

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 20, 2025

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

1. ALEAH MCNABB V. TYLER SWINNEY

22FL0507

On August 29, 2024, Respondent filed a Request for Order (RFO) seeking custody and visitation orders and an order regarding the minor's school. The RFO and all other required documents were mail served on November 12, 2024.

The parties filed a Stipulation and Order for Modification of Child Custody and Visitation Orders on December 2, 2024, which supersedes the prior custody orders except for school choice, which was to remain as previously ordered until further stipulation or order of the court.

The parties attended Child Custody Recommending Counseling (CCRC) on December 30, 2024. They were unable to reach any agreements therefore, a report with recommendations was prepared and mailed to the parties on January 14, 2025.

A Declaration of Aleah McNabb in Opposition to RFO was filed and served on February 3, 2025. Respondent's Supplemental Declaration in Support of His Request for Order was filed and served on February 11, 2025.

Respondent is requesting the minor attend Consumnes River Elementary. In the alternative, he would agree to John Adams Academy in El Dorado Hills.

Petitioner is opposing the request. She instead asks that the minor remain at Latrobe Elementary School.

The CCRC counselor concurs with Petitioner's request and recommends that the child continue attending Latrobe Elementary School.

The court has reviewed the filings as outlined above and finds the recommendation contained in the CCRC report to be in the best interest of the minor. The court hereby adopts the recommendation as the order of the court.

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

TENTATIVE RULING #1: THE COURT ADOPTS THE RECOMMENDATION CONTAINED IN THE JANUARY 14, 2025 CCRC REPORT AS THE ORDER OF THE COURT. 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 PHONE CALL TO THE COURT AT (530) 621-6725 BY 4:00 P.M. ON THE DAY THE

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

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

2. AMY KNIERIEM V. BEAU MICHAEL LEMIRE

24FL0133

On July 1, 2024, Petitioner filed a Request for Order (RFO) seeking an order for child support and various other orders. She did not file an Income and Expense Declaration and there is no Proof of Service for the RFO. Nevertheless, Respondent filed and served his Responsive Declaration to Request for Order on October 24, 2024.

On October 11, 2024, Respondent filed an RFO seeking custody and visitation orders and an order prohibiting Petitioner from being present at, or sending others to, record visits with the minor. The RFO was mail served on November 7th.

Respondent filed and served his Income and Expense Declaration on December 2nd.

Petitioner filed and served a Reply Declaration and her Income and Expense Declaration on December 27th.

Petitioner filed and served a Memorandum of Points and Authorities and an Updating Declaration on February 10, 2025. Respondent filed and served a Supplemental Declaration of Respondent Beau Lemire on February 11th.

Petitioner filed her RFO requesting the following: (1) guideline child support based on a 4.7% timeshare and an overtime table; (2) equal division of child support add-ons such as therapy, work-related childcare, uninsured healthcare expenses, travel expenses for visitation, etc.; and (3) name change of the minor to add Petitioner's last name to the last name of the minor. Additionally, Petitioner states that she intends to make an oral motion before the court for need based attorney's fees.

Respondent is requesting a step-up plan to increase his parenting time. He also asks that the court prohibit Petitioner from sending individuals to observe and record his visits with the minor. Regarding child support, Respondent is requesting a hardship for the cost of providing his own work tools, as well as a hardship of \$3,000 which accounts for the cost of supervised visitation. Respondent consents to the addition of Petitioner's last name to the minor as long as both last names are used.

The parties attended Child Custody Recommending Counseling (CCRC) on December 9, 2024. They reached some agreements but were not able to agree on all issues therefore a report with the agreements and recommendations was prepared on January 28, 2025. It was mailed to the parties on January 31, 2025.

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As part of the CCRC report, the CCRC counselor addressed whether Respondent had rebutted the Family Code section 3044 presumption. Petitioner objects to this recommendation and objects to the CCRC report as hearsay. She argues that the 3044 presumption has not been rebutted and asks that the court take evidence on the issue prior to making such a finding.

After reviewing the filings as outlined above, the court is ordering as follows. Petitioner's request to add her last name to the minor's name is granted. The child's name shall be changed to Blake Lemire-Knieriem.

Regarding Petitioner sending her sister and other individuals to observe and film the visits between Respondent and the minor, Petitioner is ordered to stop engaging in this conduct immediately. Petitioner shall not request others attend, observe, or record any visits between the minor and Respondent.

Finally, on the issues of custody, visitation, and child support, the parties are ordered to appear.

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

TENTATIVE RULING #2: ON THE ISSUES OF CUSTODY, VISITATION, AND CHILD SUPPORT, THE PARTIES ARE ORDERED TO APPEAR.

