

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

December 15, 2022

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

**1. BRIGETTE FAIETA V. NOAH ARON**

**PFL20190435**

Respondent filed a Request for Order (RFO) on September 30, 2022, requesting the court set aside its September 29, 2022 orders. Respondent also requests the court modify the current child support order as he is not currently employed. Respondent did not file an Income and Expense Declaration. Upon review of the court file, there is no Proof of Service showing Petitioner was properly served with the RFO.

On December 2, 2022, Petitioner filed a Responsive Declaration, in opposition to the motion to set aside, a Declaration for attorney fees, as well as an Income and Expense Declaration. Respondent was served electronically on December 2, 2022. Petitioner asserts in her opposition to the motion to set aside the September 29, 2022 orders that Respondent's claim is without merit and should be denied. Petitioner asserts the court should not allow Respondent's request as it would allow him to eschew the El Dorado County Local Rules as well as the California Rules of Court. Respondent received notice of the tentative ruling procedure when he filed his RFO in May 2022. Further, Petitioner asserts Respondent has previously properly requested oral argument on a tentative ruling. Petitioner also requests the court deny the request to modify child support as Respondent has failed to comply with El Dorado County Local Rule 8.03.01, 8.03.02, and 8.03.03, in that he failed to file the requisite documents for a request to modify support. Petitioner requests the court award her attorney fees based on Family Code section 271 for Respondent's failure to comply with the El Dorado County Local Rules.

Respondent filed a Reply Declaration on December 6, 2022. Upon review of the court file, there is no Proof of Service showing Petitioner was served. Therefore, the court cannot consider this document.

The court has read and considered the filings as set forth above. The court finds good cause to reach the RFO on the merits, despite the lack of Proof of Service, as Petitioner has filed a Responsive Declaration which addresses the issues raised by Respondent. The court denies Respondent's request to set aside the September 29, 2022 orders. The court finds this is akin to a motion for reconsideration. Respondent has failed to set forth and new or different facts or law which would allow the court to grant a motion for reconsideration. Respondent disagreeing with the court's orders is not grounds for reconsideration. Respondent had an opportunity to request oral argument after reviewing the tentative ruling issued on September 28, 2022. Respondent failed to follow the Local Rules and California Rules of Court. The Local Rules and California Rules of Court are applicable to all parties in court proceedings and ensure the court process is equitable to all. To allow Respondent leeway to "bend" the rules in his favor because he is appearing in persona propria would defeat the purpose of the Local Rule and California Rules of Court.

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The court denies Respondent's request to modify child support. As raised by Petitioner, Respondent has not filed the documents necessary to allow the court to rule on this request.

As to Petitioner's request for Family Code section 271 attorney fees, the court finds the purpose of Family Code Section 271 sanctions is to discourage behaviors which "frustrate the public policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation by encouraging cooperation between the parties and attorneys." Fam. Code § 271. Section 271 sanctions may also be imposed where there is a violation of court orders. Here, while Respondent has failed to comply with the Local Rules in filing his RFO, the court does not find his RFO to be frivolous or that it frustrates the policy to promote settlement. Therefore, the court denies Petitioner's request for Family Code section 271 attorney fees. Respondent is admonished however, that his continued failure to follow the El Dorado County Local Rules and California Rules of Court in the future, may warrant an award of such fees. While Respondent is appearing In Persona Propria, he is held to the same standards as counsel. The Family Law Facilitator's office is available for parties who do not have counsel. Respondent is strongly encouraged to work with the Family Law Facilitator to ensure compliance with the El Dorado County Local Rules and California Rules of Court.

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

**TENTATIVE RULING #1: THE COURT DENIES RESPONDENT'S RFO AS SET FORTH ABOVE. THE COURT DENIES PETITIONER'S REQUEST FOR FAMILY CODE SECTION 271 SANCTIONS AS SET FORTH ABOVE. 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 GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.**

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**2. JAMES BOWLS V. PAMELA BOWLS**

**PFL20060624**

On August 30, 2022, parties reached a stipulated resolution regarding Respondent's request for contempt. The court adopted the parties' stipulation and set a further review hearing to ensure compliance with the agreement and for Respondent to formally dismiss the contempt charges.

Neither party has filed a supplemental declaration.

Parties are ordered to appear to update the court regarding compliance with the stipulation and Respondent's intent on dismissal.

