

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

December 15, 2022

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

12. ALEXIUS WHITE V. CARTER WHITE

PFL20200532

Respondent filed a Request for Order (RFO) on September 22, 2022, requesting retroactive spousal support as well as reimbursement for the purchase of Chromebooks for the minors. Petitioner was served by mail on October 4, 2022. Although Respondent is requesting a retroactive adjustment to spousal support, he has not filed an Income and Expense Declaration.

Respondent asserts in his declaration Petitioner has not complied with the previous spousal support order which requires a monthly true up for the overtime she earns. Respondent submits as Exhibit C a guideline support calculation and states the new support amount should be \$510 per month. It is unclear how this calculation was generated. It also appears Respondent is requesting a modification of spousal support, however, Respondent has failed to check the appropriate boxes on the FL-300. Respondent also attaches a receipt from Costco for the purchase of the Chromebooks.

Petitioner filed a Responsive Declaration and Income and Expense Declaration on December 5, 2022. Respondent was served by mail on December 5, 2022. Petitioner requests the court deny Respondent's requests. Petitioner asserts she has completed the true ups for overtime on a regular basis. There was a period of time which the parties agreed to not pay the overtime amounts to each other, as the amounts were negligible. Petitioner attaches as exhibits her pay stubs as well as copies of the checks for overtime support payments. Petitioner also objects to the request as Respondent has failed to file the necessary FL-150. Petitioner asserts the court should deny the request for reimbursement as this purchase was not discussed with her prior to Respondent making the purchase, and the minors had Chromebooks available to them for distance learning. Petitioner asserts the Chromebooks were a gift from Respondent to the minors.

The court denies Respondent's request to retroactively modify spousal support as it is not properly before the court. The California Rules of Court as well as the El Dorado County Local rules both require an Income and Expense Declaration be filed at the time of the request to modify support. Further the court finds Respondent's declaration fails to demonstrate the appropriate payments to true up overtime were not made. Petitioner's declaration and exhibits show there were overtime true up payments made. The court finds Respondent's request to modify the spousal support order is not properly before the court. The court denies Respondent's request for reimbursement for the purchase of the Chromebooks for the minors. Respondent has failed to demonstrate there was an agreement between the parties to split the costs of the Chromebooks. Further, the minors did not require additional Chromebooks, as they had the necessary equipment to participate in distance learning.

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

TENTATIVE RULING #12: THE COURT DENIES RESPONDENT'S REQUESTS FOR THE REASONS SET FORTH ABOVE. 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.

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13. B.V-H. V. A.F.

22FL0670

On July 22, 2022, Petitioner filed a Petition to Establish a Paternal Relationship. A summons was issued the same day. Upon review of the court file, there is no proof of service of the summons. However, on July 26, 2022, Respondent filed a Response to the petition, therefore, the court finds Respondent had actual notice and any defect in service is waived. Respondent affirms Petitioner is the parent of the minor. Therefore, the court orders parties to appear on the issue of paternity.

Petitioner filed an ex parte application for emergency orders on July 27, 2022. Petitioner requested the court grant the parties joint legal and physical custody and that the minor not be removed from the state of California. Petitioner further requested a parenting plan. On July 27, 2022, Respondent filed a Responsive Declaration. On July 28, 2022, the court denied the request in part and granted the request in part. The court ordered the parties to have joint legal custody. The minor to reside primarily with Respondent. Petitioner to have non-professionally supervised parenting time for two hours, two times per week, with parties to agree to a non-professional supervisor in writing. The court ordered the minor not be removed from California.

On July 28, 2022, Petitioner filed a Request for Oder (RFO) making the same requests as set forth in the ex parte application. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on August 15, 2022 and a review hearing on October 6, 2022. Upon review of the court file, there is no Proof of Service showing Respondent was served with the RFO or referral to CCRC.

On October 6, 2022, the parties were ordered to appear for the hearing on the issue of paternity. The parties contacted the Family Law Facilitator and stated they were unable to appear due to a medical emergency with the minor. The court found good cause to continue the matter, due to the medical emergency. The court ordered any supplemental declarations to be filed at least 10 days prior to the next hearing.

The court has not received any supplemental declarations nor a stipulation from the parties on the paternity issue. Therefore, parties are ordered to appear.

TENTATIVE RULING #13: PARTIES ARE ORDERED TO APPEAR ON THE ISSUE OF PATERNITY.