PETITIONER'S REQUEST TO ADD HER LAST NAME TO THE MINOR'S NAME IS GRANTED. THE CHILD'S NAME SHALL BE CHANGED TO BLAKE LEMIRE-KNIERIEM. PETITIONER SHALL NOT REQUEST OTHERS ATTEND, OBSERVE, OR RECORD ANY VISITS BETWEEN THE MINOR AND RESPONDENT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

3. APRIL ROBINSON V. GORDON ROBINSON

PFL20210147

Respondent filed and served a Request for Order (RFO) on May 22, 2024, seeking custody orders, property control orders, and Family Code § 271 sanctions. The parties appeared before the court for hearing on August 22, 2024, at which time Respondent withdrew his request for sanctions and the parties presented the court with a stipulation on all issues. As part of the stipulation, the parties agreed to attend Child Custody Recommending Counseling (CCRC) on January 9, 2025, to review the current parenting plan.

Only Petitioner appeared for the January 9th CCRC appointment therefore, a single parent report was prepared and filed with the court. A Supplemental Declaration of Respondent was filed and served on February 10th.

Respondent is requesting a re-referral to CCRC as he mis-calendared the date for the prior hearing. Petitioner has not opposed this request.

The parties are re-referred to CCRC with an appointment on 3/14/25 at 1:00 PM with Rebecca Nelson. A review hearing is set for 5/8/25 at 8:30 AM in department 5. Supplemental Declarations, if any, are due to be filed no later than 10 days prior to the next hearing date.

TENTATIVE RULING #3: THE PARTIES ARE RE-REFERRED TO CCRC WITH AN APPOINTMENT ON 3/14/25 AT 1:00 PM WITH REBECCA NELSON. A REVIEW HEARING IS SET FOR 5/8/2025 AT 8:30 AM IN DEPARTMENT 5. SUPPLEMENTAL DECLARATIONS, IF ANY, MUST BE FILED NO LATER THAN 10 DAYS PRIOR TO THE NEXT HEARING DATE.

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4. BROOKE SPARKS V. JOSHUA DANIEL WHEELER

22FL0624

On November 22, 2024, Petitioner filed a Request for Order (RFO) seeking child custody orders. The RFO was mail served on December 6, 2024. Respondent filed and served a Responsive Declaration to Request for Order on February 4, 2025.

Petitioner is requesting an order for Respondent to attend anger management and therapy. She asks that she have sole physical custody of the minor until Respondent completes the same, and files proof of completion with the court. Until that time, she proposes only supervised visitation between the minor and Respondent. Additionally, she is requesting the no-contact order be vacated with regard to Petitioner's fiancé Cale Hagan and for the co-parenting counseling order to be vacated. She asks that Respondent be held in contempt for failing to comply with the court's co-parenting counseling order. Finally, she is seeking clarification regarding the court's "last say" order.

Respondent asks that the current custody orders remain in place. Additionally, he requests sanctions in the amount of \$3,000 pursuant to Family Code § 271. Respondent notes that Petitioner previously requested a restraining order, but her request was denied at trial as the court did not make a finding of abuse.

Petitioner's request to modify physical custody is denied. Petitioner has failed to establish any new or different circumstances that render the court's prior orders no longer in the best interests of the minor. She has failed to establish grounds for anger management or therapy orders for Respondent therefore, those requested orders are also denied.

The court finds that the no contact order with Cale Hagan remains in the best interests of the minor. Respondent has made a request for sanctions 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..." Fam. Code § 271(a). "An award of attorney's fees and costs pursuant to this section is in the nature of a sanction." *Id.* 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.*

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While the court is concerned with the allegations that the minor is still in the presence of Mr. Hagan, the court finds that Respondent's request for \$3,000 would constitute an unreasonable financial burden on Petitioner and therefore sanctions are not being ordered at this time. However, Petitioner is admonished that her continued failure to abide by court orders may result in monetary sanctions in the future or in contempt charges or a change to custody orders.

Petitioner's request for contempt charges is denied. Petitioner failed to file the requisite FL-410 Order to Show Cause and Affidavit for Contempt. Additionally, service of contempt papers must be done by personal service on the accused. *Albrecht v. Sup. Ct.*, 132 Cal. App. 3d 612, 618-619 (1982); See also Cal. Civ. Pro. §§ 1015 & 1016. Here, the moving papers were mail served. For the foregoing reasons, Petitioner's request for contempt orders is denied. However, Respondent is admonished that failure to abide by court orders may result in monetary sanctions, contempt charges, or a change to custody.

Regarding the request for clarification of the court's July 18th order. The parties are to continue sharing joint legal custody which means that the parties are to work together to agree upon matters of legal custody. However, in the event the parties are unable to reach an agreement after making a good faith effort to do so, then Respondent shall have final decision-making authority.

