

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 15, 2024

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

**1. AMELIA VERDUGO V. ANTHONY RODRIGUEZ**

**PFL20180504**

On February 2, 2024, the parties appeared before the court for a review hearing. They were ordered to choose a 730 Evaluator by the close of business that day. The hearing for the present date was affirmed.

Petitioner filed an MC-030 Declaration in February 13, 2024, however there is no Proof of Service for this document and therefore the court cannot consider it. The parties are ordered to appear to update the court on the status of the 730 Evaluation.

**TENTATIVE RULING #1: THE PARTIES ARE ORDERED TO APPEAR FOR HEARING.**

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February 15, 2024

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

**2. CALEB OWENS V. CHRYS DECKERT**

**PFL20210054**

On January 8, 2024, Respondent filed a Request for Order (RFO) seeking custody and visitation orders. The parties were referred to Child Custody Recommending Counseling (CCRC). The RFO and the CCRC referral were electronically served on January 10<sup>th</sup>.

There is currently a Temporary Domestic Violence Restraining Order in place with the minor and Petitioner as protected parties and Respondent as the Restrained Party. Respondent has failed to establish how sole legal or sole physical custody would be in the minor's best interests.

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

**TENTATIVE RULING #2: THE RFO IS DENIED AS RESPONDENT HAS FAILED TO ESTABLISH THAT SOLE PHYSICAL AND SOLE LEGAL CUSTODY WOULD BE IN THE MINOR'S BEST INTERESTS. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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

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**3. CHADRICK RONALD BAKER V. BRIDGET MARIE SOPER**

**23FL0523**

On October 16, 2023, the parties appeared before the court for hearing on Domestic Violence Restraining Orders (DVRO) requested by both Petitioner and Respondent. Both requests were denied and the court found that the Family Code § 3044 presumption did not apply. The court made custody orders pending a review hearing on January 11, 2024 but the hearing was later vacated by agreement of the parties.

On December 18, 2023, Respondent filed a Request for Order (RFO) asking the court to reconsider and amend the Findings and Orders After Hearing endorsed 12/5/2023 pursuant to Civil Procedure § 1008 and to impose sanctions pursuant to Family Code § 271 and Rule of Court 5.14. The RFO was set to be heard on the present date though Respondent later agreed to withdraw her RFO.

Respondent filed an MC-030 Declaration on December 22, 2023 including attachments to be reviewed prior to Child Custody Recommending Counseling (CCRC) however, there is no Proof of Service for this document therefore the court has not read or considered it.

Petitioner filed an RFO on November 8, 2023 seeking custody and visitation orders as well as child support, attorney's fees, and an order regarding proper venue. The RFO was set for hearing on the present date but the parties later stipulated to limit the scope of the hearing to "a re-referral to Child Custody Recommending Counseling to discuss a step-up in Father's parenting time..." with the newborn child. Stipulation and Order, January 10, 2024, pg. 2:18-2:20.

The parties attended CCRC on December 28, 2023 and a report was prepared and mailed to the parties on February 2, 2024. The stipulation for a re-referral to CCRC was filed on January 10<sup>th</sup>, which was after the parties attended CCRC but before they were mailed the report. As such, it is unclear if, after receiving the CCRC report, the parties are still requesting a re-referral to CCRC since the February 2<sup>nd</sup> report establishes a step-up plan for Petitioner's parenting time. Nonetheless, after reviewing the recommendations contained in the CCRC report the court finds them to be in the best interests of the minors and therefore adopts them as the orders of the court.

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

**TENTATIVE RULING #3: AFTER REVIEWING THE RECOMMENDATIONS CONTAINED IN THE FEBRUARY 2, 2024 CCRC REPORT THE COURT FINDS THEM TO BE IN THE BEST INTERESTS OF THE MINORS AND THEREFORE ADOPTS THEM AS THE ORDERS OF THE COURT. ALL ORDERS**

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**NOT IN CONFLICT WITH THIS ORDER SHALL REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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**4. CHRISTIE BROWN V. BENJAMIN BROWN**

**PFL20160612**

Respondent filed a Request for Order (RFO) on April 7, 2023, requesting unsupervised visits with the younger child or, in the alternative, supervised visits with the paternal grandmother as supervisor. He also requested an order directing Petitioner to communicate on the status of the minor's counseling and provide the contact information for the minor's therapist. The court issued a tentative ruling and Respondent requested oral argument which was held on June 29<sup>th</sup>.

At the June 29<sup>th</sup> hearing the court maintained the current orders with the following modifications. Respondent was ordered to provide the names of three potential reunification therapists to Petitioner no later than July 20<sup>th</sup> and Petitioner was ordered to choose one no later than August 3<sup>rd</sup>. Respondent was to pay the cost of reunification counseling. Reunification therapy was to commence when deemed appropriate by the counselor. The reunification counselor was to be given the contact information for the minor's individual therapist and all necessary releases were to be signed by the parties. A review hearing was set for November 9<sup>th</sup> at which time the court ordered the addition of two proposed therapists. Petitioner was given until December 7, 2023 to choose one and commence the intake process. A review hearing was set for the present date.

Neither party has filed a declaration updating the court on the status of reunification therapy therefore it appears there are no issues to be addressed at the review hearing and the matter is dropped from calendar.

**TENTATIVE RULING #4: THIS MATTER IS DROPPED FROM CALENDAR.**

**NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY 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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**5. CHRISTOPHER BARNES V. TERRY LYN MANLEY-BARNES**

**PFL20170830**

On October 6, 2023, Petitioner filed a Request for Order (RFO) seeking various orders regarding the Judgment and QDROs as well as attorney's fees. He filed an Income and Expense Declaration on October 10<sup>th</sup> and both documents were mail served on October 18<sup>th</sup>. Respondent filed and served her Responsive Declaration to Request for Order on February 2<sup>nd</sup> and her Income and Expense Declaration on February 6<sup>th</sup>. Petitioner has not filed a Reply.

Petitioner filed his RFO requesting entry of the Judgment as well as entry of the QDROs. He is also requesting an "accounting owed for additional monies held in trust" and attorney's fees. Although it is unclear exactly how much Petitioner is requesting in attorney's fees. In Section 6 of the FL-300, he states that he is requesting \$1750. The written attachment states that he is requesting \$2,500; while the attached FL-319 states he is requesting \$2,560. The Declaration of Christie Mitchell for Attorney Fees states a total of \$2,460 has been incurred.

Respondent notes that the Judgment was entered on October 5<sup>th</sup>, the day prior to Petitioner's filing of his RFO. Now, after entry of the Judgment, Petitioner is requesting an additional \$740. Respondent notes the Mediation Agreement, which is attached to the October 5<sup>th</sup> Judgment, and asks the court to take judicial notice of both.

Respondent asks the court to deny Petitioner's request for \$740 as he is effectively seeking to modify the Mediation Agreement and Judgment which have already been entered. Further, he asks that the request for attorney's fees be denied as Respondent has no ability to pay the fees for either party.

As noted by Respondent, the Stipulated Judgment After Mediation was filed prior to Petitioner's RFO. Petitioner has not made any argument that he is opposing the Judgment that was filed or requesting it be set aside and a different one entered. Therefore, Petitioner's request for entry of Judgment is denied.

Petitioner's request for a payment of \$740.05 is also denied. Judgment has been entered in this matter and Petitioner has not established grounds to set aside or amend the Judgment.

Petitioner's request for attorney's fees is denied. It is unclear whether his request is pursuant to Family Code § 2030 or Family Code § 271. Regardless, the court does not see a basis for fees under either statute. In the face of a request for attorney's fees and costs under Section 2030, 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, it does not appear that Respondent has the ability to pay for both party's fees nor does there appear to be a disparity in access to funds to retain counsel. Respondent receives only monthly payments from disability and retirement which are only

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slightly more than Petitioner's monthly income. For that reason, there does appear to be parity between the parties in terms of their access to legal counsel.

Under Section 271, "...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..." Fam. Code § 271(a). Here, the court does not find any conduct by Respondent to be sanctionable in nature. It appears there were numerous hurdles to entering the judgment and completing the QDROs by both parties. Therefore, if Petitioner's request for attorney's fees is pursuant to Section 271 it is also denied.

Finally, while Petitioner requests "entry of the QDROs" in his moving papers, he makes no argument to address that issue anywhere throughout the remainder of his RFO. Therefore, this request is denied.

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

**TENTATIVE RULING #5: PETITIONER'S REQUEST FOR ORDER IS DENIED IN FULL. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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

**6. 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. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on July 21, 2023 and a review hearing on August 31, 2023 though the August hearing was continued to October 12, 2023.

