

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

December 22, 2022

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

1. ANDREA SCALZI V. JACOB SCALZI

PFL20180441

Petitioner filed a Request for Order (RFO) on November 14, 2022 seeking child custody and visitation orders along with orders for drug testing. While there are two proofs of service on file for the ex parte paperwork, there is nothing indicating that Respondent was ever served with the RFO and Respondent has not filed a responsive declaration. However, despite the potential defect in service, Respondent did appear at the Child Custody Recommending Counseling (CCRC) appointment.

The parties were able to reach a full agreement at CCRC which is codified in the CCRC report dated November 22, 2022. After reviewing the agreements made in CCRC, the court finds them to be in the best interest of the minors and they are hereby adopted as the orders of the court.

TENTATIVE RULING #1: THE AGREEMENTS CONTAINED IN THE NOVEMBER 22, 2022 CCRC REPORT ARE ADOPTED AS THE ORDERS OF THE COURT. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER 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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8:30 a.m./1:30 p.m.

2. ASHLEY SPIEGELBERG V. AUSTIN SUTTON

PFL20190367

On September 11, 2022, Respondent filed an ex parte application for emergency orders for the minor to be returned to his custody per the parties' June 16, 2022 stipulation. Respondent also requested Petitioner be held in contempt. On September 12, 2022, the court denied the contempt on an ex parte basis, but granted the ex parte as an order shortening time, and set the matter to join with Petitioner's RFO on October 6, 2022. The court ordered all prior orders to remain in full force and effect. Respondent filed the corresponding RFO and Order to Show Cause (OSC) for Contempt on September 12, 2022. Petitioner was personally served on September 13, 2022, with the RFO as well as the OSC for contempt.

On September 19, 2022, Respondent filed a second OSC and Affidavit for contempt. Petitioner was personally served the same day.

The parties were ordered to appear on all pending matters on October 6th. At that time the court appointed a public defender to represent Petitioner in the contempt/failure to comply hearing.

The parties are ordered to appear for arraignment on the OSC. The court notes this matter is also on calendar for the afternoon. Please see tentative ruling #13 regarding the rulings on child custody and visitation.

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

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December 22, 2022

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

3. BASIL AREVALO V. ELISABETH AREVALO

22FL0061

Respondent filed a Request for Order (RFO) on October 7, 2022 requesting temporary spousal support as well as attorney fees. Respondent filed an Income and Expense Declaration on September 29, 2022. Petitioner was personally served with the RFO on October 19, 2022. It does not appear Petitioner was served with Respondent's Income and Expense Declaration. Therefore, the court is unable to consider this document.

Respondent is requesting the court grant temporary spousal support in the amount of \$1,800 per month, though Respondent does not provide any basis for this amount. Respondent also requests the court award her attorney's fees, however, does not request a specified amount nor include the FL-319 or FL-158.

Petitioner filed an Income and Expense Declaration on December 12, 2022. There is no Proof of Service for this document, therefore the court cannot consider it.

As neither party has properly served the other with their Income and Expense Declarations, the court drops the matter from calendar due to lack of proper service.

TENTATIVE RULING #3: THE MATTER IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE.

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

4. CAITLIN OSBORNE V. CAMERON SANTO

22FL0257

On May 16, 2022, Petitioner filed a Request for Order (RFO) requesting joint legal custody of both minor children, with primary physical custody to Petitioner and guideline child support. The parties were referred to Child Custody Recommending Counseling (CCRC) and a hearing date was set for August 11th. The RFO was served on May 18, 2022. Respondent did not file a response.

The parties attended CCRC on June 16, 2022 and reached several agreements. The agreements of the parties are set forth in the CCRC report, which was issued on June 17, 2022, and mailed to the parties on June 22, 2022. Thereafter, Petitioner filed a Supplemental Declaration of Caitlin Osborne in Support of the Request for Order wherein she indicates that she is no longer in agreement with the contents of the CCRC report. Petitioner's supplemental declaration was served on July 20, 2022. Once again, Respondent did not file a response to the CCRC report or to Petitioner's declaration.