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

TENTATIVE RULING #4: PETITIONER'S RFO IS DENIED IN ITS ENTIRETY. RESPONDENT'S REQUEST FOR SECTION 271 SANCTIONS IS DENIED. ALL PRIOR ORDERS REMAIN IN FULL FOCE AND EFFECT. BOTH PARTIES ARE ADMONISHED TO ADHERE TO THE COURT'S ORDERS. FAILURE TO DO SO MAY RESULT IN MONETARY SANCTIONS, CONTEMPT CHARGES, OR A CHANGE IN CUSTODY ORDERS. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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5. DAVID BROOKE V. DEBBIE BROOKE

24FL0634

Counsel for Petitioner, Kelly Bentley, filed an ex parte Notice of Motion and Motion to be Relieved as Counsel on January 10, 2025. Petitioner has since filed a Substitution of Attorney relieving Ms. Bentley from her position as counsel of record therefore, the court finds the motion to be moot and the matter is dropped from calendar.

TENTATIVE RULING #5: THE MOTION TO BE RELIEVED AS COUNSEL IS MOOT AND THEREFORE, THE MATTER IS DROPPED FROM CALENDAR.

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

6. DCSS V. BRIAN ORTEGA (OTHER PARTY: REBECCA GIERHART) PFS20160102

On November 14, 2024, Respondent filed a Request for Order (RFO) seeking custody and visitation orders. The RFO was electronically served on November 15th.

Other Party filed a Responsive Declaration to Request for Order on February 4, 2025. It was served via overnight mail on February 3rd.

Respondent filed his RFO seeking joint legal and joint physical custody of the parties' minor children. Specifically, he requests visitation on the 1st, 3rd, and 5th weekends of every month on Saturdays and on Sundays from 9:00am to 5:00pm.

The parties attended Child Custody Recommending Counseling (CCRC) on December 12, 2024, and while they were able to reach some agreements, they were unable to agree on all issues therefore a report with agreements and recommendations was prepared on December 27, 2024. It was mailed to the parties on December 30th.

Other Party agrees with the recommendations and agreements as stated in the CCRC report and asks that they be adopted with one clarification regarding the duration of visits during step 3 and she requests final decision-making authority. She also asks that the eldest child, Alexia, be allowed to travel to Hawaii with family friends in June of 2025.

The court has reviewed the filings as outlined above and finds the agreements and recommendations contained in the December 27, 2024 CCRC report to be in the best interests of the minors they are therefore hereby adopted as the orders of the court with one correction. On pg. 18, line 3, the CCRC counselor indicated the time for the Saturday and Sunday visits to be from 2:00 pm to 6:00 pm though the visits were intended to be 2 hours each. This should be corrected to read that visits on Saturdays and Sundays will take place from 4:00 pm to 6:00 pm, or as scheduled per the therapist's availability. In addition to adopting the CCRC agreements and recommendations, the court does find it to be in the best interests of the minors to award Other Party final decision-making authority in instances where, after a good faith attempt is made, the parties are unable to agree on a decision regarding legal custody.

Finally, Other Party's request to allow the eldest child, Alexia, to travel to Hawaii with family friends in June of 2025 is granted. However, Other Party is ordered to provide Respondent with the itinerary for the trip as soon as she has it. This includes, but is not limited to flight numbers, dates, and times, lodging information, and contact information for the adults who will be traveling with the minor.

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Other Party shall prepare and file the Findings and Orders After Hearing.

TENTATIVE RULING #6: THE COURT HAS REVIEWED THE FILINGS AS OUTLINED ABOVE AND FINDS THE AGREEMENTS AND RECOMMENDATIONS CONTAINED IN THE DECEMBER 27, 2024 CCRC REPORT TO BE IN THE BEST INTERESTS OF THE MINORS THEY ARE THEREFORE HEREBY ADOPTED AS THE ORDERS OF THE COURT WITH ONE CORRECTION. PG. 18, LINE 3, IS CORRECTED TO READ THAT VISITS ON SATURDAYS AND SUNDAYS WILL TAKE PLACE FROM 4:00 PM TO 6:00 PM, OR AS SCHEDULED PER THE THERAPIST'S AVAILABILITY. IN ADDITION TO ADOPTING THE CCRC AGREEMENTS AND RECOMMENDATIONS, THE COURT DOES FIND IT TO BE IN THE BEST INTERESTS OF THE MINORS TO AWARD OTHER PARTY FINAL DECISION-MAKING AUTHORITY IN INSTANCES WHERE, AFTER A GOOD FAITH ATTEMPT IS MADE, THE PARTIES ARE UNABLE TO AGREE ON A DECISION REGARDING LEGAL CUSTODY.