**TENTATIVE RULING #2: PARTIES ARE ORDERED TO APPEAR.**

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

**4. KATHERINE PRIVOTT-AINSWORTH V. RYAN AINSWORTH**

**22FL0457**

On July 15, 2022, Petitioner filed a Request for Order (RFO) requesting the court make orders as to child custody, parenting time, child support, spousal support, property control, and equal division of costs for the minors. Petitioner concurrently filed an Income and Expense Declaration. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on August 18, 2022 and a review hearing on October 6, 2022. Upon review of the court file, the court is unable to locate of Proof of Service showing Respondent was served.

Respondent filed a Responsive Declaration on August 17, 2022. Petitioner was served electronically on August 15, 2022.

Parties attended CCRC on August 18, 2022 and reached a full agreement. A copy of the report was mailed to the parties on August 31, 2022.

On September 30, 2022, parties submitted a stipulation to the court which addressed nearly all the issues raised in Petitioner's RFO. The parties requested to continue the October 6, 2022 hearing to November 17, 2022 for a further hearing on the Vocational Evaluation Report and Respondent's request for a seek-work order. The parties agreed any supplemental pleadings shall be filed and served at least 10 days prior to the hearing. The stipulation also provided the court shall reserve jurisdiction to retroactively modify child and spousal support between November 17, 2022 and the date of any future proceeding on the Vocation Report.

There have been no additional filings in this matter. The court is not in receipt of the Vocational Evaluation report.

The court continues the matter for receipt of the Vocational Evaluation report. The court continues to reserve jurisdiction to retroactively modify child and spousal support to November 17, 2022.

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 #4: THE COURT CONTINUES THE MATTER FOR RECEIPT OF THE VOCATIONAL EVALUATION REPORT TO MARCH 2, 2022 AT 8:30 IN DEPARTMENT 5. THE COURT CONTINUES TO RESERVE JURISDICTION TO RETROACTIVELY MODIFY CHILD AND SPOUSAL SUPPORT TO NOVEMBER 17, 2022. 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.**

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**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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**5. LONA SCOTT V. JUSTIN SCOTT**

**PFL20180724**

On September 28, 2022, parties appeared for judgment and sentencing on the previously sustained contempt allegations. There had been no violation of the court orders in the past year, and therefore, Petitioner agreed to dismiss the contempt charges. Petitioner requested she be awarded attorney fees and costs for having to bring the contempt charges. The court dismissed the contempt charges and reserved jurisdiction and continued the matter of attorney fees and costs to December 15, 2022.

Petitioner filed a Declaration on December 20, 2021 regarding the fees and costs she had incurred bringing the contempt charges. Respondent was served by mail on December 20, 2021. The total requested by Petitioner is \$1,824.68.

The court grants Petitioner's request for attorney fees and costs. Respondent shall pay Petitioner \$1,824.68 for attorney fees and costs. Respondent shall pay Petitioner \$100 per month for fees and costs. The court finds this will be 17 payments of \$100 and a final payment of \$124.68. Payment is due the first of each month. The first payment is due January 3, 2023, due to the New Year holiday. If there is any missed payment, the full amount owing is due with legal interest.

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 #5: THE COURT GRANTS PETITIONER'S REQUEST FOR ATTORNEY FEES AND COSTS. RESPONDENT SHALL PAY PETITIONER \$1,824.68 FOR ATTORNEY FEES AND COSTS. RESPONDENT SHALL PAY PETITIONER \$100 PER MONTH FOR FEES AND COSTS. THE COURT FINDS THIS WILL BE 17 PAYMENTS OF \$100 AND A FINAL PAYMENT OF \$124.68. PAYMENT IS DUE THE FIRST OF EACH MONTH. THE FIRST PAYMENT IS DUE JANUARY 3, 2023, DUE TO THE NEW YEAR HOLIDAY. IF THERE IS ANY MISSED PAYMENT, THE FULL AMOUNT OWING IS DUE WITH LEGAL INTEREST. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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

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**6. MARK JOHNSON V. ROXANE JOHNSON**

**22FL0611**

Respondent filed a Request for Order (RFO) on October 17, 2022, requesting spousal support, attorney fees, and access to retrieve personal property from the former marital residence. Respondent concurrently filed an Income and Expense Declaration. Petitioner was personally served on November 18, 2022. Respondent is requesting temporary guideline spousal support. Respondent is also requesting \$8,000 in attorney's fees.