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

14. JULIE ROZZI V. MATTHEW ROZZI

PFL20200644

Petitioner filed a Request for Order (RFO) on October 3, 2022, requesting the court modify the current child support order. Petitioner concurrently filed an Income and Expense Declaration. Respondent was served with address verification on October 10, 2022. Petitioner is requesting guideline child support, with a 100% timeshare of the minor.

Respondent filed a Responsive Declaration and Income and Expense Declaration on December 2, 2022. Petitioner was served electronically on December 2, 2022. Respondent objects to the requested guideline support as he has been out of work since May 2022, due to a work injury and currently has no income.

The court needs additional information from Respondent prior to being able to calculate guideline support, namely whether he is receiving any workers compensation. Therefore, parties are ordered to appear for the hearing.

TENTATIVE RULING #14: PARTIES ARE ORDERED TO APPEAR.

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

15. KELLI JEANCOQ V. RAYMOND LONERGAN

PFL20120175

Respondent filed a Request for Order (RFO) on September 29, 2022, requesting the court modify child custody and parenting time orders as well as child support. Respondent did not file an Income and Expense Declaration despite requesting a modification of support. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on October 27, 2022 and a review hearing on December 15, 2022. Petitioner was served by mail on October 14.

In his declaration Respondent raised jurisdictional issues, which are not timely. California has had jurisdiction of this matter since 2019. Respondent is requesting in person visitation with the minor. It is unclear what legal or physical custody orders Respondent is requesting. It is also unclear what, if any, orders are being requested as to child support.

Petitioner filed a Responsive Declaration on October 24, 2022. Upon review of the court file, there is no Proof of Service showing this document was served on Respondent. As such, the court cannot consider this document.

Only Petitioner appeared at the CCRC appointment on October 27, 2022. Therefore, a single parent report was filed with no agreements or recommendations. A copy of the report was mailed to the parties on November 10, 2022.

Respondent filed a Declaration on November 29, 2022. There is no Proof of Service showing Petitioner was served, and therefore, the court cannot consider this document.

The court denies Respondent's motion. It fails to set forth any requested changes in child custody. As to visitation, it fails to set forth why the requested changes would be in the minor's best interest. Additionally, Respondent failed to participate in CCRC which was set on his motion. Finally, it is unclear what if any changes are being requested as to child support and Respondent failed to file and served the necessary documents for child support orders.

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

TENTATIVE RULING #15: THE COURT DENIES RESPONDENT'S REQUESTS. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

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**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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16. MEGAN MONTGOMERY V. CODY OLSEN

PFL20120175

Respondent filed a Request for Order (RFO) on September 22, 2022, requesting a modification of child custody and parenting time. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on October 24, 2022 and a review hearing on December 15, 2022. Upon review of the court file, there is no Proof of Service showing Petitioner was served with the RFO and referral to CCRC.

Neither party appeared for CCRC and a nonappearance report was filed.

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

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

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

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17. ROBERT THORNTON V. MELISSA MEANOR

PFL20140803

Respondent filed a Request for Order (RFO) on September 29, 2022, requesting the court deem Petitioner to be a vexatious litigant. Petitioner and Minor's Counsel were served by mail on September 30, 2022.

For judicial economy, the court continues the matter to join with the RFO filed by Petitioner set to be heard on December 22, 2022.

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

TENTATIVE RULING: FOR JUDICIAL ECONOMY, THE COURT CONTINUES THE MATTER TO JOIN WITH THE RFO SET FOR DECEMBER 22, 2022 AT 1:30 PM IN DEPARTMENT 5.

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

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

18. SAMANTHA KOPP V. JUSTIN MOAR

PFL20180187

Respondent filed a Request for Order (RFO) on October 3, 2022, requesting modification of the parenting time orders as well as the court striking the requirements that he complete a 90-day substance abuse treatment program, random drug testing, and third party supervision. Parties were not referred to Child Custody Recommending Counseling as they had participated in mediation in the last six months. Upon review of the court file, there is no Proof of Service showing Petitioner was properly served with the RFO.

Petitioner filed a Responsive Declaration on November 23, 2022. There is no Proof of Service showing the Responsive Declaration was served on Respondent, and therefore, the court cannot consider it.

