

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
February 22, 2024
8:30 a.m./1:30 p.

2. ANN MARIE AZVEDO V. RANDY AZVEDO

PFL20200337

On December 13, 2023, Respondent filed a Request for Order (RFO) seeking custody and visitation orders. The parties were referred to Child Custody Recommending Counseling (CCRC) and a review hearing was set for January 11, 2024.

The RFO was filed on the heels of an ex parte request filed by Respondent on December 13th which resulted in an order suspending Petitioner's visitation rights until CPS completes its investigation into child abuse allegations.

The parties attended CCRC and a report with recommendations was prepared on January 1st. The court adopted the recommendations in the CCRC report as the orders of the court and set a review hearing for the present date to determine the status of the ongoing CPS investigation.

Respondent's Supplemental Declaration was served on February 8th and filed on February 9th. Petitioner has not filed a supplemental or updating declaration.

Respondent notes that Petitioner has not requested to spend any time with the minor since the last hearing. He further goes on to discuss both his, and the minor's, participation in therapy. He now requests sole legal and sole physical custody of the minor with all other orders to remain in full force and effect. He is requesting that the court not set a further hearing as either party may file a motion to change the orders should a change in circumstances occur.

Given that Petitioner has not filed an updating declaration, and according to Respondent Petitioner has made no effort to see the minor since the last hearing date the court does find that Respondent's continued sole legal and sole physical custody of the minor remains in the minor's best interest. All current orders shall remain in full force and effect. Respondent shall prepare and file the Findings and Orders After Hearing.

**TENTATIVE RULING #2: ALL CURRENT ORDERS REMAIN IN FULL FORCE AND EFFECT.
RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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

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3. BREE ST. CLAIR V. DANIEL ST. CLAIR

22FL1086

This matter is before the court for hearing on a Request for Order (RFO) filed by Petitioner on November 9, 2023. She filed her Income and Expense Declaration concurrently with the RFO and both documents were mail served the same date as filing.

The parties attended Child Custody Recommending Counseling (CCRC) on January 3, 2024, and were able to reach agreements on issues of custody and visitation. A report codifying the agreements was prepared and mailed to the parties on February 8th.

Respondent's Responsive Declaration to Request for Order was filed and served on February 13th. He subsequently filed and served his Income and Expense Declaration on February 14th. On February 15th, Petitioner filed a Supplemental Declaration Re Respondent's Late Filing.

Petitioner objects to the court's consideration of Respondent's Income and Expense Declaration because it was not filed with the responsive papers pursuant to El Dorado County Rule of Court 8.03.01. Petitioner also objects to consideration of the Responsive Declaration to Request for Order arguing that it was untimely served according to Civil Procedure § 1005 and El Dorado County Rule of Court 7.10.02(c).

Local rule 8.03.01 states, in pertinent part, that the party responding to a request for support must file an Income and Expense Declaration with his or her responsive documents or, if the responsive papers are not filed, no less than 5 days prior to the hearing date. El Dorado Sup. Ct. Rule 8.03.01. Here, Respondent is correct that the Income and Expense Declaration was filed after the Responsive Declaration to Request for Order and therefore was late.

Likewise, the Responsive Declaration to Request for Order was also filed late pursuant to Civil Procedure section 1005(b) which states all opposition papers are to be filed at least nine court days before the hearing date. Section 12c states, "[w]here any law requires an act to be performed no later than a specified number of days before a hearing date, the last day to perform that act shall be determined by counting backward from the hearing date, *excluding the day of the hearing* as provided by Section 12." Cal. Civ. Pro. § 12c. Section 1005(b) in conjunction with Section 12c would have made February 8th the last day for filing the responsive declaration (Monday February 19th was a court holiday). Therefore, it is late filed and has not been considered by the court.

While local rule 7.10.02(c) vests the court with the authority to treat any late filed documents as an admission that the motion is meritorious, doing so is discretionary and the court is not inclined to do so here. Respondent did file opposition papers, late as they may be. However, simply filing late does not preclude Respondent's right to be heard at the hearing should one be requested. Finally, the court is not inclined to make support orders based on

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Petitioner's filings only, where Respondent did file an Income and Expense Declaration it was just done late. Further, the court is concerned about the accurateness of Petitioner's Income and Expense Declaration as stated in further detail below.

Petitioner brings her RFO seeking custody and visitation orders as well as child support, spousal support, attorney's fees, and reimbursement of bail. Specifically, she is requesting joint legal and joint physical custody of the parties' three children utilizing the schedule they had previously agreed upon. She is requesting guideline child and spousal support with an overtime schedule. She also asks for each party to pay their own daycare providers and for Respondent to pay, through his HSA, Petitioner's medical expenses in the amount of \$4,250 that were incurred during the marriage and any medical expenses incurred by the children. She is also requesting reimbursement of \$10,000 in bail that she paid for two instances where Respondent had her arrested on allegedly baseless allegations. Finally, Petitioner is requesting \$10,000 in attorney's fees and costs pursuant to Family Code § 2030.

The court has reviewed the agreements set forth in the February 8, 2024 CCRC report and finds them to be in the best interests of the children. They are therefore adopted as the orders of the court.

Regarding the requested reimbursement of bail and an order directing Respondent to pay past due medical expenses, Respondent has not addressed this request in his responsive declaration. If the bills were incurred during the marriage as Petitioner states in her declaration, then her request for payment is granted. Respondent is ordered to timely and fully make payments on the \$4,250 in medical expenses that were incurred during the marriage. Payments are subject to reallocation at trial in the issue of property division.

The parties are ordered to equally split the cost of any uninsured medical and dental expenses for the children. Pursuant to Petitioner's request, the parties shall each pay for their own childcare providers.

The court reserves on the issue of Petitioner's request for reimbursed bail money until final judgment on the issue of property division.

Regarding the requests for support and attorney's fees, the court is concerned with the currentness of the information in Petitioner's Income and Expense Declaration. Not only is it dated outside the three-month required timeframe, although just barely, Petitioner stated in her declaration that disability was expected to end in December. It is unclear if she has returned to her work in full capacity. The parties are ordered to appear for the hearing and Petitioner is to bring an updated Income and Expense Declaration with supporting documents.

TENTATIVE RULING #3: THE PARTIES ARE ORDERED TO APPEAR ON THE ISSUES OF CHILD SUPPORT, SPOUSAL SUPPORT, AND ATTORNEY'S FEES. PETITIONER IS ORDERED TO BRING

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WITH HER AN UPDATED INCOME AND EXPENSE DECLARATION ALONG WITH THE REQUIRED SUPPORTING DOCUMENTATION.