Petitioner filed a Responsive Declaration on December 2, 2022 as well as a Declaration of Counsel. Respondent was served by mail on December 2, 2022. Petitioner objects to Respondent's request for temporary spousal support as well as the request for attorney's fees. Petitioner asserts the parties have been separated since 2014 and Respondent has never requested spousal support. Petitioner asserts he does not have the capacity to pay spousal support. Petitioner also objects to the request for attorney's fees as Petitioner asserts Respondent has failed to respond to any of his proposals in the case, thereby requiring him to retain counsel and file the previous RFO. Petitioner is in agreement with Respondent picking up her personal belongings. Petitioner attached a letter dated June 6, 2022, wherein he offers Respondent to set a time to pick up her items. Petitioner states Respondent never responded to the letter. Petitioner has not filed an updated Income and Expense Declaration.

Counsel for Petitioner in her Declaration raises a concern about the October 17, 2022 filed RFO as Respondent has different counsel from the hearing on September 15, 2022. Petitioner's counsel states the RFO may be invalid.

The court has reviewed the Notice of Limited Scope Representation filed by Respondent's counsel on September 15, 2022. It clearly sets forth the representation by Ms. Randle was for the hearing on September 15, 2022 only. However, there has been no substitution of attorney as required at the completion of the representation as set forth in the Notice of Limited scope. Further, the court has not received a Substitution of Attorney for Respondent's current counsel, Mr. Jarrett.

On September 15, 2022, parties appeared for a hearing on Petitioner's RFO to sell the former marital residence. The court set a further review hearing on the RFO for December 15, 2022. Neither party has filed a Supplemental Declaration regarding the sale of the home.

The court needs additional information on both Petitioner's RFO and Respondent's RFO prior to proceeding. Parties are ordered to appear. Petitioner is ordered to file and serve and updated Income and Expense Declaration forthwith.

**TENTATIVE RULING #6: PARTIES ARE ORDERED TO APPEAR. PETITIONER IS ORDERED TO FILE AND SERVE AND UPDATED INCOME AND EXPENSE DECLARATION FORTHWITH.**

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**7. NATALIE FREIBERG V. ERIC FREIBERG**

**PFL20160530**

Respondent filed a Request for Order (RFO) on September 28, 2022, requesting the court set-aside or modify the judgment, adjudicate omitted debt, and order reimbursement. Petitioner was served electronically on September 28, 2022. The court notes the Proof of Service filed states the RFO with attachments was served, and not the blank FL-320 or the notice of tentative ruling, both of which are also required to be served.

Pursuant to Family Code Section 215, notice of a request for a post judgment modification must be personally served on the opposing party, "in the same manner as the notice is otherwise permitted by law to be served..." failure to do so is the equivalent to failure to serve the summons and complaint, rendering the post judgment order void on its face. Fam. Code § 215(a); Marriage of Roden, 193 Cal. App. 3d 939, 944-945(1987); Marriage of Seagondollar, 139 Cal. App. 4th 1116, 1130(2006). Therefore, the court finds the RFO was not properly served and drops the matter from calendar.

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

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**8. SHEILA LINEBACK V. PAUL LINEBACK**

**PD2884**

Respondent filed a Request for Order (RFO) requesting the court modify the order for permanent spousal support. Petitioner was served by first class mail via her attorney of record. Pursuant to Family Code Section 215, notice of a request for a post judgment modification must be personally served on the opposing party, "in the same manner as the notice is otherwise permitted by law to be served..." failure to do so is the equivalent to failure to serve the summons and complaint, rendering the post judgment order void on its face. Fam. Code § 215(a); Marriage of Roden, 193 Cal. App. 3d 939, 944-945(1987); Marriage of Seagondollar, 139 Cal. App. 4th 1116, 1130(2006). Therefore, the court finds the RFO was not properly served and drops the matter from calendar.

**TENTATIVE RULING #8: 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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8:30 a.m./1:30 p.m.

**9. SUKHDEEP PUNIA V. ASHWINDER PUNIA**

**PFL20200482**

Petitioner filed a Request for Order (RFO) on September 26, 2022, requesting the court modify child custody, child support, and permanent spousal support. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on October 26, 2022 and a review hearing on December 15, 2022. Respondent was served by mail to counsel of record on October 26, 2022, the date of the CCRC appointment. Respondent was also served via counsel of record electronically the same date.

Pursuant to Family Code Section 215, notice of a request for a post judgment modification must be personally served on the opposing party, “in the same manner as the notice is otherwise permitted by law to be served...” failure to do so is the equivalent to failure to serve the summons and complaint, rendering the post judgment order void on its face. Fam. Code § 215(a); Marriage of Roden, 193 Cal. App. 3d 939, 944-945(1987); Marriage of Seagondollar, 139 Cal. App. 4th 1116, 1130(2006). A post judgment custody, visitation, or child support modification motion may be served on the other party by postage prepaid “first class-mail or airmail” so long as the proof of service contains an address verification. (Family Code section 215(b).) The RFO was served electronically and on counsel of record, therefore, the court finds the RFO was not properly served and drops the matter from calendar.

