

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 31, 2023

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

1. ANNE MCNELIS V. FERRIS NUESMEYER

PFL20160411

Petitioner filed a Request for Order (RFO) on April 5, 2023. It was initially mail served and, because it is a post judgment request for modification of support, the court continued the matter to the present date to allow Petitioner to perfect personal service on Respondent.

Petitioner is requesting a number of support orders as well as an order directing Respondent to reinstate AAA Life Insurance for the benefit of the parties' minor children. All support matters were set on the DCSS calendar and the only issue remaining before the court is the request for life insurance.

As part of the court's judgment for dissolution, Respondent was ordered to maintain life insurance for the benefit of the children. On January 24, 2023, Petitioner received an email from AAA Life Insurance informing her that Respondent's policy had lapsed.

Respondent is ordered to obtain life insurance for the benefit of the children in accordance with the terms stated in the court's Judgment of Dissolution no later than September 8, 2023. Failure to do so may result in an Order to Show Cause and sanctions.

TENTATIVE RULING #1: RESPONDENT IS ORDERED TO OBTAIN LIFE INSURANCE FOR THE BENEFIT OF THE CHILDREN IN ACCORDANCE WITH THE TERMS STATED IN THE COURT'S JUDGMENT OF DISSOLUTION NO LATER THAN SEPTEMBER 8, 2023. FAILURE TO DO SO MAY RESULT IN AN ORDER TO SHOW CAUSE AND SANCTIONS.

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. 3.13.08; LOCAL RULE 8.05.07.

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2. ASHLEY SAMADANI V. ANTHONY SAMADANI

PFL20200775

Petitioner filed a Request for Order (RFO) on March 6, 2023. Concurrently therewith she filed her Income and Expense Declaration, a Declaration of Ashley Samadani, and a Declaration of Fredrick S. (Rick) Cohen Re Attorney Fees and Sanctions. All documents were mail served on counsel on April 3rd. Respondent filed a Responsive Declaration to Request for Order and his Income and Expense Declaration on May 17th, both were served prior to filing on May 9th. Petitioner filed and served her Reply Declaration of Ashley Samadani on May 17th. This matter was previously set to be heard on May 25th, but due to Petitioner's failure to file and address verification form and Respondent's failure to file his responsive declaration, the matter was continued. Petitioner has since filed the requisite Declaration Regarding Address Verification form.

Petitioner brings her RFO requesting child support, spousal support, attorney's fees, and an order compelling Respondent to produce his Final Declaration of Disclosure and sanctions.

Child and Spousal Support

Petitioner is requesting guideline child support and asking the court to amend its previous order that Petitioner pay Respondent \$92 per month. She states that a change in support is warranted as her income is lower than the amount used to previously used in calculating support. According to Petitioner, she is self-employed, and her income fluctuates greatly. She states Respondent earns significant monthly commissions. For these reasons the parties use an Ostler-Smith table to calculate support. True up payments are paid twice annually. In calculating support, she requests the court use her lowest monthly income over a 12-month period and include an Ostler-Smith table to capture any additional income.

Respondent objects to any change in child support as he argues there has not been a change in circumstances that would justify changing the child support order. According to Respondent, Petitioner is self-employed and the only change in circumstances is Petitioner's choice to work part-time. Regarding spousal support, Respondent requests spousal support be terminated as he has been paying support for nearly half the length of the marriage (which was 6 years and 2 months long) and Petitioner is self-supporting. If the court does choose to modify the support orders, he asks for a seek work order directing Petitioner to find full time work commensurate with her ability to earn.

Petitioner states the allegations of her working part-time are untrue. She also points to the fact that Respondent received a raise in July 2022 which increased his monthly income from \$8,758.14 per month to \$10,416.68 per month. That alone constitutes a change in circumstances.

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After reviewing the prior order of the court, it does appear that Respondent's income has increased and as such, there has been a change in circumstances which require the support orders to be updated based on Respondent's new income.

Regarding child support, utilizing the figures as outlined in the attached DissoMaster, the court finds that child support is \$440 per month. The court adopts the attached DissoMaster report and orders Respondent to pay Petitioner \$440 per month as and for child support, payable on the 15th of the month until further order of the court or legal termination. The court orders the child support order effective March 15, 2023.

The court finds the above order results in arrears in the amount of \$2,640 through and including August 15, 2023. The court orders Respondent pay Petitioner \$440 on the 1st of each month commencing October 1st and continuing until paid in full (approximately 6 months). If a payment is late or missed the remaining balance is due in full with legal interest within five (5) days.

The court further finds both parties routinely earn additional income and therefore, the court has included a monthly overtime table with the DissoMaster. The parties are to perform true-up payments on any additional income that is received no later than 14 days from the date the additional income is received.

Regarding spousal support a married person has a duty to support his or her spouse. Cal. Fam. Code § 4300. The intent is to ensure that each party, upon separation, is able to maintain the marital standard of living. See Cal. Fam. Code § 4330(a). The court maintains broad discretion in determining whether a support award is warranted and if so, the amount and duration thereof. In re Marriage of McLain, 7 Cal. App. 5th 262, 269 (2017). While the factors listed in Family Code section 4320 may be considered by the court, an award for *temporary* support is generally unrestricted by any statutory authority. See Marriage of Tong & Smson, 197 Cal. App. 4th 23, 29 (2011). Where the court does take into consideration all of the factors enumerated in Family Code section 4320, and the court finds that each party is sufficiently able to maintain the marital standard of living, the court is within its discretion to deny a request for spousal support. In re Marriage of Schu, 6 Cal. App. 5th 470, 474 (2016).

Respondent has requested the court terminate spousal support based on the short duration of the marriage and the fact that he argues that Petitioner is self-supporting. However, he does not provide any information to the court that would support his assertion that she is currently self-supporting other than social media posts, many of which are undated. Further, it has not yet been half the length of the marriage. Respondent's request is therefore denied without prejudice.

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Considering the foregoing, utilizing the figures as outlined in the attached DissoMaster, the court finds that spousal support per the Alameda formula is \$628 per month. The court adopts the attached DissoMaster report and orders Respondent to pay Petitioner \$628 per month as and for temporary spousal support, payable on the 15th of the month until further order of the court or legal termination. The court orders the temporary spousal support order effective March 15, 2023. The parties are to perform true-up payments on any additional income that is received in accordance with the attached bonus table. True-up payments are to be made no later than 14 days from the date the additional income is received.

The court finds the above order results in arrears in the amount of \$2,640 through and including August 15, 2023. The court orders Respondent pay Petitioner \$628 on the 1st of each month commencing October 1st and continuing until paid in full (approximately 6 months). If a payment is late or missed the remaining balance is due in full with legal interest within five (5) days.

Attorney's Fees

Petitioner is requesting \$13,018 in attorney's fees and costs pursuant to Family Code § 2030. This is the amount she is estimated to incur. She states a previous order of \$6,000 was made in July of 2022. Respondent opposes the requested fees and asks that both parties be ordered to pay their own fees. He states he does not have the ability to pay as his monthly expenses consistently exceed his monthly income. If the court does award attorney's fees to Petitioner, he asks that the award be deemed an advance on Petitioner's share of the community property.

The public policy of Family Code section 2030 is to provide "at the outset of litigation, consistent with the financial circumstances of the parties, parity between spouses in their ability to obtain effective legal representation." *In Re Marriage Of Keech*, 75 Cal. App. 4th 860, 866(1999). This assures each party has access to legal representation to preserve each party's rights. It "is not the redistribution of money from the greater income party to the lesser income party," but rather "parity." *Alan S. v Superior Court*, 172 Cal. App. 4th 238,251(2009). In the face of a request for attorney's fees and costs, the court is to make findings on "whether there is a disparity in access to funds to retain counsel, and whether one party is able to pay for legal representation of both parties." Fam. Code § 2030(a)(2).

Family Code section 2032 works in tandem with Section 2030 to ensure that any award of costs and fees is just and reasonable. Fam. Code § 2032. "In determining what is just and reasonable under the relative circumstances, the court shall take into consideration the need for the award to enable each party, to the extent practical, to have sufficient financial resources to present the party's case adequately." *Id.* at (b). Financial resources are only one factor to be

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considered though. *Id.* In addition to the parties' financial resources, the court may consider the parties' trial tactics. *In Re Marriage of Falcone & Fyke*, 203 Cal. App. 4th 964; 975 (2012).

Here, the court finds there to be a disparity in access to funds to retain counsel. Respondent's base monthly income is more than double that of Petitioner's. This is the case even after the support orders made herein. Additionally, Respondent has considerable liquid assets that may be used to pay his counsel as well as Petitioner's. Therefore, an award of attorney's fees does is reasonable under the circumstances, however, the court cannot say the same for the amount requested.

Petitioner's counsel estimates \$3,488.75 worth of costs and fees associated with the present motion plus an additional \$9,530 worth of fees for various tasks including Respondent's deposition and conducting day-to-day tasks. He states he has already billed \$65,497 on the matter. Respondent has incurred less than half of that. It is unclear what circumstances surrounding this case would warrant such steep fees. As such, the court finds an award of \$10,000 to be more in keeping with costs and fees that may be incurred moving forward given the relatively straightforward nature of the case.

Respondent is ordered to pay Petitioner's counsel \$10,000 as and for attorney's fees. This amount may be paid in one lump sum or in monthly increments of \$1000 commencing September 15th and continuing the 15th of each month until paid in full (approximately 10 months). If any payment is missed or late, the entire amount shall become immediately due and payable.

Motion to Compel

Counsel for Petitioner sent an email requesting Respondent's Final Declaration of Disclosure on September 14, 2022. On January 4, 2023, Counsel sent an additional letter requesting the following: (1) Front and back copy of check number 2009 written on November 12, 2020 in the amount of \$33,362.20 from Chase Bank account ending in 4307; (2) Complete accounting of the \$320,000 in community funds removed from Chase Bank account ending in #9250 on October 29, 2020; (3) Complete accounting of the funds from any restricted stock units cashed out from January 1, 2019 to the present; (4) Pay stubs from July 3, 2022 through the last pay period of 2022; (5) W-2s from 2021 and 2022; (6) Statements for the Chase CUTMA account ending in #1322 from the date of separation to present; and (7) Buyer's Final Settlement Statement for any real property purchased by Respondent in 2022 including, but not limited to, property located at 1089 Gemwood Way. According to Petitioner's declaration, as of the filing of the RFO, Petitioner had not yet received the Final Declaration of Disclosure nor any of the additional requested information.

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Respondent requests the court deny Petitioner's motion to compel his Final Declaration of Disclosure. He states he has already agreed to a deadline to serve his Final Declaration of Disclosure and has already provided the majority of documents requested. He also notes that final disclosures are due 45 days prior to trial and trial has not yet been set so Petitioner's request is improper. Moreover, he argues the requests made via the January letter are not subject to a Motion to Compel because they were made informally and a Motion to Compel pursuant to § 2031.310 is only applicable after a formal discovery request has been made.

Petitioner responds to this by citing Respondent's statutory fiduciary duty. She argues that there is no requirement that she utilize the Civil Discovery Act in a divorce case, under the fiduciary duty she is entitled to the requested information.

"Each spouse shall act with respect to the other spouse in the management and control of the community assets and liabilities in accordance with the general rules governing fiduciary relationships....until such time as the assets and liabilities have been divided by the parties or by a court. This duty includes the obligation to make full disclosure to the other spouse of all material facts and information regarding the existence, characterization, and valuation of all assets in which the community has or may have an interest and debts for which the community is or may be liable, and to provide equal access to all information, records, and books that pertain to the value and character of those assets and debts, upon request." Fam. Code §1100(e). "A court may order an accounting of the property and obligations of the parties to a marriage..." Fam. Code §1101(b).

In furtherance of the fiduciary duty, each spouse is required to prepare preliminary and final disclosures of all financial information. Fam. Code §§ 2104 & 2105. Final disclosures are due no later than 45 days before the first assigned trial date or in compliance with the marital settlement agreement. Fam. Code §2105(a). Where a party fails to comply with Section 2105, the complying party may, among other things, file a motion to compel and seek sanctions against the noncomplying party. Fam. Code § 2107(b)(1).

Given that the court is vested with the power to order an accounting of the properties and obligations of the parties, it stands to reason that a party may move for such an order even where no formal request has been made pursuant to the Civil Discovery Act. Thus, the court finds good cause to reach Petitioner's request on the merits despite the fact that her motion has not been brought pursuant to Civil Procedure § 2031.310. That said, Petitioner's motion to compel is denied in part and granted in part.