THE COURT HAS REVIEWED THE AGREEMENTS SET FORTH IN THE FEBRUARY 8, 2024 CCRC REPORT AND FINDS THEM TO BE IN THE BEST INTERESTS OF THE CHILDREN. THEY ARE THEREFORE ADOPTED AS THE ORDERS OF THE COURT. THE PARTIES ARE ORDERED TO EQUALLY SPLIT THE COST OF ANY UNINSURED MEDICAL AND DENTAL EXPENSES FOR THE CHILDREN. PURSUANT TO PETITIONER'S REQUEST, THE PARTIES SHALL EACH PAY FOR THEIR OWN CHILDCARE PROVIDERS. THE COURT RESERVES ON THE ISSUE OF PETITIONER'S REQUEST FOR REIMBURSED BAIL MONEY UTIL FINAL JUDGMENT ON THE ISSUE OF PROPERTY DIVISION.

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

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4. CHELSEA HARRISON V. JOSEPH HARRISON

23FL0289

On September 26, 2023, Petitioner filed and served a Request for Order (RFO) along with ex parte orders setting the matter on shortened time and referring the parties to Child Custody Recommending Counseling (CCRC). The parties were assigned a CCRC appointment on October 10th.

Respondent filed and served two Responsive Declarations on October 27th. Petitioner's Reply Declaration to Respondent's Responsive Declaration in Support of Request for Modification of Custody and Visitation, Attorney Fees, and Order Shortening Time was filed and served on October 31st.

Only Petitioner appeared at the scheduled CCRC appointment therefore, when the matter came before the court for hearing on November 9th, the parties were re-referred to CCRC and a hearing was set for the present date.

Petitioner brings her RFO making the following requests: (1) Petitioner to have temporary primary physical custody, with visitation to Respondent on Wednesdays and Fridays from 3:00 p.m. to 7:00 p.m., and Sunday from 12:00 p.m. to 4:00 p.m., so long as Respondent is complying with any recommendations made by Colleen Moore-DeVere and providing clean drug tests. Respondent shall pick up the children from Petitioner's home. (2) Respondent to submit to random drug testing three times per month with a certified testing center. (3) Respondent to submit to a Substance Abuse Evaluation with Colleen Moore-DeVere. (4) Respondent to pay Petitioner the previously ordered \$5,000 in attorney's fees and costs immediately payable in full and an additional \$3,000 for additional attorney's fees and costs incurred.

Respondent opposes Petitioner's RFO and, in doing so, makes the following requests: (1) Deny Petitioner's request to modify child custody and confirm the parties' agreement to resume the child custody orders contained in the Findings and Orders After Hearing filed on 8/24/23. (2) Deny Petitioner's request for a substance abuse evaluation. (3) Deny Petitioner's request for random drug testing. (4) Deny Petitioner's request for attorney's fees. Respondent states he is currently unemployed and unable to pay the fees of both parties. Additionally, he states that he has complied with the prior order for attorney's fees and has paid \$1,500. He states he is current on payments through October. (5) Order Petitioner to pay Respondent costs and fees pursuant to Family Code section 271 in the amount of \$3,000. He argues that Petitioner's filing of the motion caused him to unnecessarily incur attorney's fees and costs.

Petitioner asks the court to deny Respondent's request for sanctions as she believes she has raised valid concerns regarding Respondent's suspected drug use and she has engaged in extensive meet and confer efforts.

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The parties attended CCRC on January 8th but were unable to reach agreements on the issues presented in the RFO. A report with recommendations was prepared on February 8, 2024 and mailed to the parties on February 9th. The court has reviewed the recommendations of the CCRC counselor and finds them to be in the best interests of the minors. The recommendations as contained therein are hereby adopted as the orders of the court. Petitioner's requests for drug testing are denied as the court does not find there to be sufficient evidence of drug use to warrant such an order especially where it is not affecting Respondent's ability to parent the children.

Petitioner's request for additional attorney's fees and costs is denied as she has not filed an updated Income and Expense Declaration with the court and the one on file is outdated.

Respondent's request for sanctions pursuant to Family Code Section 271 is denied. An award for attorney's fees and sanctions may be made pursuant to Family Code section 271 which states, in pertinent part, "...the court may base an award of attorney's fees and costs on the extent to which the conduct of each party or attorney furthers or frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation by encouraging cooperation of the parties and attorneys. An award of attorney's fees and costs pursuant to this section is in the nature of a sanction." Fam. Code § 271(a). Here, the court does not find that Petitioner acted with the intent to frustrate the policy of the law. It does not appear she filed the present RFO solely for the intention of causing Respondent to incur unnecessary costs. As such, the request for sanctions is denied.

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

TENTATIVE RULING #4: THE RECOMMENDATIONS AS CONTAINED IN THE FEBRUARY 8, 2024 CCRC REPORT ARE HEREBY ADOPTED AS THE ORDERS OF THE COURT. PETITIONER'S REQUESTS FOR DRUG TESTING ARE DENIED AS THE COURT DOES NOT FIND THERE TO BE SUFFICIENT EVIDENCE OF DRUG USE TO WARRANT SUCH AN ORDER ESPECIALLY WHERE IT IS NOT AFFECTING RESPONDENT'S ABILITY TO PARENT THE CHILDREN. RESPONDENT'S REQUEST FOR § 271 SANCTIONS IS DENIED. PETITIONER'S REQUEST FOR ADDITIONAL ATTORNEY'S FEES IS DENIED. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER SHALL REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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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. CHRISTOPHE CAMPMAS V. KARI CAMPMAS

23FL0909

On November 17, 2023, Respondent filed a Request for Order (RFO) seeking custody orders, support orders, and attorney's fees. A Declaration of Attorney Layla Cordero Re: Fees and Costs was filed concurrently with the RFO. Both documents were mail served on November 21st. Respondent did not file and serve her Income and Expense Declaration until December 26th.

Petitioner filed and served his Responsive Declaration to Request for Order on December 21st. He filed and served his Income and Expense Declaration on February 7th.

Both parties have filed and served Certificates of Completion evidencing each party's respective completion of the Putting Kids First parenting class. Respondent filed and served hers on February 2, 2024. Petitioner filed and served his on February 20th.