Both parties appeared for hearing on August 11th. At that time the court adopted the agreements listed in the CCRC report as the order of the court and the issue of support was continued to October 13, 2022. The parties were ordered to file Income and Expense Declarations no later than ten days prior to the hearing. Only Petitioner filed an Income and Expense Declaration. The court ordered parties to appear for the October 13, 2022 hearing.

On October 13, 2022, only Petitioner appeared. The court went forward with the hearing in Respondent's absence and made orders as to child support, based on minimum wage due to Respondent's failure to file an Income and Expense Declaration. The court reserved jurisdiction to retroactively modify child support to the date of the order, June 1, 2022. The court set a further review hearing for December 22, 2022 and once again ordered Respondent to file an Income and Expense Declaration. Any supplemental declarations were to be filed at least ten days prior to the next hearing.

Petitioner filed a supplemental declaration as well as a declaration from counsel on December 7, 2022. Respondent was served by mail on December 7, 2022. Counsel for Petitioner asserts Respondent has not made any child support payments since the last hearing nor has he responded to their discovery requests. Counsel requests the court impute Respondent with a higher income based on the median salary of a Maintenance Supervisor in Sacramento, California. Counsel has attached a printout from Monster.com as Exhibit A. Petitioner requests the court modify the parenting plan to allow her parenting time on the 2nd and 5th weekends of each month, with Respondent to have the 1st, 3rd, and 4th weekends. Petitioner is also requesting the court order Family Code section 271 sanctions against

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Respondent for failing to comply once again with the court order to file and serve an Income and Expense Declaration.

The court grants Petitioner's request to modify the parenting plan. Petitioner shall have parenting time with the minors on the 2nd and 5th weekends. Respondent shall have parenting time on the 1st, 3rd, and 4th weekends.

The court denies Petitioner's request to modify child support based on the Monster.com printout in Exhibit A. The court finds Exhibit A to be inadmissible hearsay. Respondent has not complied with Petitioner's discovery requests; Petitioner has not exercised her remedies to compel responses. Additionally, there are other avenues by which Petitioner can obtain Respondent's income. The court maintains the current child support orders and continues to reserve jurisdiction to retroactively modify the order to June 1, 2022.

Respondent has failed to comply with the court's order to file and serve an updated Income and Expense Declaration on two separate occasions. The public policy of Family Code 271 is to reduce the cost of litigation and to encourage settlement. By Respondent's failure to comply not only with the court's order, but also with the California Rules of Court and El Dorado County Local Rules, there have been two additional hearings on the request for child support. The court finds this is directly contrary to the public policy of settlement and the reduction of litigation costs. The court grants Petitioner's request for Family Code Section 271 sanctions in the amount of \$500. Respondent shall pay Petitioner's Counsel \$100 per month, for five months, as and for Family Code section 271 sanctions. The first payment is due January 3, 2023 and due on the first of each month thereafter until paid in full. Any missed payment will result in the full amount being immediately due with legal interest.

TENTATIVE RULING #4: THE COURT GRANTS PETITIONER'S REQUEST TO MODIFY THE PARENTING PLAN. PETITIONER SHALL HAVE PARENTING TIME WITH THE MINORS ON THE 2ND AND 5TH WEEKENDS. RESPONDENT SHALL HAVE PARENTING TIME ON THE 1ST, 3RD, AND 4TH WEEKENDS. THE COURT DENIES PETITIONER'S REQUEST TO MODIFY CHILD SUPPORT. THE COURT MAINTAINS THE CURRENT CHILD SUPPORT ORDERS AND CONTINUES TO RESERVE JURISDICTION TO RETROACTIVELY MODIFY THE ORDER TO JUNE 1, 2022. THE COURT GRANTS PETITIONER'S REQUEST FOR FAMILY CODE SECTION 271 SANCTIONS IN THE AMOUNT OF \$500. RESPONDENT SHALL PAY PETITIONER'S COUNSEL \$100 PER MONTH, FOR FIVE MONTHS, AS AND FOR FAMILY CODE SECTION 271 SANCTIONS. THE FIRST PAYMENT IS DUE JANUARY 3, 2023 AND DUE ON THE FIRST OF EACH MONTH THEREAFTER UNTIL PAID IN FULL. ANY MISSED PAYMENT WILL RESULT IN THE FULL AMOUNT BEING IMMEDIATELY DUE WITH LEGAL INTEREST. PETITIONER IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