Respondent's Final Declaration of Disclosure is not yet due and therefore the issue is not ripe for decision by the court. Petitioner concedes that she has received some of the requested information though she is still requesting a full accounting, with tracing, of the community

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property funds Respondent removed from the Chase Bank account ending in #9250 and a full accounting of the funds he cashed out from restricted stock units from January 1, 2019 to the present, with tracing. These requests are granted. Petitioner is entitled to this information, and Respondent is required to provide it in accordance with his fiduciary duties. Accordingly, Respondent is ordered to provide a full accounting, with tracing, of the community property funds Respondent removed from the Chase Bank account ending in #9250 and a full accounting of the funds he cashed out from restricted stock units from January 1, 2019 to the present, with tracing, no later than September 14, 2023.

Sanctions

According to Petitioner, Respondent has purchased a home in violation of the ATROS and provided no documentation of the source of the downpayment for the house. She also states he has moved large amounts of community funds to an account under his sole control and sold community stocks. She is requesting sanctions in the amount of \$5,000 pursuant to Family Code § 271.

Respondent states his purchase of the home was not in violation of the ATROS because it was purchased with his portion of the net sale proceeds of the marital residence and Petitioner was given notice of the sale prior to its finalization. Additionally, he argues that no stocks were sold post-separation and the community money that was transferred is still accounted for, it is now in an account in his name only. In light of the foregoing, Respondent requests sanctions against Petitioner in the amount of \$10,000.

An award for attorney's fees and sanctions may be made pursuant to Family Code section 271 which states, in pertinent part, "...the court may base an award of attorney's fees and costs on the extent to which the conduct of each party or attorney furthers or frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation by encouraging cooperation of the parties and attorneys. An award of attorney's fees and costs pursuant to this section is in the nature of a sanction." Fam. Code § 271(a). While the purpose of Section 271 is to impose a punitive sanction, the court is not to impose a sanction that would create an "unreasonable financial burden on the party against whom the sanction is imposed." *Id.*

The court reserves jurisdiction on each party's request for sanctions.

TENTATIVE RULING #2: UTILIZING THE FIGURES AS OUTLINED IN THE ATTACHED DISSOMASTER, THE COURT FINDS THAT CHILD SUPPORT IS \$440 PER MONTH. THE COURT ADOPTS THE ATTACHED DISSOMASTER REPORT AND ORDERS RESPONDENT TO PAY PETITIONER \$440 PER MONTH AS AND FOR CHILD SUPPORT, PAYABLE ON THE 15TH OF THE

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MONTH UNTIL FURTHER ORDER OF THE COURT OR LEGAL TERMINATION. THE COURT ORDERS THE CHILD SUPPORT ORDER EFFECTIVE MARCH 15, 2023.

THE COURT FINDS THE ABOVE ORDER RESULTS IN ARREARS IN THE AMOUNT OF \$2,640 THROUGH AND INCLUDING AUGUST 15, 2023. THE COURT ORDERS RESPONDENT PAY PETITIONER \$440 ON THE 1ST OF EACH MONTH COMMENCING OCTOBER 1ST AND CONTINUING UNTIL PAID IN FULL (APPROXIMATELY 6 MONTHS). IF A PAYMENT IS LATE OR MISSED THE REMAINING BALANCE IS DUE IN FULL WITH LEGAL INTEREST WITHIN FIVE (5) DAYS.

RESPONDENT'S REQUEST TO TERMINATE SPOUSAL SUPPORT IS DENIED WITHOUT PREJUDICE. THE COURT FINDS THAT SPOUSAL SUPPORT PER THE ALAMEDA FORMULA IS \$628 PER MONTH. THE COURT ADOPTS THE ATTACHED DISSOMASTER REPORT AND ORDERS RESPONDENT TO PAY PETITIONER \$628 PER MONTH AS AND FOR TEMPORARY SPOUSAL SUPPORT, PAYABLE ON THE 15TH OF THE MONTH UNTIL FURTHER ORDER OF THE COURT OR LEGAL TERMINATION. THE COURT ORDERS THE TEMPORARY SPOUSAL SUPPORT ORDER EFFECTIVE MARCH 15, 2023.

THE COURT FINDS THE ABOVE ORDER RESULTS IN ARREARS IN THE AMOUNT OF \$2,640 THROUGH AND INCLUDING AUGUST 15, 2023. THE COURT ORDERS RESPONDENT PAY PETITIONER \$628 ON THE 1ST OF EACH MONTH COMMENCING OCTOBER 1ST AND CONTINUING UNTIL PAID IN FULL (APPROXIMATELY 6 MONTHS). IF A PAYMENT IS LATE OR MISSED THE REMAINING BALANCE IS DUE IN FULL WITH LEGAL INTEREST WITHIN FIVE (5) DAYS.

THE COURT FURTHER FINDS BOTH PARTIES ROUTINELY EARN ADDITIONAL INCOME AND THEREFORE, THE COURT HAS INCLUDED A MONTHLY OVERTIME TABLE WITH THE DISSOMASTER. THE PARTIES ARE TO PERFORM TRUE-UP PAYMENTS ON ANY ADDITIONAL INCOME THAT IS RECEIVED NO LATER THAN 14 DAYS FROM THE DATE THE ADDITIONAL INCOME IS RECEIVED.

RESPONDENT IS ORDERED TO PAY PETITIONER'S COUNSEL \$10,000 AS AND FOR ATTORNEY'S FEES. THIS AMOUNT MAY BE PAID IN ONE LUMP SUM OR IN MONTHLY INCREMENTS OF \$1000 COMMENCING SEPTEMBER 15TH AND CONTINUING ON THE 15TH OF EACH MONTH UNTIL PAID IN FULL (APPROXIMATELY 10 MONTHS). IF ANY PAYMENT IS MISSED OR LATE, THE ENTIRE AMOUNT SHALL BECOME IMMEDIATELY DUE AND PAYABLE.

PETITIONER'S MOTION TO COMPEL IS DENIED IN PART AND GRANTED IN PART. MOTION TO COMPEL RESPONDENT'S FINAL FINANCIAL DISCLOSURE IS DENIED. RESPONDENT IS ORDERED TO PROVIDE A FULL ACCOUNTING, WITH TRACING, OF THE COMMUNITY PROPERTY FUNDS RESPONDENT REMOVED FROM THE CHASE BANK ACCOUNT ENDING IN

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#9250 AND A FULL ACCOUNTING OF THE FUNDS HE CASHED OUT FROM RESTRICTED STOCK UNITS FROM JANUARY 1, 2019 TO THE PRESENT, WITH TRACING, NO LATER THAN SEPTEMBER 14, 2023. THE COURT RESERVES JURISDICTION ON EACH PARTY'S REQUEST FOR SANCTIONS.

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): <div style="text-align: center; font-weight: bold; font-size: 1.2em;">California</div>	TELEPHONE NO.:	Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
ATTORNEY FOR: Father		CASE NUMBER: <div style="text-align: center; font-weight: bold; font-size: 1.2em;">samadini</div>
DISSOMASTER REPORT 2023, Monthly		

Input Data	Father	Mother	Guideline (2023)	Cash Flow Analysis	Father	Mother
Number of children	0	1	Nets (adjusted)	Guideline		
% time with Second Parent	50%	0%	Father	6,722	Payment (cost)/benefit	(1,009) 1,067
Filing status	MFS->	HH/MLA	Mother	3,692	Net spendable income	5,654 4,760
# Federal exemptions	1*	2*	Total	10,414	% combined spendable	54.3% 45.7%
Wages + salary	10,416	0	Support (Nondeductible)	Total taxes	3,071	788
401(k) employee contrib	0	0	CS Payor	Father	Comb. net spendable	10,414
Self-employment income	0	4,900	Presumed	440	Proposed	
Other taxable income	0	0	Basic CS	440	Payment (cost)/benefit	(1,173) 1,228
Short-term cap. gains	0	0	Add-ons	0	Net spendable income	5,696 4,731
Long-term cap. gains	0	0	Presumed Per Kid		NSI change from gdl	42 (29)
Other gains (and losses)	0	0	Child 1	440	% combined spendable	54.6% 45.4%
Ordinary dividends	0	0	SS Payor	Father	% of saving over gdl	325.8% -225.8%
Tax. interest received	0	0	Alameda	628	Total taxes	2,854 992
Social Security received	0	0	Total	1,068	Comb. net spendable	10,427
Unemployment compensation	0	0	Proposed, tactic 9		Percent change	0.1%
Operating losses	0	0	CS Payor	Father	Default Case Settings	
Ca. operating loss adj.	0	0	Presumed	498		
Roy, partnerships, S corp, trusts	0	0	Basic CS	498		
Rental income	0	0	Add-ons	0		
Misc ordinary tax. inc.	0	0	Presumed Per Kid			
Other nontaxable income	0	0	Child 1	498		
New-spouse income	0	0	SS Payor	Father		
SS paid other marriage	0	0	Alameda	745		
CS paid other relationship	0	0	Total	1,243		
Adj. to income (ATI)	0	0	Savings	13		
Ptr Support Pd. other P'ships	0	0	Total releases to Father	1		
Health insurance	623	420				
Qual. Bus. Inc. Ded.	0	0				
Itemized deductions	1,033	0				
Other medical expenses	0	0				
Property tax expenses	1,033	0				
Ded. interest expense	0	0				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
State sales tax paid	0	0				
Required union dues	0	0				
Cr. for Pd. Sick and Fam. L.	0	0				
Mandatory retirement	0	0				
Hardship deduction	0*	0*				
Other gdl. adjustments	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	0				



ATTORNEY (NAME AND ADDRESS): California	TELEPHONE NO:	Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
ATTORNEY FOR: Father	CASE NUMBER: samadini	
Two-way Monthly Overtime Wages Report 2023 Monthly		

Change in Child Support

Blue is a cost to Father. *Red italic is a cost to Mother*

Mother's Gross Overtime Wages	Father's Gross Overtime Wages					
	1,000	6,000	11,000	16,000	21,000	26,000
1,000	51	322	630	909	1,177	1,427
2,000	164	213	525	807	1,078	1,330
3,000	264	115	430	715	988	1,242
4,000	351	30	347	634	909	1,164
5,000	432	50	269	557	833	1,090
6,000	509	126	193	483	760	1,018
7,000	583	200	121	411	690	949
8,000	655	272	49	340	620	880
9,000	728	346	24	268	549	809
10,000	810	428	106	187	468	729
11,000	891	509	187	107	388	650
12,000	970	589	267	27	310	572
13,000	1,038	658	336	42	241	504
14,000	1,098	718	396	102	181	444
15,000	1,155	776	454	160	123	387
16,000	1,214	836	514	220	64	328
17,000	1,274	897	576	281	3	267
18,000	1,332	956	635	340	56	208
19,000	1,389	1,014	693	399	115	150
20,000	1,446	1,072	751	457	173	92
21,000	1,502	1,129	809	515	231	34
22,000	1,558	1,186	866	572	288	24
23,000	1,614	1,243	924	630	346	81
24,000	1,669	1,299	980	687	403	138
25,000	1,725	1,355	1,037	743	459	194
26,000	1,779	1,411	1,093	800	516	251
27,000	1,834	1,467	1,149	856	572	307
28,000	1,888	1,521	1,204	911	628	363
29,000	1,941	1,576	1,259	967	683	418
30,000	1,995	1,630	1,314	1,022	738	473

PETITIONER:
RESPONDENT:

CASE NUMBER:

Total Child Support

Blue is a cost to Father. *Red italic is a cost to Mother*

Mother's Gross Overtime Wages	Father's Gross Overtime Wages					
	1,000	6,000	11,000	16,000	21,000	26,000
1,000	389	761	1,069	1,349	1,617	1,867
2,000	275	652	964	1,247	1,518	1,770
3,000	175	555	870	1,155	1,428	1,682
4,000	88	470	786	1,073	1,348	1,604
5,000	8	390	708	997	1,273	1,530
6,000	69	313	633	923	1,200	1,458
7,000	143	240	560	851	1,129	1,388
8,000	216	167	488	780	1,059	1,319
9,000	289	94	416	708	988	1,249
10,000	371	12	334	627	908	1,169
11,000	451	70	253	546	828	1,090
12,000	530	149	173	467	749	1,012
13,000	599	219	103	398	680	943
14,000	658	279	43	338	621	884
15,000	715	337	15	280	563	827
16,000	774	396	75	220	503	767
17,000	834	458	136	158	442	706
18,000	892	516	195	100	383	648
19,000	949	574	254	41	325	589
20,000	1,006	632	312	17	267	531
21,000	1,063	690	370	75	209	473
22,000	1,119	747	427	133	151	416
23,000	1,174	803	484	190	94	359
24,000	1,230	860	541	247	37	302
25,000	1,285	916	597	304	20	245
26,000	1,340	972	654	360	76	189
27,000	1,394	1,027	709	416	133	132
28,000	1,448	1,082	765	472	188	77
29,000	1,502	1,136	820	527	244	21
30,000	1,555	1,191	874	582	299	34