The parties share three minor children. Respondent is requesting sole legal and sole physical custody of all three. She requests reunification therapy between Petitioner and the minors Colton and Bentley prior to any visitation with them, and any visitation between Petitioner and the minor Haisley to be non-professionally supervised. She asks that the court order Petitioner to abstain from masturbation while the children are in his care, and she requests Petitioner be ordered to participate in individual therapy with a focus on sex addiction or to attend Sex Addicts Anonymous at least once per week. Finally, she asks for guideline child support in the amount of \$3,936 per month, guideline temporary spousal support in the amount of \$1,997 per month, and attorney's fees and costs in the amount of \$5,000 pursuant to Family Code §2030.

Petitioner is requesting joint legal custody of all three minors, with joint physical custody of Haisley and reasonable parenting time with the other two minors. He further requests orders for family therapy through It Takes a Village, and individual therapy for Colton and Bentley. He also asks that the children be transitioned to an accredited home-schooling program with the intent to eventually enroll them in public school for 2024/2025. He would like the children to each undergo an academic assessment and receive an updated IEP. Petitioner asks the court to order Respondent to refrain from marijuana use during her parenting time and to obtain a part-time job until the commencement of the 2024/2025 school year. He asks that she then be ordered to obtain full-time employment. Finally, Petitioner states that he has already paid \$3,865 toward Respondent's attorney's fees and he opposes an order to pay anything more.

The parties attended Child Custody Recommending Counseling (CCRC) on January 5, 2024 and were able to reach agreements regarding custody, visitation, exchange location, holiday schedule, and additional provisions. The court has reviewed the agreements of the

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parties as stated therein and finds them to be in the best interests of the minors, they are therefore hereby adopted as the orders of the court.

In addition to the aforementioned, the court does find it to be in the best interests of the children to enroll them in public school commencing with the 2024/2025 school year. In anticipation of doing so, the parties shall ensure that each child undergoes an educational assessment to determine which grade would be most appropriate for him or her to enroll in. Further, the parties are ordered to obtain updated IEPs for the children. Also, in preparation for the upcoming school year, the children shall immediately be transitioned to an accredited homeschooling program. They shall continue to be homeschooled until commencement of the 2024/2025 school year, at which time the parties shall enroll them in the local school district.

Respondent has requested an order directing Petitioner to participate in individual therapy or Sex Addicts Anonymous. According to Petitioner, he is already in individual therapy. Therefore, Petitioner is ordered to continue individual therapy at a frequency and duration as recommended by his therapist.

Finally, regarding custody, neither party shall consume marijuana either during or within 24-hours prior to his or her parenting time.

Regarding the seek work orders requested by Petitioner, the court is not inclined to order Respondent to seek part-time work for the time being. To order a parent to seek work, the court must make a finding of both opportunity and ability to work. While it does appear that Respondent has the ability to work, she is currently staying home with all three children full-time, none of which are enrolled in school outside the home. The visitation schedule that the parties agreed to consists of reunification therapy until a step up is deemed appropriate by the therapist. As such, it is likely the children will be with Respondent even on Petitioner's days off, and therefore the court is not inclined to make a seek work order until the children start school when Respondent will have a more definitive opportunity to work. That said, once the children have begun the 2024/2025 school year Respondent is ordered to make a diligent job search effort for jobs for which she is qualified. The court further orders Respondent to apply for a minimum of 5 jobs per week once school for the children has begun. She is to provide proof of said applications to Petitioner on a monthly basis, until she has secured stable employment.

Utilizing the same figures as outlined in the attached DissoMaster report, the court finds that temporary spousal support per the Alameda formula is \$1,282 per month and child support is \$3,424 per month. The court adopts the attached DissoMaster report and orders Petitioner to pay Respondent \$4,706 per month as and for temporary spousal support and child support, payable on the 1st of the month until further order of the court or legal termination. These orders are effective December 1, 2023.

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The court finds the above order results in arrears in the amount of \$14,118 through and including February 1, 2024. The court orders Petitioner to pay Respondent \$588.25 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 further finds Petitioner routinely earns overtime pay and therefore, has included an overtime table with the DissoMaster. Petitioner is to pay Respondent a true up of any overtime earned no later than fourteen days from the date the overtime payment is received.

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

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

Here, while there is clearly a disparity in income, the court is concerned with Petitioner's ability to pay for the attorney's fees of both parties, especially where he has already paid for a significant portion of Respondent's fees to date. Respondent is requesting \$5,000, while Petitioner maintains that he has already contributed \$3,865. Additionally, the parties clearly have significant debt, which is being paid solely from Petitioner's income, this includes rent for each party. As such, the court awards Respondent \$1,135 as and for attorney's fees and costs. This amount may be paid in one lump sum or in monthly increments of \$189.17 paid directly to Respondent's attorney on the 15th of each month commencing on March 15, 2024 and continuing until paid in full (approximately 6 months).

TENTATIVE RULING #5: THE AGREEMENTS OF THE PARTIES, AS STATED IN THE JANUARY 5, 2024 CCRC REPORT ARE ADOPTED AS THE ORDERS OF THE COURT. THE PARTIES SHALL ENSURE THAT EACH CHILD UNDERGOES AN EDUCATIONAL ASSESSMENT TO DETERMINE

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WHICH GRADE WOULD BE MOST APPROPRIATE FOR EACH TO ENROLL IN. FURTHER, THE PARTIES ARE ORDERED TO OBTAIN UPDATED IEPS FOR THE CHILDREN. ALSO, IN PREPARATION FOR THE UPCOMING SCHOOL YEAR, THE CHILDREN SHALL IMMEDIATELY BE TRANSITIONED TO AN ACCREDITED HOMESCHOOLING PROGRAM. THEY SHALL CONTINUE TO BE HOMESCHOOLED UNTIL COMMENCEMENT OF THE 2024/2025 SCHOOL YEAR, AT WHICH TIME THE PARTIES SHALL ENROLL THEM IN THE LOCAL SCHOOL DISTRICT. PETITIONER IS ORDERED TO CONTINUE INDIVIDUAL THERAPY AT A FREQUENCY AND DURATION AS RECOMMENDED BY HIS THERAPIST. NEITHER PARTY SHALL CONSUME MARIJUANA EITHER DURING OR WITHIN 24-HOURS PRIOR TO HIS OR HER PARENTING TIME.

ONCE THE CHILDREN HAVE BEGUN THE 2024/2025 SCHOOL YEAR RESPONDENT IS ORDERED TO MAKE A DILIGENT JOB SEARCH EFFORT FOR JOBS FOR WHICH SHE IS QUALIFIED. THE COURT FURTHER ORDERS, THE COURT FURTHER ORDERS RESPONDENT TO APPLY FOR A MINIMUM OF 5 JOBS PER WEEK ONCE SCHOOL FOR THE CHILDREN HAS BEGUN. SHE IS TO PROVIDE PROOF OF SAID APPLICATIONS TO PETITIONER ON A MONTHLY BASIS, UNTIL SHE HAS SECURED STABLE EMPLOYMENT.