5. CHERYL FISCHIETTO V. FREDERICK FISCHIETTO

22FL0286

Respondent filed a Request for Order (RFO) on October 4, 2022 requesting the court make spousal support orders. Respondent requests the court award him \$1,500 per month as and for temporary spousal support. Respondent concurrently filed an Income and Expense Declaration. Upon review of the court file, there is no Proof of Service showing Petitioner was served with the RFO or Income and Expense Declaration.

Petitioner filed a Responsive Declaration, Declaration of Counsel, and Income and Expense Declaration on December 6, 2022. Respondent was served by overnight delivery on December 5, 2022. Petitioner objects to the court ordering temporary spousal support and requests the court order the RFO dismissed as Respondent has failed to state the grounds upon which he calculated his request for support. Petitioner asserts in her Declaration that Respondent has not accurately or completely reported his income. Petitioner further asserts that all community expenses have continued to be paid out of the parties' joint account. Further, the parties continued to cohabitate until November 25, 2022. Respondent continues to reside in the former marital residence with the mortgage being paid out of the joint account.

The court finds good cause to consider Respondent's RFO and Income and Expense Declaration as Petitioner has responded with specificity to Respondent's request, showing Petitioner has actual knowledge of the requests. Therefore, any defect in notice is waived.

The court has read and considered the filings as outlined above. The court denies Petitioner's request to dismiss the RFO. Utilizing the figures as set forth in the parties' Income and Expense Declarations, the court finds guideline temporary spousal support to be \$657 per month. See attached Dissomaster. The court orders Petitioner to pay Respondent \$657 per month as and for temporary spousal support effective December 1, 2022. Payment is due the first of each month until further court order or termination by operation of law.

The court finds this order results in an arrears balance of \$657. Petitioner shall pay Respondent \$164.25 on the 15th of each month as and for arrears starting January 15, 2023, and until paid in full, (approximately four months). Any missed payment will result in the full arrears balance being immediately due with legal 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 RULINGS #5: THE COURT ORDERS TEMPORARY GUIDELINE SPOUSAL SUPPORT AT \$657 PER MONTH, PAYABLE FROM PETITIONER TO RESPONDENT. SEE ATTACHED DISSOMASTER. THE COURT ORDERS PETITIONER TO PAY RESPONDENT \$657 PER MONTH AS AND FOR TEMPORARY SPOUSAL SUPPORT EFFECTIVE DECEMBER 1, 2022. PAYMENT IS DUE

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THE FIRST OF EACH MONTH UNTIL FURTHER COURT ORDER OR TERMINATION BY OPERATION OF LAW. THE COURT FINDS THIS ORDER RESULTS IN AN ARREARS BALANCE OF \$657. PETITIONER SHALL PAY RESPONDENT \$164.25 ON THE 15TH OF EACH MONTH AS AND FOR ARREARS STARTING JANUARY 15, 2023, AND UNTIL PAID IN FULL (APPROXIMATELY FOUR MONTHS). ANY MISSED PAYMENT WILL RESULT IN THE FULL AREARS BALANCE BEING IMMEDIATELY DUE WITH LEGAL 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.