FINALLY, OTHER PARTY'S REQUEST TO ALLOW THE ELDEST CHILD, ALEXIA, TO TRAVEL TO HAWAII WITH FAMILY FRIENDS IN JUNE OF 2025 IS GRANTED. HOWEVER, OTHER PARTY IS ORDERED TO PROVIDE RESPONDENT WITH ALL ITINERARY FOR THE TRIP AS SOON AS SHE HAS IT. THIS INCLUDES, BUT IS NOT LIMITED TO FLIGHT NUMBERS, DATES, AND TIMES, LODGING INFORMATION, AND CONTACT INFORMATION FOR THE ADULTS WHO WILL BE TRAVELING WITH THE MINOR.

OTHER PARTY SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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February 20, 2025

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7. EDC DCSS V. CODY MAKOA TURNBULL

23FL1273

On November 20, 2024, Thomas and Donelle Potter filed a Notice of Motion and Declaration for Joinder. There is no Proof of Service for the moving papers. Respondent did file a Responsive Declaration to Motion for Joinder, however there is no Proof of Service for this document either, therefore the court cannot consider it.

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

TENTATIVE RULING #7: THIS MATTER IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE.

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

8. JENNIFER DANIELS V. JOSE CARRERO

PFL20170812

On November 22, 2024, Respondent filed a Request for Order (RFO) seeking custody and visitation orders as well as various other orders. The RFO was originally filed ex parte, however the ex parte request was denied, the parties were ordered to attend Child Custody Recommending Counseling (CCRC) and a regularly set hearing was scheduled for the present date.

On November 27th, Petitioner also filed an RFO seeking custody and visitation orders. This RFO was also filed ex parte however, it was denied. The court reaffirmed its prior orders, and Respondent was reminded that failure to abide by court orders may result in sanctions and/or contempt orders.

The parties attended CCRC on December 23, 2024. They were unable to reach any agreements therefore a report with recommendations was prepared on February 6, 2025. It was mailed to the parties on February 7th.

Respondent filed a Declaration of Jose Manuel Carrer in Child Custody on February 18th. The court finds this to be late filed therefore it has not been read or considered.

After reviewing the filings of the parties as outlined above, the court finds the recommendations contained in the February 6, 2025 CCRC report to be in the best interests of the minor they are therefore hereby adopted as the orders of the court.

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

TENTATIVE RULING #8: THE RECOMMENDATIONS CONTAINED IN THE FEBRUARY 6, 2025 CCRC REPORT ARE FOUND TO BE IN THE BEST INTERESTS OF THE MINOR AND THEREFORE ARE ADOPTED AS THE ORDERS OF THE COURT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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9. JENNIFER WIDAU V. TOM SANDOVAL

PFL20210301

On August 23, 2023, Respondent filed a Request for Order (RFO) seeking custody and visitation orders. The parties attended Child Custody Recommending Counseling (CCRC) on November 1st and a report was prepared dated December 7, 2023. At the June 20, 2024 hearing, the court adopted the recommendations as stated in the December 7th CCRC report. A review hearing was set for September 12, 2024 to address the status of reunification therapy. Parties were ordered to file and serve supplemental declarations no later than 10 days prior to the review hearing and the court reserved on Petitioner's request for Family Code § 271 sanctions. At the review hearing, the court granted the requested sanctions in the amount of \$5,000. An additional review hearing was set for the present date to address Petitioner's request for the remaining sanctions amount and to determine the amount of monthly payments for the \$5,000.

On February 3, 2025, Respondent filed a Declaration and his Income and Expense Declaration. The Proofs of Service indicate these documents were served on February 3rd.

On February 5th, Petitioner's Supplemental Declaration and a Declaration of Attorney Layla Cordero Re: Fees and Costs were filed and served.

On February 14th, Petitioner filed and served an Objection to Respondent's Supplemental Declaration filed 2/3/2025 and Respondent's Income and Expense Declaration Filed 2/3/2025 and Motion to Strike.

Petitioner is renewing her request for a total of \$13,000 as and for Section 271 sanctions. She asks that the court award the remaining \$8,000 and order monthly payments at \$500 per month. Petitioner notes that attached to Respondent's Income and Expense Declaration was a character letter from his spouse, Veronica Ronquillo. Petitioner objects to the letter and asks that the court strike it from the record. She also objects to the contents of Respondent's declaration as the matters contained therein are not properly pending before the court.

Petitioner's objections are granted. The only matter pending before the court is the extent and payment plan for the Section 271 sanctions. The court has not considered either Mrs. Ronquillo's letter or the portions of Respondent's declaration regarding reunification therapy, school accounts, or BacTrack testing.

Respondent asks that the court vacate its prior ruling for sanctions as he is unable to pay.