THE COURT FINDS THAT TEMPORARY SPOUSAL SUPPORT PER THE ALAMEDA FORMULA IS \$1,282 PER MONTH AND CHILD SUPPORT IS \$3,424 PER MONTH. THE COURT ADOPTS THE ATTACHED DISSOMASTER REPORT AND ORDERS PETITIONER TO PAY RESPONDENT \$4,706 PER MONTH AS AND FOR TEMPORARY SPOUSAL SUPPORT AND CHILD SUPPORT, PAYABLE ON THE 1ST OF THE MONTH UNTIL FURTHER ORDER OF THE COURT OR LEGAL TERMINATION. THESE ORDERS ARE EFFECTIVE DECEMBER 1, 2023.

THE COURT FINDS THE ABOVE ORDER RESULTS IN ARREARS IN THE AMOUNT OF \$14,118 THROUGH AND INCLUDING FEBRUARY 1, 2024. THE COURT ORDERS PETITIONER TO PAY RESPONDENT \$588.25 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 FURTHER FINDS PETITIONER ROUTINELY EARNS OVERTIME PAY AND THEREFORE, HAS INCLUDED AN OVERTIME TABLE WITH THE DISSOMASTER. PETITIONER IS TO PAY RESPONDENT A TRUE UP OF ANY OVERTIME EARNED NO LATER THAN FOURTEEN DAYS FROM THE DATE THE OVERTIME PAYMENT IS RECEIVED.

THE COURT AWARDS RESPONDENT \$1,135 AS AND FOR ATTORNEY'S FEES AND COSTS. THIS AMOUNT MAY BE PAID IN ONE LUMP SUM OR IN MONTHLY INCREMENTS OF \$189.17 PAID DIRECTLY TO RESPONDENT'S ATTORNEY ON THE 15TH OF EACH MONTH COMMENCING ON MARCH 15, 2024 AND CONTINUING UNTIL PAID IN FULL (APPROXIMATELY 6 MONTHS).

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

Input Data	Father	Mother	Guideline (2024)	Cash Flow Analysis	Father	Mother
Number of children	0	3	Nets (adjusted)	Guideline		
% time with Second Parent	1%	0%	Father	7,120	Payment (cost)/benefit	(4,705) 4,705
Filing status	MFJ->	<-MFJ	Mother	0	Net spendable income	2,415 4,705
# Federal exemptions	1*	4*	Total	7,120	% combined spendable	33.9% 66.1%
Wages + salary	6,566	0	Support (Nondeductible)		Total taxes	387 0
401(k) employee contrib	0	0	CS Payor	Father	Comb. net spendable	7,120
Self-employment income	0	0	Presumed	3,424	Proposed	
Other taxable income	0	0	Basic CS	3,424	Payment (cost)/benefit	(4,705) 4,705
Short-term cap. gains	0	0	Add-ons	0	Net spendable income	2,415 4,705
Long-term cap. gains	0	0	Presumed Per Kid		NSI change from gdl	0 0
Other gains (and losses)	0	0	Child 1	711	% combined spendable	33.9% 66.1%
Ordinary dividends	0	0	Child 2	1,034	% of saving over gdl	0% 0%
Tax. interest received	0	0	Child 3	1,679	Total taxes	387 0
Social Security received	0	0	SS Payor	Father	Comb. net spendable	7,120
Unemployment compensation	0	0	Alameda	1,282	Percent change	0.0%
Operating losses	0	0	Total	4,706	Default Case Settings	
Ca. operating loss adj.	0	0	Proposed, tactic 9			
Roy, partnerships, S corp, trusts	0	0	CS Payor	Father		
Rental income	0	0	Presumed	3,424		
Misc ordinary tax. inc.	0	0	Basic CS	3,424		
Other nontaxable income	2,447	0	Add-ons	0		
New-spouse income	0	0	Presumed Per Kid			
SS paid other marriage	0	0	Child 1	711		
CS paid other relationship	0	0	Child 2	1,034		
Adj. to income (ATI)	0	0	Child 3	1,679		
Ptr Support Pd. other P'ships	0	0	SS Payor	Father		
Health insurance	0	0	Alameda	1,282		
Qual. Bus. Inc. Ded.	0	0	Total	4,706		
Itemized deductions	0	0	Savings	0		
Other medical expenses	0	0	No releases			
Property tax expenses	0	0				
Ded. interest expense	0	0				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
State sales tax paid	0	0				
Required union dues	137	0				
Cr. for Pd. Sick and Fam. L.	0	0				
Mandatory retirement	1,024	0				
Hardship deduction	0*	0*				
Other gdl. adjustments	345	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	0				

ATTORNEY (NAME AND ADDRESS): California	TELEPHONE NO:	Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
ATTORNEY FOR: Father	Father Monthly Overtime Wages Report 2024 Monthly	
		CASE NUMBER:

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

Father's Gross Overtime	Basic CS%	Basic CS	Alameda SS%	Alameda SS	Total Basic CS	Total SS	Total Support CS+SS
0	0.00	0	0.00	0	3,424	1,282	4,705
100	15.89	16	22.19	22	3,440	1,304	4,743
200	15.89	32	22.19	44	3,455	1,326	4,782
300	15.89	48	22.19	67	3,471	1,348	4,820
400	15.89	64	22.19	89	3,487	1,370	4,858
500	15.89	79	22.19	111	3,503	1,393	4,896
600	15.89	95	22.19	133	3,519	1,415	4,934
700	15.89	111	22.19	155	3,535	1,437	4,972
800	15.89	127	22.19	178	3,551	1,459	5,010
900	15.89	143	22.19	200	3,567	1,481	5,048
1,000	15.89	159	22.19	222	3,583	1,504	5,086
1,100	15.89	175	22.19	244	3,598	1,526	5,124
1,200	15.89	191	22.19	266	3,614	1,548	5,162
1,300	15.89	207	22.19	288	3,630	1,570	5,200
1,400	15.89	222	22.19	311	3,646	1,592	5,239
1,500	15.89	238	22.19	333	3,662	1,615	5,277
1,600	15.89	254	22.19	355	3,678	1,637	5,315
1,700	15.89	270	22.19	377	3,694	1,659	5,353
1,800	15.89	286	22.19	399	3,710	1,681	5,391
1,900	15.89	302	22.19	422	3,726	1,703	5,429
2,000	15.89	318	22.19	444	3,741	1,726	5,467
2,100	15.89	334	22.19	466	3,757	1,748	5,505
2,200	15.89	350	22.19	488	3,773	1,770	5,543
2,300	15.89	365	22.19	510	3,789	1,792	5,581
2,400	15.89	381	22.19	533	3,805	1,814	5,619
2,500	15.89	397	22.19	555	3,821	1,836	5,657
2,600	15.89	413	22.19	577	3,837	1,859	5,695
2,700	15.86	428	22.15	598	3,852	1,880	5,732
2,800	15.83	443	22.11	619	3,867	1,901	5,768
2,900	15.81	458	22.08	640	3,882	1,922	5,804
3,000	15.78	473	22.04	661	3,897	1,943	5,840
3,100	15.76	488	22.01	682	3,912	1,964	5,876
3,200	15.72	503	21.96	703	3,927	1,984	5,911
3,300	15.69	518	21.91	723	3,942	2,005	5,946
3,400	15.66	532	21.87	744	3,956	2,025	5,982
3,500	15.63	547	21.83	764	3,971	2,046	6,017