PETITIONER:
RESPONDENT:

CASE NUMBER:

Change in Alameda Spousal Support

Blue is a cost to Father. *Red italic is a cost to Mother*

Mother's Gross Overtime Wages	Father's Gross Overtime Wages					
	1,000	6,000	11,000	16,000	21,000	26,000
1,000	63	802	1,617	2,410	3,219	4,014
2,000	291	582	1,398	2,202	3,007	3,801
3,000	505	369	1,190	1,997	2,803	3,595
4,000	628	176	1,007	1,808	2,613	3,403
5,000	628	16	810	1,610	2,413	3,202
6,000	628	211	614	1,413	2,215	3,002
7,000	651	403	420	1,219	2,020	2,806
8,000	819	597	226	1,024	1,825	2,608
9,000	992	628	25	822	1,622	2,404
10,000	1,192	628	206	590	1,390	2,171
11,000	1,394	628	438	358	1,157	1,936
12,000	1,596	628	628	125	924	1,701
13,000	1,775	747	628	81	718	1,494
14,000	1,932	903	628	261	538	1,313
15,000	2,085	1,056	628	436	362	1,135
16,000	2,245	1,215	628	620	178	951
17,000	2,411	1,380	628	628	12	760
18,000	2,572	1,540	628	628	196	575
19,000	2,733	1,700	751	628	380	390
20,000	2,894	1,861	912	628	565	204
21,000	3,056	2,022	1,072	628	628	18
22,000	3,218	2,183	1,233	628	628	168
23,000	3,381	2,345	1,395	628	628	354
24,000	3,543	2,507	1,556	640	628	541
25,000	3,706	2,669	1,718	802	628	628
26,000	3,870	2,832	1,880	964	628	628
27,000	4,033	2,994	2,042	1,126	628	628
28,000	4,195	3,155	2,203	1,286	628	628
29,000	4,357	3,317	2,364	1,447	628	628
30,000	4,520	3,479	2,526	1,609	693	628



PETITIONER:
RESPONDENT:

CASE NUMBER:

Total Alameda Spousal Support

Blue is a cost to Father. *Red italic is a cost to Mother*

Mother's Gross Overtime Wages	Father's Gross Overtime Wages					
	1,000	6,000	11,000	16,000	21,000	26,000
1,000	564	1,430	2,245	3,038	3,847	4,642
2,000	337	1,209	2,025	2,829	3,635	4,429
3,000	122	997	1,818	2,625	3,431	4,223
4,000	0	804	1,635	2,436	3,241	4,031
5,000	0	612	1,437	2,238	3,041	3,830
6,000	0	417	1,242	2,041	2,843	3,630
7,000	23	224	1,048	1,846	2,648	3,433
8,000	191	31	854	1,651	2,452	3,236
9,000	365	0	653	1,450	2,250	3,032
10,000	565	0	422	1,218	2,018	2,798
11,000	766	0	190	986	1,785	2,564
12,000	968	0	0	753	1,552	2,329
13,000	1,147	119	0	547	1,346	2,122
14,000	1,304	275	0	367	1,166	1,940
15,000	1,457	428	0	191	989	1,763
16,000	1,617	587	0	8	806	1,579
17,000	1,783	752	0	0	616	1,388
18,000	1,944	912	0	0	432	1,203
19,000	2,105	1,073	123	0	248	1,017
20,000	2,267	1,233	284	0	63	832
21,000	2,428	1,394	444	0	0	646
22,000	2,590	1,556	605	0	0	460
23,000	2,753	1,717	767	0	0	274
24,000	2,916	1,879	928	13	0	87
25,000	3,079	2,041	1,090	174	0	0
26,000	3,242	2,204	1,252	336	0	0
27,000	3,405	2,366	1,414	498	0	0
28,000	3,567	2,527	1,575	658	0	0
29,000	3,729	2,689	1,737	820	0	0
30,000	3,892	2,851	1,898	981	65	0



LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
August 31, 2023
8:30 a.m./1:30 p.m.

3. BASSEL KHADRA V. STEPHANIE WU

PFL20200697

On January 5, 2022, Petitioner filed a Request for Order (RFO) requesting a Child Custody Evaluation pursuant to Family Code section 3111 to determine custody and visitation orders as well as a move-away request. Petitioner agreed to pay the costs of the evaluation subject to reallocation. The parties underwent the 3111 Evaluation with Deborah Barnes and a report was prepared and filed with the court. On April 6th the recommendations as stated in the January 25, 2023 Child Custody Evaluation Report were adopted as the orders of the court. The court set a review hearing for the present date.

In adopting the recommendations of the 3111 Evaluation, the court ordered, among other things, Petitioner to participate in an online parenting course through Love and Logic and both parents to participate in a coparenting course through New Ways for Families. There is a Proof of Service evidencing that Respondent served "Respondent's Certificate of Completion of Parenting Course" on July 10th but the court is not in possession of the certificate. Petitioner has not filed anything with the court evidencing his compliance with the court's orders.

As part of the court's April 6th orders, the parties were to return to Deborah Barnes after three months and a report would be prepared and filed with the court in four months. Ms. Barnes filed a report with the court on August 28, 2023, which the court finds is not timely. The parties were served electronically on August 28, 2023.

In light of the foregoing, this matter is continued to November 9, 2023 at 8:30 am. Any supplemental declarations the parties choose to file shall be filed no later than 10 days prior to the hearing date.

TENTATIVE RULING #3: THIS MATTER IS CONTINUED TO November 9, 2023 at 8:30 am ANY SUPPLEMENTAL DECLARATIONS THE PARTIES CHOOSE TO FILE SHALL BE FILED 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 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
August 31, 2023
8:30 a.m./1:30 p.m.

6. HAYLEY SCHULZ V. TREVOR HARDING

23FL0002

On February 3, 2023, the court granted Petitioner a Domestic Violence Restraining Order (DVRO) with Respondent as the restrained party. On February 10, 2023, the court granted Respondent a Domestic Violence Restraining Order with Petitioner as the restrained party. As a part of Petitioner's DVRO request, she requested child support though neither party had filed a current Income and Expense Declaration. The court continued that matter and set a review hearing for July 6, 2023.

Following the court setting a hearing on the issue of child support, Petitioner filed and served a Request for Order (RFO) on May 11th requesting child support orders. The matter came before the court on July 6th at which time the court made custody and visitation orders, ordered the parties to meet and confer on a holiday schedule, and continued the issue of child support to the present date as the court was not in possession of Income and Expense Declarations (I&E) from either party.

Pursuant to the court's July 6th ruling, Respondent was to have nonprofessionally supervised visits until he provides proof of installation of a fence around his pool. Visits are to take place on the first, third, and fifth weekend of each month from Friday at 5:00pm to Sunday at 5:00pm along with alternating Tuesdays and Thursdays on non-custodial weeks from 4:00pm until 7:00pm. Given this schedule, Petitioner is requesting support utilizing a 16% timeshare.

Petitioner filed and served her updated I&E on August 10th. Respondent filed his I&E on August 15th though there is no Proof of Service evidencing the document was served on Petitioner. Further, neither party has provided the court with a status update regarding their negotiations on a holiday schedule. The parties are ordered to appear for hearing.

TENTATIVE RULING #6: THE PARTIES ARE ORDERED TO APPEAR FOR HEARING.

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
August 31, 2023
8:30 a.m./1:30 p.m.

7. JENNIFER ANN CHANEY V. JASON MICHAEL CHANEY

22FL0859

On June 6, 2023, Petitioner filed a Request for Order (RFO) seeking orders for spousal support and attorney's fees. Concurrently therewith she filed her Income and Expense Declaration. Both documents, along with all other required documents were mail served on the same date as filing. Hearing on the RFO was set for August 18th.

Respondent filed and served his Responsive Declaration to Request for Order and his Income and Expense Declaration on August 8th. He filed a corrected Income and Expense Declaration on August 10th. The court found these documents to be late filed as of the original hearing date. The matter was therefore, continued to the present date to allow for the court to consider these documents and any reply filed by Petitioner. The court reserved jurisdiction to retroactive modify spousal support to the date of the filing of the RFO. Petitioner's Reply Declaration to Responsive Declaration was filed and served on August 22nd.

Petitioner brings her RFO requesting guideline spousal support as well as attorney's fees and costs in the amount of \$3,590 pursuant to Family Code section 2030. She states that she makes significantly less than Respondent and cannot afford to maintain the marital standard of living without support. She requests support be awarded back to February 8, 2023 when the request was originally filed as part of her request for a restraining order but inadvertently dropped when the restraining order hearing was dropped.

Respondent requests this matter be continued to October 23, 2023 when the issue of child support is before the court. Respondent argues Petitioner is a certified optician and he asks that she be ordered to secure a job in a position where she would earn an amount akin to her prior position as an optician. Further, he states that Respondent is working as a personal trainer at numerous gyms and under reporting her income. Because the issue of Petitioner's earnings will be before the court on October 23rd, he asks that the issues be consolidated. Additionally, Respondent's earning capacity will also be at issue at that time. Respondent argues that he is currently medically restricted from working overtime and as such his prior overtime should not be considered. He also states he previously had a position teaching fire science but is no longer doing so. Finally, he requests that the court reserve jurisdiction on the request for attorney's fees.

Petitioner argues he has an optician's certification, not a license. She worked for her father and earned more than she customarily would if she were employed elsewhere. Her father has since retired and she cannot make the same or similar income. For this reason she states that as a personal trainer she is able to charge triple the hourly rate of a licensed optician.

Petitioner's request to award support back to February 8th is denied. Petitioner was present with counsel on June 30th when the request to drop the restraining order was made.

LAW & MOTION TENTATIVE RULINGS
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8:30 a.m./1:30 p.m.

There was no request for the court to reserve jurisdiction over spousal support at that time and therefore the court cannot award support back to February 8th. That said, the court's order will be effective as of filing the RFO on June 6, 2023. She states that the Department of Child Support Services (DCSS) already made the finding that Respondent earns a monthly gross income of \$13,572 and he is expected to "receive additional earnings, including but not limited to overtime, bonus, commissions throughout the year." Finally, she increases her request for attorney's fees to \$9,500.

Utilizing the same figures as outlined in the attached DissoMaster report, the court finds that spousal support per the Alameda formula is \$1,815 per month. See attached DissoMaster report. The court adopts the attached DissoMaster report and orders Respondent to pay Petitioner \$1,815 per month as and for temporary spousal support, payable on the 1st of the month until further order of the court or legal termination. The court orders the temporary spousal support order effective June 15, 2023.

The court finds the above order results in arrears in the amount of \$5,445 through and including August 15, 2023. The court orders Respondent pay Petitioner \$453.75 on the 1st of each month commencing October 1, 2023 and continuing until paid in full (approximately 12 months). If a payment is late or missed the remaining balance is due in full with legal interest within five (5) days.

The court further finds Respondent routinely earns overtime pay and therefore, has included an overtime table with the DissoMaster. Respondent is to pay Petitioner a true up of any overtime earned no later than fourteen days from the date the overtime payment is received.

These orders are temporary pending findings at the child support hearing regarding the earnings of each party. A review hearing is set for December 14, 2023 at 8:30 am. The parties are ordered to file updated Income and Expense Declarations as well as any supplemental declarations no later than 10 days prior to the hearing date. The court reserves jurisdiction to retroactively amend support orders back to June 6, 2023.

The public policy of Family Code section 2030 is to provide "at the outset of litigation, consistent with the financial circumstances of the parties, parity between spouses in their ability to obtain effective legal representation." *In Re Marriage Of Keech*, 75 Cal. App. 4th 860, 866(1999). This assures each party has access to legal representation to preserve each party's rights. It "is not the redistribution of money from the greater income party to the lesser income party," but rather "parity." *Alan S. v Superior Court*, 172 Cal. App. 4th 238,251(2009). In the face of a request for attorney's fees and costs, the court is to make findings on "whether there is a

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
August 31, 2023
8:30 a.m./1:30 p.m.

disparity in access to funds to retain counsel, and whether one party is able to pay for legal representation of both parties.” Fam. Code § 2030(a)(2).