At the October hearing the court made orders regarding child support and attorney's fees. The court found that the presumption established by Family Code § 3044 applied and the parties were re-referred to CCRC. A review hearing was set for the present date. The parties were ordered to file supplemental declarations no later than 10 days prior to the hearing date.

Petitioner filed and served her Updating Declaration on January 31, 2024. Respondent has not filed an updating or supplemental declaration.

The parties attended CCRC on January 9 and a report was prepared on January 18th and sent to the parties on January 19<sup>th</sup>. The report sets forth recommendations of the CCRC counselor as well as an agreed upon 2-2-3 parenting schedule.

Petitioner requests the court make the following orders: (1) A finding that the § 3044 presumption has not been rebutted; (2) A finding that changes to the current custody schedule would not be in the minor's best interests; (3) No further hearings on the issue of custody until such time as either party files a new RFO; and (4) The parties be ordered to inform one another of any third-parties who are providing childcare for the minor and for an order which requires and permits each party to introduce the other to any significant other who is going to be spending time with the minor. According to Petitioner, as of the date of her Updating Declaration, January 30<sup>th</sup>, she had not received the CCRC report. She states she will request a continuance if not received by Monday February 5<sup>th</sup>.

It is unclear why neither Petitioner nor her attorney had received the CCRC report by January 30<sup>th</sup> when it was mailed to both on January 19<sup>th</sup>. The parties are ordered to appear for the hearing.

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



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**7. ELIZA ZORN V. JOSEPH ZORN**

**23FL1114**

Petitioner filed a Request for Order (RFO) on November 14, 2023. It was served on November 21<sup>st</sup>. On December 28<sup>th</sup>, Respondent filed three separate MC-030 declarations, one by Mr. Quigley, one by Mr. Mullens, and one by Mr. Troshin. There are no Proofs of Service for any of these documents.

On January 9, 2024, Petitioner filed Petitioner's Objection to and Motion to Strike Respondent's Three (3) Declarations filed 12/28/23. This document was served both electronically and by mail.

Respondent filed his Income and Expense Declaration on January 11, 2024. There is no Proof of Service for this document. However, he filed another Income and Expense Declaration on February 8<sup>th</sup>. This one was electronically served the same day. Petitioner filed and served her Income and Expense Declaration on January 16<sup>th</sup>.

The parties attended Child Custody Recommending Counseling (CCRC) on December 28<sup>th</sup>. A report was prepared and mailed to the parties on January 29, 2024. On February 6<sup>th</sup> Respondent filed and served Respondent's Reply Declaration to CCRC Report Dated 1/29/2024.

Petitioner filed her RFO seeking custody and visitation orders as well as child support, spousal support, property control, and an order directing the parties to continue equally splitting the children's monthly tuition in the sum of \$1,666 owed by each parent. Petitioner is requesting joint legal custody of the children with full physical custody to herself. In her initial RFO she states she is seeking an order for non-professionally supervised visits between Respondent and the children at a frequency and duration determined by CCRC. She also requests an order precluding either party from using corporal or physical punishment to discipline the children. She asks for child support based on this visitation schedule and spousal support. Finally, she is requesting exclusive temporary use, possession, and control of the residence located on Campbell Circle in Rescue and of the 2017 Nissan NV 3500. She asks that Respondent be ordered to continue making the payments on the mortgage and the HELOC.

After filing the RFO on November 14<sup>th</sup>, Petitioner filed a Request for Domestic Violence Restraining Order (DVRO). A temporary DVRO has been issued and a hearing on the matter has been set for May 22, 2024. Currently, Petitioner and the children are protected parties under the temporary DVRO. Petitioner requests the court continue the issue of custody and visitation until after the DVRO hearing to determine whether or not the Family Code § 3044 presumption applies. The court agrees with Petitioner. The court must first rule on the DVRO in order to make informed custody orders. For that reason, the issue of custody is continued to join with the DVRO hearing which is currently set for May 22, 2024 at 8:30 am in Department 5. Pending the DVRO hearing, all prior orders remain in full force and effect.

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Regarding the requests for property control over the Campbell Circle residence and the Nissan NV 3500, these orders have already been made as a part of the DVTRO. Likewise, Respondent was ordered to continue paying the mortgage and the HELOC as part of the DVTRO. As previously stated, pending the hearing on the DVRO all prior orders remain in full force and effect.

Utilizing the figures as outlined in the attached DissoMaster report, the court finds that spousal support per the Alameda formula is \$713 per month and child support is \$4,493 per month. The court adopts the attached DissoMaster report and orders Respondent to pay Petitioner \$5,206 per month as and for child support and temporary spousal support, payable on the 1st of the month until further order of the court or legal termination. These orders are effective as of December 1, 2023.

The court finds the above order results in arrears in the amount of \$15,618 through and including February 1, 2024. The court orders Respondent pay Petitioner \$650.75 on the 15th of each month commencing March 15, 2024 and continuing until paid in full (approximately 24 months). If a payment is late or missed the remaining balance is due in full with legal interest within five (5) days.

The court finds both parties regularly work overtime and therefore the court adopts the attached two-way monthly overtime table as its order. At the end of each month the parties are to adjust the support payments for that month pursuant to any overtime earned above the monthly wages used by the court to calculate support. The parties are to make true-up payments to one another in accordance with the bonus table.

In addition to the above child support, the court is authorized to order the payment of costs related to the educational or special needs of the children. Fam. Code § 4062. However, this requirement is permissive and not mandatory. *See Id.* Petitioner is requesting Respondent contribute to 50% of the children's school tuition. There is no indication that paying for private school is a necessary expense for the children. Given that the children are being sent to private school at the option of the parties when public school is available, the court is not inclined to order such a payment at this time. This is especially in light of the fact that Petitioner has a much larger net spendable income than Respondent after the support orders as made herein. Therefore, Petitioner's request to order Respondent to continue paying \$1,666 in monthly tuition for the children is denied.

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

**TENTATIVE RULING #7: THE ISSUE OF CUSTODY IS CONTINUED TO JOIN WITH THE DVRO HEARING WHICH IS CURRENTLY SET FOR MAY 22, 2024 AT 8:30 AM IN DEPARTMENT 5. PENDING THE DVRO HEARING, ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT.**

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**PETITIONER'S REQUEST TO ORDER RESPONDENT TO CONTINUE PAYING \$1,666 IN MONTHLY TUITION FOR THE CHILDREN IS DENIED.**

**THE COURT FINDS THAT SPOUSAL SUPPORT PER THE ALAMEDA FORMULA IS \$713 PER MONTH AND CHILD SUPPORT IS \$4,493 PER MONTH. THE COURT ADOPTS THE ATTACHED DISSOMASTER REPORT AND ORDERS RESPONDENT TO PAY PETITIONER \$5,206 PER MONTH AS AND FOR CHILD SUPPORT AND TEMPORARY SPOUSAL SUPPORT, PAYABLE ON THE 1ST OF THE MONTH UNTIL FURTHER ORDER OF THE COURT OR LEGAL TERMINATION. THESE ORDERS ARE EFFECTIVE AS OF DECEMBER 1, 2023.**

**THE COURT FINDS THE ABOVE ORDER RESULTS IN ARREARS IN THE AMOUNT OF \$15,618 THROUGH AND INCLUDING FEBRUARY 1, 2024. THE COURT ORDERS RESPONDENT PAY PETITIONER \$650.75 ON THE 15TH OF EACH MONTH COMMENCING MARCH 15, 2024 AND CONTINUING UNTIL PAID IN FULL (APPROXIMATELY 24 MONTHS). IF A PAYMENT IS LATE OR MISSED THE REMAINING BALANCE IS DUE IN FULL WITH LEGAL INTEREST WITHIN FIVE (5) DAYS.**

**THE COURT FINDS BOTH PARTIES REGULARLY WORK OVERTIME AND THEREFORE THE COURT ADOPTS THE ATTACHED TWO-WAY MONTHLY OVERTIME TABLE AS ITS ORDER. AT THE END OF EACH MONTH THE PARTIES ARE TO ADJUST THE SUPPORT PAYMENTS FOR THAT MONTH PURSUANT TO ANY OVERTIME EARNED ABOVE THE MONTHLY WAGES USED BY THE COURT TO CALCULATE SUPPORT. THE PARTIES ARE TO MAKE TRUE-UP PAYMENTS TO ONE ANOTHER IN ACCORDANCE WITH THE BONUS TABLE.**

**PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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ATTORNEY (NAME AND ADDRESS):  <b>California</b>	TELEPHONE NO:	Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
ATTORNEY FOR: <b>Father</b>	DISSOMASTER REPORT 2024, Monthly	
		CASE NUMBER:

Input Data	Father	Mother	Guideline (2024)	Cash Flow Analysis	Father	Mother
Number of children	0	5	<b>Nets (adjusted)</b>	<b>Guideline</b>		
% time with Second Parent	0%	0%	Father	10,930	Payment (cost)/benefit	(5,139) 5,139
Filing status	MFS->	<-MFS	Mother	6,684	Net spendable income	5,725 11,889
# Federal exemptions	1*	6*	Total	17,614	% combined spendable	32.5% 67.5%
Wages + salary	16,597	4,564	<b>Support (Nondeductible)</b>		Total taxes	5,497 670
401(k) employee contrib	0	0	CS Payor	Father	Comb. net spendable	17,614
Self-employment income	0	397	Presumed	4,493	<b>Proposed</b>	
Other taxable income	0	2,500	Basic CS	4,493	Payment (cost)/benefit	(5,139) 5,139
Short-term cap. gains	0	0	Add-ons	0	Net spendable income	5,725 11,889
Long-term cap. gains	0	0	Presumed Per Kid		NSI change from gdl	0 0
Other gains (and losses)	0	0	Child 1	346	% combined spendable	32.5% 67.5%
Ordinary dividends	0	0	Child 2	529	% of saving over gdl	0% 0%
Tax. interest received	0	0	Child 3	714	Total taxes	5,497 670
Social Security received	0	0	Child 4	1,083	Comb. net spendable	17,614
Unemployment compensation	0	0	Child 5	1,822	Percent change	0.0%
Operating losses	0	0	SS Payor	Father	<b>Default Case Settings</b>	
Ca. operating loss adj.	0	0	Alameda	713		
Roy, partnerships, S corp, trusts	0	0	Total	5,206		
Rental income	0	0	<b>Proposed, tactic 9</b>			
Misc ordinary tax. inc.	0	2,500	CS Payor	Father		
Other nontaxable income	0	0	Presumed	4,493		
New-spouse income	0	0	Basic CS	4,493		
SS paid other marriage	0	0	Add-ons	0		
CS paid other relationship	0	0	Presumed Per Kid			
Adj. to income (ATI)	0	0	Child 1	346		
Ptr Support Pd. other P'ships	0	0	Child 2	529		
Health insurance	0	107	Child 3	714		
Qual. Bus. Inc. Ded.	0	0	Child 4	1,083		
Itemized deductions	1,724	0	Child 5	1,822		
Other medical expenses	0	0	SS Payor	Father		
Property tax expenses	600	0	Alameda	713		
Ded. interest expense	1,124	0	Total	5,206		
Charitable contribution	0	0	Savings	0		
Miscellaneous itemized	0	0	No releases			
State sales tax paid	0	0				
Required union dues	170	0				
Cr. for Pd. Sick and Fam. L.	0	0				
Mandatory retirement	0	0				
Hardship deduction	0*	0*				
Other gdl. adjustments	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	0				

ATTORNEY (NAME AND ADDRESS):  <b>California</b>	TELEPHONE NO:	Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
ATTORNEY FOR: <b>Father</b>	CASE NUMBER:	
Two-way Monthly Overtime Wages Report 2024 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	2,000	3,000	4,000	5,000	6,000	7,000	8,000
1,000	180	374	564	754	942	1,124	1,299	1,473
2,000	142	337	527	717	906	1,088	1,264	1,439
3,000	107	302	493	683	872	1,055	1,231	1,406
4,000	75	270	461	651	841	1,024	1,200	1,375
5,000	44	240	431	621	811	995	1,171	1,346
6,000	16	211	403	593	783	967	1,143	1,319
7,000	<i>11</i>	184	376	566	756	940	1,117	1,293
8,000	<i>37</i>	158	350	541	731	915	1,092	1,268



PETITIONER: RESPONDENT:	CASE NUMBER:
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## 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	2,000	3,000	4,000	5,000	6,000	7,000	8,000
1,000	4,672	4,867	5,057	5,246	5,434	5,617	5,792	5,966
2,000	4,635	4,829	5,020	5,210	5,398	5,581	5,757	5,931
3,000	4,600	4,795	4,986	5,176	5,365	5,548	5,724	5,899
4,000	4,568	4,763	4,954	5,144	5,333	5,517	5,693	5,868
5,000	4,537	4,732	4,924	5,114	5,303	5,487	5,664	5,839
6,000	4,508	4,704	4,895	5,086	5,275	5,459	5,636	5,811
7,000	4,481	4,677	4,868	5,059	5,249	5,433	5,610	5,785
8,000	4,456	4,651	4,843	5,034	5,223	5,407	5,585	5,760



PETITIONER: RESPONDENT:	CASE NUMBER:
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## 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	2,000	3,000	4,000	5,000	6,000	7,000	8,000
1,000	<i>1</i>	<b>134</b>	<b>269</b>	<b>404</b>	<b>541</b>	<b>675</b>	<b>804</b>	<b>934</b>
2,000	<i>155</i>	<i>21</i>	<b>114</b>	<b>249</b>	<b>385</b>	<b>518</b>	<b>648</b>	<b>778</b>
3,000	<i>309</i>	<i>175</i>	<i>41</i>	<b>94</b>	<b>230</b>	<b>363</b>	<b>492</b>	<b>622</b>
4,000	<i>462</i>	<i>328</i>	<i>194</i>	<i>59</i>	<b>76</b>	<b>209</b>	<b>338</b>	<b>468</b>
5,000	<i>616</i>	<i>482</i>	<i>348</i>	<i>214</i>	<i>78</i>	<b>54</b>	<b>183</b>	<b>312</b>
6,000	<i>713</i>	<i>636</i>	<i>503</i>	<i>369</i>	<i>233</i>	<i>101</i>	<b>28</b>	<b>157</b>
7,000	<i>713</i>	<i>713</i>	<i>657</i>	<i>523</i>	<i>388</i>	<i>256</i>	<i>127</i>	<b>2</b>
8,000	<i>713</i>	<i>713</i>	<i>713</i>	<i>679</i>	<i>544</i>	<i>411</i>	<i>283</i>	<i>154</i>



PETITIONER: RESPONDENT:	CASE NUMBER:
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## 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	2,000	3,000	4,000	5,000	6,000	7,000	8,000
1,000	712	847	981	1,117	1,253	1,387	1,517	1,647
2,000	557	692	826	961	1,098	1,231	1,361	1,490
3,000	403	538	672	807	943	1,076	1,205	1,334
4,000	250	385	519	653	789	922	1,051	1,180
5,000	96	230	364	499	634	767	896	1,025
6,000	0	76	210	344	479	612	741	869
7,000	0	0	55	189	324	457	586	714
8,000	0	0	0	34	169	301	430	558





LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 15, 2024

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

**8. JONETTE MONTBLEAU V. RICHARD MONTBLEAU**

**PFL20180797**

On October 24, 2023, Respondent filed a Request for Order (RFO) seeking custody and visitation orders as well as child support and spousal support. The parties have since stipulated to vacate the issues of custody and visitation. The only issues remaining on the original RFO are the issues of spousal and child support. On December 12, 2023, the parties stipulated to add the issue of healthcare coverage for the minor to the present hearing.

The Department of Child Support Services (DCSS) filed its Responsive Declaration to Request for Order on December 13<sup>th</sup>. There is no Proof of Service for this Document.

Respondent filed his Income and Expense Declaration on January 8, 2024. There is no Proof of Service for this document.

On January 26<sup>th</sup>, Petitioner filed her Responsive Declaration Request for Order and her Income and Expense Declaration. The Proof of Service indicates that Respondent was served on the same day as filing. There is no Proof of Service evidencing DCSS has been served with these documents.

The parties are ordered to appear for hearing.

**TENTATIVE RULING #8: THE PARTIES ARE ORDERED TO APPEAR FOR HEARING.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 15, 2024

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

**9. JUSTIN HALLOCK V. DEBRA HALLOCK**

**PFL20200781**

On November 6, 2023, Respondent filed a Request for Order (RFO) seeking child support and attorney's fees as well as various additional orders. Petitioner was served on November 10<sup>th</sup> and the Department of Child Support Services (DCSS) was served on November 13<sup>th</sup>.

DCSS filed its Responsive Declaration to Request for Order on December 13, 2023. There is no Proof of Service for this document.

Petitioner filed his Responsive Declaration to Request for Order and his Income and Expense Declaration on January 26, 2024. Respondent was served with both documents on the same date as filing. It does not appear that DCSS was served with these documents.