**TENTATIVE RULING # 9: THE COURT DROPS THE MATTER FROM CALENDAR DUE TO LACK OF PROPER SERVICE.**

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**10. SUSAN SOHAL V. RISHI SOHAL**

**PFL201805104**

Petitioner filed a Request for Order (RFO) on September 30, 2022 asking the court to terminate Respondent's parenting time and refer the matter to FCS for mediation to facilitate an order directing Respondent to engage in parenting therapy before his parenting time may be restored. The RFO was served both electronically and by mail on October 3<sup>rd</sup>.

Petitioner argues Respondent has been inconsistent with his parenting time and unaccountable regarding the activities of the children. She argues this is detrimental to the health and wellbeing of the children.

The parties attended Child Custody Recommending Counseling (CCRC) on October 27<sup>th</sup>. CCRC issued a report on November 4, 2022 which provides recommendations for a parenting plan, exchanges, summer break and respect guidelines. The report was mailed to the parties the same date of issuance.

On November 18<sup>th</sup>, Respondent filed a Responsive Declaration to Request for Order. There is no Proof of Service on file for this document. As such, the court cannot consider it.

The court has reviewed the aforementioned filings of the parties as well as the CCRC report and finds that the recommendations contained in the CCRC report are in the best interests of the minors. The court hereby adopts the recommendations as listed in the November 4, 2022, CCRC report to be the orders of the court. All prior rulings not in conflict with this ruling are to remain in full force and effect.

**TENTATIVE RULING #10: THE COURT HEREBY ADOPTS THE RECOMMENDATIONS AS LISTED IN THE NOVEMBER 4, 2022, CCRC REPORT TO BE THE ORDERS OF THE COURT. ALL PRIOR RULINGS NOT IN CONFLICT WITH THIS RULING ARE TO REMAIN IN FULL FORCE AND EFFECT. PETITIONER IS TO 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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**11. WENDEE DELANO V. JASON DELANO**

**PFL20170123**

On September 16, 2022, Respondent filed a Request for Order (RFO) seeking orders for child custody and visitation, child support, and spousal support. The RFO was filed concurrently with Respondent's Income and Expense Declaration. Both documents, along with all other required documents, were served on September 19<sup>th</sup>.

Petitioner filed her Income and Expense Declaration and her Responsive Declaration to Request for Order on December 2, 2022. Both documents were served electronically and by mail the same day.

Custody/Visitation

Respondent is seeking a 2/2/5 parenting schedule in order to increase his time with the children. Respondent notes that the parties had reconciled for a few years and he was living with Petitioner and the children during that time. As of August 15, 2022, Respondent once again moved out and the parties separated. Now, Respondent claims, Petitioner is refusing to abide by the previously established parenting schedule.

According to Petitioner's declaration she would like sole legal and physical custody of the children, with "conditional visits" to Respondent. She states that Respondent has a problem with drug and alcohol abuse. She argues that even when the parties reconciled, Respondent did not have unsupervised time with the children. She would like the order for a clean drug and alcohol test to stay in effect.

The parties attended Child Custody Recommending Counseling (CCRC) on October 19, 2022, though it was not until December 5<sup>th</sup> that a report was prepared and mailed to the parties. The parties were able to reach several agreements as set forth in the CCRC report. After reviewing the agreements contained in the CCRC report, the court finds them to be in the best interests of the children and hereby adopts them as the orders of the court with the following modification: Section 2 shall be changed to read "After successful completion of drug testing and an AOD Assessment, and any and all recommendations made in the AOD Assessment, Father shall have parenting time during the 2<sup>nd</sup>, 4<sup>th</sup>, and 5<sup>th</sup> weekend of the month from Friday after school (or 5:00 p.m. until Sunday at 5:00 p.m.)."

Child Support

Respondent is asking to have child support recalculated on the basis that the current support orders were established prior to one of the children reaching the age of majority. He would like the court to use a 50/50 split in calculating support in accordance with his requested 2/2/5 visitation schedule. Finally, he asks the court to impute minimum wage to Petitioner as she was issued a Gavron Warning in July of 2017. She worked for Marshall Medical for a short time while the parties were reunited but gave up that position when the COVID-19 pandemic hit. She has not returned to work since.