Family Code section 2032 works in tandem with Section 2030 to ensure that any award of costs and fees is just and reasonable. Fam. Code § 2032. “In determining what is just and reasonable under the relative circumstances, the court shall take into consideration the need for the award to enable each party, to the extent practical, to have sufficient financial resources to present the party’s case adequately.” *Id.* at (b).

Considering the disparity in income coupled with Respondent’s substantial assets in his deposit accounts, the court does find there to be a disparity in income. However, after the support orders that disparity is significantly decreased and for that reason the court does not find an award of \$9,500 would be just or reasonable. Further, the parties previously stipulated to Respondent paying Petitioner \$10,000 in attorney’s fees. In Petitioner’s moving papers she requested \$3,590. This is more in line in establishing parity between the parties and their respective abilities to obtain counsel. As such, Respondent is to pay directly to Petitioner’s counsel \$3,590 as and for attorney’s fees. This amount may be paid in one lump sum or in monthly increments of \$359 due and payable on the 1st of each month commencing October 1st and continuing until paid in full (approximately 10 months). If any payment is missed or late, the entire amount shall become immediately due and payable.

TENTATIVE RULING #7: THE COURT FINDS THAT SPOUSAL SUPPORT PER THE ALAMEDA FORMULA IS \$1,815 PER MONTH. SEE ATTACHED DISSOMASTER REPORT. THE COURT ADOPTS THE ATTACHED DISSOMASTER REPORT AND ORDERS RESPONDENT TO PAY PETITIONER \$1,815 PER MONTH AS AND FOR TEMPORARY SPOUSAL SUPPORT, PAYABLE ON THE 1ST OF THE MONTH UNTIL FURTHER ORDER OF THE COURT OR LEGAL TERMINATION. THE COURT ORDERS THE TEMPORARY SPOUSAL SUPPORT ORDER EFFECTIVE JUNE 15, 2023.

THE COURT FINDS THE ABOVE ORDER RESULTS IN ARREARS IN THE AMOUNT OF \$5,445 THROUGH AND INCLUDING AUGUST 15, 2023. THE COURT ORDERS RESPONDENT PAY PETITIONER \$453.75 ON THE 1ST OF EACH MONTH COMMENCING OCTOBER 1, 2023 AND CONTINUING UNTIL PAID IN FULL (APPROXIMATELY 12 MONTHS). IF A PAYMENT IS LATE OR MISSED THE REMAINING BALANCE IS DUE IN FULL WITH LEGAL INTEREST WITHIN FIVE (5) DAYS.

THE COURT FURTHER FINDS RESPONDENT ROUTINELY EARNS OVERTIME PAY AND THEREFORE, HAS INCLUDED AN OVERTIME TABLE WITH THE DISSOMASTER. RESPONDENT IS TO PAY PETITIONER A TRUE UP OF ANY OVERTIME EARNED NO LATER THAN FOURTEEN DAYS FROM THE DATE THE OVERTIME PAYMENT IS RECEIVED.

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
August 31, 2023
8:30 a.m./1:30 p.m.

THESE ORDERS ARE TEMPORARY PENDING FINDINGS AT THE CHILD SUPPORT HEARING REGARDING THE EARNINGS OF EACH PARTY. A REVIEW HEARING IS SET FOR December 14, 2023 at 8:30 am. THE PARTIES ARE ORDERED TO FILE UPDATED INCOME AND EXPENSE DECLARATIONS AS WELL AS ANY SUPPLEMENTAL DECLARATIONS NO LATER THAN 10 DAYS PRIOR TO THE HEARING DATE. THE COURT RESERVES JURISDICTION TO RETROACTIVELY AMEND SUPPORT ORDERS BACK TO JUNE 6, 2023.

RESPONDENT IS TO PAY DIRECTLY TO PETITIONER'S COUNSEL \$3,590 AS AND FOR ATTORNEY'S FEES. THIS AMOUNT MAY BE PAID IN ONE LUMP SUM OR IN MONTHLY INCREMENTS OF \$359 DUE AND PAYABLE ON THE 1ST OF EACH MONTH COMMENCING OCTOBER 1ST AND CONTINUING UNTIL PAID IN FULL (APPROXIMATELY 10 MONTHS). IF ANY PAYMENT IS MISSED OR LATE, THE ENTIRE AMOUNT SHALL BECOME IMMEDIATELY DUE AND PAYABLE.

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

ATTORNEY (NAME AND ADDRESS): California		TELEPHONE NO:	Superior Court Of The State of California, County of
ATTORNEY FOR: Respondent			COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
Respondent Monthly Overtime Wages Report 2023 Monthly		CASE NUMBER:	Chaney

"R" denotes that Respondent 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

Respondent'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	1,623	1,815	3,438
100	8.68	9	19.33	19	1,631	1,835	3,466
200	8.76	18	19.52	39	1,640	1,854	3,495
300	8.99	27	20.05	60	1,650	1,876	3,525
400	9.10	36	20.32	81	1,659	1,897	3,556
500	9.16	46	20.47	102	1,669	1,918	3,586
600	9.20	55	20.57	123	1,678	1,939	3,617
700	9.23	65	20.65	145	1,687	1,960	3,647
800	9.24	74	20.70	166	1,697	1,981	3,678
900	9.25	83	20.74	187	1,706	2,002	3,708
1,000	9.26	93	20.77	208	1,715	2,023	3,739
1,100	9.26	102	20.80	229	1,725	2,044	3,769
1,200	9.26	111	20.82	250	1,734	2,065	3,799
1,300	9.26	120	20.84	271	1,743	2,086	3,829
1,400	9.26	130	20.85	292	1,752	2,107	3,860
1,500	9.26	139	20.86	313	1,762	2,128	3,890
1,600	9.25	148	20.87	334	1,771	2,149	3,920
1,700	9.25	157	20.88	355	1,780	2,170	3,950
1,800	9.24	166	20.89	376	1,789	2,191	3,981
1,900	9.24	176	20.89	397	1,798	2,212	4,011
2,000	9.23	185	20.90	418	1,807	2,233	4,041

ATTORNEY (NAME AND ADDRESS): California ATTORNEY FOR: Respondent	TELEPHONE NO:	Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
DISSOMASTER REPORT 2023, Monthly		CASE NUMBER: <div style="text-align: center;">chaney</div>

Input Data	Responden	Petitioner	Guideline (2023)	Cash Flow Analysis	Responden	Petitioner
Number of children	0	1	Nets (adjusted)	Guideline		
% time with Second Parent	14%	0%	Respondent	8,760	Payment (cost)/benefit	(3,438) 3,438
Filing status	MFJ->	<-MFJ	Petitioner	1,824	Net spendable income	5,322 5,262
# Federal exemptions	1*	2*	Total	10,584	% combined spendable	50.3% 49.7%
Wages + salary	13,172	2,100	Support (Nondeductible)	Total taxes	2,915	538
401(k) employee contrib	0	0	CS Payor	Responden	Comb. net spendable	10,584
Self-employment income	0	262		t	Proposed	
Other taxable income	0	0	Presumed	1,623	Payment (cost)/benefit	(3,438) 3,438
Short-term cap. gains	0	0	Basic CS	1,623	Net spendable income	5,322 5,262
Long-term cap. gains	0	0	Add-ons	0	NSI change from gdl	0 0
Other gains (and losses)	0	0	Presumed Per Kid		% combined spendable	50.3% 49.7%
Ordinary dividends	0	0	Child 1	1,623	% of saving over gdl	0% 0%
Tax. interest received	0	0	SS Payor	Responden	Total taxes	2,915 538
Social Security received	0	0		t	Comb. net spendable	10,584
Unemployment compensation	0	0	Alameda	1,815	Percent change	0.0%
Operating losses	0	0	Total	3,438	Default Case Settings	
Ca. operating loss adj.	0	0	Proposed, tactic 9			
Roy. partnerships, S corp, trusts	0	0	CS Payor	Responden		
Rental income	0	0		t		
Misc ordinary tax. inc.	0	0	Presumed	1,623		
Other nontaxable income	0	0	Basic CS	1,623		
New-spouse income	0	0	Add-ons	0		
SS paid other marriage	0	0	Presumed Per Kid			
CS paid other relationship	0	0	Child 1	1,623		
Adj. to income (ATI)	0	0	SS Payor	Responden		
Ptr Support Pd. other P'ships	0	0		t		
Health insurance	0	0	Alameda	1,815		
Qual. Bus. Inc. Ded.	643	0	Total	3,438		
Itemized deductions	0	0	Savings	0		
Other medical expenses	0	0	No releases			
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	216	0				
Cr. for Pd. Sick and Fam. L.	0	0				
Mandatory retirement	1,281	0				
Hardship deduction	0*	0*				
Other gdl. adjustments	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	0				



LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
August 31, 2023
8:30 a.m./1:30 p.m.

8. JERRY CHUCULATE V. JANICE SHAW

PFL20190544

On May 25, 2023, Respondent filed a Request for Order (RFO) and her Income and Expense Declaration (I&E). Both documents were mail served on June 12th. Petitioner's Responsive Declaration to Request for Order was filed and served on August 18th.

Respondent filed her RFO seeking to have two QDROs prepared pursuant to Section 3.7 of the parties' Marital Settlement Agreement (MSA). She requests her attorney's fees and costs associated with having to bring the RFO and enforce the MSA. As part of the Judgment of Dissolution, and incorporated MSA, dated October 28, 2021, the parties agreed to have QDROs prepared by George McCaulsan. Mr. McCaulsan has proposed to prepare only one QDRO instead of two and suggested offsetting Respondent's community property interest in Petitioner's pension and survivor benefits from Petitioner's community property interest in Respondent's pension and survivor benefits. Respondent moves to have two QDROs prepared or, in the alternative, to have the court appoint a new actuary, Madeline Hill, to prepare two QDROs which Respondent is willing to pay for.

Petitioner opposes Respondent's requests. He argues that the MSA does not require two QDROs. He further argues that Respondent's request for attorney's fees be denied as it is incomplete given her failure to attach FL-319, FL-158 or FL-157. Conversely, Petitioner requests attorney's fees in the amount of \$3,500 for having to respond to Respondent's motion which he argues is frivolous.

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); Cal. Civ. Code §1638. "'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).

At face value, the MSA does appear to refer to the preparation of only one QDRO. Sentences such as "[t]he respective interest of the parties will be determined in a *separate stipulated Qualified Domestic Relations Order (QDRO)*," and "[t]he parties further agree that each will sign the *final QDRO* within a reasonable amount of time," are singular and therefore refer to the preparation of only one QDRO. Marital Settlement Agreement, Oct. 14, 2021 pg. 7 (emphasis added). Given the explicit language of the MSA, Respondent's request for an order to prepare two QDROs is denied.

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Both requests for attorney's fees are denied. Respondent's request is denied due to the denial of her underlying request regarding the interpretation of the QDRO provision. Petitioner's request is denied for failure to provide the court with any evidentiary support for the amount requested. The MSA states specifically that the moving party "...will be able to recover reasonable attorney fees associated with enforcing this provision." It seems unlikely Petitioner incurred \$3,500 in attorney's fees associated only with the preparation of his responsive declaration. Without any evidence establishing the amount he actually incurred in relation to the motion, the court cannot make such an award.

TENTATIVE RULING #8: RESPONDENT'S REQUEST FOR AN ORDER TO PREPARE TWO QDROS IS DENIED. BOTH REQUESTS FOR ATTORNEY'S FEES ARE DENIED.

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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9. KRISTI AMES V. NICOLAUS THOMY

23FL0299

On May 19, 2023, Petitioner filed a Request for Order (RFO) seeking orders for child custody and visitation as well as child support, spousal support, property control, and attorney's fees. Concurrently therewith she filed her Income and Expense Declaration. Both documents were mail served on May 22nd. Respondent filed and served his Responsive Declaration to Request for Order on August 11th and his Income and Expense Declaration on August 15th. The parties were referred to Child Custody Recommending Counseling (CCRC) and a hearing on the RFO was set for the present date.

Respondent filed an RFO seeking an order directing Petitioner to undergo a vocational rehabilitation examination. The RFO was filed on June 6, 2023, and mail served the next day. Petitioner filed her Responsive Declaration to Request for Order on August 3rd. Respondent's Reply was thereafter filed on August 11th. Respondent's RFO was set to be heard on August 17th. Respondent later requested the hearing on his RFO be continued to join with the hearing on Petitioner's May 19th RFO which was set for the present date.