On February 6<sup>th</sup>, Respondent filed her Supplemental Declaration, her Income and Expense Declaration, and a Declaration of Bryanna Brandalesi Regarding Attorney's Fees. Petitioner was served on February 6<sup>th</sup> and DCSS was served on the 7<sup>th</sup>. Respondent's Objection to Petitioner's Declaration of Patrick Sullivan Re: Vocational Evaluation was also filed and served on the 7<sup>th</sup>.

Respondent brings his RFO requesting guideline child support based on the decreased hours she is working and Petitioner's increased income. In conjunction with amended support orders, Respondent asks that the court order the parties to alternate years in which they claim the children on their taxes. She also requests (1) Petitioner to reimburse Respondent for permitting fees and mortgage payments relating to the community home awarded to her pursuant to the June 14, 2023 Stipulation & Order, (2) Petitioner to sign a quitclaim deed to allow Respondent to sell the home awarded to her, and (3) Attorney's fees payable by Petitioner to Respondent in the amount of \$8,000 pursuant to Family Code sections 2030 and 271 as well as the June 14<sup>th</sup> stipulation.

Petitioner consents to guideline child support but requests Respondent be imputed with income commensurate with her earning capacity as a nurse. In support of this argument Respondent has submitted an Employability and Earning Analysis from Patrick Sullivan. Respondent objects to the court's consideration of this report.

Petitioner opposes Respondent's request for attorney's fees and he asks that Respondent be ordered to pay the mortgage payments and permitting fees, or to sell the home without paying the stated fees. He agrees to sign a quitclaim deed for the purpose of selling the home and states that as of the time of his Responsive Declaration, a stipulation stating as much was being circulated amongst the parties.

There is currently a hearing set for March 14, 2024, on the issues of custody and visitation. Additionally, given that DCSS is a party to the action, the issue of child support is

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continued to be heard by the Child Support Commissioner on April 7, 2024 at 8:30 AM in department 10.

The parties are ordered to appear for hearing on the issues regarding the quitclaim deed, the mortgage payments, the permitting fees, and the requested attorney's fees.

**TENTATIVE RULING #9: , THE ISSUE OF CHILD SUPPORT IS CONTINUED TO BE HEARD BY THE CHILD SUPPORT COMMISSIONER ON APRIL 7, 2024 AT 8:30 AM IN DEPARTMENT 10. THE PARTIES ARE ORDERED TO APPEAR FOR HEARING ON THE ISSUES REGARDING THE QUITCLAIM DEED, THE MORTGAGE PAYMENTS, THE PERMITTING FEES, AND THE REQUESTED ATTORNEY'S FEES.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 15, 2024

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

**10. SARAH LEAHY V. ALEXANDER LEAHY**

**PFL20190491**

On October 2, 2023, Petitioner filed a Request for Order (RFO) seeking a move away order or, in the alternative, for the issue of the move away to be added to the 3111 Evaluation with Dr. Eugene Roeder and joined to the return hearing on February 15, 2024. On January 18<sup>th</sup> the request was granted and the court ordered the expansion of the 3111 Evaluation to add the issue of Petitioner's move away request. The issues of custody and the requested move away order have been set for a contested hearing on June 24<sup>th</sup> though the parties are currently before the court for a review of the 3111 Evaluation report.

The initial 3111 report was filed with the court on January 18, 2024. This report did not address the move away issue as it was drafted prior to the court's order expanding the scope of the evaluation. The Supplemental Declaration of Respondent, Alexander Leahy was filed and served on January 31<sup>st</sup>. On February 6<sup>th</sup>, Petitioner filed and served Petitioner's Supplemental Declaration and a Memorandum of Points & Authorities.

After a thorough evaluation, Dr. Roeder makes the following recommendations in his report: (1) The parties share joint physical and legal custody of the minor utilizing a 2-2-5-5 parenting schedule with Petitioner to have Monday and Tuesday, Respondent to have Wednesday and Thursday, and the parties to alternate weekends; and (2) The parties to alternate Thanksgiving and spring vacations annually and share half of winter vacation and half of summer vacation by either using a week-on/week-off schedule during those times or continuing the regular schedule but allowing each party to have two nonconsecutive one-week vacations.

While Respondent notes the upcoming trial date on the move away request, he asks the court to adopt the parenting provisions recommended by Dr. Roeder pending the trial and expanded 3111 Evaluation. Respondent argues that regardless of the court's decision on the move away, it would be in the minor's best interest to spend additional time with Respondent pursuant to the recommended schedule. He also notes that his request for increased parenting time has been pending since November of 2022.

Petitioner asks the court to maintain the current parenting schedule and she objects to the court's consideration of the 3111 report until she has had the opportunity to cross-examine Dr. Roeder. She further requests that the court grant her a right of first refusal during spring break 2024 in the event that Respondent is unable to care for the minor due to his classes being in session.

*"A child custody evaluation, investigation, or assessment, and a resulting report, may be considered by the court only if it is conducted in accordance with the requirements set forth in the standards adopted by the Judicial Council pursuant to Section 3117; however, this does not*

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

preclude the consideration of a child custody evaluation report that contains non-substantive or inconsequential errors or both.” Cal. Fam. Code § 3111(a) (emphasis added).

Here, Petitioner has objected to the court’s consideration of the § 3111 report until she has had the opportunity to cross examine the evaluator, as is her right to do. The only exception to this is where the report contains either “non-substantive or inconsequential errors or both.” Cal. Fam. Code § 3111(a). While the court is sympathetic to Respondent’s argument that the motion has been pending for over a year, the court simply cannot find that the fact that the evaluator has not yet assessed or considered the potential move of Petitioner to Germany to be inconsequential or non-substantive. For that reason, Petitioner’s objection to the report is sustained and the court declines to modify the existing custody orders until Petitioner has had the opportunity to cross-examine Dr. Roeder. This matter is therefore continued to join with the contested hearing which is set for June 24-25 at 1:30pm in Department 5. Additionally, pending the June hearing date there shall be no discussion with, or in front of, the child about the child moving to Germany and the child’s belongings shall not be shipped to Germany in anticipation of the move.

**TENTATIVE RULING #10: PETITIONER’S OBJECTION TO THE REPORT IS SUSTAINED AND THE COURT DECLINES TO MODIFY THE EXISTING CUSTODY ORDERS UNTIL PETITIONER HAS HAD THE OPPORTUNITY TO CROSS-EXAMINE DR. ROEDER. THIS MATTER IS THEREFORE CONTINUED TO JOIN WITH THE CONTESTED HEARING WHICH IS SET FOR JUNE 24-25 AT 1:30PM IN DEPARTMENT 5. ADDITIONALLY, PENDING THE JUNE HEARING DATE THERE SHALL BE NO DISCUSSION WITH, OR IN FRONT OF, THE CHILD ABOUT THE CHILD MOVING TO GERMANY AND THE CHILD’S BELONGINGS SHALL NOT BE SHIPPED TO GERMANY IN ANTICIPATION OF THE MOVE.**

**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

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February 15, 2024

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

**11. TIMOTHY ADKINS V. AMEY ADKINS**

**PFL20170402**

Petitioner filed a Request for Order (RFO) on October 6, 2023, seeking reimbursement for counseling sessions from Respondent. Respondent was served by mail on September 22, 2023, but Petitioner did not previously serve the Department of Child Support Services (DCSS) therefore, the court previously granted Petitioner's request to continue the matter to allow for him to serve DCSS. The hearing was continued from January 4<sup>th</sup> to the present date.

After a review of the file, it appears that DCSS still has not been served. As such, the matter is dropped from calendar for lack of proper service.

**TENTATIVE RULING #11: THIS 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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February 15, 2024

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

**12. AIMEE ELSE V. DANIEL ELSE**

**PFL20190360**

On August 8, 2023, Petitioner filed a Request for Order (RFO) requesting the court modify the current orders for parenting time. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on October 25, 2023 and a review hearing on December 14, 2023. Respondent was served by mail with address verification as required on September 20, 2023. Petitioner is requesting the court suspend all parenting time with Respondent.

Petitioner filed an ex parte request for emergency orders on October 26, 2023, requesting the out of state parenting time for Respondent be suspended. Petitioner asserted Respondent missed the CCRC appointment. On October 30, 2023, the court denied the ex parte request, however, rereferred the parties to an emergency set CCRC appointment on November 7, 2023. Petitioner filed an RFO on October 30, 2023, requesting the same orders as set forth in the ex parte request, which mirror those of the August RFO. There is no Proof of Service of the ex parte orders rereferring the parties to CCRC, nor is there a Proof of Service of the October 30, 2023 filed RFO.