PETITIONER: RESPONDENT:	CASE NUMBER:
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Father Monthly Overtime Wages Report, cont'd

Father's Gross Overtime	Basic CS%	Basic CS	Alameda SS%	Alameda SS	Total Basic CS	Total SS	Total Support CS+SS
3,600	15.61	562	21.80	785	3,986	2,066	6,052
3,700	15.59	577	21.76	805	4,000	2,087	6,087
3,800	15.64	594	21.70	825	4,018	2,106	6,124
3,900	15.69	612	21.64	844	4,036	2,126	6,161
4,000	15.74	630	21.59	864	4,053	2,145	6,199
4,100	15.79	647	21.54	883	4,071	2,165	6,236
4,200	15.83	665	21.49	903	4,089	2,184	6,273
4,300	15.87	682	21.44	922	4,106	2,204	6,310
4,400	15.86	698	21.34	939	4,121	2,221	6,342
4,500	15.90	715	21.30	958	4,139	2,240	6,379
4,600	15.93	733	21.26	978	4,157	2,260	6,416
4,700	15.97	751	21.22	997	4,174	2,279	6,453
4,800	16.00	768	21.18	1,017	4,192	2,298	6,490
4,900	16.04	786	21.15	1,036	4,210	2,318	6,527
5,000	16.07	803	21.11	1,056	4,227	2,337	6,565



LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
February 22, 2024
8:30 a.m./1:30 p.

6. DAVID LEE HUIBREGTSE V. ANA HUIBREGTSE

23FL0895

Petitioner filed a Request for Order (RFO) on September 11, 2023, requesting attorney fees and property control orders. He filed an Income and Expense Declaration concurrently therewith. The parties appeared before the court on December 7th and requested a continuance to allow time for the RFO to be served. The continuance was granted, and the matter was set to be heard on the present date. A Proof of Service was filed on December 6th indicating that the RFO and all other required documents were personally served on September 12th.

Respondent filed a Responsive Declaration to Request for Order and her Income and Expense Declaration on September 26, 2023. There is no Proof of Service for these documents and therefore they cannot be considered.

On February 13, Petitioner filed a series of three MC-030 Declarations. There is no Proof of Service for any of these declarations and therefore they cannot be read or considered.

Respondent filed an MC-030 Declaration on February 20th. It was served previously on February 16th.

Petitioner filed his RFO seeking attorney's fees and costs in the amount of \$5,000 as well as an order directing the parties to sell the property located on Hot Springs Drive in El Dorado Hills as well as the timeshare with Paradise Vacation Club. He also requests all documents needed for a Medicaid waiver from Respondent including her birth certificates, social security card, driver's license, verification of health insurance premiums, property deeds, estate planning documents, verification of gross monthly income, statements for all accounts including individual and joint, prepaid burial information, life insurance, car registrations, and outstanding liabilities. Additionally, he is requesting spousal support in the amount of \$2,500 per month.

"For all hearings involving child, spousal, or domestic partner support, both parties must complete, file, and serve a current Income and Expense Declaration." Cal. Rule Ct. 5.260(1); *See also* Cal. Fam. Code §2100. "'Current' means the form has been completed within the past three months providing no facts have changed." Cal. Rule Ct. 5.260(3). Here, neither party has filed a current Income and Expense declaration with the court. The declarations filed by each party are from September of last year and therefore cannot be used to calculate support. As such, Petitioner's request for spousal support is denied.

The parties are ordered to appear for hearing on all other issues.

TENTATIVE RULING #6: PETITIONER'S REQUEST FOR SPOUSAL SUPPORT IS DENIED. THE PARTIES ARE ORDERED TO APPEAR FOR THE HEARING ON ALL OTHER ISSUES.

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 22, 2024

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

COURT AT (530) 621-6725 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; *SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999)*. NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 22, 2024

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

7. HAYLEY SHULTZ V. TREVOR HARDING

23FL0002

Respondent filed a Request for Order (RFO) on November 13, 2023, requesting modifications to the current custody and parenting plan orders, as well as various other requests. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on December 22, 2023, and a review hearing on February 22, 2024. Proof of Service shows Petitioner's former counsel was served on November 14, 2023. There is no Proof of Service showing the Department of Child Support Services (DCSS) was served. The court notes Petitioner's former counsel filed a Substitution of Attorney on September 19, 2023. Proof of Service shows Respondent, and DCSS were served by mail on September 9, 2023.

Only Respondent appeared at the CCRC appointment on December 22, 2023. As such, a single parent report was filed, with no recommendations or agreements. Parties were served copies of the report on January 2, 2024.

Respondent filed an Order Shortening Time (OST) on January 2, 2024. Petitioner was personally served. Petitioner filed a Responsive Declaration and Notice of Limited Scope Representation on January 2, 2024. Petitioner opposed the OST but was not opposed to the parties being referred to CCRC. Petitioner also requested Family Code section 271 sanctions for Respondent filing the OST, which Petitioner asserts was unnecessary.

On January 3, 2024, the court denied the OST and confirmed the February 22, 2024 review hearing date.

Petitioner filed a Responsive Declaration on January 2, 2024. Respondent was personally served on February 4, 2024.

Respondent filed a "Responsive Declaration" to his RFO on February 13, 2024. There is no Proof of Service for this document, and therefore, the court cannot consider it.