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Petitioner asks to have child and spousal support calculated using Respondent's W-2 as she asserts, Respondent has not disclosed the bonuses he has received.

Under the agreements reached in the CCRC report, Respondent will have approximately 60 hours per month with the children until he successfully completes an AOD Assessment and the resulting treatment recommendations. This amounts to an 8% timeshare. If/when, Respondent successfully completes drug testing and an AOD Assessment and recommendations, his timeshare will increase to approximately 19%. Accordingly, the court has prepared the attached two DissoMaster reports. The first, with an 8% timeshare shall take effect as of October 1, 2022. The second, with the 19% timeshare, shall go into effect only upon Respondent's completion of drug testing and an AOD Assessment and recommendations, and the parties moving to the increased visitation schedule as listed in the CCRC report.

The court denies Respondent's request to impute Petitioner with additional income. The court finds Petitioner is currently employed at 20 hours per week, which is reasonable given the ages of the minors. The court will reissue the Gavron warning.

Utilizing the figures contained in the attached DissoMaster report at an 8% timeshare, the court finds that child support is \$2,659 per month. The court adopts the attached DissoMaster report and orders Respondent to pay Petitioner \$2,659 per month as and for child support, payable on the 1st of the month until further order of the court or legal termination. The parties are to utilize the attached overtime table to account for any overtime payments received by Respondent. The court orders the child support order effective October 1, 2022.

The court finds the above order results in arrears in the amount of \$7,977 through and including December 1, 2022. The court orders Respondent pay Petitioner \$500 on the 15th of each month (with a final payment of \$477) until paid in full (approximately 16 months). If a payment is late or missed the remaining balance is due in full, with legal interest, within five (5) days of the date the missed or late payment was due.

If/when Respondent successfully completes drug testing and an AOD Assessment and recommendations, and the parties move to the increased timeshare as stated in the CCRC report, the following support orders shall go into effect concurrently with the increased timeshare. See attached DissoMaster report with a 19% timeshare. Respondent shall pay Petitioner \$2,522 per month as and for child support, payable on the 1st of the month until further order of the court or legal termination. The parties are to utilize the second DissoMaster overtime table to account for any overtime received by Respondent after the 19% timeshare has gone into effect.

Spousal Support

As with child support, Respondent is asking Petitioner to be imputed with minimum wage when calculating spousal support. Respondent argues Petitioner has marketable skills,

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education and training. Petitioner is a trained phlebotomy technician who previously was paid \$20.70 per hour. The current average salary for that position is \$21.88 per hour.

As set forth above, the court denies Respondent's request to impute Petitioner with additional income. The court finds Petitioner is currently employed at 20 hours per week, which is reasonable given the ages of the minors. The court will reissue the Gavron warning.

Utilizing the figures contained in the attached DissoMaster report, the court finds that spousal support per the Alameda formula is \$1,543 per month. The court adopts the attached DissoMaster report and orders Respondent to pay Petitioner \$1,543 per month as and for spousal support, payable on the 1st of the month until further order of the court or legal termination. The court orders this spousal support order effective as of October 1, 2022.

The court finds the above order results in arrears in the amount of \$4,629 through and including December 1, 2022. The court orders Respondent pay Petitioner \$500 on the 15th of each month (with a final payment of \$129) until paid in full (approximately 10 months). If a payment is late or missed the remaining balance is due in full, with legal interest, within five (5) days of the date the late or missed payment was due.

If/when Respondent successfully completes drug testing and an AOD Assessment, and the parties move to the increased timeshare as stated in the CCRC report, the following support orders shall go into effect concurrently with the increased timeshare. Respondent shall pay Petitioner \$1,457 per month as and for spousal support, payable on the 1st of the month until further order of the court or legal termination.

The Parties are advised that it is the goal of the State of California that both parties shall become and remain self-supporting to the best of their ability. You are further advised that, at some future date, should you fail to become self-supporting the other party may argue that your failure to become self-supporting is a factor which may be considered by the Court to modify a spousal support order or terminate the court's jurisdiction to order spousal support. You are further advised that if you voluntarily terminate employment, the court can impute income to you without application of the ability and opportunity requirement and the court can deny a modification of support. IRMO Gavron, 203 Cal.App.3d 705, (1988). You are further advised that mismanagement of your estate may result in a reduction of the court's order of support, termination of the court's ability to continue spousal support or imputation of income on property.