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Petitioner's request for sanctions is 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.*

Given the history of this case, the court does, and has, found that Respondent's actions have frustrated the policy of the law to reduce the cost of litigation and promote cooperation among the parties. That said, the purpose of a sanctions award under Section 271 is to deter future sanctionable conduct. The court is concerned that Respondent does not have the ability to pay the entirety of the \$13,000, however, the court is awarding a total of \$6,000 as and for sanctions in hopes that this will act as a deterrent for Respondent. Sanctions are to be paid in monthly installments of \$300 commencing on March 1st and continuing monthly thereafter on the 1st of each month until paid in full. If any payment is late or missed the entire amount shall become immediately due and payable.

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

TENTATIVE RULING #9: RESPONDENT IS ORDERED TO PAY DIRECTLY TO PETITIONER'S ATTORNEY \$6,000 AS AND FOR FAMILY CODE SECTION 271 SANCTIONS. SANCTIONS ARE TO BE PAID IN MONTHLY INSTALLMENTS OF \$300 COMMENCING ON MARCH 1ST AND CONTINUING MONTHLY THEREAFTER ON THE 1ST OF EACH MONTH UNTIL PAID IN FULL. IF ANY PAYMENT IS LATE OR MISSED THE ENTIRE AMOUNT SHALL BECOME IMMEDIATELY DUE AND PAYABLE. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

12. ALLISON MURBACH V. DENNY MURBACH

22FL0815

Petitioner filed an ex parte application for emergency orders on January 3, 2025, requesting the court grant a bifurcation of status and requesting property control of personal property items. On January 6, 2025, the court denied the request as the pension plan had not been joined. The court set the matter for a hearing on February 20, 2025. Proof of Service shows Respondent was served by mail on January 6, 2025.

Respondent has not filed a Responsive Declaration.

In dissolution proceedings, the court may bifurcate the issue of the dissolution of the marriage and enter a status only judgment. *Id.* at (c)(7); Fam. Code § 2337. Prior to granting such a request the court must ensure “[a]ll pension plans that have not been divided by court order that require joinder ...” have been joined. Cal. Rule Ct. 5.390(d)(1). A party seeking bifurcation is to submit a completed FL-315 evidencing such. Cal. Rule Ct. 5.390(a).

Upon review of the court file, it appears that a joinder and summons have been issued for the Lockheed Martin Pension Plan. Proof of Service shows the plan was served by mail on January 9, 2025. More than 30 days have elapsed.

Here, Petitioner has not completed and filed the requisite FL-315, and it is unclear that all known pension plans have been joined. The parties are ordered to appear for the hearing on this issue.

Petitioner’s request for property control of personal property items is granted, subject to final determination of the items and equalization by the court.

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 #12: PARTIES ARE ORDERED TO APPEAR FOR THE BIFURCATION.

PETITIONER’S REQUEST FOR PROPERTY CONTROL OF PERSONAL PROPERTY ITEMS IS GRANTED, SUBJECT TO FINAL DETERMINATION OF THE ITEMS AND EQUALIZATION BY THE COURT. 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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 20, 2025

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

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

February 20, 2025

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

13. CHARMIN BLAND V. CODY BLAND

23FL0364

On May 30, 2023, Respondent filed and served a Request for Order (RFO) along with a Declaration of Cody A. Bland in Support of Request for Order, a Declaration of Attorney Shannon Ramos in Support of Attorney's Fees Request, and an Income and Expense Declaration.

Petitioner filed her Responsive Declaration to Request for Order and her Income and Expense Declaration on September 21st. Both were electronically served on August 2nd.

Respondent filed his RFO requesting guideline spousal support, attorney's fees in the amount of \$10,000 pursuant to Family Code § 2030, and sanctions in the amount of \$3,000 pursuant to Family Code § 271. Respondent states that he is disabled, and Petitioner is earning substantially more than he is. Given his decreased earning capacity, he argues he is unable to maintain the marital standard of living without assistance and there is a disparity in income leading to unequal access to legal counsel. He bases his request for sanctions on the fact that Petitioner previously filed an RFO for property control orders. He states that the RFO was filed without meeting and conferring and if Petitioner had met and conferred prior to filing he would have agreed to the requested orders.

Petitioner opposes the request for support arguing that Respondent has not provided any evidence regarding his alleged disability and his resulting inability to maintain gainful employment. Petitioner requests the matter be continued to a date after Respondent's discovery responses have been received and reviewed. If the court is inclined to rule on support, she asks that the court base the marital standard of living on the standard set prior to Petitioner's pay increase which only occurred a year and a half prior to separation. Petitioner also requests the court issue a *Gavron* Warning and direct Respondent to undergo a vocational evaluation with Vocational Economic, Inc. Petitioner agrees to pay the costs of the evaluation, subject to reallocation. She further asks that each party be ordered to pay their own attorney's fees and costs and that the court deny Respondent's request for Section 271 sanctions.