Nevertheless, both parties appeared for the CCRC appointment on November 7, 2023. The parties were unable to reach any agreements. A report with recommendations was filed with the court on December 5, 2023. A copy of the report was mailed to the parties on December 6, 2023.

Petitioner filed a Declaration on December 5, 2023. Respondent was served by mail on December 5, 2023.

On December 14, 2023, parties appeared for the hearing. Parties requested to be referred to CCRC to allow the minors to be interviewed. The court granted the parties' request and set a further CCRC appointment for December 27, 2023 and a further review hearing for February 15, 2024.

All three minors attended the CCRC appointment on December 27, 2023. The minors were all interviewed separately by the CCRC counselor. A CCRC report with recommendations was filed with the court on February 1, 2024. Copies were mailed to the parties the same day.

The court has read and considered the filings as outlined above. The court finds the recommendation for all current orders to remain in full force and effect to be in the best interests of the minors. The court adopts the recommendation as set forth in the February 1, 2024 report as its orders.

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

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February 15, 2024

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

**TENTATIVE RULING #12: ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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



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

**14. AMY KNIERIEM V. BEAU MICHAEL LEMIRE**

**23FL0234**

Parties appeared before the court on December 21, 2023. The court adopted its tentative ruling with modifications. Additionally, the matter was set for an evidentiary hearing on May 22, 2023 and settlement conference on April 22, 2024. The court also set a review hearing to address Respondent's parenting time. Parties were ordered to complete a co-parenting class at least 10 days prior to the review hearing a submit proof of completion. Parties were directed to file Supplemental Declarations at least 10 days prior to the review hearing.

Respondent filed and served a Declaration on February 2, 2024. The Declaration included proof of completion of a co-parenting class as well as an update as to Respondent's participation in a batterers intervention program.

Respondent filed an Amended Declaration on February 5, 2024. It was served on Petitioner the same day.

Petitioner filed an Updating Declaration and Income and Expense Declaration on February 5, 2024. Both were served on Respondent the same day.

The court orders parties to appear for the hearing.

**TENTATIVE RULING #14: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.**

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February 15, 2024

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

**15. CARLY TYLER V. ZACHARY ALLEN**

**23FL0824**

Petitioner filed a Request for Order (RFO) on December 5, 2023, requesting the court make child custody, and parenting time orders. The parties were not referred to Child Custody Recommending Counseling, as they had been referred in the prior six months. Respondent was served by mail on December 5, 2023.

Respondent has not filed a Responsive Declaration.

The court orders parties to appear for the hearing.

**TENTATIVE RULING #15: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.**

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

**16. CURTIS CHRISTENSEN V. GINA CHRISTENSEN**

**PFL20170845**

Petitioner filed a Request for Order (RFO) and an Income and Expense Declaration on June 13, 2023 wherein he requested custody and visitation orders as well as attorney's fees and costs. The matter came before the court for hearing on September 28, 2023. At that time the court made rulings on Petitioner's requests, re-referred to parties to Child Custody Recommending Counseling (CCRC) so the minor could be interviewed, and set a review hearing for the present date.

The parties attended CCRC on November 20th and a report was prepared on December 28, 2023 which provides the court with recommendations regarding counseling for the minors. The CCRC report was mailed to the parties on January 2, 2024. On January 5th, Petitioner filed and electronically served Petitioner's Reply Declaration to CCRC Report and Supplemental Declaration. On January 9, 2024, Respondent filed and electronically served Respondent's Reply Declaration to CCRC Report and to Petitioner's Reply and Supplemental Declaration. While the court notes this filing was late, the CCRC report was not timely mailed and therefore the court finds good cause to consider Respondent's untimely filings.

Petitioner notes that he did not receive a copy of the CCRC report until January 4th when he requested it from the court. It's mailing date of January 2nd is untimely. He further refutes statements made by the minor during CCRC and he reiterates all of the requests made in his initial RFO including sole legal and sole physical custody with Respondent to have professionally supervised visits. He also requests that the CCRC report be amended to strike the portion of recommendation #4 stating "when deemed therapeutically indicated," instead he asks that he and the children participate in reunification counseling with Jessica Wolff, LMFT. He further requests sole legal custody regarding therapy for the children. He is requesting an order allowing him to choose a new therapist for the children and that the children attend therapy at a frequency and duration recommended by the therapist but no less than 2 times per month, in-person. He asks the court not to adopt CCRC's recommendation that he attend individual therapy as he has already done so, though he does request Respondent be ordered to attend individual therapy. Petitioner would like Dr. Craig Childress to be appointed to conduct a clinical psychological evaluation of Respondent and the children's attachment to her. Petitioner agrees to pay for the cost thereof. He also requests the appointment of minor's counsel. Finally, Petitioner asks that exchanges be supervised and take place at Family Time Visitation Center in Cameron Park or , alternatively, Parenting Time in Loomis. He would like Respondent to bear the cost of supervision.

Respondent states that there has been a long history of Petitioner's absenteeism in the children's lives and his failure to communicate regarding visits. She requests the court adopt the

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CCRC recommendations. She objects to the requests for a psychological evaluation, for minor's counsel and for supervised exchanges as these requests were not raised in the initial RFO.

On January 11, 2024, parties appeared for the hearing. Petitioner requested a continuance due to receiving the CCRC report late. The court stayed its tentative ruling with the exception of the order for reunification therapy with Ms. Wolfe. The court also set the issue of attorney's fees for the next hearing date. Parties were directed to file and serve any Supplemental Declarations at least 10 days prior to the hearing.

Petitioner filed a Supplemental Declaration and Income and Expense Declaration on February 5, 2024. Respondent was served electronically on February 5, 2024.

The court has reviewed the filings of the parties as well as the CCRC report and does not find the recommendations of the December 28, 2023 CCRC report to be in the best interests of the minors as written. Therefore, the court declines to adopt them. Instead, it is hereby ordered that Petitioner and the children commence with reunification counseling with Kevin Mahan LMFT forthwith. Petitioner's request for sole legal custody on the issue of therapy is denied, however Respondent is ordered to timely and completely fill out all documentation as requested by Mr. Mahan to facilitate the commencement, and ongoing continuance, of reunification counseling and to timely transport the children to all counseling sessions. Reunification therapy shall be at a frequency and duration as determined by Mr. Mahan and shall take place in-person. Mr. Mahan shall commence therapy with the children only and it is in his discretion when Petitioner is to join the sessions. The parties shall equally split the cost of reunification therapy.

Petitioner's request to change the current therapist of the minors is denied without prejudice. Given the anticipated commencement of reunification therapy, the court finds it is in the best interests of the minors to continue individual therapy with a counselor with whom they are already familiar and comfortable.

Petitioner's request for a psychological evaluation to be conducted by Dr. Craig Childress is denied as it is outside the scope of the original RFO. However, both parties are ordered to participate in individual therapy to address their respective issues with the co-parenting with one another and to address issues surrounding Petitioner's relationship with the children.

Petitioner's request for minor's counsel is granted. While this request was not raised specifically in the RFO, it is well within the scope of the initial RFO which requested the court make custody and support orders. Therefore, the court appoints Kelly Bentley. The cost of minor's counsel is to be split equally between the parties, subject to reallocation.

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Petitioner's request that the exchanges be professionally supervised is granted. Again, this request falls well within the purview of custody and visitation orders and therefore falls within the scope of the original RFO. Exchanges shall occur at Family Time Visitation Center in Cameron Park. Or, if the parties mutually agree, at Parenting Time in Loomis. If the parties cannot agree then exchanges shall occur at Family Time Visitation in Cameron Part. The parties are to split equally the costs of the supervised exchanges.

As to Petitioner's request for attorney's fees and sanctions, the court notes Respondent has failed to file an Income and Expense Declaration despite the court ordering both parties to do so at the January 11, 2024 hearing. Parties are ordered to appear on the issue of attorney's fees and sanctions only. Respondent is ordered to bring a complete Income and Expense Declaration to the hearing.

A review hearing is set for June 20, 2024 at 8:30am in Department 5 to assess the progress made in reunification therapy and Respondent's compliance with the court's orders. Parties, and Minor's Counsel, are ordered to file and serve supplemental declarations no later than 10 days prior to the hearing date.