The court finds good cause to proceed with Respondent's RFO despite the lack of proper service. Although DCSS is a party to the case, there is no request to modify the current child support orders. Further, it appears Petitioner's former counsel has rejoined the case in a limited scope capacity and Petitioner does not object to the parties being rereferred to CCRC.

The court finds good cause to rerefer the parties to CCRC. The court notes Petitioner was not properly served with the RFO or the referral to CCRC as her former counsel was served. The parties are to attend CCRC on 03/14/2024 at 1:00 PM with Rebecca Nelson and return for a further review hearing on 05/02/2024 at 8:30 AM in department 5. Any supplemental declarations are to be filed and served at least 10 days prior to the next hearing. The court reserves on Petitioner's request for Family Code section 271 sanctions.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 22, 2024

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

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

TENTATIVE RULING #7: THE COURT FINDS GOOD CAUSE TO PROCEED WITH RESPONDENT'S RFO DESPITE THE LACK OF PROPER SERVICE. ALTHOUGH THE DEPARTMENT OF CHILD SUPPORT SERVICES IS A PARTY TO THE CASE, THERE IS NO REQUEST TO MODIFY THE CURRENT CHILD SUPPORT ORDERS. FURTHER, IT APPEARS PETITIONER'S FORMER COUNSEL HAS REJOINED THE CASE IN A LIMITED SCOPE CAPACITY AND PETITIONER DOES NOT OBJECT TO THE PARTIES BEING REREFERRED TO CCRC.

THE COURT FINDS GOOD CAUSE TO REREFER THE PARTIES TO CCRC. THE COURT NOTES PETITIONER WAS NOT PROPERLY SERVED WITH THE RFO OR THE REFERRAL TO CCRC AS HER FORMER COUNSEL WAS SERVED. THE PARTIES ARE TO ATTEND CCRC ON 03/14/2024 AT 1:00 PM WITH REBECCA NELSON AND RETURN FOR A FURTHER REVIEW HEARING ON 05/02/2024 AT 8:30 AM IN DEPARTMENT 5. ANY SUPPLEMENTAL DECLARATIONS ARE TO BE FILED AND SERVED AT LEAST 10 DAYS PRIOR TO THE NEXT HEARING. THE COURT RESERVES ON PETITIONER'S REQUEST FOR FAMILY CODE SECTION 271 SANCTIONS.

ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. RESPONDENT 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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 22, 2024

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

8. KATHERINE PRIVOTT-AINSWORTH V. RYAN AINSWORTH

22FL0457

Counsel for Respondent, Ms. Kristine Young, filed a motion to be relieved as counsel along with a declaration of counsel in support of the request to be relieved on November 15, 2023. Proof of Service shows Respondent was personally served on December 1, 2023.

Upon review of the court file, there is no Proof of Service showing Petitioner was served.

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

TENTATIVE RULING #8: THE MATTER IS DROPPED FROM THE COURT'S CALENDAR DUE TO LACK OF PROPER SERVICE.

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 22, 2024

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

9. MARK DOLPH V. MICHELLE DOLPH

23FL0784

Respondent filed a Request for Order (RFO) requesting the court order temporary guideline spousal support and Family Code section 2030 attorney fees. Respondent concurrently filed an Income and Expense Declaration as well as a Declaration in Support of Respondent's Request for Attorney's Fees & Costs. Petitioner was served by mail and electronically on September 11, 2023. The hearing was originally scheduled to be heard on November 16, 2023.

The parties submitted a stipulation and order to the court on November 15, 2023. The stipulation included an agreement for temporary guideline support, attorney's fees, and to continue the hearing to February 22, 2024.

Respondent filed a Supplemental Declaration on January 30, 2024, along with an additional declaration from counsel in support of attorney's fees, and an updated Income and Expense Declaration. Petitioner was served electronically on January 30, 2024. Respondent renews her request for temporary guideline spousal support, in the amount of \$3,725 per month beginning March 1, 2024. Respondent requests she not be imputed with income at this time, due to ongoing medical concerns. Respondent asserts she will comply with the recommendations from the vocational evaluation to seek full time employment. Respondent also renews her request for attorney's fees in the amount of \$6,065. Respondent has included a proposed DissoMaster and bonus table.

Respondent filed an additional Declaration on February 13, 2024. Proof of Service shows it was served on Petitioner on February 12, 2024.

Petitioner has not filed a Responsive Declaration or an Income and Expense Declaration.

The court has read and considered the filings as set forth above. The court grants Respondent's request for temporary guideline spousal support. The court adopts Respondent's proposed DissoMaster and bonus table. Petitioner shall pay Respondent \$3,725 per month as and for temporary guideline spousal support, effective March 1, 2024 and payable on the first of each month until further court order or termination by operation of law. The court declines to impute Respondent with income at this time, as there has been no request by Petitioner to do so.

Regarding Respondent's request for attorney's fees and costs pursuant to Family Code Section 3023, the public policy of Section 2030 is to provide "at the outset of litigation, consistent with the financial circumstances of the parties, parity between spouses in their ability to obtain effective legal representation." In Re Marriage of Keech, 75 Cal. App. 4th 860, 866 (1999). This assures each party has access to legal representation to preserve each party's rights. It "is not the redistribution of money from the greater income party to the lesser income

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party,” but rather “parity.” Alan S. v. Sup. Ct., 172 Cal. App. 4th 238, 251(2009). In the face of a request for attorney’s fees and costs, the court is to make findings on “whether there is a disparity in access to funds to retain counsel, and whether one party is able to pay for legal representation of both parties.” Fam. Code § 2030(a)(2).

Family Code section 2032 works in tandem with Section 2030 to ensure that any award of costs and fees is just and reasonable. Fam. Code § 2032. “In determining what is just and reasonable under the relative circumstances, the court shall take into consideration the need for the award to enable each party, to the extent practical, to have sufficient financial resources to present the party’s case adequately.” Id. at (b). Financial resources are only one factor to be considered though. Id. In addition to the parties’ financial resources, the court may consider the parties’ trial tactics. In Re Marriage of Falcone & Fyke, 203 Cal. App. 4th 964; 975 (2012).

Here, it is inarguable that a disparity in income exists between the parties and therefore a disparity in each party’s relative access to counsel. To ensure that there is parity between the parties an award for costs and fees is necessary. The court finds the request for \$6,065 to be reasonable and therefore, grants the request for attorney’s fees. Petitioner shall pay \$6,065 directly to Respondent’s counsel Kelly Lynch. The payment may be made in one lump sum or two payments of \$3,032.50. The first payment shall be made on or before March 15, 2024 and any remaining payment on the 15th of April.