On October 12, 2023, the court adopted its tentative ruling with modifications. The court granted temporary guideline spousal support in the amount of \$776 per month and ordered Respondent to participate in a vocational evaluation and set a review hearing for April 11, 2024.

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February 20, 2025

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

On April 1, 2024, the parties submitted a Stipulation and Order to continue the April hearing to June 20, 2024.

On June 17, 2024, the parties stipulated to continue the hearing to September 26, 2024.

Respondent filed a Declaration on September 16, 2024. Petitioner was served on the same day. Respondent references the vocational evaluation in his Declaration; however, the vocational evaluation has not been filed with the court. Respondent continues to assert that he is disabled and therefore, unable to work.

Petitioner has not filed a Supplemental Declaration.

Parties appeared for the hearing on September 26, 2024, and agreed to continue the matter to December 19, 2024.

On November 18, 2024, the parties submitted a Stipulation to continue the hearing to February 20, 2025.

There have been no new filings since November 18, 2024.

The court finds this RFO to be stale. Neither party has filed or served updated Income and Expense Declarations; the last were filed in 2023. Neither party has filed a supplemental or updating declaration. As such, the court drops the matter from calendar.

All prior orders remain in full force and effect.

TENTATIVE RULING #13: THE COURT FINDS THIS RFO TO BE STALE. NEITHER PARTY HAS FILED OR SERVED UPDATED INCOME AND EXPENSE DECLARATIONS; THE LAST WERE FILED IN 2023. NEITHER PARTY HAS FILED A SUPPLEMENTAL OR UPDATING DECLARATION. AS SUCH, THE COURT DROPS THE MATTER FROM CALENDAR. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY PHONE CALL 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 PHONE CALL OR IN PERSON BY 4:00 P.M. ON

LAW & MOTION TENTATIVE RULINGS

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February 20, 2025

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

**THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE
8.05.07.**

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DEPARTMENT 5

February 20, 2025

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

14. CO. OF EL DORADO V. STEPHEN ROBBINS (OTHER PARENT: ROSIO RODRIGUEZ)

22FL1216

Other Parent filed a Request for Order (RFO) on November 15, 2024, requesting child custody and parenting plan orders. The parties were not referred to Child Custody Recommending Counseling (CCRC), as they had been referred in the prior six months. Proof of Service shows the Department of Child Support Services (DCSS) was served by mail on January 28, 2025. Respondent was personally served on January 31, 2025.

Civil Procedure section 1005(b) which states: “Unless otherwise ordered or specifically provided by law, all moving and supporting papers shall be served and filed at least 16 court days before the hearing. The moving and supporting papers served shall be a copy of the papers filed or to be filed with the court. However, if the notice is served by mail, the required 16-day period of notice before the hearing shall be increased by five calendar days if the place of mailing and the place of address are within the State of California...” This would have made January 22, 2025, the last day for mail service. The last day for personal service was January 27, 2025. The court, therefore, drops the matter from calendar due to the lack of proper service.

All prior orders remain in full force and effect.

TENTATIVE RULING #14: THE MATTER IS DROPPED FROM CALENDAR DUE TO THE 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 PHONE CALL 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 PHONE CALL 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 20, 2025

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

16. DCSS V. CASEY HENLE (OTHER PARENT: GUADALUPE ENRIQUEZ) PFS20210182

Other Parent filed a Request for Order (RFO) on November 22, 2024, requesting a modification of the current child custody and parenting plan orders. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on December 20, 2024, and a review hearing on February 20, 2025. Proof of Service shows Respondent was personally served with the FL-300, referral to CCRC, and a supplemental questionnaire. It does not show Respondent was served with the other necessary documents. DCSS was personally served on February 6, 2025.

Both parties and the minor participated in the CCRC appointment on December 20, 2024. The parties were unable to reach an agreement. A report with recommendations was filed with the court on February 7, 2025, and mailed to the parties the same day.

Neither Petitioner nor Respondent have not filed a Responsive Declaration.

The court finds good cause to proceed despite the deficiencies in service, as the recommendation is to maintain the current orders and for Respondent to comply with all court orders from other cases. The court adopts the recommendation as set forth in the February 7, 2025 CCRC report as it is in the best interest of the minor.

