required to do so. Nonetheless, Petitioner failed respond. Therefore, Petitioner is ordered to provide full and complete verified responses, without objections, to Form Interrogatories – Family Law, Set One and further responses to Request for Production, Inspection, and Photocopying of Documents, Records, and Things, Set One no later than November 21, 2024.

Respondent is requesting discovery sanctions in the amount of \$7,500.

Sanctions for are mandatory for one who "*unsuccessfully makes or opposes a motion to compel a response...unless [the court] finds that one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the*

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

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sanction unjust” Cal. Civ. Pro. §2030.290 (interrogatories) & § 2031.300(c)(requests for production). In all other circumstances, the imposition of discovery sanctions is permissive. See Cal. Civ. Pro. § 2023.030 (the court *may* impose monetary sanctions for misuse of the discovery process). Conduct subject to discretionary sanctions includes, but is not limited to, “[f]ailing to respond or submit to an authorized method of discovery.” Cal. Civ. Pro. § 2023.010(d).

Where sanctions are awarded, the amount imposed is to include “...the reasonable expenses, including attorney’s fees, incurred by anyone *as a result of...*” the conduct of the party subject to sanction. Cal. Civ. Pro. 2023.030(a). A party requesting sanctions must establish that the amount requested is reasonable, was incurred as a result of discovery abuse, and the requesting party must already be liable for those expenses before the court can award the costs as sanctions. See Tucker v. Pacific Bell Mobile Servs., 186 Cal. App. 4th 1548 (2010) (anticipated costs for future deposition could not be included in award of sanctions). Notwithstanding the foregoing, the court is obligated to “...impose a one-thousand-dollar (\$1,000) sanction, payable to the requesting party...” if the court finds that the noncompliant party did not respond in good faith to a request for production of documents. Cal. Civ. Pro. § 2023.050(a).

Here, Petitioner did not oppose the motion to compel, therefore, discovery sanctions are not mandatory. However, the court does find that Petitioner engaged in the misuse of the discovery process by failing to submit to authorized forms of discovery. He provides no justification for his actions. The court finds that the imposition of sanctions is warranted.

In reviewing Ms. Cordero’s billing records the court finds an award of sanctions in the amount of \$2,441.90 is proper. This covers amounts that would otherwise not have been incurred *but for* Petitioner’s misuse of the discovery process. The court is not awarding the amounts requested for time spent reviewing and replying to opposition papers as no such papers were submitted. Nor is the court awarding sanctions for time spent appearing at the hearing as those costs have not yet, and may not, be incurred. Sanctions are however subject to increase in the event Respondent incurs additional costs for Counsel’s appearance at the hearing.

In addition to the foregoing, the court is awarding \$1,000 in sanctions for failure to produce documents. The total sanctions due is \$3,441.90. This amount may be paid in one lump sum or in installments of \$203.49 to be paid directly to Respondent’s counsel.

LAW & MOTION TENTATIVE RULINGS

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

Payments are due on the 15th of each month commencing on November 15th and continuing until paid in full (approximately 12 months). If any payment is late or missing, the entire amount shall become immediately due and payable.

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

TENTATIVE RULING #10: THE PARTIES ARE ORDERED TO APPEAR FOR THE ARRAIGNMENT ON THE OSC. THE AGREEMENTS CONTAINED IN THE SEPTEMBER 16, 2024 CCRC REPORT ARE ADOPTED AS THE ORDERS OF THE COURT. RESPONDENT'S REQUEST FOR BIFURCATION IS DENIED. PETITIONER IS ORDERED TO PROVIDE FULL AND COMPLETE VERIFIED RESPONSES, WITHOUT OBJECTIONS, TO FORM INTERROGATORIES – FAMILY LAW, SET ONE AND FURTHER RESPONSES TO REQUEST FOR PRODUCTION, INSPECTION, AND PHOTOCOPYING OF DOCUMENTS, RECORDS, AND THINGS, SET ONE NO LATER THAN NOVEMBER 21, 2024. SANCTIONS ARE AWARDED IN THE AMOUNT OF \$3,441.90. THIS AMOUNT MAY BE PAID IN ONE LUMP SUM OR IN INSTALLMENTS OF \$203.49 TO BE PAID DIRECTLY TO RESPONDENT'S COUNSEL. PAYMENTS ARE DUE ON THE 15TH OF EACH MONTH COMMENCING ON NOVEMBER 15TH AND CONTINUING UNTIL PAID IN FULL (APPROXIMATELY 12 MONTHS). IF ANY PAYMENT IS LATE OR MISSING, THE ENTIRE AMOUNT SHALL BECOME IMMEDIATELY DUE AND PAYABLE. 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 PHONE CALL 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 PHONE CALL 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 7, 2024