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 #9: THE COURT GRANTS RESPONDENTS REQUEST FOR TEMPORARY GUIDELINE SPOUSAL SUPPORT. THE COURT ADOPTS RESPONDENT’S PROPOSED DISSOMASTER AND BONUS TABLE. PETITIONER SHALL PAY RESPONDENT \$3,725 PER MONTH AS AND FOR TEMPORARY GUIDELINE SPOUSAL SUPPORT, EFFECTIVE MARCH 1, 2024 AND PAYABLE ON THE FIRST OF EACH MONTH UNTIL FURTHER COURT ORDER OR TERMINATION BY OPERATION OF LAW. THE COURT DECLINES TO IMPUTE RESPONDENT WITH INCOME AT THIS TIME, AS THERE HAS BEEN NO REQUEST BY PETITIONER TO DO SO. THE COURT GRANTS THE REQUEST FOR FAMILY CODE SECTION 2030 ATTORNEY’S FEES IN THE AMOUNT OF \$6,065. PETITIONER SHALL PAY \$6,065 DIRECTLY TO RESPONDENT’S COUNSEL KELLY LYNCH. THE PAYMENT MAY BE MADE IN ONE LUMP SUM OR TWO PAYMENTS OF \$3,032.50. THE FIRST PAYMENT SHALL BE MADE ON OR BEFORE MARCH 15, 2024 AND ANY REMAINING PAYMENT ON THE 15TH OF APRIL. 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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 22, 2024

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

TELEPHONE TO THE COURT AT (530) 621-6725 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; *SEE ALSO* LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999). NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 22, 2024

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

11. STACI HALLIHAN V. KRISTOPHER HALLIHAN

PFL20200234

Petitioner filed an ex parte request for emergency orders on November 14, 2023. On November 15, 2023, the court denied the request. Petitioner filed a Request for Order (RFO) on November 15, 2023, requesting the minor be permitted to participate in cheer and that both parties be required to transport the minor to her cheer practice. Further, that if Respondent is not available to transport the minor, that he notify Petitioner 12 hours in advance and that Petitioner be able to transport the minor to cheer practice. Last, Petitioner requests there be an order that the minor may travel to out-of-state cheer competitions. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on December 28, 2023 and a review hearing on February 22, 2024. Respondent was served by mail on November 15, 2023. The court notes this is a post-judgment request for modification which requires compliance with Family Code section 215 for service.

Petitioner filed a RFO on December 6, 2023, requesting the court modify the child custody orders, limiting Respondent's parenting time to alternating weekends, Sunday evening to Wednesday drop off at school, conditioned on Respondent's use of Soberlink. Petitioner is also seeking sole legal custody. Respondent was served by mail and electronically on December 11, 2023. Petitioner has concerns about Respondent's sobriety and ability to make decisions for the minors.

Respondent filed a Responsive Declaration on December 22, 2023. Petitioner was served on January 16, 2024. Respondent denies the allegations regarding his sobriety and unwillingness to allow the minor to participate in cheer and counseling. Respondent asserts the minor does not wish to participate in counseling and that competition cheer is too time consuming.

Both parties attended CCRC on December 28, 2023, and were unable to reach any agreements. A report with recommendations was filed with the court on February 1, 2024. Copies were mailed to the parties the same day.

Petitioner filed a Reply on February 8, 2024. Respondent was served on February 8, 2024. Petitioner objects to the court adopting the recommending parenting plan as set forth in the February 1, 2024 CCRC report. Petitioner renews her requests for sole legal custody, and if not sole legal custody, then final decision-making authority. Petitioner also reiterates her concerns regarding Respondent.

The court finds good cause to proceed with the RFOs despite the lack of proper service pursuant to Family Code section 215, as Respondent has filed a Responsive Declaration and does not raise the notice issue and respondent fully participated in the CCRC appointment. The court has read and considered the filings as outlined above. The court finds the current orders

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 22, 2024

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

remain in the minors' best interests. The court denies Petitioner's requests. The court declines to adopt the parenting plan and holiday schedule as set forth in the CCRC report. The court is adopting the additional provisions, respect guidelines, the abstention recommendations, counseling recommendations, and co-parenting class recommendations.

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 #11: THE COURT FINDS GOOD CAUSE TO PROCEED WITH THE RFOS DESPITE THE LACK OF PROPER SERVICE PURSUANT TO FAMILY CODE SECTION 215. THE COURT HAS READ AND CONSIDERED THE FILINGS AS OUTLINED ABOVE. THE COURT FINDS THE CURRENT ORDERS REMAIN IN THE MINORS' BEST INTERESTS. THE COURT DENIES PETITIONER'S REQUESTS. THE COURT DECLINES TO ADOPT THE PARENTING PLAN AND HOLIDAY SCHEDULE AS SET FORTH IN THE CCRC REPORT. THE COURT IS ADOPTING THE ADDITIONAL PROVISIONS, RESPECT GUIDELINES, THE ABSTENTION RECOMMENDATIONS, COUNSELING RECOMMENDATIONS, AND CO-PARENTING CLASS RECOMMENDATIONS. ALL PRIOR ORDERS, NOT IN CONFLICT WITH THIS ORDER, REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

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DEPARTMENT 5
February 22, 2024
8:30 a.m./1:30 p.

12. UZRA KHURSAND V. YAMA KHURSAND

PFL20180089

On April 29, 2022, Respondent filed a Request for Order (RFO). The RFO was served via U.S. Mail on May 10, 2022. On June 30, 2022, Respondent filed a Declaration of Yama Khursand Re: Modification of Custody and a Declaration of Wallace Francis Re: Modification of Custody, both of which are in support of Respondent's RFO and both of which were served electronically.

On July 6, 2022, Petitioner filed and served her Responsive Declaration to Request for Order. Minor's Counsel filed her Statement of Issues and Contentions and Request for Orders on July 11, 2022, which had been served the day prior on July 10, 2022.

Respondent's RFO asked the court to institute a 2-2-4 schedule with a graduated step-up plan to 50/50 physical custody, or a schedule recommended by a child custody evaluator, for the youngest minor. Additional orders requested in the RFO were as follows: (1) the court to order a complete child custody evaluation under Family Code section 3111; (2) Remove Donelle Anderson as therapist and Barbara Newman as Minors' Counsel and appoint neutral, unbiased individuals for those roles; (3) Respondent to attend graduation. The RFO was set to be heard on August 11th.