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

TENTATIVE RULING #16: THE COURT FINDS GOOD CAUSE TO PROCEED DESPITE THE DEFICIENCIES IN SERVICE, AS THE RECOMMENDATION IS TO MAINTAIN THE CURRENT ORDERS AND FOR RESPONDENT TO COMPLY WITH ALL COURT ORDERS FROM OTHER CASES. THE COURT ADOPTS THE RECOMMENDATION AS SET FORTH IN THE FEBRUARY 7, 2025 CCRC REPORT AS IT IS IN THE BEST INTEREST OF THE MINOR. ALL PRIOR ORDERS 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 PHONE CALL 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 PHONE CALL OR IN PERSON BY 4:00 P.M. ON

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February 20, 2025

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

**THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE
8.05.07.**

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DEPARTMENT 5

February 20, 2025

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

17. ERIC WEXELMAN V. JAMAICA WEXELMAN

24FL0838

Respondent filed a Motion for Joinder and Petitioner for Joinder on December 20, 2024. A Summons was issued the same day. Respondent seeks to join the parties' adult son to the action. Proof of Service shows Petitioner was mail served on December 27, 2024. There is no Proof of Service showing Claimant Spencer Wexelman doing business as Rambo Propane Tanks and Rambo Hauling LLC was served.

Petitioner filed a Responsive Declaration and Supplemental Declaration on February 5, 2025. Respondent was mail and electronically served on February 6, 2025.

California Rule of Court 5.24(d)(1) requires: “[a]ll applications for joinder other than for an employee pension benefit plan must be made by serving and filing form a *Notice of Motion and Declaration for Joinder* (form FL-371)...The completed form must state with particularity the claimant's interest in the proceeding and the relief sought by the applicant, and it must be accompanied by an appropriate pleading setting forth the claim as if it were asserted in a separate action or proceeding. (2) A blank copy of *Responsive Declaration to Motion for Joinder and Consent Order for Joinder* (form FL-373) must be served with the *Notice of Motion* and accompanying pleading.”

The court drops the matter from calendar for failure to serve the claimant.

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

TENTATIVE RULING #17: THE MATTER IS DROPPED FROM CALENDAR FOR FAILURE TO SERVE THE CLAIMANT.

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

February 20, 2025

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

18. JESSICA CROXTON V. ADAM CROXTON

22FL0907

Respondent filed a Request for Order (RFO) along with an Order Shortening Time (OST) on October 4, 2024, requesting that the bifurcation of status be set on a shortened basis. On October 7, 2024, the court set the matter to be heard on November 14, 2024, and directed Respondent to serve Petitioner no later than October 22, 2024. Proof of Service shows Petitioner was served by mail on October 10th. The court notes Respondent refers to a declaration in his pleadings, however, no such declaration is attached.

Petitioner filed a Responsive Declaration to the ex parte application on October 4, 2024. Respondent was served on October 4, 2024. Petitioner filed an additional declaration on November 8, 2024. It was served on November 7th. Although the November 8th Declaration was late filed, the court finds it mirrors much of what was included in the October 4, 2024, Responsive Declaration and raises issues regarding service on Petitioner. Therefore, the court finds good cause to consider the Declaration. Petitioner objects to bifurcation. She asserts Respondent has not served her with Preliminary or Final Declarations of Disclosure. Additionally, she asserts there are retirement plans that have not been joined. Petitioner states that if the need to bifurcate is due to Respondent's desire to purchase a home, she is willing to sign an interspousal transfer deed or a quit claim deed. Therefore, a bifurcation is not necessary.

The parties appeared for the hearing on November 14, 2024, and agreed to continue the matter. The parties reached additional agreements. As well.

Upon review of the court file, Respondent filed a Request for Joinder for the pension plan on January 17, 2025. A Summons was issued the same day. The Proof of Service indicates a mailing date of January 10, 2025, a week prior to the summons being issued.

Respondent filed a Declaration on January 17, 2025, stating that all plans have now been properly joined. Petitioner was served with the Declaration as well as the joinder pleadings on February 3, 2025.

Petitioner has not filed a Supplemental Declaration.

In dissolution proceedings, the court may bifurcate the issue of the dissolution of the marriage and enter a status only judgment. *Id.* at (c)(7); Fam. Code § 2337. Prior to granting such a request the court must ensure “[a]ll pension plans that have not been divided by court order that require joinder ...” have been joined. Cal. Rule Ct. 5.390(d)(1). A

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

party seeking bifurcation is to submit a completed FL-315 evidencing such. Cal. Rule Ct. 5.390(a). The court is concerned with the Proof of Service of the Summons and joinder.

Parties are ordered to appear for the hearing.

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 20, 2025

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

19. SABRINA OWSLEY V. RYAN SELVIDGE

24FL1201

Petitioner filed a Petition for Custody and Support on November 21, 2024. A Summons was issued the same day. Petitioner concurrently filed a Request for Order (RFO) requesting the court make orders as to child custody, a parenting plan, and child support. Petitioner did not file an Income and Expense Declaration. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on December 20, 2024, and a review hearing on February 20, 2025.