Custody and Visitation

The parties share two young children as a result of the marriage. Petitioner requests joint legal custody and sole physical custody. She asks that Respondent's parenting time be supervised either professionally or non-professionally. If non-professionally, then supervised by the parents of either party. The makes this request on the basis that she feels Respondent has uncontrollable anger issues.

Respondent requests as close to an equal timeshare as possible. He works Tuesday through Friday and would like to make sure they establish a parenting plan that will allow frequent and continuing contact with each parent. However, if the court is inclined to choose a custodial parent, he requests it be him. He feels that Petitioner's unwarranted allegations of abuse are indicative of her unwillingness to foster and encourage a relationship between him and the children.

The parties attended CCRC on July 10th and a report was prepared dated August 17th. As a part of the report, the CCRC counselor provided the court with recommendations regarding legal custody, parenting time, holidays, transportation for parenting time, vacations, and a variety of additional provisions. The court agrees with the CCRC counselor that there does not appear to be sufficient evidentiary basis to warrant supervised visits at this time. In light of the foregoing, the recommendations of the August 17, 2023 CCRC report are hereby adopted as the orders of the court with the following modifications: The Parenting Time section shall be amended to reflect that Respondent shall have parenting time on the 1st, 2nd, 4th, and 5th (in months where there is a 5th weekend). For the 1st, 2nd, and 5th weekends Respondent's

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parenting time shall commence on Friday at 5:00 p.m. and end on Monday at 5:00 p.m. For the 4th weekend, Respondent's parenting time is to commence on Saturday at noon and continue through Monday at 5:00 p.m.

Property Control

As of the filing of her RFO, Petitioner was residing in the former family home located on Gold Ridge Trail in Pollock Pines. She states she purchased the home prior to the marriage as her sole and separate property and it is held in her name only. She requests exclusive use and possession of the home pending resolution of the dissolution.

Respondent does not oppose Petitioner's request for exclusive use and possession of the residence and given that Petitioner is already residing in the home, the court grants Petitioner's request for exclusive use and possession of the home located on Gold Ridge Trail in Pollock Pines, effective immediately.

Vocational Rehabilitation Evaluation

Respondent initially filed this RFO requesting Petitioner undergo a vocational rehabilitation evaluation on the basis that she works only 4 days per month. Petitioner filed her reply stating that she has increased her hours to 8-10 days per month, which is part time for her department. She notes her two young children and states she is of the belief that she is working the maximum number of hours she is able to given the amount of care the children need. In Respondent's Reply he concedes that a vocational evaluation is not necessary if Petitioner is intending to work 32 hours per week.

Given that Petitioner is still working, and she is employed in her field, the court does not find it necessary for her to undergo a vocational rehabilitation evaluation. Respondent's request is therefore denied.

Child and Spousal Support

Respondent requests the court impute income to Petitioner commensurate with the earnings of a nurse working full time. In the alternative, he requests the court order her to seek work and set a review hearing on the status of her job search.

The court declines an imputation of full-time income or issuance a seek work order. The children are still very young and will be in the care of Petitioner during most of the week. As they grow older and need less supervision Petitioner may be better positioned to obtain full time employment but for the time being, Respondent's requests are denied.

Utilizing the figures as outlined in the parties' Income and Expense Declarations, the court finds that temporary guideline spousal support per the Alameda formula is \$1,458 per

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month and child support is \$2,286 per month. See attached DissoMaster report. The court adopts the attached DissoMaster report and orders Respondent to pay Petitioner \$3,744 per month as and for temporary spousal support and child support, payable on the 1st of the month until further order of the court or legal termination. The court orders the support orders effective June 1, 2023.

The court finds the above order results in arrears in the amount of \$11,232 through and including August 1, 2023. The court orders Respondent pay Petitioner \$936 on the 15th of each month until paid in full (approximately 12 months). If a payment is late or missed the remaining balance is due in full with legal interest within five (5) days.

The court further finds Respondent routinely earns additional income in the form of overtime and premium payments. Therefore, the court has included an overtime table with the DissoMaster. Respondent is to pay Petitioner a true up of any overtime and premium payments of any kind, excluding stipends for meals and lodging, earned no later than fourteen days from the date the additional income is received.

Attorney's Fees

Petitioner requests \$7,500 in attorney's fees pursuant to Family Code section 2030. Respondent asks the court to reserve its decision on attorney fees until the time of trial. In the interim, he has no objection to the payment of fees from the community portion of savings.

The public policy of Family Code section 2030 is to provide "at the outset of litigation, consistent with the financial circumstances of the parties, parity between spouses in their ability to obtain effective legal representation." *In Re Marriage Of Keech*, 75 Cal. App. 4th 860, 866(1999). This assures each party has access to legal representation to preserve each party's rights. It "is not the redistribution of money from the greater income party to the lesser income party," but rather "parity." *Alan S. v Superior Court*, 172 Cal. App. 4th 238,251(2009). In the face of a request for attorney's fees and costs, the court is to make findings on "whether there is a disparity in access to funds to retain counsel, and whether one party is able to pay for legal representation of both parties." Fam. Code § 2030(a)(2).

Here, there is a significant disparity in income and therefore a significant disparity in each party's respective ability to retain counsel. As such, Petitioner's request for attorney's fees is granted. Respondent is to pay Petitioner's attorney \$7,500 as and for attorney's fees. This amount may be paid in one lump sum or in monthly increments of \$625 due and payable on the 15th of each month commencing on September 15th and continuing until paid in full (approximately 12 months). If any payment is missed or late the entire amount shall become immediately due and payable.

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TENTATIVE RULING #9: THE RECOMMENDATIONS OF THE AUGUST 17, 2023 CCRC REPORT ARE HEREBY ADOPTED AS THE ORDERS OF THE COURT WITH THE FOLLOWING MODIFICATIONS: THE PARENTING TIME SECTION SHALL BE AMENDED TO REFLECT THAT THE PARTIES ARE TO SHARE JOINT CUSTODY OF THE CHILDREN ON A 2-2-3 TIMESHARE. THE 2-2-3 SCHEDULE IS TO COMMENCE ON SEPTEMBER 1ST WITH PETITIONER HAVING THE FIRST TWO DAYS. THE COURT GRANTS PETITIONER'S REQUEST FOR EXCLUSIVE USE AND POSSESSION OF THE HOME LOCATED ON GOLD RIDGE TRAIL IN POLLOCK PINES, EFFECTIVE IMMEDIATELY.

RESPONDENT'S REQUEST FOR A VOCATIONAL REHABILITATION EVALUATION IS DENIED. RESPONDENT'S REQUESTS FOR A SEEK WORK ORDER AND TO IMPUTE FULL TIME WAGES ARE DENIED. UTILIZING THE FIGURES AS OUTLINED IN THE PARTIES' INCOME AND EXPENSE DECLARATIONS, THE COURT FINDS THAT SPOUSAL SUPPORT PER THE ALAMEDA FORMULA IS \$1,458 PER MONTH AND CHILD SUPPORT IS \$2,286 PER MONTH. SEE ATTACHED DISSOMASTER REPORT. THE COURT ADOPTS THE ATTACHED DISSOMASTER REPORT AND ORDERS RESPONDENT TO PAY PETITIONER \$3,744 PER MONTH AS AND FOR TEMPORARY SPOUSAL SUPPORT AND CHILD SUPPORT, PAYABLE ON THE 1ST OF THE MONTH UNTIL FURTHER ORDER OF THE COURT OR LEGAL TERMINATION. THE COURT ORDERS THE SUPPORT ORDERS EFFECTIVE JUNE 1, 2023. THE COURT FINDS THE ABOVE ORDER RESULTS IN ARREARS IN THE AMOUNT OF \$11,232 THROUGH AND INCLUDING AUGUST 1, 2023. THE COURT ORDERS RESPONDENT PAY PETITIONER \$936 ON THE 15TH OF EACH MONTH UNTIL PAID IN FULL (APPROXIMATELY 12 MONTHS). IF A PAYMENT IS LATE OR MISSED THE REMAINING BALANCE IS DUE IN FULL WITH LEGAL INTEREST WITHIN FIVE (5) DAYS. THE COURT FURTHER FINDS RESPONDENT ROUTINELY EARNS ADDITIONAL INCOME IN THE FORM OF OVERTIME AND PREMIUM PAYMENTS. THEREFORE, THE COURT HAS INCLUDED AN OVERTIME TABLE WITH THE DISSOMASTER. RESPONDENT IS TO PAY PETITIONER A TRUE UP OF ANY OVERTIME AND PREMIUM PAYMENTS OF ANY KIND, EXCLUDING STIPENDS FOR MEALS AND LODGING, EARNED NO LATER THAN FOURTEEN DAYS FROM THE DATE THE ADDITIONAL INCOME IS RECEIVED.

PETITIONER'S REQUEST FOR ATTORNEY'S FEES IS GRANTED. RESPONDENT IS TO PAY PETITIONER'S ATTORNEY \$7,500 AS AND FOR ATTORNEY'S FEES. THIS AMOUNT MAY BE PAID IN ONE LUMP SOME OR IN MONTHLY INCREMENTS OF \$625 DUE AND PAYABLE ON THE 15TH OF EACH MONTH COMMENCING ON SEPTEMBER 15TH AND CONTINUING UNTIL PAID IN FULL (APPROXIMATELY 12 MONTHS). IF ANY PAYMENT IS MISSED OR LATE THE ENTIRE AMOUNT SHALL BECOME IMMEDIATELY DUE AND PAYABLE.

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 31, 2023

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

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): <div style="text-align: center;">California</div> ATTORNEY FOR: Father	TELEPHONE NO:	Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
DISSOMASTER REPORT 2023, Monthly		CASE NUMBER: <div style="text-align: center;">Ames</div>

Input Data	Father	Mother	Guideline (2023)	Cash Flow Analysis	Father	Mother
Number of children	0	2	Nets (adjusted)	Guideline		
% time with Second Parent	33%	0%	Father	8,929	Payment (cost)/benefit	(3,744) 3,744
Filing status	MFJ->	<-MFJ	Mother	1,550	Net spendable income	5,184 5,294
# Federal exemptions	1*	3*	Total	10,479	% combined spendable	49.5% 50.5%
Wages + salary	12,475	1,888	Support (Nondeductible)	Total taxes	2,896	455
401(k) employee contrib	0	0	CS Payor	Father	Comb. net spendable	10,478
Self-employment income	0	0	Presumed	2,286	Proposed	
Other taxable income	0	117	Basic CS	2,286	Payment (cost)/benefit	(3,744) 3,744
Short-term cap. gains	0	0	Add-ons	0	Net spendable income	5,184 5,294
Long-term cap. gains	0	0	Presumed Per Kid		NSI change from gdl	0 0
Other gains (and losses)	0	0	Child 1	875	% combined spendable	49.5% 50.5%
Ordinary dividends	0	0	Child 2	1,411	% of saving over gdl	0% 0%
Tax. interest received	0	0	SS Payor	Father	Total taxes	2,896 455
Social Security received	0	0	Alameda	1,458	Comb. net spendable	10,478
Unemployment compensation	0	0	Total	3,744	Percent change	0.0%
Operating losses	0	0	Proposed, tactic 9		Default Case Settings	
Ca. operating loss adj.	0	0	CS Payor	Father		
Roy, partnerships, S corp, trusts	0	0	Presumed	2,286		
Rental income	0	0	Basic CS	2,286		
Misc ordinary tax. inc.	0	117	Add-ons	0		
Other nontaxable income	0	0	Presumed Per Kid			
New-spouse income	0	0	Child 1	875		
SS paid other marriage	0	0	Child 2	1,411		
CS paid other relationship	0	0	SS Payor	Father		
Adj. to income (ATI)	0	0	Alameda	1,458		
Ptr Support Pd. other P'ships	0	0	Total	3,744		
Health insurance	420	0	Savings	0		
Qual. Bus. Inc. Ded.	0	0	No releases			
Itemized deductions	0	973				
Other medical expenses	0	0				
Property tax expenses	0	332				
Ded. interest expense	0	641				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
State sales tax paid	0	0				
Required union dues	230	0				
Cr. for Pd. Sick and Fam. L.	0	0				
Mandatory retirement	0	0				
Hardship deduction	0*	0*				
Other gdl. adjustments	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	0				



ATTORNEY (NAME AND ADDRESS): California ATTORNEY FOR: Father		TELEPHONE NO: Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
Father Monthly Overtime Wages Report 2023 Monthly		CASE NUMBER: Ames