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ATTORNEY (NAME AND ADDRESS): EDC Court California ATTORNEY FOR	TELEPHONE NO: Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
DISSOMASTER REPORT 2022, Monthly	CASE NUMBER: <div style="font-size: 1.5em; color: blue; font-family: cursive;">22FL0286</div>

Input Data	Pet.	Resp.	Guideline (2022)	Cash Flow Analysis	Pet.	Resp.
Number of children	0	0	Nets (adjusted)	Guideline		
% time with Second Parent	0%	0%	Pet.	6,447 Payment (cost)/benefit	(657)	657
Filing status	MFJ->	<-MFJ	Resp.	3,844 Net spendable income	5,790	4,501
# Federal exemptions	1*	1*	Total	10,291 % combined spendable	56.3%	43.7%
Wages + salary	9,131	5,200	Support (Nondeductible)	Total taxes	2,287	1,319
401(k) employee contrib	366	0	SS Payor	Pet. # WHA	0	0
Self-employment income	0	0	El Dorado	657 Net wage paycheck/mo	7,130	4,180
Other taxable income	0	0	Total	657 Comb. net spendable	10,291	
Short-term cap. gains	0	0	Proposed, tactic 9	Proposed		
Long-term cap. gains	0	0	SS Payor	Pet. Payment (cost)/benefit	(657)	657
Other gains (and losses)	0	0	El Dorado	657 Net spendable income	5,790	4,501
Ordinary dividends	0	0	Total	657 NSI change from gdl	0	0
Tax. interest received	0	0	Savings	0 % combined spendable	56.3%	43.7%
Social Security received	0	0	No releases	% of saving over gdl	0%	0%
Unemployment compensation	0	0		Total taxes	2,287	1,319
Operating losses	0	0		# WHA	0	0
Ca. operating loss adj.	0	0		Net wage paycheck/mo	7,130	4,180
Roy, partnerships, S corp, trusts	0	0		Comb. net spendable	10,291	
Rental income	0	0		Percent change	0.0%	
Misc ordinary tax. inc.	0	0		Default Case Settings		
Other nontaxable income	0	0				
New-spouse income	0	0				
Adj. to income (ATI)	67	0				
SS paid other marriage	0	0				
Ptr Support Pd. other P'ships	0	0				
CS paid other relationship	0	0				
Health ins (Pre-tax)	397	37				
Qual. Bus. Inc. Ded.	0	0				
Itemized deductions	613	411				
Other medical expenses	563	0				
Property tax expenses	0	411				
Ded. interest expense	0	0				
Charitable contribution	0	0				
Miscellaneous itemized	50	0				
Required union dues	0	0				
Cr. for Pd. Sick and Fam. L.	0	0				
Mandatory retirement	0	0				
Hardship deduction	0*	0*				
Other gdl. deductions	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	0				

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6. MICHA VAN CLEAVE V. TREVOR VAN CLEAVE

PFL20210623

Petitioner filed a Request for Order (RFO) on October 4, 2022, seeking orders for child custody and visitation, child support, spousal support, and \$5,000 in attorney's fees pursuant to Family Code Section 2031. Petitioner filed her Income and Expense Declaration concurrently with her RFO. Both documents, along with all other required documents, were served the same day as filing. Respondent has not filed a responsive declaration.

The parties attended Child Custody Recommending Counseling (CCRC) on October 24th and were able to come to a full agreement. A CCRC report codifying the agreement was prepared and sent to the parties on November 1st.

After reviewing the agreements contained in the CCRC report the court finds them to be in the best interest of the minor and hereby adopts them as the orders of the court.

Regarding the support requests and request for attorney's fees, Respondent has not yet filed his Income and Expense Declaration. Further, the agreed upon parenting schedule provides little direction regarding the estimated timeshare between the parties. The matter is continued to March 9, 2023, at 8:30 AM in Department 5 to address the issues of child support, spousal support, and attorney's fees. Respondent is ordered to file an Income and Expense Declaration no later than 10 days prior to the hearing date. Both parties are to file declarations regarding the appropriate timeshare to use in calculating child support. These declarations are to be filed with the court no later than 10 days prior to the hearing date.