The court drops the matter from calendar due to lack of proper service. Even if the court had reached the matter on the merits, the court would have denied Respondent's request. Essentially, Respondent has requested the court reconsider its August 18, 2022 orders. Respondent has failed to state any new or different evidence or law that was not available to him at the time of the hearing. Respondent had failed to identify any grounds upon which the court could reconsider its ruling and orders. Therefore, the Respondent's motion would fail on the merits as well.

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

TENTATIVE RULING #18: THE MATTER IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT.

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19. STEPHANIE AMMONS V. KYLE CATLIN

PFL20190640

Respondent filed an ex parte request for emergency orders on October 5, 2022. Respondent currently filed an Income and Expense Declaration. Petitioner filed a Responsive Declaration on October 6, 2022. On October 7, 2022, the court granted the request and made additional orders. Respondent filed a Request for Order (RFO) on October 7, 2022 making the same requests in the ex parte along with a request for modification of child support. The parties were referred to Child Custody Recommending Counseling for an appointment on November 2, 2022 and a review hearing on December 15, 2022. Petitioner was served by mail on October 20, 2022.

Only Respondent appeared for the CCRC appointment. As such a single parent report with no agreements or recommendations was filed. A copy of the report was mailed to the parties on November 3, 2022.

Petitioner has not filed a Responsive Declaration or Income and Expense Declaration.

The court needs additional information prior to being able to rule on the matter. Parties are ordered to appear for the hearing. Petitioner is ordered to file and serve an Income and Expense Declaration forthwith.

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

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20. VANESSA PREUSS V. KEVIN PREUSS

22FL0118

Petitioner filed a Request for Order (RFO) requesting a change in child support on August 12, 2022. Petitioner concurrently filed an Income and Expense Declaration. Respondent was served by mail on August 18, 2022. Petitioner is requesting guideline child support.

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

Petitioner subsequently filed a RFO requesting a change in child custody and parenting time which was set for a hearing on December 15, 2022. The court found it needed to resolve the custody issues in conjunction with the request for support. Therefore, in the interest of judicial economy, the court continued the request to modify child support to join with the request set on December 15, 2022. Further, both parties were ordered to file updated Income and Expense Declarations at least 10 days prior to the hearing. Additionally, any Supplemental Declarations were due at least 10 days prior as well.

Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on October 27, 2022. Upon review of the court file, there is no Proof of Service showing Respondent was served with the September 30, 2022 RFO or the referral to CCRC.

Nevertheless, both parties appeared at the CCRC appointment, however, were unable to reach any agreements. A report with recommendations was filed on December 6, 2022. A copy of the report was mailed to the parties on December 8, 2022.

Petitioner filed an updated Income and Expense Declaration on November 29, 2022. Proof of Service shows it was mailed to Respondent on November 28, 2022.

Respondent attempted to file an updated Income and Expense Declaration on December 2, 2022. However, it was rejected by the Clerk's Office due to having an incorrect case number.

The court has read and considered the filings as set forth above. The court finds the recommendations contained in the December 6, 2022 filed CCRC report to be in the best interest of the minors and adopts the recommendations as its orders. The court finds these orders do not result in any change in custody or parenting time.

Petitioner is requesting the court order guideline child support. Previously, the parties had stipulated to deviate from guideline child support. As Respondent has not filed an Income and Expense Declaration, the court does not have the information it requires to calculate support. Therefore, the court continues the issue of child support to the next available court date. Parties are ordered to file and serve updated Income and Expense Declarations at least

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10 days prior to the next hearing. The court continues to reserve jurisdiction to retroactively modify child support to the date of the filing of the RFO.

Petitioner is ordered to prepare and file the Findings and Orders After Hearing.

TENTATIVE RULING #20: THE COURT FINDS THE RECOMMENDATIONS CONTAINED IN THE DECEMBER 6, 2022 FILED CCRC REPORT TO BE IN THE BEST INTEREST OF THE MINORS AND ADOPTS THE RECOMMENDATIONS AS ITS ORDERS. THE COURT CONTINUES THE REQUEST TO MODIFY CHILD SUPPORT TO FEBRUARY 16, 2022 AT 1:30 PM IN DEPARTMENT 5. PARTIES ARE ORDERED TO FILE AND SERVE UPDATED INCOME AND EXPENSE DECLARATIONS AT LEAST 10 DAYS PRIOR TO THE NEXT HEARING. THE COURT CONTINUES TO RESERVE JURISDICTION TO RETROACTIVELY MODIFY CHILD SUPPORT TO THE DATE OF THE FILING OF THE RFO. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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21. ANGELA HURLEY V. IVAN RIVERA

PFL20200615

Respondent filed a Request for Order (RFO) on June 16, 2022 requesting a modification of the holiday schedule and drop-off location for custody exchanges. Petitioner and Minor's Counsel were served by mail on July 1, 2022. Respondent is requesting the court order joint legal custody as well as two weeks for summer vacation, one week in winter, as well as changing Christmas Day and Christmas Eve times, every other Easter vacation, and change the drop-off location to West Sacramento Police Department.