**TENTATIVE RULING #11: THE AGREEMENTS CONTAINED IN THE CCRC REPORT ARE ADOPTED AS THE ORDERS OF THE COURT WITH THE FOLLOWING MODIFICATION: SECTION 2 SHALL BE CHANGED TO READ "AFTER SUCCESSFUL COMPLETION OF DRUG TESTING AND AN AOD ASSESSMENT, AND ANY AND ALL RECOMMENDATIONS MADE IN THE AOD ASSESSMENT, FATHER SHALL HAVE PARENTING TIME DURING THE 2<sup>ND</sup>, 4<sup>TH</sup>, AND 5<sup>TH</sup> WEEKEND OF THE MONTH FROM FRIDAY AFTER SCHOOL (OR 5:00 P.M. UNTIL SUNDAY AT 5:00 P.M.)."**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

December 15, 2022

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

UTILIZING THE FIGURES CONTAINED IN THE ATTACHED DISSOMASTER REPORT AT AN 8% TIMESHARE, THE COURT FINDS THAT CHILD SUPPORT IS \$2,659 PER MONTH. SEE ATTACHED DISSOMASTER REPORT. THE COURT ADOPTS THE ATTACHED DISSOMASTER REPORT AND ORDERS RESPONDENT TO PAY PETITIONER \$2,659 PER MONTH AS AND FOR CHILD SUPPORT, PAYABLE ON THE 1ST OF THE MONTH UNTIL FURTHER ORDER OF THE COURT OR LEGAL TERMINATION. THE PARTIES ARE TO UTILIZE THE ATTACHED OVERTIME TABLE TO ACCOUNT FOR ANY OVERTIME PAYMENTS RECEIVED BY RESPONDENT. THE COURT ORDERS THE CHILD SUPPORT ORDER EFFECTIVE OCTOBER 1, 2022.

THE COURT FINDS THE ABOVE ORDER RESULTS IN ARREARS IN THE AMOUNT OF \$7,977 THROUGH AND INCLUDING DECEMBER 1, 2022. THE COURT ORDERS RESPONDENT PAY PETITIONER \$500 ON THE 15TH OF EACH MONTH (WITH A FINAL PAYMENT OF \$477) UNTIL PAID IN FULL (APPROXIMATELY 16 MONTHS). IF A PAYMENT IS LATE OR MISSED THE REMAINING BALANCE IS DUE IN FULL WITH LEGAL INTEREST WITHIN FIVE (5) DAYS.

IF/WHEN RESPONDENT SUCCESSFULLY COMPLETES DRUG TESTING AND AN AOD ASSESSMENT AND RECOMMENDATIONS, AND THE PARTIES MOVE TO THE INCREASED TIMESHARE AS STATED IN THE CCRC REPORT, THE FOLLOWING SUPPORT ORDERS SHALL GO INTO EFFECT CONCURRENTLY WITH THE INCREASED TIMESHARE. SEE ATTACHED DISSOMASTER REPORT WITH A 19% TIMESHARE. RESPONDENT SHALL PAY PETITIONER \$2,522 PER MONTH AS AND FOR CHILD SUPPORT, PAYABLE ON THE 1ST OF THE MONTH UNTIL FURTHER ORDER OF THE COURT OR LEGAL TERMINATION. THE PARTIES ARE TO UTILIZE THE SECOND DISSOMASTER OVERTIME TABLE TO ACCOUNT FOR ANY OVERTIME RECEIVED BY RESPONDENT AFTER THE 19% TIMESHARE HAS GONE INTO EFFECT.

THE COURT ADOPTS THE ATTACHED DISSOMASTERS AS THE ORDERS OF THE COURT. UTILIZING THE FIGURES CONTAINED THEREIN, THE COURT FINDS THAT SPOUSAL SUPPORT PER THE ALAMEDA FORMULA IS \$1,543 PER MONTH. SEE ATTACHED DISSOMASTER REPORT. THE COURT ADOPTS THE ATTACHED DISSOMASTER REPORT AND ORDERS RESPONDENT TO PAY PETITIONER \$1,543 PER MONTH AS AND FOR SPOUSAL SUPPORT, PAYABLE ON THE 1ST OF THE MONTH UNTIL FURTHER ORDER OF THE COURT OR LEGAL TERMINATION. THE COURT ORDERS THE SPOUSAL SUPPORT ORDER EFFECTIVE OCTOBER 1, 2022.