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

12. ALYSSA HAAG V. NICK HAAG

PFL20200373

On June 13, 2024, Petitioner filed an Order to Show Cause and Affidavit for Contempt (OSC).

Parties appeared on September 19, 2024, for the initial arraignment. Respondent requested the services of the Public Defender's Office.

Parties are ordered to appear for the hearing.

TENTATIVE RULING #12: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 7, 2024

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

13. BRYAN MOORMAN V. HEIDI MOORMAN

22FL0569

Petitioner filed a Request for Order (RFO) on May 23, 2024, requesting a modification of permanent spousal support. Petitioner concurrently filed an Income and Expense Declaration. Respondent was personally served on May 27, 2024. Petitioner asserts there has been a change in circumstances and as such permanent spousal support should be modified.

Respondent filed a Responsive Declaration on July 22, 2024. Respondent concurrently filed her Income and Expense Declaration. Petitioner was personally served on July 22, 2024.

Parties appeared on August 8, 2024, and reached several agreements, including a reduction in spousal support to \$1,500 per month with the court reserving jurisdiction over the unpaid monthly balances. The parties additionally agreed to further mediation and a review hearing in 90 days.

Upon review of the court file, neither party has filed a Supplemental Declaration or an updated Income and Expense Declaration.

As neither party has filed a Supplemental Declaration or an updated Income and Expense Declaration, the court reasonably infers the current orders remain appropriate. Therefore, the court affirms the current orders and drops the matter from calendar.

All prior orders remain in full force and effect.

TENTATIVE RULING #13: AS NEITHER PARTY HAS FILED A SUPPLEMENTAL DECLARATION OR AN UPDATED INCOME AND EXPENSE DECLARATION, THE COURT REASONABLY INFERS THE CURRENT ORDERS REMAIN APPROPRIATE. THEREFORE, THE COURT AFFIRMS THE CURRENT ORDERS AND DROPS THE MATTER FROM CALENDAR. 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 PHONE CALL 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 PHONE CALL OR IN PERSON BY 4:00 P.M. ON

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November 7, 2024

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

**THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE
8.05.07.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 7, 2024

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

14. CARRAH JOHNSON V. JOSHUA JOHNSON

22FL0461

Petitioner filed a Request for Order (RFO) on August 16, 2024, requesting the court modify the current orders for child custody and parenting time as well as for child support. Petitioner concurrently filed an Income and Expense Declaration. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on September 19, 2024, and a review hearing on November 7th. Proof of Service shows Respondent was mail served on August 20, 2024.

Respondent filed a Responsive Declaration on September 13, 2024. Petitioner was personally served on September 15, 2024. Respondent has not filed an Income and Expense Declaration.

Both parties appeared at CCRC on September 19th and reached a full agreement. The parties submitted a stipulation which the court adopted as its order on September 23, 2024. The court finds the stipulation resolves the child custody and parenting plan portion of the RFO.

The court orders parties to appear for the hearing on the request for child support. The court orders Respondent to bring with him a completed Income and Expense Declaration along with the most recent two months paystubs.

The court maintains the current orders as to child custody and parenting time per the September 23rd stipulation. All prior orders not in conflict with this order remain in full force and effect. Petitioner shall prepare the findings and orders after hearing.