TENTATIVE RULING #6: AFTER REVIEWING THE AGREEMENTS CONTAINED IN THE CCRC REPORT THE COURT FINDS THEM TO BE IN THE BEST INTEREST OF THE MINOR AND HEREBY ADOPTS THEM AS THE ORDERS OF THE COURT. THE MATTER IS CONTINUED TO MARCH 9, 2023, AT 8:30 AM IN DEPARTMENT 5 TO ADDRESS THE ISSUES OF CHILD SUPPORT, SPOUSAL SUPPORT AND ATTORNEY'S FEES. RESPONDENT IS ORDERED TO FILE AN INCOME AND EXPENSE DECLARATION NO LATER THAN 10 DAYS PRIOR TO THE HEARING DATE. BOTH PARTIES ARE TO FILE DECLARATIONS REGARDING THE APPROPRIATE TIMESHARE TO USE IN CALCULATING CHILD SUPPORT. THESE DECLARATIONS ARE TO BE FILED WITH THE COURT NO LATER THAN 10 DAYS PRIOR TO THE HEARING DATE.

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

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**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.

7. MICHAEL ROCK V. COURTNEY KRAKIE

21FL0007

On December 8, 2022, Petitioner filed a request for an Order Shortening Time (OST) for a Request for Order (RFO) requesting bifurcation of marital status and for respondent to disburse a portion of the proceeds from the sale of the marital residence. On December 9, 2022, the court granted the OST and set the matter for a hearing on December 22, 2022. The court ordered Petitioner to provide notice to Respondent on or before December 9, 2022. The court granted Respondent until December 19, 2022 to file a Responsive Declaration.

Petitioner filed a Proof of Service on December 12, 2022, showing Respondent was served electronically on December 9, 2022.

Respondent has not filed a Responsive Declaration.

Parties are ordered to appear for the hearing.

TENTATIVE RULING #7: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.

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December 22, 2022

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

10. SNEHA ASIF ALI V. MIR ASIF ALI

22FL0956

Petitioner filed an Order Shortening Time (OST) on December 12, 2022, requesting the court set Petitioner's Request for Order (RFO) within a shortened time. On December 13, 2022, the court granted the OST and set the RFO for a hearing on December 22, 2022. Petitioner was directed to serve Respondent with the RFO on or before December 13, 2022. The court allowed Respondent until December 20, 2022 to file a Responsive Declaration. Upon review of the court file, there is no Proof of Service showing Respondent was served with the RFO.

The matter is dropped from calendar due to lack for service.

TENTATIVE RULING #10: THE MATTER IS DROPPED FROM CALENDAR DUE TO LACK OF 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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11. SUZANA MALIK V. KHALID MALIK

PFL20210508

On September 27, 2022, Petitioner filed an ex parte application for emergency orders enforcing the parties' August 30, 2022 stipulation. On September 28, 2022, the court denied the ex parte application. Petitioner filed a Request for Order (RFO) requesting the same orders as set forth in the ex parte application on September 28, 2022. Respondent was served by mail on October 4, 2022.

Petitioner asserts Respondent has failed to comply with certain provisions of the parties' August 30, 2022 stipulation, namely Paragraph 7. Those sections set forth the agreement of the parties as to the characterization of retirement accounts and agreement on how to apportion the accounts. Petitioner asserts the division and disbursement of the funds in those accounts was to take place "forthwith." Petitioner is requesting attorney's fees pursuant to the parties' agreement in the August 30, 2022 stipulation, Paragraph 10.

Respondent filed a Responsive Declaration and Declaration of Counsel on December 5, 2022. Petitioner was served electronically on December 5, 2022. Respondent asserts the stipulation was an agreement of the characterization of certain assets as well as how to divide those assets. Respondent states there is no timeframe as to when the division and disbursement is to take place. Respondent points out there were other portions of the stipulation wherein parties agreed to take certain actions "forthwith". However, that language was not included in Paragraph 6 or 7. Those sections set forth no timeframe upon which the division and disbursement were to take place.

Marital settlement agreements are "governed by the legal principles applicable to contracts generally." *In Re Marriage of Egedi*, 88 Cal. App. 4th 17 (2001). "When interpreting contracts, the language used controls if it is clear and explicit." *Segal v. Silberstein*, 156 Cal. App. 4th 627, 633 (2007). " 'In construing a contract...[t]he court does not have the power to create for the parties a contract which they did not make, and it cannot insert the contractual language which one of the parties now wishes were there. [Citations.] Courts will not add a term about which a contract is silent.'" *Cal. Union Square L.P. v. Saks & Co., LLC*, 71 Cal. App. 5th 136, 146 (2021) *citing* *Levi Strauss & Co. v. Aetna Casualty & Surety Co.*, 184 Cal. App. 3d 1479 (1986).