"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
1,000	12.81	128	15.95	160	2,414	1,618	4,032
1,100	12.90	142	16.08	177	2,428	1,635	4,063
1,200	12.96	156	16.19	194	2,441	1,653	4,094
1,300	13.02	169	16.28	212	2,455	1,670	4,125
1,400	13.06	183	16.36	229	2,469	1,687	4,156
1,500	13.10	196	16.42	246	2,482	1,705	4,187
1,600	13.13	210	16.48	264	2,496	1,722	4,218
1,700	13.15	224	16.54	281	2,510	1,740	4,249
1,800	13.18	237	16.58	298	2,523	1,757	4,280
1,900	13.19	251	16.62	316	2,537	1,774	4,311
2,000	13.21	264	16.66	333	2,550	1,792	4,342
2,100	13.22	278	16.70	351	2,564	1,809	4,373
2,200	13.23	291	16.73	368	2,577	1,827	4,403
2,300	13.24	304	16.76	385	2,590	1,844	4,434
2,400	13.24	318	16.79	403	2,604	1,861	4,465
2,500	13.25	331	16.81	420	2,617	1,879	4,496
2,600	13.25	344	16.83	438	2,630	1,896	4,527
2,700	13.25	358	16.85	455	2,644	1,914	4,557
2,800	13.25	371	16.87	472	2,657	1,931	4,588
2,900	13.25	384	16.89	490	2,670	1,948	4,619
3,000	13.25	398	16.91	507	2,683	1,966	4,649
3,100	13.25	411	16.93	525	2,697	1,983	4,680
3,200	13.25	424	16.94	542	2,710	2,001	4,711
3,300	13.25	437	16.96	560	2,723	2,018	4,741
3,400	13.25	450	16.97	577	2,736	2,035	4,772
3,500	13.24	463	16.98	594	2,749	2,053	4,802
3,600	13.24	477	17.00	612	2,762	2,070	4,833
3,700	13.23	490	17.01	629	2,776	2,088	4,863
3,800	13.23	503	17.01	646	2,788	2,105	4,893
3,900	13.21	515	17.01	663	2,801	2,122	4,923
4,000	13.20	528	17.01	681	2,814	2,139	4,953
4,100	13.19	541	17.01	698	2,827	2,156	4,983
4,200	13.18	554	17.01	715	2,839	2,173	5,013
4,300	13.17	566	17.02	732	2,852	2,190	5,042
4,400	13.16	579	17.02	749	2,865	2,207	5,072
4,500	13.15	592	17.02	766	2,877	2,224	5,102



PETITIONER:	CASE NUMBER:
RESPONDENT:	

Father Monthly Overtime Wages Report, cont'd

Father's Gross Overtime	Basic CS%	Basic CS	Alameda SS%	Alameda SS	Total Basic CS	Total SS	Total Support CS+SS
4,600	13.14	604	17.02	783	2,890	2,241	5,131
4,700	13.12	617	17.02	800	2,903	2,258	5,161
4,800	13.11	629	17.02	817	2,915	2,275	5,191
4,900	13.10	642	17.02	834	2,928	2,292	5,220
5,000	13.09	655	17.02	851	2,941	2,309	5,250
5,100	13.08	667	17.02	868	2,953	2,326	5,280
5,200	13.07	680	17.02	885	2,966	2,344	5,309
5,300	13.06	692	17.02	902	2,978	2,361	5,339
5,400	13.05	705	17.02	919	2,991	2,378	5,368
5,500	13.04	717	17.02	936	3,003	2,395	5,398
5,600	13.03	730	17.02	953	3,016	2,412	5,427
5,700	13.02	742	17.02	970	3,028	2,429	5,457
5,800	13.01	755	17.02	987	3,041	2,446	5,487
5,900	13.00	767	17.02	1,004	3,053	2,463	5,516
6,000	12.99	780	17.02	1,021	3,066	2,480	5,546
6,100	12.99	792	17.02	1,038	3,078	2,497	5,575
6,200	12.98	805	17.02	1,056	3,090	2,514	5,604
6,300	12.97	817	17.02	1,073	3,103	2,531	5,634
6,400	12.96	829	17.03	1,090	3,115	2,548	5,663
6,500	12.95	842	17.02	1,107	3,128	2,565	5,693
6,600	12.94	854	17.02	1,123	3,140	2,582	5,722
6,700	12.93	866	17.02	1,140	3,152	2,599	5,751
6,800	12.92	878	17.02	1,157	3,164	2,616	5,780
6,900	12.91	891	17.02	1,174	3,176	2,633	5,809
7,000	12.90	903	17.01	1,191	3,189	2,649	5,838
7,100	12.89	915	17.01	1,208	3,201	2,666	5,867
7,200	12.88	927	17.01	1,225	3,213	2,683	5,896
7,300	12.87	939	17.01	1,241	3,225	2,700	5,925
7,400	12.86	951	17.00	1,258	3,237	2,717	5,954
7,500	12.85	963	17.00	1,275	3,249	2,734	5,983
7,600	12.84	976	17.00	1,292	3,261	2,751	6,012
7,700	12.83	988	17.00	1,309	3,274	2,767	6,041
7,800	12.82	1,000	17.00	1,326	3,286	2,784	6,070
7,900	12.81	1,012	17.00	1,343	3,298	2,801	6,099
8,000	12.80	1,024	16.99	1,359	3,310	2,818	6,128
8,100	12.79	1,036	16.99	1,376	3,322	2,835	6,157
8,200	12.78	1,048	16.99	1,393	3,334	2,852	6,186
8,300	12.77	1,060	16.99	1,410	3,346	2,869	6,215
8,400	12.76	1,072	16.99	1,427	3,358	2,885	6,243
8,500	12.75	1,084	16.99	1,444	3,370	2,902	6,272
8,600	12.75	1,096	16.98	1,461	3,382	2,919	6,301
8,700	12.74	1,108	16.98	1,478	3,394	2,936	6,330
8,800	12.73	1,120	16.98	1,494	3,406	2,953	6,359
8,900	12.72	1,132	16.98	1,511	3,418	2,970	6,388
9,000	12.71	1,144	16.98	1,528	3,430	2,987	6,417
9,100	12.70	1,156	16.98	1,545	3,442	3,003	6,445
9,200	12.70	1,168	16.98	1,562	3,454	3,020	6,474



PETITIONER:	CASE NUMBER:
RESPONDENT:	

Father Monthly Overtime Wages Report, cont'd

Father's Gross Overtime	Basic CS%	Basic CS	Alameda SS%	Alameda SS	Total Basic CS	Total SS	Total Support CS+SS
9,300	12.69	1,180	16.97	1,579	3,466	3,037	6,503
9,400	12.68	1,192	16.97	1,595	3,478	3,054	6,532
9,500	12.67	1,204	16.97	1,612	3,490	3,071	6,561
9,600	12.66	1,216	16.97	1,629	3,502	3,088	6,589
9,700	12.66	1,228	16.97	1,646	3,514	3,105	6,618
9,800	12.65	1,240	16.97	1,663	3,526	3,121	6,647
9,900	12.64	1,252	16.97	1,680	3,537	3,138	6,676
10,000	12.63	1,263	16.97	1,697	3,549	3,155	6,704

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
August 31, 2023
8:30 a.m./1:30 p.m.

10. MATTHEW TOOCH V. JENNIFER HOLLY

PFL20140486

Counsel for Respondent filed her Notice of Motion and Motion to be Relieved as Counsel and her supporting declaration on June 28, 2023. The motion was served via U.S. Mail at an address previously confirmed by counsel. Also filed on June 28th was a signed Substitution of Attorney form. Therefore, the motion is moot.

TENTATIVE RULING #10: THE COURT DECLINES TO RULE ON THE MOTION AS IT IS MOOT DUE TO THE SUBSTITUTION OF ATTORNEY FORM.

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
August 31, 2023
8:30 a.m./1:30 p.m.

11. NATASHA TRUXLER V. CHRIS TRUXLER

23FL0639

Respondent moves to dismiss and strike Petitioner's Request for Domestic Violence Restraining Order ("DVRO") filed on July 14, 2023. The moving papers were filed and electronically served on August 1, 2023. Petitioner filed and served her Response to Christopher J. Truxler's Anti-SLAPP Special Motion to Dismiss on August 18, 2023. The Reply in Support of Respondent Christopher J. Truxler's Motion to Dismiss and Strike Petitioner Natasha Truxler's Petition Pursuant to California Code of Civil Procedure Section 425.16 was filed and served on August 24th and then served again on August 25th.

The court on its own motion continues the matter to September 7, 2023 at 8:30 a.m. in Department 5. The court reserves jurisdiction on both parties' requests for attorney fees.

TENTATIVE RULING #11: THE COURT ON ITS OWN MOTION CONTINUES THE MATTER TO SEPTEMBER 7, 2023 AT 8:30 IN DEPARTMENT 5. THE COURT RESERVES JURISDICTION ON BOTH PARTIES' REQUESTS FOR ATTORNEY FEES.

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
August 31, 2023
8:30 a.m./1:30 p.m.

12. PAMELA HARE V. BENJAMIN GOFF

PFL20130645

This matter is before the court on a review and return from Child Custody Recommending Counseling (CCRC). The CCRC appointment was originally set as the result of a Request for Order (RFO) filed by Minor's Counsel on June 7, 2023. The parties were referred to CCRC with an appointment on July 31st and a hearing on the RFO was set for the present date. The RFO, the CCRC referral, and all other required documents were served on June 12th.

There is no CCRC report in the court's file though Minor's Counsel filed and served her Declaration of Rebecca Esty-Burke indicating that Respondent did not appear at CCRC nor did he attend a meeting she had scheduled with him. She is requesting the parties be re-referred to CCRC.

Petitioner filed a Supplemental Declaration of Pamela Hare on August 14th. There is no Proof of Service evidencing that Minor's Counsel and Respondent have been served with these documents. As such, the court has not read or considered it.

The parties are re-referred to CCRC with an appointment on October 26, 2023 at 9:00 am available). A review hearing is set for December 7, 2023 at 1:30 pm. The parties may file supplemental declarations no later than 10 days prior to the hearing date. Respondent is admonished that failure to appear at a second CCRC hearing will result in monetary sanctions.

TENTATIVE RULING #12: THE PARTIES ARE RE-REFERRED TO CCRC WITH AN APPOINTMENT ON OCTOBER 26, 2023 AT 9:00 AM A REVIEW HEARING IS SET FOR December 7, 2023 at 1:30 pm. THE PARTIES MAY FILE SUPPLEMENTAL DECLARATIONS NO LATER THAN 10 DAYS PRIOR TO THE HEARING DATE. RESPONDENT IS ADMONISHED THAT FAILURE TO APPEAR AT A SECOND CCRC HEARING WILL RESULT IN MONETARY SANCTIONS.

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
August 31, 2023
8:30 a.m./1:30 p.m.

13. THERESA B. SJOGREN V. JACK A. SJOGREN

PFL20140984

This matter is before the court on Respondent's request to modify spousal support. Respondent filed his Request for Order (RFO) and his accompanying Income and Expense Declaration (I&E) on June 21, 2023. Both documents, including all other required documents, were personally served on Petitioner on July 2nd. Petitioner has not filed a responsive declaration, nor has she filed an I&E.

According to Respondent, the parties finalized their divorce on December 30, 2015 and he has been paying spousal support based on a step down plan agreed upon by the parties. From July 1, 2021 through the present Respondent has been paying \$2,500 a month. He states he has never missed a payment but recently he was laid off from his job which left him with no income other than his severance pay which will end on September 16th. Given this change in circumstances, Respondent states that he can no longer afford to pay support.

Generally speaking, a married person has a duty to support his or her spouse. Cal. Fam. Code § 4300. The intent is to ensure that each party, upon separation, is able to maintain the marital standard of living. *See* Cal. Fam. Code § 4330(a). The court maintains broad discretion in determining whether a support award is warranted and if so, the amount and duration thereof. *In re Marriage of McLain*, 7 Cal. App. 5th 262, 269 (2017). In ruling on the issue of permanent support, the court is to consider the factors enumerated in Family Code section 4320. This includes, but is not limited to, the needs of each party to maintain the marital standard of living, the ability of the supporting party to pay support, the ability of the supported party to engage in gainful employment and the extent to which that party's earning capacity was impaired by unemployment during the marriage incurred to permit that party to attend to domestic duties, and the age and health of both parties. Cal. Fam. Code § 4320.

The court finds it is required to take testimony on the request to modify permanent spousal support, as it is a post-judgment request for modification. Therefore, the parties are ordered to appear to select Mandatory Settlement and Trail dates.

TENTATIVE RULING #13: THE PARTIES ARE ORDERED TO APPEAR TO SELECT MANDATORY SETTLEMENT AND TRAIL DATES.