TENTATIVE RULING #14: THE PARTIES ARE ORDERED TO APPEAR FOR THE HEARING ON THE REQUEST FOR CHILD SUPPORT. THE COURT ORDERS RESPONDENT TO BRING WITH HIM A COMPLETED INCOME AND EXPENSE DECLARATION ALONG WITH THE MOST RECENT TWO MONTHS PAYSTUBS.

THE COURT MAINTAINS THE CURRENT ORDERS AS TO CHILD CUSTODY AND PARENTING TIME PER THE SEPTEMBER 23RD STIPULATION. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE 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 PHONE CALL TO THE COURT AT (530) 621-6725 BY 4:00 P.M. ON THE DAY THE

LAW & MOTION TENTATIVE RULINGS

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

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 PHONE CALL 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 7, 2024

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

15. DCSS V. ANSEL DUEY (OTHER PARENT: HEATHER MAE KEYES) PFS20120076

On May 21, 2024, Other Parent filed a Request for Order (RFO) seeking custody and visitation orders. There is no Proof of Service for this document, though Respondent did file a Responsive Declaration to Request for Order on August 6th thereby effectively waiving any defect in service.

The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on June 28, 2024. Only Joined Party participated in the appointment. Respondent appeared in-person for the appointment, though it was scheduled to be held telephonically. Given the confusion in scheduling, Respondent was unable to meaningfully participate in the appointment.

The court rereferred the parties to CCRC with an appointment on September 13, 2024, and a review hearing on November 7th.

Neither party appeared for the CCRC appointment on September 13th.

The court drops the matter from calendar due to both parties' failure to appear at the CCRC appointment. All prior orders remain in full force and effect.

TENTATIVE RULING #15: THE COURT DROPS THE MATTER FROM CALENDAR DUE TO BOTH PARTIES' FAILURE TO APPEAR AT THE CCRC APPOINTMENT. 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 PHONE CALL 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 PHONE CALL 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 7, 2024

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

16. GARRETT LARSON V. NICHOLE LARSON

PFL20170552

Petitioner filed a Request for Order (RFO) on May 17, 2024, seeking a post judgment modification of parenting time orders. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on June 24, 2024, and a review hearing on August 8th. Upon review of the court's file, there is no Proof of Service showing Respondent was properly served.

Nevertheless, both parties appeared for the CCRC appointment. The parties were unable to reach any agreements. A report with recommendations was filed with the court on July 26th and mailed to the parties the same day.

Respondent filed a Responsive Declaration on August 5, 2024. Proof of Service shows it was served electronically on August 1st.

Parties appeared for the hearing on August 8, 2024. The parties reached agreements, including adopting the CCRC recommendations, selection of a co-parenting counselor, and a review hearing on the progress in co-parenting counseling, the parenting plan overall, and potential reallocation of the co-parenting counseling costs. The court directed parties to file and serve Supplemental Declarations and Income and Expense Declarations at least 10 days prior to the review hearing.

Upon review of the court file, neither party has filed a Supplemental Declaration or an Income and Expense Declaration. As such, the court reasonably infers that there are no issues to be addressed at the review hearing and therefore, drops the matter from the court's calendar.

All prior orders remain in full force and effect.

TENTATIVE RULING #16: AS NEITHER PARTY HAS FILED A SUPPLEMENTAL DECLARATION OR AN INCOME AND EXPENSE DECLARATION. THEREFORE, THE COURT REASONABLY INFERS THAT THERE ARE NO ISSUES TO BE ADDRESSED AT THE REVIEW HEARING AND DROPS THE MATTER FROM THE COURT'S 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 PHONE CALL 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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 7, 2024

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

A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY PHONE CALL 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 7, 2024

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

17. HEATHER LOCKWOOD V. DAVID LOCKWOOD

PFL2020005

Petitioner filed a Request for Order (RFO) on August 13, 2024, requesting the court modify custody and parenting plan orders as well as appoint Minor's Counsel. The court notes Petitioner had previously filed a request for Minor's Counsel, which the court ruled on August 1, 2024. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on September 16, 2024, and a review hearing on November 7th. Upon review of the court file, there is Declaration of Mailing showing Respondent was mail served with the RFO and referral to CCRC on August 20th. This is a post-judgement request for modification and as such an Address Verification is required pursuant to Family Code section 215. No such verification has been filed. The court further notes, Petitioner's RFO contains over 220 pages of attachments.