THE COURT FINDS THE ABOVE ORDER RESULTS IN ARREARS IN THE AMOUNT OF \$4,629 THROUGH AND INCLUDING DECEMBER 1, 2022. THE COURT ORDERS RESPONDENT PAY PETITIONER \$500 ON THE 15TH OF EACH MONTH (WITH A FINAL PAYMENT OF \$129) UNTIL PAID IN FULL (APPROXIMATELY 10 MONTHS). IF A PAYMENT IS LATE OR MISSED THE REMAINING BALANCE IS DUE IN FULL WITH LEGAL INTEREST WITHIN FIVE (5) DAYS.

IF/WHEN RESPONDENT SUCCESSFULLY COMPLETES DRUG TESTING AND AN AOD ASSESSMENT, AND THE PARTIES MOVE TO THE INCREASED TIMESHARE AS STATED IN THE CCRC REPORT, THE FOLLOWING SUPPORT ORDERS SHALL GO INTO EFFECT CONCURRENTLY WITH THE INCREASED TIMESHARE. RESPONDENT SHALL PAY PETITIONER \$1,457 PER MONTH

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

December 15, 2022

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

**AS AND FOR SPOUSAL SUPPORT, PAYABLE ON THE 1ST OF THE MONTH UNTIL FURTHER ORDER OF THE COURT OR LEGAL TERMINATION.**

**PETITIONER IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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



ATTORNEY (NAME AND ADDRESS): <b>EDC Court California</b>  ATTORNEY FOR: <b>Father</b>	TELEPHONE NO:	Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
<b>Father Monthly Overtime Wages Report</b> 2022 Monthly		CASE NUMBER: <i>PFL 20170123</i>

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

Father's Gross Overtime	Basic CS%	Basic CS	Alameda SS%	Alameda SS	Total Basic CS	Total SS	Total Support CS+SS
0	0.00	0	0.00	0	2,522	1,457	3,979
100	11.72	12	16.90	17	2,533	1,474	4,007
200	11.70	23	16.90	34	2,545	1,491	4,036
300	11.68	35	16.90	51	2,557	1,508	4,064
400	11.66	47	16.90	68	2,568	1,525	4,093
500	11.64	58	16.90	85	2,580	1,541	4,121
600	11.63	70	16.90	101	2,591	1,558	4,150
700	11.61	81	16.90	118	2,603	1,575	4,178
800	11.59	93	16.90	135	2,614	1,592	4,207
900	11.64	105	16.88	152	2,626	1,609	4,235
1,000	11.77	118	16.82	168	2,639	1,625	4,265
1,100	11.88	131	16.78	185	2,652	1,641	4,294
1,200	11.96	144	16.74	201	2,665	1,658	4,323
1,300	12.03	156	16.71	217	2,678	1,674	4,352
1,400	12.09	169	16.68	233	2,691	1,690	4,381
1,500	12.14	182	16.65	250	2,704	1,707	4,411
1,600	12.19	195	16.64	266	2,717	1,723	4,440
1,700	12.25	208	16.65	283	2,730	1,740	4,470
1,800	12.36	222	16.73	301	2,744	1,758	4,502
1,900	12.46	237	16.81	319	2,758	1,776	4,535
2,000	12.54	251	16.88	338	2,773	1,795	4,567



ATTORNEY (NAME AND ADDRESS): <b>EDC Court California</b>	TELEPHONE NO:	Superior Court Of The State of California, County of
ATTORNEY FOR: <b>Father</b>		COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
<b>DISSOMASTER REPORT</b> 2022, Monthly		CASE NUMBER: <b>PFL20170123</b>