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 #16: PARTIES ARE ORDERED TO APPEAR ON THE ISSUE OF ATTORNEY'S FEES AND SANCTIONS ONLY. RESPONDENT IS ORDERED TO BRING A COMPLETE INCOME AND EXPENSE DECLARATION TO THE HEARING.**

**THE COURT DOES NOT FIND THE RECOMMENDATIONS AS SET FORTH IN THE CCRC REPORT TO BE IN THE BEST INTEREST OF THE MINORS. THEREFORE, THE COURT IS NOT ADOPTING THE RECOMMENDATIONS. THE CURRENT CUSTODY AND PARENTING TIME ORDERS REMAIN IN FULL FORCE AND EFFECT. THE COURT ORDERS PETITIONER AND THE CHILDREN COMMENCE WITH REUNIFICATION COUNSELING WITH KEVIN MAHAN, LMFT FORTHWITH. PETITIONER'S REQUEST FOR SOLE LEGAL CUSTODY ON THE ISSUE OF THERAPY IS DENIED, HOWEVER RESPONDENT IS ORDERED TO TIMELY AND COMPLETELY FILL OUT ALL DOCUMENTATION AS REQUESTED BY MR. MAHAN TO FACILITATE THE COMMENCEMENT, AND ONGOING CONTINUANCE, OF REUNIFICATION COUNSELING AND TO TIMELY TRANSPORT THE CHILDREN TO ALL COUNSELING SESSIONS. REUNIFICATION THERAPY SHALL BE AT A FREQUENCY AND DURATION AS DETERMINED BY MR. MAHAN AND SHALL TAKE PLACE IN-PERSON. MR. MAHAN SHALL COMMENCE THERAPY WITH THE CHILDREN ONLY AND IT IS IN HIS DISCRETION WHEN PETITIONER IS TO JOIN THE SESSIONS. THE PARTIES SHALL EQUALLY SPLIT THE COST OF REUNIFICATION THERAPY.**

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**PETITIONER'S REQUEST TO CHANGE THE CURRENT THERAPIST OF THE MINORS IS DENIED WITHOUT PREJUDICE. GIVEN THE ANTICIPATED COMMENCEMENT OF REUNIFICATION THERAPY, THE COURT FINDS IT IS IN THE BEST INTERESTS OF THE MINORS TO CONTINUE INDIVIDUAL THERAPY WITH A COUNSELOR WITH WHOM THEY ARE ALREADY FAMILIAR AND COMFORTABLE.**

**PETITIONER'S REQUEST FOR A PSYCHOLOGICAL EVALUATION TO BE CONDUCTED BY DR. CRAIG CHILDRESS IS DENIED AS IT IS OUTSIDE THE SCOPE OF THE ORIGINAL RFO. HOWEVER, BOTH PARTIES ARE ORDERED TO PARTICIPATE IN INDIVIDUAL THERAPY TO ADDRESS THEIR RESPECTIVE ISSUES WITH THE CO-PARENTING WITH ONE ANOTHER AND TO ADDRESS ISSUES SURROUNDING PETITIONER'S RELATIONSHIP WITH THE CHILDREN.**

**PETITIONER'S REQUEST FOR MINOR'S COUNSEL IS GRANTED. WHILE THIS REQUEST WAS NOT RAISED SPECIFICALLY IN THE RFO, IT IS WELL WITHIN THE SCOPE OF THE INITIAL RFO WHICH REQUESTED THE COURT MAKE CUSTODY AND SUPPORT ORDERS. THEREFORE, THE COURT APPOINTS KELLY BENTLEY. THE COST OF MINOR'S COUNSEL IS TO BE SPLIT EQUALLY BETWEEN THE PARTIES, SUBJECT TO REALLOCATION.**

**PETITIONER'S REQUEST THAT THE EXCHANGES BE PROFESSIONALLY SUPERVISED IS GRANTED. AGAIN, THIS REQUEST FALLS WELL WITHIN THE PURVIEW OF CUSTODY AND VISITATION ORDERS AND THEREFORE FALLS WITHIN THE SCOPE OF THE ORIGINAL RFO. EXCHANGES SHALL OCCUR AT FAMILY TIME VISITATION CENTER IN CAMERON PARK. OR, IF THE PARTIES MUTUALLY AGREE, AT PARENTING TIME IN LOOMIS. IF THE PARTIES CANNOT AGREE THEN EXCHANGES SHALL OCCUR AT FAMILY TIME VISITATION IN CAMERON PART. THE PARTIES ARE TO SPLIT EQUALLY THE COSTS OF THE SUPERVISED EXCHANGES.**

**A REVIEW HEARING IS SET FOR JUNE 20, 2024 AT 8:30AM IN DEPARTMENT 5 TO ASSESS THE PROGRESS MADE IN REUNIFICATION THERAPY AND RESPONDENT'S COMPLIANCE WITH THE COURT'S ORDERS. PARTIES, AND MINOR'S COUNSEL, ARE ORDERED TO FILE AND SERVE SUPPLEMENTAL DECLARATIONS NO LATER THAN 10 DAYS PRIOR TO THE HEARING DATE.**

**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**

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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.**

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**17. DCSS V. SAINT CABRERA (OTHER PARENT: JESSICA MCCORMICK) PFS20190166**

Other Parent filed a Request for Order (RFO) on November 9, 2023, requesting court orders as to child custody, parenting time, and child support. Other parent concurrently filed an Income and Expense Declaration. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on December 22, 2023. The court notes this is a post-judgment request for modification. Respondent was served by mail with address verification. DCCS was served by mail on November 13, 2023.

Parties reached a stipulation as to child custody and parenting time on December 12, 2023. The court adopted the parties' agreement as its order on December 14, 2023.

The only remaining matter to be addressed is the request for child support orders. The court notes DCSS is a party to this matter and as such, pursuant to Family Code section 4251, this matter is to be heard before the child support Commissioner. Therefore, the court continues this matter to April 7, 2024 at 8:30 AM in department 10. Respondent is ordered to file and serve and Income and Expense Declaration at least 10 days prior to the next hearing.

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

**TENTATIVE RULING #17, THE COURT CONTINUES THIS MATTER TO APRIL 7, 2024 AT 8:30 AM IN DEPARTMENT 10. RESPONDENT IS ORDERED TO FILE AND SERVE AND INCOME AND EXPENSE DECLARATION AT LEAST 10 DAYS PRIOR TO THE NEXT HEARING. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. OTHER PARENT 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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**18. JENNIFER CURTIS V. LEON CURTIS**

**22FL0526**

This matter is before the court for hearing on a Request for Order (RFO) filed by Respondent on December 22, 2023. The RFO was filed concurrently with an Ex Parte Application and Declaration for Orders and Notice. On January 26, 2024, Petitioner filed and served her Responsive Declaration to Request for Order and Petitioner's Objection, Points and Authorities in Support of Petitioner's Responsive Declaration; Declaration by Attorney. Respondent filed and served a 2<sup>nd</sup> Amended Income and Expense Declaration on February 8<sup>th</sup>.

Respondent brings his RFO requesting exclusive use and control of the property located on Archetto drive in El Dorado Hills. He also requests the court reconsider its order of December 14, 2023 and asks that the support orders be stayed pending an evidentiary hearing. It is important to note that the ex parte request filed concurrently with the RFO requested reconsideration of the spousal support ruling, sale of the residence, and bifurcation of marital status. The RFO does not request an order directing the parties to sell the marital residence, it only requests exclusive use and control of the residence be awarded to Respondent, nor does it request bifurcation.

Petitioner asks the court to deny Respondent's request for a stay and reconsideration as no new facts or law have been cited as the reason for the request. Additionally she requests the court order the following: (1) Respondent to pay Petitioner's attorney's fees and costs pursuant to Family Code §271 and she renews her request for \$10,000 in attorney's fees and costs pursuant to Family Code § 2030; (2) Respondent to comply with the court's December 14, 2023 spousal support order; (3) Respondent to be sanctioned for violating the court's December 14<sup>th</sup> orders in the amount of \$11,000; (4) Petitioner to be awarded \$20,000 from the net sale of the proceeds from the marital residence, Respondent to be awarded \$20,000 from the net sale of the proceeds or an amount the court deems fair and just, unpaid utilities to be paid through closing escrow, and the remaining proceeds to be issued as one check to both parties which is to be deposited by Respondent's attorney in a non-IOLTA trust account that earns interest until written agreement by the parties or further order of the court; (5) This matter to proceed as a dissolution and not a legal separation; (6) Deny Respondent's request for bifurcation, assuming it has once again been requested.

Finally, she asks the court to waive the filing of an FL-115 Proof of Service of Summons and make a finding that the court obtained jurisdiction over Respondent on May 17, 2023 when he filed his FL-120 Response.