Both parties attended CCRC on September 16th and were unable to reach any agreements. A report with recommendations was filed with the court on October 28, 2024. Copies were mailed to the parties the same day.

Respondent filed a Responsive Declaration on October 24, 2024. Petitioner was served on the same day. Respondent opposes the requested modification and opposes the court appointing Minor's Counsel. Respondent requests the court order Family Code section 271 sanctions against Petitioner for filing the same request, as to Minor's Counsel, 12 days after the court had denied the request, without setting forth a change in circumstances.

Petitioner filed a Supplemental Declaration on October 1, 2024. It was mail served on Respondent on October 4th.

Petitioner filed a Reply Declaration on October 28, 2024. It was electronically served on October 28, 2024.

The court has read and considered the filings as outlined above. The court makes the following findings and orders. The court adopts the recommendations as set forth in the October 28, 2024 CCRC report. The court finds the current orders remain in the minors' best interest.

As to the request for Minor's Counsel, the court reiterates its prior ruling from August 1, 2024. Petitioner has essentially filed a motion for reconsideration without setting forth any new or different facts. The request remains denied.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 7, 2024

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

An award for attorney's fees and sanctions may be made pursuant to Family Code section 271 which states, in pertinent part, "...the court may base an award of attorney's fees and costs on the extent to which the conduct of each party or attorney furthers or frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation by encouraging cooperation of the parties and attorneys. An award of attorney's fees and costs pursuant to this section is in the nature of a sanction." Fam. Code § 271(a). While the purpose of Section 271 is to impose a punitive sanction, the court is not to impose a sanction that would create an "unreasonable financial burden on the party against whom the sanction is imposed." *Id.* However, the court cannot award attorney's fees if the party is not represented by counsel. In re Marriage of Erndt and Terhorst, 59 Cal. App. 5th 898, (2023). Therefore, the court denies Respondent's request for Family Code section 271 sanctions.

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

TENTATIVE RULING #17: THE COURT ADOPTS THE RECOMMENDATIONS AS SET FORTH IN THE OCTOBER 28, 2024 CCRC REPORT. THE COURT FINDS THE CURRENT ORDERS REMAIN IN THE MINORS' BEST INTEREST. THE COURT DENIES THE REQUEST FOR MINOR'S COUNSEL. THE COURT DENIES THE REQUEST FOR FAMILY CODE SECTION 271 SANCTIONS. 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 PHONE CALL 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 PHONE CALL 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 7, 2024

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

18. HILLARY ERICKSON V. MATTHEW ERICKSON

23FL0136

On May 9, 2024, the parties appeared for a hearing on Respondent's RFO. The parties were able to reach agreements which the court adopted as its orders. The parties agreed to a review hearing on August 15th. Parties subsequently submitted a stipulation to continue the review hearing to October 17th. Parties were directed to file and serve Supplemental Declarations at least 10 days prior to the hearing.

Petitioner filed and served a Declaration on October 7th. Petitioner is requesting the court make additional orders, including a further review hearing in one year.

Respondent has not filed a Supplemental Declaration.

The parties appeared on October 17th and requested the review hearing be continued. The court granted the request and continued the hearing to November 7th. There have been no new filings since October 17th.

The court orders parties to appear for the hearing.

TENTATIVE RULING #18: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 7, 2024

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

19. JASON HARDOUIN V. JANA E NORELL

22FL0118

On December 20, 2023, the court sentenced Respondent for five counts of contempt. Respondent was ordered to complete 120 hours of community service in person with a non-profit or government agency for the first count of contempt. The court granted a term of probation and stayed sentencing on the remaining counts. The court set a compliance date of November 21, 2024. This review hearing was set to ensure Respondent's timely participation in the court ordered community service as well as compliance with all other court orders.