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
August 31, 2023
8:30 a.m./1:30 p.m.

13A. Gregory Dobbins v. Christina Dobbins

PFL20160196

Petitioner filed a Request for Order (RFO) on June 8, 2023, requesting modification of permanent spousal support. Petitioner concurrently filed an Income and Expense Declaration (I&E). Respondent was personally served on July 5, 2023. Petitioner requests permanent spousal support be modified, as there has been a change in circumstances, namely, his income has decreased since the time of the order in 2018. Petitioner further asserts that he has been paying support for seven years, and the parties marriage lasted 10 years eight months. Therefore, Petitioner asserts, he has paid support for more than half the duration of the marriage. Further, Petitioner states the Marital Settlement Agreement (MSA) contained a *Gavron* warning as well as a provision for a reassessment on or before December 31, 2022.

Respondent has not filed a Responsive Declaration or an I&E.

The court has reviewed the parties' MSA and the court does retrain jurisdiction to modify spousal support. The court finds this to be a post-judgment modification, and therefore, the court will need to take testimony on the Family Code section 4320 factors. Therefore, the parties are ordered to appear to select Mandatory Settlement and Trial dates.

TENTATIVE RULING #13A: THE PARTIES ARE ORDERED TO APPEAR TO SELECT MANDATORY SETTLEMENT AND TRIAL DATES.

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
August 31, 2023
8:30 a.m./1:30 p.m.

14. ANGELA PARSONS V. MARK PARSONS

PFL20200195

Petitioner filed a Request for Order (RFO) on June 5, 2023, requesting the court order Respondent pay arrears for spousal support. Petitioner concurrently filed a Declaration of Payment History. Petitioner filed a Proof of Service on July 12, 2023, showing Respondent was served with the June 5, 2023 RFO by mail on June 5, 2023.

Respondent filed a Responsive Declaration as well as an Income and Expense Declaration on June 29, 2023. Respondent objects to paying an arrears. Respondent is requesting the court deny the RFO as Petitioner did not file an Income and Expense Declaration.

Petitioner filed an Income and Expense Declaration on July 6, 2023. Proof of Service shows Respondent was served by mail on July 6, 2023.

Respondent filed a RFO on June 30, 2023, requesting to modify the current order for spousal support. Petitioner was served by mail on July 14, 2023.

Petitioner filed a Declaration on July 12, 2023. Respondent was served electronically on July 12, 2023. Petitioner has not filed a Responsive Declaration to Respondent's June 30, 2023 RFO.

On March 25, 2021, the court ordered Respondent to pay Petitioner \$1,000 for spousal support arrears within one week. The court further ordered temporary non-guideline spousal support per the parties' agreement in the amount of \$400 payable from Respondent to Petitioner effective April 1, 2023. Petitioner asserts Respondent failed to pay \$100 of the ordered support in 2021; Respondent has failed to pay \$1,300 for 2022; and Respondent has failed to pay \$4,800 for 2023. The court notes Petitioner has asserted that Respondent has failed to pay for July through December of 2023, despite those being future dates at the time of the filing of the RFO.

As to Petitioner's June 5, 2023 filed RFO, the court has read and considered the filings as set forth above. The court finds, Respondent does not dispute that he has failed to pay support as asserted in Petitioner's motion. Rather, Respondent has requested the court deny the motion for Petitioner's failure to file an Income and Expense Declaration. The court finds Petitioner has corrected that error, and there is good cause to proceed with the RFO on the merits. The court finds Respondent owes Petitioner \$3,800 as and for arrears. (\$100 for 2021; \$1,300 for 2022; and \$2,400 for 2023-January through June.) The court orders Respondent to pay Petitioner \$106 per month as and for arrears effective September 1, 2023 and payable on the 1st of each month until paid in full. If there is any missed or late payment, the full amount is due with legal interest.

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August 31, 2023

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

As to Respondent's RFO to modify the prior agreement for non-guideline temporary spousal support, the court has read and considered the filings as outlined above. The court finds it needs to take testimony from the parties to make findings as to the Family Code section 4320 factors to determine whether to grant the requested modification. Therefore, parties are ordered to appear to select Mandatory Settlement and Trial dates.

TENTATIVE RULING #14: THE PARTIES ARE ORDERED TO APPEAR TO SELECT MANDATORY SETTLEMENT AND TRIAL DATES ON RESPONDENT'S RFO.

AS TO PETITIONER'S RFO, THE COURT FINDS RESPONDENT OWES PETITIONER \$3,800 AS AND FOR ARREARS. (\$100 FOR 2021; \$1,300 FOR 2022; AND \$2,400 FOR 2023-JANUARY THROUGH JUNE.) THE COURT ORDERS RESPONDENT TO PAY PETITIONER \$106 PER MONTH AS AND FOR ARREARS EFFECTIVE SEPTEMBER 1, 2023 AND ON THE 1ST OF EACH MONTH UNTIL PAID IN FULL. IF THERE IS ANY MISSED OR LATE PAYMENT, THE FULL AMOUNT IS DUE WITH LEGAL INTEREST.

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
August 31, 2023
8:30 a.m./1:30 p.m.

15. CARA LEVIN-DIAZ V. ISMAEL DIAZ

22FL0125

Petitioner filed a Request for Order on July 3, 2023, requesting the court order Respondent remove his belongings from Petitioner's garage. Respondent was served by mail on July 7, 2023. The court notes this is a post-judgment request for modification and therefore, Family Code section 215 applies, and as such, personal service is required.

Respondent has not filed a Responsive Declaration.

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

TENTATIVE RULING #15: THE MATTER IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE.

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

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August 31, 2023
8:30 a.m./1:30 p.m.

16. CHARLES CONN V. JACQUELYNN CONN

PFL20110833

Petitioner filed a Request for Order and Income and Expense Declaration on July 3, 2023, requesting a modification of permanent spousal support. Respondent was served by mail on July 3, 2023. The court notes this is a post-judgment request for modification of spousal support and therefore, Family Code section 215 applies, and as such, personal service is required. Further, it does not appear based on the Proof of Service filed July 3, 2023, Respondent was served all the necessary documents.

Respondent has not filed a Responsive Declaration.

The matter is dropped 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.

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
August 31, 2023
8:30 a.m./1:30 p.m.

17. CHARLOTTE THOMAS V. JOHN THOMAS

22FL1197

Petitioner filed a Request for Order (RFO) on June 30, 2023, requesting the court compel Respondent to comply with the Preliminary Disclosure requirements of Family Code section 2104. Respondent was served by mail on July 5, 2023. The court notes, Respondent was served by mail at the physical address listed on his Response, rather than the PO Box listed on his Response. It is unclear to the court whether Respondent receives mail at the physical address.

Respondent has not filed a Responsive Declaration.

The court has read and considered the above filings and makes the following findings and orders:

The court takes Judicial Notice of its own file per Evidence Code section 452(d). The court finds that Petitioner filed a Petition for Legal Separation on December 27, 2022 and Respondent filed a Response on February 8, 2023.

On February 16, 2023 Petitioner filed a Declaration Regarding Service of Declaration of Disclosure and Income and Expense Declaration showing Petitioner's Preliminary Disclosures were personally served on Respondent on February 16, 2023.

Except by court order for good cause, as provided in Family Code section 2107, Respondent's preliminary declaration of disclosure, including a schedule of assets and debts, current income, and expense declaration, and the previous two years' tax returns, must be served with concurrently with the response or within 60 days of filing the response. (See Family Code section 2104 (a), (c), (e), (f).)

The court grants Petitioner's request pursuant to Family Code section 2107(b) and orders Respondent to provide Preliminary Declarations of Disclosure to Petitioner on or before September 14, 2023.

TENTATIVE RULING #17: THE COURT GRANTS PETITIONER'S REQUEST PURSUANT TO FAMILY CODE SECTION 2107(B) AND ORDERS RESPONDENT TO PROVIDE PRELIMINARY DECLARATIONS OF DISCLOSURE TO PETITIONER ON OR BEFORE SEPTEMBER 14, 2023.

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

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DEPARTMENT 5

August 31, 2023

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

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

LAW & MOTION TENTATIVE RULINGS
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August 31, 2023
8:30 a.m./1:30 p.m.

18. CLAIRE OVERBY V. ZOLO POOLE

23FL0492

Petitioner filed a Petition for Custody and Support on May 31, 2023. Additionally, Petitioner filed a Request for Order (RFO) on May 31, 2023, requesting the court make orders as to custody, parenting time, and child support. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on July 21, 2023 and a review hearing on August 31, 2023. There is no Proof of Service showing Respondent was properly served with the Petition for Custody and Support or the RFO.

Petitioner filed a request for a Domestic Violence Restraining Order (DVRO) in Case number 23FL0608, on June 30, 2023. Petitioner requested child support as well as attorney's fees in the request for a DVRO. Respondent was personally served with the request for a DVRO on July 21, 2023. The court held a hearing on the request for the DVRO on August 11, 2023. The court granted Petitioner's request for a DVRO, ordering a permanent DVRO for a period of three years. The court reserved jurisdiction on Petitioner's request for child support and attorney's fees to the August 31, 2023 hearing on Petitioner's RFO.

Despite the lack of service of the Petition and RFO, both parties appeared at CCRC and purportedly reached a full agreement. A CCRC report was filed with the court on July 21, 2023. Copies were mailed to the parties on July 24, 2023.

Petitioner filed an Updating Declaration in 23FL0608, on August 3, 2023, in which she requested a re-referral to CCRC with separate mediation appointments. Respondent was served electronically on August 3, 2023. Petitioner asserts the mediator was not aware she filed for an DVRO and did not allow her to address any concerns relating to DVRO in the mediation nor how the court might trigger the Family Code section 3044 presumption.

Petitioner filed a Declaration regarding attorney's fees on August 18, 2023. Proof of service shows Respondent was served electronically on August 18, 2023.

Respondent filed an Income and Expense Declaration on August 21, 2023. There is no Proof of Service for this document, and therefore, the court cannot consider it.

Petitioner filed an Income and Expense Declaration on August 24, 2023, which is less than 10 days prior to the hearing. Proof of service shows Respondent was served electronically on August 24, 2023.

Parties are ordered to appear for the hearing.

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

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August 31, 2023
8:30 a.m./1:30 p.m.

19. JODI GRAHAM V. NICHOLAS GRAHAM (OTHER PARTY: JOE AND STACEY DIMAGGIO)
22FL1083

Other Party filed a Request for Order (RFO) and Petition for Joinder on June 16, 2023, requesting the court order grandparent visitation. Other Party asserts they are the paternal grandparents of the minors and have a close relationship with them, as they provide foster care for the minors in 2020. Petitioner was personally served on July 19, 2023. There is no Proof of Service showing Respondent was properly served pursuant to Family Code section 3103(c).

In previous custody orders (PDP21-0025 and PDP21-0026) Petitioner was granted sole legal and physical custody of both children.

The grandparents are requesting visitation from Friday evening to Sunday evening once a month. In their declaration, they assert that both grandchildren were placed in their care through foster care in 2020 for 14 months. Since December 2022, the grandparents assert that the only contact they have with their grandchildren is through Facetime, as Petitioner no longer allowed them to have visitation without any further explanation.

The grandparents' petition for Joinder filed on June 16, 2023, attaches the same declaration that was submitted with the RFO for visitation. Respondent consented to and joins in the request for grandparent visitation.

Petitioner filed a responsive declaration to the grandparents' RFO on July 25, 2023, objecting to the grandparents' visitation request. In her declaration, Petitioner agreed to continue regular Facetime calls with the grandparents as well as in-person visits while she is present but did not feel comfortable with overnight or unsupervised visits. A Proof of Service for her Responsive Declaration was filed with the court on August 1, 2023, indicating she served the document by mail to Respondent. An additional Proof of Service was filed the same day, which shows Petitioner served her Responsive Declaration by mail to the grandparents.

The hearing was originally scheduled for August 17, 2023; however, Petitioner filed a Request to Reschedule Hearing with the court on July 25, 2023, as she had a medical appointment the day of the hearing. On July 26, 2023, an Order on Request to Reschedule Hearing was filed, which denied the request, as there was no specific information such as time of the appointment to assess whether there was a conflict. On August 3, 2023, an Order on Request to Reschedule Hearing was filed, which granted the hearing reschedule request to August 31, 2023. Petitioner filed two Proof of Service by Mail on August 8, 2023, indicating that she served both Respondent and grandparents her Request to Reschedule Hearing and Order on Request to Reschedule Hearing.