Minor's Counsel filed a Statement of Issues and Contentions and Request for Orders on August 11, 2022. It was served on the parties by mail on August 11, 2022. Minor's Counsel objects to any modification of legal custody. Despite multiple attempts to schedule a meeting with her client, Minor's Counsel was unable to do so. Minor's Counsel requests the court order Petitioner make the minor available to her attorney within the next two weeks and continue the matter for further review hearing.

Petitioner filed a Responsive Declaration on August 15, 2022. Respondent and Minor's Counsel were served by mail on August 15, 2022. Petitioner opposes any modifications to the current custody orders and holiday schedule. Petitioner further requests Respondent's parenting time be supervised, as he has continuously made disparaging remarks about Petitioner and her husband to the minor. Petitioner asserts Respondent is requesting the changes as a means of harassing Petitioner. Petitioner also requests the court make a no travel order as she believes Respondent possibly intends to take the minor out of state without permission.

On August 25, 2022, the court denied Respondent's request to modify the current legal custody orders. The court continued the matter from August 6, 2022 to October 6, 2022 to allow Minor's Counsel to meet with her client. On October 6, 2022, the matter was once again continued to December 15, 2022, to allow Minor's Counsel to speak with her client.

Minor's Counsel filed a Statement of Issues and Contentions on December 2, 2022. Parties were served by mail and electronically on December 2, 2022. Minor's Counsel had the opportunity to speak with her client. It is Minor's Counsel's recommendation that the current orders remain in full force and effect with the following modifications: the parenting plan exchanges be modified to Friday at 4 PM for Respondent to pick up and Sunday at 6:00 PM for drop off on alternating weeks and the exchange location be Placerville Police Department, rather than the minor's school. Parties had an informal agreement to meet at the Folsom Police Department due to the Caldor Fire in 2021.

Respondent filed a Responsive Declaration to Minor's Statement of Issues and Contentions on December 8, 2022. Petitioner and Minor's Counsel were served on December

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8, 2022. Respondent is in agreement with maintaining the current parenting plan, however, he objects to the recommendation to modify the exchange location to the Placerville Police Department and does not agree to the drop off time of 6:00 PM on Sunday. Respondent requests the court maintain the informal agreement of the parties for the exchanges to take place at the Folsom Police Department and the drop off to be at 6:30 on Sundays.

Petitioner filed a Responsive Declaration to Minor's Counsel's statement of issues and contentions on December 9, 2022. Respondent and Minor's Counsel were served by mail on December 9, 2022. Petitioner is requesting the prior orders remain in full force and effect. Petitioner objects to the exchanges occurring at the Folsom Police Department going forward, as that was to be temporary during the Caldor Fire. Petitioner requests that if the exchange location is to be modified, it be to either the Placerville Police Department or the El Dorado County Sheriff's Department, as either of those locations will save Respondent driving time as compared to the minor's school.

The court has read and considered the filings as outlined above. The court denies Respondent's request to modify the current parenting plan. All current orders remain in full force and effect. Respondent shall pick up the minor on alternating weekends at 4:00 at the El Dorado County Sheriff's Substation, located at 4354 Town Center Drive, Suite 112 El Dorado Hills, CA 95762 and drop off the minor at the same location at 6:00 PM on Sunday.

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

TENTATIVE RULING #21: THE COURT DENIES RESPONDENT'S REQUEST TO MODIFY THE CURRENT PARENTING PLAN. ALL CURRENT ORDERS REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PICK UP THE MINOR ON ALTERNATING WEEKENDS AT 4:00 AT THE EL DORADO COUNTY SHERIFF'S SUBSTATION, LOCATED AT 4354 TOWN CENTER DRIVE, SUITE 112 EL DORADO HILLS, CA 95762 AND DROP OFF THE MINOR AT THE SAME LOCATION AT 6:00 PM ON SUNDAY. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. MINOR'S COUNSEL SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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