Here, the language of Paragraph 7 clearly and unambiguously states: "The parties agree that the Charles Schwab Brokerage account and the Intel Common Stock accounts shall be evenly divided between the parties." The provision speaks only to the characterization of the property, and the process by which the parties have agreed to divide it. There are no timeframes set forth or a deadline by which this is to occur. There is no reference to a date certain, or even a timeframe or level of expediency.

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Paragraph 7 is in contrast to Paragraph 2, which provides repairs are to be completed by September 30, 2022. Likewise, Paragraph 3 states that the home is to be listed for sale “as soon as possible.” Paragraph 5, requires the vehicles to be sold “forthwith.” Each of the foregoing clearly establishes a timeframe for completion. If the parties had intended the same to be true of Paragraph 7 it is common sense that the parties would have used similar language. In fact, both parties indicate that the purpose of the agreement was to essentially bifurcate and resolve the easy issues, to save time and money at trial. Establishing the characterization of the retirement accounts and brokerage account does just that. There is nothing in the contract to indicate that the parties also intended for the present and immediate division of those accounts prior to trial on the remaining issues of property division. Because the contract is silent as to timing, and because the court cannot add terms about which the contract is silent, Petitioner’s RFO is denied.

Petitioner has requested \$2,000 in attorney’s fees pursuant to Paragraph 10: “The prevailing party in any proceeding to enforce this settlement agreement shall be entitled to recover reasonable attorneys’ fees and costs.” In turn, Respondent also requests \$2,000 in attorney’s fees to be paid to him. In light of the denial of Petitioner’s RFO, Petitioner is to pay Respondent \$2,000 in attorney’s fees. Payment may be made in one lump sum or in monthly increments of \$250 due and payable on the 15th of each month, with the first payment due on or before January 15, 2023. If any payment is missed or late, the entire amount remaining, plus legal interest thereon, is to become immediately due no later than 5 days from the date the missed/late payment was due.

TENTATIVE RULING #11: PETITIONER’S RFO IS DENIED. PETITIONER IS TO PAY RESPONDENT \$2,000 IN ATTORNEY’S FEES. PAYMENT MAY BE MADE IN ONE LUMP SUM OR IN MONTHLY INCREMENTS OF \$250 DUE AND PAYABLE ON THE 15TH OF EACH MONTH WITH THE FIRST PAYMENT DUE ON OR BEFORE JANUARY 15, 2023. IF ANY PAYMENT IS MISSED OR LATE, THE ENTIRE AMOUNT REMAINING, PLUS LEGAL INTEREST THEREON, IS TO BECOME IMMEDIATELY DUE NO LATER THAN 5 DAYS FROM THE DATE THE MISSED/LATE PAYMENT WAS DUE.

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

December 22, 2022

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

11A. ALICIA ALLEN V. RICHARD ALLEN

PFL20210447

Counsel for Petitioner filed an Order Shortening Time for a hearing on a Motion to be Relieved on December 15, 2022. The court granted the request to shorten time and set the Motion to be Relieved for December 22, 2022. The court directed counsel to serve all parties on or before December 16, 2022.

Proof of Service was filed on December 19, 2022 showing Petitioner and Respondent were served electronically on December 16, 2022. Additionally, Petitioner was served by overnight mail on December 16, 2022.

Proper service of the request has been demonstrated. Petitioner's Attorney has shown sufficient reasons why the motion should be granted and why the motion was brought under Code of Civil Procedure Section 284(2). The motion is granted, and the court will sign the submitted proposed order. Petitioner's Attorney is relieved upon filing of the proof of service for the order.

TENTATIVE RULING #11A: MOTION TO BE RELIVED IS GRANTED.

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.