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August 31, 2023
8:30 a.m./1:30 p.m.

The court finds service in this matter was not proper. Although Respondent signed the Petitioner for Joinder and Grandparent Visitation, on June 17, 2023, there is no Proof of Service showing he was ever served with the RFO. The court cannot find any exception in Family Code sections 3103 (c) or 3104 (c) that would allow the court to dispense with notice. Therefore, the matter is dropped from calendar due to the lack of proper notice.

Even if the court were to reach the issue on the merits, the request would be denied. The court may grant reasonable visitation to a grandparent if the court determines that visitation by the grandparent is in the best interests of the minors. (Family Code section 3104(a). The court finds there is a preexisting relationship between the minors and the grandparents. However, the court further finds there is a rebuttable presumption that visitation of a grandparent is not in the best interest of the minor if the parent who has been awarded sole legal and physical custody of the minor objects to visitation by the grandparent. Here, Petitioner, who has sole legal and sole physical custody of the minors, does object to the requested visitation. In balancing the interests of the minors with having visitation with the grandparents against the right of the parents to exercise their parental authority, the court finds Petitioner has not sought to cut off all contact with the paternal grandparents, but rather has set parameters for how those visits will take place. The court cannot find the presumption that visitation with the paternal grandparents would not be in the best interest of the minors has been rebutted. Therefore, the request would be denied.

TENTATIVE RULING #19: THE COURT FINDS SERVICE TO RESPONDENT WAS NOT PROPER, AND THEREFORE, DROPS THE MATTER FROM CALENDAR. EVEN IF THE COURT WERE TO REACH THE ISSUE ON THE MERITS, THE REQUEST WOULD BE DENIED, FOR THE REASONS SET FORTH ABOVE.

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
August 31, 2023
8:30 a.m./1:30 p.m.

20. JUSTINE DUNHAM V. CHARLES DUNHAM IV

PFL20130538

On May 23, 2023, Petitioner filed an ex parte request for orders. The ex parte request was denied and the court ruled the matter could be set on the regular law and motion calendar. Petitioner filed her Request for Order (RFO) the same day. The RFO and all other required documents were personally served on Respondent the same day as filing. Respondent has not opposed the motion.

The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on July 12, 2023. Only Petitioner appeared at the appointment. A report was prepared indicating that CCRC was unable to make any recommendations given Respondent's absence.

Petitioner filed her RFO seeking temporary full custody of the parties' minor daughter. She states Respondent was arrested in connection with sex trafficking and prostitution. Petitioner is now concerned for the safety of the minor child when she visits Respondent. Her request would be a change from the current orders which allow for Respondent to have parenting time on alternate weekends from Friday until Monday at noon or drop off at school. Petitioner states the parties had informally agreed to allow Respondent to have parenting time every other Wednesday through Sunday evening.

When making orders regarding custody or visitation the court is to consider (1) the state's policy to ensure the child has frequent and continuing contact with both parents after a separation and (2) the health, welfare, and safety of the child. Cal. Fam. Code § 3020. Where these two factors are in conflict, the health, welfare, and safety of the child trumps the policy regarding parental contact. *Id.* at (c).

Given the information included in Petitioner's RFO, the court shares in Petitioner's concerns regarding the minor's safety during her time with Respondent. Though the nature of the arrest is somewhat unclear, and the status of Respondent's criminal matter is unknown, Respondent has not filed a Responsive Declaration, not participated in CCRC despite being properly served with the RFO and referral to CCRC. As such, Respondent is in a position of default. Further, Respondent has not provided the court with any information.

The court finds granting Petitioner's requested orders is in the best interest of the minor. Petitioner is awarded temporary sole physical custody of the minor. Respondent is to have professionally supervised visits every other weekend for four hours on Saturday and four hours on Sunday. Respondent is solely responsible for the costs of the visits. All prior orders not in conflict with this order remain in full force and effect.

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DEPARTMENT 5

August 31, 2023

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

TENTATIVE RULING #20: PETITIONER IS AWARDED TEMPORARY SOLE PHYSICAL CUSTODY OF THE MINOR. RESPONDENT IS TO HAVE PROFESSIONALLY SUPERVISED VISITS EVERY OTHER WEEKEND FOR FOUR HOURS ON SATURDAY AND FOUR HOURS ON SUNDAY. RESPONDENT IS SOLELY RESPONSIBLE FOR THE COSTS OF THE VISITS. 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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DEPARTMENT 5
August 31, 2023
8:30 a.m./1:30 p.m.

21. KARLEY GENTRY V. PAUL GENTRY

22FL0745

Petitioner filed a Request for Order (RFO) on December 5, 2022, requesting the court make orders as to child and spousal support, as well as a request to remove Petitioner's name from the title of Respondent's vehicle. Petitioner filed an Income and Expense Declaration on the same date. Petitioner filed an Amended Income and Expense Declaration on December 6, 2022. Respondent was personally served on December 17, 2022.

Petitioner filed an Amended RFO on December 19, 2022. Petitioner requests the court make orders as to child custody and parenting time, child and spousal support, as well as to have Petitioner's name removed from the title of Respondent's Vehicle. Upon review of the court file, there is no Proof of Service showing Respondent was served with the Amended RFO.

Petitioner filed a Supplemental Declaration and updated Income and Expense Declaration on January 27, 2023. Respondent was served by mail on January 27, 2023. Petitioner affirms her requested orders as set forth in the Amended RFO. Petitioner requests the court order joint legal custody and for Petitioner to have sole physical custody, with Respondent having parenting time for two weeks in the summer and two weeks in the winter, to coincide with the minors' school breaks. Petitioner is requesting all parenting time occur in California. Petitioner requests guideline child and temporary spousal support.

Respondent had not filed a Responsive Declaration or an Income and Expense Declaration in time for the original hearing.

The court found the December 19, 2022 Amended RFO has not been properly served and dropped the matter from calendar.

The court found Petitioner's most recent Income and Expense Declaration to be incomplete. It is missing page two. Further Petitioner's December 6, 2022 filed Income and Expense Declaration does not have any pay stubs attached. Petitioner's December 5, 2022 Income and Expense Declaration does have pay stubs attached however, Petitioner is no longer employed with the employer. Therefore, the court found it did not have the requisite information necessary to make the guideline calculations for support and ordered parties to appear.

On February 9, 2023, parties appeared for the hearing. The court modified Respondent's RFO filed on February 9, 2023, and set the hearing time for 1:30 pm rather than 8:30 am on April 27, 2023. Petitioner's December 5, 2022 filed RFO was continued to April 27, 2023. The court directed Petitioner to serve Respondent's counsel with a copy of the filings in the matter to date. The court referred the parties to Child Custody Recommending Counseling (CCRC) for an appointment on February 15, 2023 at 1:00 pm. Respondent was directed to

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submit the appropriate forms to appear remotely. The court reserved jurisdiction on the request for child and temporary guideline spousal support to the date of the filing of the RFO. The court also reserved on the request to remove Petitioner's name from the title of Respondent's vehicle.

Upon review of the court file, Respondent's February 9, 2023 RFO had not been served on Petitioner. In its tentative ruling the court dropped the matter from calendar. Further, Respondent failed to appear at the February 15, 2023 CCRC appointment where he was the moving party. Petitioner did appear and a single parent CCRC report was filed on February 21, 2023. Copies of the report were mailed to the parties on February 23, 2023.

Petitioner filed a Responsive Declaration and updated Income and Expense Declaration on April 12, 2023. Respondent was served by mail and electronically on April 12, 2023.

Respondent filed an Income and Expense Declaration on February 9, 2023. There is no Proof of Service showing Petitioner was served.

On April 27, 2023 the court did not have the requisite information before it to make child and temporary spousal support orders, specifically, Respondent's Income and Expense Declaration. Parties were ordered to appear for the hearing.

At the hearing on April 27, 2023, Petitioner stipulated there was no defect in service of the RFO. Parties requested the matter be continued and the parties be referred to CCRC. The court rereferred the parties to CCRC for an appointment on May 18, 2023 and set a further review hearing for July 13, 2023. Parties were ordered to file updated Income and Expense Declarations and any Supplemental Declarations at least 10 days prior to the hearing. The court reserved jurisdiction to retroactively modify child and spousal support to the date the RFO was filed, December 5, 2022.

Petitioner filed a Supplemental Declaration and Income and Expense Declaration on June 22, 2023. Respondent was served by mail on June 22, 2023. Petitioner requests the court maintain the current custody orders and allow Respondent visitation whenever he is in California, with at least 30 days' notice to Petitioner.

Parties attended CCRC on May 18, 2023 and were unable to reach any agreements. A report with recommendations was filed on July 3, 2023. Copies were mailed to the parties on the same day.

Parties attended the July 13, 2023 hearing. Respondent requested a continuance, due to late receipt of the CCRC report. The court granted the continuance request and stayed that portion of the Tentative Ruling. The court adopted the remainder of the Tentative Ruling,

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regarding child and temporary spousal support. The court reserved jurisdiction to modify support to July 13, 2023.

Respondent filed an updated Income and Expense Declaration on August 11, 2023 along with a Supplemental Declaration. Petitioner was served electronically on August 11, 2023.

Petitioner filed an updated Income and Expense Declaration on August 14, 2023 as well as a Declaration. Respondent was served by mail on August 14, 2023.

Petitioner filed a Reply Declaration to Respondent's Supplemental Declaration on August 25, 2023. It was electronically served on Respondent on August 25, 2023.

The court has read and considered the filings as outlined above and makes the following findings and orders:

The court finds the recommendations as set forth in the July 3, 2023 CCRC report to be in the best interest of the minors. The court adopts the recommendations as its orders.

The court finds the current support orders remain appropriate based on a review of the parties' updated Income and Expense Declarations and the adoption of the recommendations from the CCRC report.

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

TENTATIVE RULING #21: THE COURT ADOPTS THE RECOMMENDATIONS AS SET FORTH IN THE JULY 3, 2023 CCRC REPORT. PETITIONER IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. 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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22. LANA DOUGHERTY V. KENT DOUGHERTY

PFL20180371

On June 29, 2023, Petitioner filed an Order to Show Cause and Affidavit for Contempt (OSC). There is no Proof of Service on file evidencing proper service of the OSC on Respondent. Accordingly, the matter is dropped from calendar due to lack of proper service.

TENTATIVE RULING #22: 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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23. SAMANTHA ALVAREZ V. ZACHEUS FASS (OTHER PARTY: DONNA ALVAREZ) PFL20170702

On May 23, 2023, Other Party filed a Request for Order (RFO) seeking an order for grandparent visitation. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on July 12th. A hearing on the RFO was set for the present date. The RFO was mail served on both parties on the same date as filing, however, there is no indication that the referral to CCRC was served along with the RFO.

Pursuant to Family Code section 3104(c): "The petitioner shall give notice of the petition to each of the parents of the child, any stepparents, and any person who has physical custody of the child, by personal service pursuant to Section 415.10 of the Code of Civil Procedure." The court, therefore, finds Other Party has failed to provide proper notice.

Only Other Party and Respondent appeared at CCRC, it appears Petitioner was never given notice of the scheduled appointment. Without the presence of all parties CCRC was unable to provide any recommendations.

Given that Claimant failed to serve the CCRC referral, the matter is dropped from calendar due to lack of proper service. Even if Other Party had properly served the referral, the RFO would have been denied. Other Party is the maternal grandmother of the child, and she indicates that she can see the child during Petitioner's parenting time. The court does not find it would be in the best interest of the minor to decrease the minor's time with her father to account for additional visitation with Other Party.

TENTATIVE RULING #23: THE MATTER IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE. EVEN IF SERVICE HAD BEEN PROPER AND THE COURT HAD REACHED THE MATTER ON THE MERITS, IT WOULD HAVE BEEN DENIED.

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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24. SHURIE BOCANEGRA V. RICHARD BOCANEGRA

23FL0479

Petitioner filed a Request for Order (RFO) on June 22, 2023, requesting a timely payout for 50% of home equity. Respondent was served by mail on June 26, 2023. Petitioner asserts Respondent does not agree with Petitioner selling the home. Petitioner further asserts Respondent is late in paying the mortgage for June of 2023. Petitioner states she is concerned about foreclosure and losing the equity in the home.

Respondent filed a Responsive Declaration on August 1, 2023. There is no Proof of Service showing this document was properly served on Petitioner. The court notes, however, Respondent is not opposing the requested orders.

The court finds Petitioner's request to be unclear. Therefore, the court orders the parties to appear for the hearing so that the court may clarify Petitioner's requested orders.

TENTATIVE RULING #24: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.