Input Data	Father	Mother	Guideline (2022)	Cash Flow Analysis	Father	Mother
Number of children	0	2	<b>Nets (adjusted)</b>	<b>Guideline</b>		
% time with Second Parent	8%	0%	Father	8,248	Payment (cost)/benefit	(4,202) 4,202
Filing status	MFJ->	<-MFJ	Mother	1,235	Net spendable income	4,046 5,437
# Federal exemptions	1	3	Total	9,483	% combined spendable	42.7% 57.3%
Wages + salary	10,566	1,578	<b>Support (Nondeductible)</b>		Total taxes	2,298 343
401(k) employee contrib	0	0	CS Payor	Father	Comb. net spendable	9,483
Self-employment income	0	0	Presumed	2,659	<b>Proposed</b>	
Other taxable income	0	0	Basic CS	2,659	Payment (cost)/benefit	(4,202) 4,202
Short-term cap. gains	0	0	Add-ons	0	Net spendable income	4,046 5,437
Long-term cap. gains	0	0	Presumed Per Kid		NSI change from gdl	0 0
Other gains (and losses)	0	0	Child 1	1,014	% combined spendable	42.7% 57.3%
Ordinary dividends	0	0	Child 2	1,645	% of saving over gdl	0% 0%
Tax. interest received	0	0	SS Payor	Father	Total taxes	2,298 343
Social Security received	0	0	Alameda	1,543	Comb. net spendable	9,483
Unemployment compensation	0	0	Total	4,202	Percent change	0.0%
Operating losses	0	0	<b>Proposed, tactic 9</b>		Default Case Settings	
Ca. operating loss adj.	0	0	CS Payor	Father		
Roy, partnerships, S corp, trusts	0	0	Presumed	2,659		
Rental income	0	0	Basic CS	2,659		
Misc ordinary tax. inc.	0	0	Add-ons	0		
Other nontaxable income	0	0	Presumed Per Kid			
New-spouse income	0	0	Child 1	1,014		
SS paid other marriage	0	0	Child 2	1,645		
CS paid other relationship	0	0	SS Payor	Father		
Adj. to income (ATI)	0	0	Alameda	1,543		
Ptr Support Pd. other P'ships	0	0	Total	4,202		
Health insurance	0	0	Savings	0		
Qual. Bus. Inc. Ded.	0	0	No releases			
Itemized deductions	0	0				
Other medical expenses	0	0				
Property tax expenses	0	0				
Ded. interest expense	0	0				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
State sales tax paid	0	0				
Required union dues	20	0				
Cr. for Pd. Sick and Fam. L.	0	0				
Mandatory retirement	0	0				
Hardship deduction	0*	0*				
Other gdl. adjustments	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	0				



ATTORNEY (NAME AND ADDRESS): <b>EDC Court California</b>	TELEPHONE NO:	Superior Court Of The State of California, County of
ATTORNEY FOR: <b>Father</b>		COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
<b>DISSOMASTER REPORT</b> 2022, Monthly		CASE NUMBER: <b>PFL 2017 0123</b>

Input Data	Father	Mother	Guideline (2022)	Cash Flow Analysis	Father	Mother
Number of children	0	2	<b>Nets (adjusted)</b>	<b>Guideline</b>		
% time with Second Parent	19%	0%	Father	8,248	Payment (cost)/benefit	(3,979) 3,979
Filing status	MFJ->	<-MFJ	Mother	1,235	Net spendable income	4,270 5,213
# Federal exemptions	1	3	Total	9,483	% combined spendable	45% 55%
Wages + salary	10,566	1,578	<b>Support (Nondeductible)</b>		Total taxes	2,298 343
401(k) employee contrib	0	0	CS Payor	Father	Comb. net spendable	9,483
Self-employment income	0	0	Presumed	2,522	<b>Proposed</b>	
Other taxable income	0	0	Basic CS	2,522	Payment (cost)/benefit	(3,979) 3,979
Short-term cap. gains	0	0	Add-ons	0	Net spendable income	4,270 5,213
Long-term cap. gains	0	0	Presumed Per Kid		NSI change from gdl	0 0
Other gains (and losses)	0	0	Child 1	962	% combined spendable	45% 55%
Ordinary dividends	0	0	Child 2	1,560	% of saving over gdl	0% 0%
Tax. interest received	0	0	SS Payor	Father	Total taxes	2,298 343
Social Security received	0	0	Alameda	1,457	Comb. net spendable	9,483
Unemployment compensation	0	0	Total	3,979	Percent change	0.0%
Operating losses	0	0	<b>Proposed, tactic 9</b>		Default Case Settings	
Ca. operating loss adj.	0	0	CS Payor	Father		
Roy, partnerships, S corp, trusts	0	0	Presumed	2,522		
Rental income	0	0	Basic CS	2,522		
Misc ordinary tax. inc.	0	0	Add-ons	0		
Other nontaxable income	0	0	Presumed Per Kid			
New-spouse income	0	0	Child 1	962		
SS paid other marriage	0	0	Child 2	1,560		
CS paid other relationship	0	0	SS Payor	Father		
Adj. to income (ATI)	0	0	Alameda	1,457		
Ptr Support Pd. other P'ships	0	0	Total	3,979		
Health insurance	0	0	Savings	0		
Qual. Bus. inc. Ded.	0	0	No releases			
Itemized deductions	0	0				
Other medical expenses	0	0				
Property tax expenses	0	0				
Ded. Interest expense	0	0				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
State sales tax paid	0	0				
Required union dues	20	0				
Cr. for Pd. Sick and Fam. L.	0	0				
Mandatory retirement	0	0				
Hardship deduction	0*	0*				
Other gdl. adjustments	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	0				