Petitioner filed a Declaration on September 5, 2024. Proof of Service shows Respondent was served on September 5, 2024. There was no Proof of Service showing Minor's Counsel was served. The court found this document to be late filed and did not consider it.

Respondent filed a Declaration with an attachment showing her compliance with the court ordered community service hours on October 21, 2024. There is no Proof of Service for this Declaration.

Petitioner filed a Declaration on October 21, 2024. Proof of service shows parties were served on October 21, 2024.

Respondent filed and served a Declaration on October 25, 2024.

Parties are ordered to appear for the hearing.

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 7, 2024

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

20. KAITLYN BROCK V. DAVID BROCK

22FL0003

Respondent filed a Request for Order (RFO) on April 15, 2024, requesting a modification of the child custody and parenting time orders. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on May 13, 2024, and a review hearing on July 11, 2024. Petitioner was personally served on April 22, 2024. Respondent is seeking additional parenting time with the minors. Respondent seeks to maintain joint legal custody.

Both parties appeared for the CCRC appointment and were able to reach many agreements. However, they were unable to agree on a parenting plan. A report with the parties' agreements as well as further recommendations was filed with the court on May 14, 2024. Copies were mailed to the parties on May 17th.

Petitioner filed a Responsive Declaration on June 20, 2024. Respondent was served on June 21, 2024. Petitioner agrees with joint legal custody and requests the court adopt the parenting plan as set forth in the CCRC report.

Respondent filed a Declaration on July 1, 2024. Proof of Service shows Petitioner was served on June 24, 2024.

On July 11, 2024, the court adopted the May 14th CCRC recommendations as set forth. The court set a review hearing for November 7th to address the parenting plan, consider increasing Respondent's parenting time, and the minors' adjustment to school.

Respondent filed a Declaration on October 25, 2024. Proof of Service shows Petitioner was served on October 26, 2024.

Petitioner filed a Declaration on October 28, 2024. Respondent was served by mail on October 28th.

The court has read and considered the filings as outlined above. The court finds the current orders remain in the minors' best interest.

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 #20: THE COURT FINDS THE CURRENT ORDERS REMAIN IN THE MINORS' BEST INTEREST. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER

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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 PHONE CALL 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 PHONE CALL 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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21. TAMMY EVANS V. CODY EVANS

23FL0016

Petitioner filed multiple ex parte requests for orders including on August 8, 2024, August 12, 2024, and August 26, 2024. All requests were denied on an ex parte basis.

Petitioner filed a Request for Order (RFO) on August 27, 2024, requesting the court make orders as to child custody, parenting time, child and spousal support, domestic violence orders, property control, attorney's fees, and other orders. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on September 20, 2024, and a review hearing on November 7th. Petitioner did not concurrently file an Income and Expense Declaration. Respondent was personally served on August 28, 2024.

Parties attended CCRC on September 20th and were unable to reach any agreements. A report with recommendations was filed with the court and mailed to the parties on October 1, 2024.

Respondent has not filed a Responsive Declaration or an Income and Expense Declaration.

Petitioner filed a Declaration on September 16th. The court has not located a Proof of Service showing this document was served on Respondent and therefore, cannot consider it.

Petitioner filed a Declaration on October 31, 2024. Respondent was electronically served on the same day. The court finds this to be late filed and therefore, has not considered it.

Custody and Parenting Time

The court has read and considered the October 1st CCRC report. The court finds the recommendations to be in the best interest of the minor. The court adopts the recommendations as its orders.

Child and Spousal Support

The court finds Petitioner has failed to comply with the California Rules of Court as well as the El Dorado County Local Rules. "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. The

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party requesting support shall file and serve their Income and Expense Declaration with the initial moving papers. El Dorado Sup. Ct. Rule 8.03.01. Petitioner failed to file and serve an Income and Expense Declaration at the time of filing of the RFO. Therefore, the requests for child and spousal are denied.