Upon review of the court file, there is a Proof of Service showing Respondent was served with the Petition and Summons, however, there is no Proof of Service showing Respondent was served with the RFO or other necessary documents.

Only Petitioner appeared for the CCRC appointment. As such, a single parent report with no recommendations was filed with the court on December 20th. Copies were mailed to the parties the same day.

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

TENTATIVE RULING #19: THE MATTER IS DROPPED FROM CALENDAR DUE TO THE 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 PHONE CALL 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 PHONE CALL 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 20, 2025

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

20. VALERIE SANTOS V. GABRIEL SANTOS

24FL0819

Respondent filed a Request for Order (RFO) on November 14, 2024, seeking child custody, parenting plan, and property control orders. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on December 12, 2024, and a review hearing on February 20, 2025. Upon review of the court file, there is no Proof of Service showing Petitioner was properly served with the RFO and necessary documents.

Petitioner filed an ex parte application for emergency custody orders on November 14, 2024. On November 15th, the court denied the request and confirmed the previously set CCRC appointment and review hearing. Petitioner filed an RFO on November 15th making the same requests as set forth in the ex parte application. Proof of Service shows Respondent was served by mail on November 14th, prior to the file endorsed copy being available.

Both parties appeared at the CCRC appointment and reached a full agreement. The parties submitted a stipulation, which the court adopted as its order on December 18, 2024.

Petitioner filed a Responsive Declaration to the November 14th RFO on January 24, 2025. Respondent was personally served on January 30, 2025. Petitioner requests the court maintain the current orders pursuant to the stipulation entered on December 18, 2024. Petitioner objects to any property control orders.

The court drops the custody and visitation portions of each party's RFO from calendar as moot. The court maintains the current orders as set forth in the December 18th stipulation. The court drops Respondent's request for property control orders due to the lack of proper service. Even if there was a Proof of Service showing Petitioner was properly served, the request would be denied, as Respondent has not identified any property over which exclusive use and control is being sought. As such, the request would have been denied for being vague.

All prior orders remain in full force and effect.

TENTATIVE RULING #20: THE COURT DROPS THE CUSTODY AND VISITATION PORTIONS OF EACH PARTY'S RFO FROM CALENDAR AS MOOT. THE COURT MAINTAINS THE CURRENT ORDERS AS SET FORTH IN THE DECEMBER 18TH STIPULATION. THE COURT DROPS RESPONDENT'S REQUEST FOR PROPERTY CONTROL ORDERS DUE TO THE LACK OF PROPER SERVICE. EVEN IF THERE WAS A PROOF OF SERVICE SHOWING

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

PETITIONER WAS PROPERLY SERVED, THE REQUEST WOULD BE DENIED, AS RESPONDENT HAS NOT IDENTIFIED ANY PROPERTY OVER WHICH EXCLUSIVE USE AND CONTROL IS BEING SOUGHT. AS SUCH, THE REQUEST WOULD HAVE BEEN DENIED FOR BEING VAGUE. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT.

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

February 20, 2025

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

21. WENDY JONES V. LUCAS JONES

PFL20210015

Respondent filed an ex parte application for emergency orders on November 27, 2024. Petitioner filed a Responsive Declaration on December 2, 2024. On December 3, 2024, the court denied the request and maintained the current orders. Respondent did not file a Request for Order (RFO).

Petitioner filed an ex parte application for emergency orders on December 3, 2024. Petitioner filed an amended application on December 4th. On December 6th the court again denied the ex parte application and reiterated all prior orders remained in full force and effect.

Petitioner filed an RFO on December 6, 2024, seeking modification of the parenting plan orders. The parties were not referred to Child Custody Recommending Counseling (CCRC) as the parties had previously been referred within the prior six months. Upon review of the court file, there is no Proof of Service showing Respondent was properly served.

The court notes the parties had previously filed repeated ex parte applications in the month of September 2024. The review hearing held in October on the prior RFOs was dropped from calendar due to the parties' failure to properly serve each other. It appears this pattern has continued. Each party is admonished to review the California Rules of Court, specifically rule 5.151 regarding ex parte applications, along with Family Code section 3064(a). The parties are further admonished to review the El Dorado County Local Rules regarding Family Law ex parte applications. Should the parties continue to misuse the ex parte application procedures, the court may impose sanctions in the future.

All prior orders remain in full force and effect.

TENTATIVE RULING #21: THE MATTER IS DROPPED FROM CALENDAR DUE TO THE 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 PHONE CALL 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 PHONE CALL OR IN PERSON BY 4:00 P.M. ON

LAW & MOTION TENTATIVE RULINGS

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February 20, 2025

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

**THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE
8.05.07.**