Petitioner objects to the vast majority of the declaration submitted by Respondent's counsel as hearsay. Petitioner argues that much of the declaration refers to emails between Petitioner's counsel and the paralegal for Mr. Warda, thus, without a declaration from the

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paralegal, Mr. Warda's declaration is mostly hearsay. The objection is overruled for failure to specify exactly which portions of the declaration Petitioner is objecting to.

Petitioner has made a multitude of requests in her responsive pleadings that are in no way related to the original RFO. Generally speaking, while "[t]he responding party may request relief related to the orders requested in the moving papers...unrelated relief must be sought by scheduling a separate hearing using *Request for Order* (form FL-300)..." Cal. Rule Ct. § 5.92(g)(2). The exception to this is of course a request for attorney's fees pursuant to Family Code § 2030 which may be raised at any time. As discussed above, while Respondent requested an order to sell the marital residence in his ex parte, he made no such request in the RFO. Therefore, Petitioner's requests regarding the distribution of proceeds from the sale are denied as outside the scope of the RFO. Likewise, the court is not addressing the issue of bifurcation on its merits as it was not raised in the RFO. So too are the requests that the matter proceed as a dissolution and the court's waiver of the filing of an FL-115 and a finding of jurisdiction over Respondent. These requests are also denied as outside the scope of the pending RFO. Thus, the remaining issues before the court are Respondent's request for exclusive use and possession of the residence, respondent's request for a set aside and stay, and Petitioner's request for attorney's fees and sanctions.

Respondent's request for exclusive use and possession of the marital residence is denied. There is nothing in his declaration to support the basis for this request and establish why he should be awarded exclusive use and possession of the residence.

Respondent's requests for reconsideration and a stay of the spousal support orders are denied. Any party may move for reconsideration of a court's order where the moving party (1) has been affected by the court's order; and (2) moves for reconsideration within 10 days of the service upon the moving party written notice of the entry of the order. Cal. Civ. Pro. § 1008. The moving party must establish "...new or different facts, circumstances, or law..." that would warrant reconsideration of the order and such facts, circumstances or law shall be set forth in a written affidavit including "...what application was made before, when and to what judge, [and] what order or decisions were made..." *Id.* The moving party must also provide a satisfactory explanation for its failure to present the new or different facts or law earlier. Yolo County Dept. of Child Support Services v. Myers, 248 Cal. App. 4<sup>th</sup> 42, 50 (2016).

Here, Respondent has failed to provide any new or different facts, circumstances, or law that would justify setting aside or staying the court's December 14<sup>th</sup> orders. While Respondent argues that the parties had reached an agreement to sign a stipulation and continue the hearing date, at no time was a stipulation actually signed. In fact, Petitioner's counsel stated expressly, "[t]o be clear, I did not agree to have my client sign off on the stipulation. I said I would take a look at the financial disclosure information... and discuss the stipulation with her." Email from

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Kelly Lynch, Dec. 1, 2023 at 9:00am. The parties were clearly engaged in ongoing negotiations to reach a stipulation which would include a continuance of the hearing, without more, Respondent's reliance on the negotiations alone is not sufficient grounds to grant the set aside. Respondent's requests to set aside or stay the orders are therefore denied as Respondent has failed to make the requisite statutory showing.

Notwithstanding the foregoing, family court is a court of equity and as such the court has a duty to ensure that its rulings are in keeping with its equitable powers. Respondent's request for an evidentiary hearing on the issue of support is therefore granted. The parties are ordered to appear to select trial dates.

**TENTATIVE RULING #18: PETITIONER'S REQUESTS REGARDING THE DISTRIBUTION OF PROCEEDS FROM THE SALE ARE DENIED AS OUTSIDE THE SCOPE OF THE RFO. LIKewise, THE COURT IS NOT ADDRESSING THE ISSUE OF BIFURCATION ON ITS MERITS AS IT WAS NOT RAISED IN THE RFO. SO TOO ARE THE REQUESTS THAT THE MATTER PROCEED AS A DISSOLUTION AND THE COURT'S WAIVER OF THE FILING OF AN FL-115 AND A FINDING OF JURISDICTION OVER RESPONDENT. THESE REQUESTS ARE ALSO DENIED AS OUTSIDE THE SCOPE OF THE PENDING RFO.**

**RESPONDENT'S REQUEST FOR EXCLUSIVE USE AND POSSESSION OF THE MARITAL RESIDENCE IS DENIED.**

**PETITIONER'S OBJECTION TO MR. WARDA'S DECLARATION IS OVERRULED. RESPONDENT'S REQUESTS TO SET ASIDE OR STAY THE COURT'S DECEMBER 14, 2023 ORDERS ARE DENIED. THE REQUEST TO SET AN EVIDENTIARY HEARING ON THE ISSUE OF SUPPORT IS GRANTED. THE PARTIES ARE ORDERED TO APPEAR TO SELECT TRIAL DATES.**

**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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**19. KERIANNE CAVIN V. EDWARD CAVIN**

**PFL20180477**

Petitioner filed a Request of Order (RFO) on September 1, 2023, requesting a change in child custody orders, as well as a change in the minors' school. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on November 1, 2023 and a review hearing on January 4, 2024. Respondent was served by mail on October 4, 2023.

Respondent filed a Responsive Declaration on November 22, 2023. Proof of Service shows that document was served on Petitioner on November 30, 2023.

A CCRC report was filed with the court on December 19, 2023. Copies were mailed to the parties on December 20, 2023.

Petitioner filed an ex parte motion for emergency custody orders on January 2, 2024. Respondent filed a Responsive Declaration to the ex parte motion on January 2, 2024. The court denied the ex parte motion, however, rereferred the parties to an emergency set CCRC appointment. The court continued the January 4, 2024 hearing and set a further review hearing for February 15, 2024. Petitioner filed a further RFO on January 3, 2024, making the same requests as set forth in the ex parte request. Upon review of the court file, there is no Proof of Service showing Respondent was served with the ex parte orders or rereferral to CCRC.

Both parties appeared for the emergency set CCRC appointment. The parties were unable to reach any agreements. A report was filed with the court on February 6, 2024. Copies were mailed to the parties the same day.

The court drops Petitioner's January 3, 2024 filed RFO from calendar as there is no Proof of Service showing it was properly served on Respondent. The court also finds it to be duplicative of the September 1, 2023 filed RFO. The court notes this is Petitioner's third request for the same orders. The court is troubled by Petitioner's statements to the CCRC counselor about not wanting to discuss the grounds for the ex parte request, but rather only wanting to address the schooling issue.

The court denies Petitioner's request for final decision-making authority. The parties shall continue to have joint legal and physical custody of the minors. The court finds the recommendations as set forth in the February 6, 2024 CCRC report are in the minors' best interests. The court adopts the recommendations as its order.

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

**TENTATIVE RULING #19: THE COURT DENIES PETITIONER'S REQUEST FOR FINAL DECISION-MAKING AUTHORITY. THE PARTIES SHALL CONTINUE TO HAVE JOINT LEGAL AND PHYSICAL**

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**CUSTODY OF THE MINORS. THE COURT FINDS THE RECOMMENDATIONS AS SET FORTH IN THE FEBRUARY 6, 2024 CCRC REPORT ARE IN THE MINORS' BEST INTERESTS. THE COURT ADOPTS THE RECOMMENDATIONS AS ITS ORDER. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE THE FINDINGS AND ORDERS AFTER HEARING.**

**NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY 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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**20. MATTHEW HICKS V. TIFFINE WOODSIDE**

**22FL0345**

Respondent filed a Request for Order (RFO) requesting the court modify child custody and parenting plan orders on November 6, 2023. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on December 27, 2023 and a review hearing on February 15, 2024. Proof of Service shows Petitioner was personally served on November 9, 2023.

Petitioner filed a RFO on November 28, 2023, requesting the court list the restrictions for the minor's contact with Chanish Meza. Respondent was personally served on November 29, 2023.

Petitioner filed a Responsive Declaration to Respondent's RFO on January 29, 2024. Respondent was personally served on January 31, 2024.

Both parties appeared for CCRC on December 27, 2023. The parties were unable to reach any agreements. A report with recommendations was filed with the court on February 2, 2024. Copies of the report were mailed to the parties the same day.

The court has read and considered the filings as set forth above. The court finds the recommendations as set forth in the February 2, 2024 CCRC report to be in the best interest of the minor. The court grants Petitioner's request to lift the restrictions on the minor's contact with Chanish Meza. The parties are further reminded of the respect guidelines.