Attorney's Fees

Petitioner failed to include a FL-319 and FL-158 with her request for attorney's fees. Additionally, as set forth above, Petitioner failed to file and Income and Expense Declaration. Petitioner's request for attorney's fees is denied due to Petitioner's failure to file the requisite documentation, including Forms FL-319 and FL-158 or a declaration addressing the factors covered therein, as well as an Income and Expense Declaration.

Domestic Violence Orders

Petitioner is requesting the court vacate the Domestic Violence Restraining Order. Petitioner has not set forth any ground upon which the Domestic Violence Restraining Order, which was made permanent on September 4, 2024 should be vacated. The current orders remain in full force and effect.

Property Control

Petitioner is requesting exclusive use and control of the former marital residence. The court notes, this issue was addressed at the Domestic Violence Restraining Order hearing on September 4, 2024. The court granted Respondent a move out order for Petitioner be excluded from the Hampton Lane home. This order remains in full force and effect. Petitioner's request for exclusive use and control of the former marital residence is denied.

Petitioner is requesting Respondent be ordered to make payments for the mortgage, Volkswagen, preschool, and all household bills.

The request for Respondent to pay the mortgage and household utilities is granted as Respondent has exclusive use of the home.

The court addressed the issue of the Volkswagen payments at the September 4th Domestic Violence Restraining Order hearing. Petitioner is responsible for the payments. That order remains in full force and effect.

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As to the request for preschool payments, the court is ordering the parties to share the costs of preschool of the minor equally.

Other Orders

In the FL-300, Petitioner states see ex parte requests under other orders. The court finds this to be vague and overbroad. Therefore, the request for other orders 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.

TENTATIVE RULING #21: THE COURT FINDS THE RECOMMENDATIONS TO BE IN THE BEST INTEREST OF THE MINOR. THE COURT ADOPTS THE RECOMMENDATIONS AS ITS ORDERS. THE COURT FINDS PETITIONER HAS FAILED TO COMPLY WITH THE CALIFORNIA RULES OF COURT AS WELL AS THE EL DORADO COUNTY LOCAL RULES. “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. THE PARTY REQUESTING SUPPORT SHALL FILE AND SERVE THEIR INCOME AND EXPENSE DECLARATION WITH THE INITIAL MOVING PAPERS. EL DORADO SUP. CT. RULE 8.03.01. PETITIONER FAILED TO FILE AND SERVE AN INCOME AND EXPENSE DECLARATION AT THE TIME OF FILING OF THE RFO. THEREFORE, THE REQUESTS FOR CHILD AND SPOUSAL ARE DENIED. PETITIONER FAILED TO INCLUDE A FL-319 AND FL-158 WITH HER REQUEST FOR ATTORNEY’S FEES. ADDITIONALLY, AS SET FORTH ABOVE, PETITIONER FAILED TO FILE AND INCOME AND EXPENSE DECLARATION. PETITIONER’S REQUEST FOR ATTORNEY’S FEES IS DENIED DUE TO PETITIONER’S FAILURE TO FILE THE REQUISITE DOCUMENTATION, INCLUDING FORMS FL-319 AND FL-158 OR A DECLARATION ADDRESSING THE FACTORS COVERED THEREIN, AS WELL AS AN INCOME AND EXPENSE DECLARATION. REQUEST FOR RESPONDENT TO PAY THE MORTGAGE AND HOUSEHOLD UTILITIES IS GRANTED AS RESPONDENT HAS EXCLUSIVE USE OF THE HOME. THE COURT ADDRESSED THE ISSUE OF THE VOLKSWAGEN PAYMENTS AT THE SEPTEMBER 4TH DOMESTIC VIOLENCE RESTRAINING ORDER HEARING. PETITIONER IS RESPONSIBLE FOR THE PAYMENTS. THAT ORDER REMAINS IN FULL FORCE AND EFFECT. AS TO THE REQUEST FOR PRESCHOOL PAYMENTS, THE COURT IS ORDERING THE PARTIES TO SHARE THE COSTS OF PRESCHOOL OF THE MINOR EQUALLY. ALL OTHER REQUESTS ARE DENIED AS SET FORTH ABOVE. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN

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FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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