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

**TENTATIVE RULING #20: THE COURT FINDS THE RECOMMENDATIONS AS SET FORTH IN THE FEBRUARY 2, 2024 CCRC REPORT TO BE IN THE BEST INTEREST OF THE MINOR. THE COURT GRANTS PETITIONER'S REQUEST TO LIFT THE RESTRICTIONS ON THE MINOR'S CONTACT WITH CHANISH MEZA. THE PARTIES ARE FURTHER REMINDED OF THE RESPECT GUIDELINES. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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

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**21. 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. Proof of Service shows Respondent and Minor's Counsel were served on August 14, 2023.

On August 31, 2023, the court continued the matter and rereferred the parties to CCRC for a further appointment on October 26, 2023 and a further review hearing for December 7, 2023.

On October 18, 2023, Respondent filed a Request to Continue the Hearing. On October 19, 2023, the court granted the Request to Continue and rescheduled CCRC at Respondent's request. A new CCRC appointment was set for December 13, 2023 and a further review hearing was set for February 1, 2024. Petitioner and Minor's Counsel were served with the Order to Continue and new CCRC referral on November 3, 2023.

Minor's Counsel filed a Statement of Issues and Contentions on November 3, 2023. Both parties were served on November 2, 2023. Minor's counsel requests the current parenting plan and custody orders remain in full force and effect. Minor's Counsel further requests the parties are not to discuss the case, including the parenting plan schedule or exchanges, with the minor. The minor is not to be used as a messenger between the parties. Minor's counsel requests both parties be ordered to complete a parenting class and co-parenting class. Finally, Minor's Counsel requests the current order for Respondent and the minor to participate in conjoint counseling remain in effect and that the counseling services being forthwith.

Only Petitioner appeared for the CCRC appointment on December 13, 2023. As such, a single parent report was filed with the court on January 18, 2024. Copies are mailed to the parties on January 18, 2024.

Respondent has not filed a Responsive Declaration or any Supplemental Declarations.

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The court has read and considered the filings as outlined above. The court finds the current orders remain in the minor's best interest. All prior orders remain in full force and effect. The parties are not to discuss the case, including the parenting plan schedule or exchanges, with the minor. The minor is not to be used as a messenger between the parties. The parties are ordered to complete a parenting class and co-parenting class and file proof of completion with the court on or before May 31, 2024. Respondent and the minor are to participate in conjoint counseling forthwith.

Respondent failed to attend two separate CCRC appointments, one of which was continued at his request. Respondent has provided no good cause to the court for why he failed to attend these appointments. As such the court finds it appropriate to order sanctions in the amount of \$100 pursuant to Local Rule 8.10.02. Respondent may pay the entire amount or pay \$20 per month for five months. The first payment is due on or before February 15, 2024 and on the 15<sup>th</sup> of each month thereafter until paid in full.

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

**TENTATIVE RULING #21: THE COURT HAS READ AND CONSIDERED THE FILINGS AS OUTLINED ABOVE. THE COURT FINDS THE CURRENT ORDERS REMAIN IN THE MINOR'S BEST INTEREST. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. THE PARTIES ARE NOT TO DISCUSS THE CASE, INCLUDING THE PARENTING PLAN SCHEDULE OR EXCHANGES, WITH THE MINOR. THE MINOR IS NOT TO BE USED AS A MESSENGER BETWEEN THE PARTIES. THE PARTIES ARE ORDERED TO COMPLETE A PARENTING CLASS AND CO-PARENTING CLASS AND FILE PROOF OF COMPLETION WITH THE COURT ON OR BEFORE MAY 31, 2024. RESPONDENT AND THE MINOR ARE TO PARTICIPATE IN CONJOINT COUNSELING FORTHWITH.**

**RESPONDENT FAILED TO ATTEND TWO SEPARATE CCRC APPOINTMENTS, ONE OF WHICH WAS CONTINUED AT HIS REQUEST. RESPONDENT HAS PROVIDED NO GOOD CAUSE TO THE COURT FOR WHY HE FAILED TO ATTEND THESE APPOINTMENTS. AS SUCH THE COURT FINDS IT APPROPRIATE TO ORDER SANCTIONS IN THE AMOUNT OF \$100 PURSUANT TO LOCAL RULE 8.10.02. RESPONDENT MAY PAY THE ENTIRE AMOUNT OR PAY \$20 PER MONTH FOR FIVE MONTHS. THE FIRST PAYMENT IS DUE ON OR BEFORE FEBRUARY 15, 2024 AND ON THE 15<sup>TH</sup> OF EACH MONTH THEREAFTER UNTIL PAID IN FULL.**

**ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. MINOR'S COUNSEL SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

**NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY**



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**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. SARAH CRAIG V. RYAN CRAIG**

**PFL20170099**

The parties appeared before the court on December 13, 2023 for a hearing on Petitioner's request for a Domestic Violence Restraining Order (DVRO). At that time Respondent presented the court with evidence of a potential conflict of interest with Minors' Counsel Kelly Bentley who had appeared on a hearing as a special appearance representing Petitioner. Respondent requested Ms. Bentley be removed from her position as Minors' Counsel. Petitioner requested the matter be set on the law and motion calendar to allow the parties time to brief the issue. A hearing was set for the present date.

Minors' Counsel's Brief was mail served on January 16, 2024 and filed with the court on January 17. Petitioner's Brief Regarding Alleged Conflict of Interest Raised by Respondent was filed on January 18<sup>th</sup>. It was served on the 18<sup>th</sup> and again on the 19<sup>th</sup>. Minors' Counsel's Supplemental Declaration was filed on January 31<sup>st</sup>. On February 1<sup>st</sup>, Petitioner filed a Supplemental Declaration Regarding Waiver of Conflict of Kelly Bentley Representing the Minor Children. Respondent then filed a Memorandum of Points and Authorities in Support of Motion to Recuse Minors' Counsel and a Declaration of Ryan Craig in Support of Reply to Opposition of Motion to Recuse Minors' Counsel. The Memorandum of Points and Authorities was filed again on February 8<sup>th</sup>.

Respondent is requesting the removal of Minors' Counsel pursuant to the California Rules of Professional Conduct, Rule 1.7 and the California Code of Civil Procedure §128. He argues that there is an actual and clear conflict of interest and therefore Minors' Counsel should be removed from her position. According to Respondent, while he knew of the alleged conflict he was previously admonished by the court in October of 2022 for impugning Ms. Bentley's character and therefore he did not raise the conflict of interest again until he had documentation of the prior representation which he did not obtain until the second day of the DVRO hearing.

Minors' Counsel asks that the court deny Respondent's motion to have her removed. She notes that she has no recollection of representing Petitioner on a special appearance basis nor does she recall Respondent ever bringing the issue to her attention. She states further that her removal would not be in the best interests of the children as she has built a repoire with them and they have begun to open up to her. She further argues that Respondent has waived any objection he may have given that he has waited almost two years to bring this before the court though he admits to having prior knowledge of the alleged conflict.

Petitioner also asks that the request to remove Ms. Bentley be denied. She bases her argument on the doctrine of laches, which is an undue delay in asserting a legal right or privilege. Petitioner argues that Respondent not only knew of the alleged conflict for "quite

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

some time” but purposefully waiting to raise any objection until after he could see how the first day of the DVRO hearing went. Additionally, Petitioner notes that since Ms. Bentley specially appeared for her in the prior hearing she is the one who can waive the conflict of interest, if any, which she agrees to do.

“California’s statutory scheme governing child custody and visitation determinations is set forth in the Family Code...Under this scheme, ‘the overarching concern is the best interest of the child.’” In re Marriage of Brown & Yana, 37 Cal. 4<sup>th</sup> 947, 955-956 (2006). In furtherance of ensuring the best interests of the child, the court has the power to appoint Minor’s Counsel. However, in doing so the court is to consider, among other things, whether “[t]he best interest of the child appears to require *independent* representation.” Cal. Rule Ct., 5.240(a)(7)(emphasis added). Thus, it stands to reason that the legislature intended Minor’s Counsel to be an independent third party who can neutrally assess the best interests of the children. Where that party represented one of the parents in the very same matter there is, at the very least, an appearance of impropriety. Given the concern over whether or not Ms. Bentley can act as independent counsel for the children the court grants the request to relieve Ms. Bentley of her position as Minor’s Counsel. In her place, the court appoints Rebecca Esty-Burke as Minor’s Counsel.

**TENTATIVE RULING #22: THE COURT GRANTS THE REQUEST TO RELIEVE MS. BENTLEY OF HER POSITION AS MINOR’S COUNSEL. IN HER PLACE, THE COURT APPOINTS REBECCA ESTY-BURKE AS MINOR’S COUNSEL.**

**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.**