At the August 11th hearing the court ruled on all matters including ordering the parties to participate in a Family Code Section 3111 evaluation with an Evidence Code Section 730 component. All parties were ordered to cooperate in the evaluation. Respondent was ordered to pay the cost of the evaluation but the court reserved jurisdiction to reallocate the costs of the 3111 Evaluation. Finally, the court noted the overlap in issues between the 3111/730 Evaluation and the trial date which was previously set for August 11th. The court vacated the August 11th trial date and set a review hearing for November 10th to review the 3111/730 report and choose new trial dates.

On October 6th the parties stipulated to appoint Jacqueline Singer as the 3111/730 evaluator.

Minors' Counsel filed a Statement of Issues and Contentions on February 7, 2023 stating that the parties have not yet begun the evaluation process. Minors' Counsel requested the current orders remain in full force and effect. Minors' Counsel further requested the court order Respondent secure any and all weapons in a safe. Finally, Minors' Counsel requested the parties put the matter back on calendar if they do not agree with the recommendations of the 3111 Evaluation.

The court continued the February 16th hearing to June 22, 2023 in order to ensure the evaluator had sufficient time to conduct her evaluation and complete the report and to choose new trial dates. Respondent was admonished to properly secure all firearms and weapons. The court continued to reserve jurisdiction on the reallocation of costs of the 3111 Evaluation.

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On May 31st and June 1st Minor's Counsel served and then filed Minor Counsel's Statement of Issues and Contentions and Request for Orders. Respondent filed and served Respondent's Declaration of Yama Khursand Re: Review Hearing, on June 13, 2023.

According to Minor's Counsel the parties had not participated in, nor completed, a 3111 Evaluation. As such, Minor's Counsel requested the court vacate the order for the 3111 Evaluation, without prejudice, and maintain all other current orders. Minors' Counsel did not believe that further review hearings on this issue are necessary.

Respondent stated he has been unable to afford the custody evaluation, though he believes it is critical. He noted that he requested Petitioner pay for the evaluation and he also requested a less expensive evaluator, though the court appointed Dr. Singer. Respondent objected to Minor's Counsel's request that the court drop its order for the 3311 Evaluation. He also objected to any hearsay statements made by Minor's Counsel. Additionally, Respondent argues that the parties have not complied with the court's order to participate in co-parenting counseling because Petitioner is using this as a means to preclude him from increasing his parenting time. Respondent asks the court to set trial on the issue of custody forthwith.

On June 22, 2023, the parties appeared for the hearing and presented argument. The court vacated the order for a Family Code 3111 evaluation and referred the parties to Child Custody Recommending Counseling (CCRC) for an appointment on July 28, 2023 and a review hearing on September 14, 2023.

Only Petitioner attended CCRC on July 24, 2023. On August 23rd, Respondent filed a Declaration of Wallace E. Francis RE: Child Recommended Counseling indicating that neither Respondent nor his attorney received notice of the date and time set for CCRC counseling. According to the Clerk's Certificate of Mailing, the CCRC referral and questionnaire were mailed to Wallace Francis at 111 Santa Rosa Ave. Ste. 401, Santa Rosa, CA 95404 which was the address given for Mr. Francis when he filed his Notice of Limited Scope on December 21, 2021. According to the pleadings, the address for Mr. Francis is now 3333 Mendocino Ave.

Minor's Counsel's Statement of Issues and Contentions and Request for Orders was filed and served on August 28th. Minor's Counsel notes that the initial request to modify the visitation schedule was made by Respondent. Minor's Counsel therefore asks that the request be denied. She points to the fact that Respondent has not presented any evidence that a modification is in the minor's best interest. Further, Respondent is clearly discussing the court proceedings with the minor and instructed the minor to lie to Minor's Counsel.

On September 14, 2023, the court adopted its tentative ruling, rereferring the parties to CCRC and setting a further review hearing.

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On September 21, 2023, Petitioner filed a request to continue the hearing and filed the same request again on October 9, 2023. On October 10, 2023, the court continued the review hearing from November 9, 2023 to January 25, 2024 due to Petitioner's unavailability.

Both parties attended CCRC and were able to reach an agreement. A report with the parties' agreement and further recommendations was filed with the court on January 8, 2024. Copies were mailed to the parties on the same day.

Petitioner filed a Declaration in Support of a Continuance on January 22, 2024. Respondent and Minors' Counsel were served electronically on January 22, 2024.

Parties appeared for the hearing on January 25, 2024. At the request of both Petitioner and Minors' Counsel the court continued the hearing.

There have been no new filings as of the time of this writing.

The court orders parties to appear for the hearing.

TENTATIVE RULING #12: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.

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

13. ZACHARY MOODY V. SAMANTHA ESCOBAR

23FL0805

This matter is before the court for hearing on a Motion to Compel filed by Petitioner on January 19, 2024. He filed and served his Request for Order (RFO) concurrently with a Declaration of Attorney Layla Cordero in Support of Petitioner's Motion to Compel and for Attorney's Fees and Sanctions, Petitioner's Memorandum of Points and Authorities in Support of Motion to Compel and Petitioner's Separate Statement in Support of Motion to Compel. Respondent filed and served her Responsive Declaration to Request for Order on February 5, 2024.

On October 13, 2023, Petitioner served Respondent with a Request for Production, Inspection, and Photocopying of Documents, Records, and Things, Set One ("Requests for Production"). Responses were served on November 15th. Being of the opinion that the responses were deficient, Petitioner sent a meet and confer letter on December 12th in an effort to resolve the matter. Supplemental responses were served on January 5th, though they raised new objections and, according to Petitioner, were still deficient. Petitioner states he has incurred a total of \$5,019.50 as a result of the preparation of the present Motion to Compel and supporting documents. He anticipates incurring an additional \$2,450 in attorney's fees and costs. He is requesting a total of \$10,000 as and for attorney's fees and sanctions to deter future similar conduct.

Respondent maintains that she has answered the requests to the best of her ability. She notes that Petitioner has access to much of the information/documentation being requested. She also states that she owes her attorney over \$9,000 and she cannot afford to continue paying her attorney.

Request No. 14

Respondent initially responded to this request making only an objection of relevance. In her supplemental response she added objections on the basis that the request is "burdensome and oppressive." This is improper. Where a party fails to provide timely responses to a request for production of documents, the party to whom the discovery was directed waives "any objection...including one based on privilege or on the protection of work product..." Cal. Civ. Pro. §2031.300(a). By failing to assert her objection that the request is unduly burdensome and oppressive in her initial response she waived it and therefore that objection cannot be asserted in the supplemental response. Because this objection was waived, the court will not reach it on its merits herein.

Respondent's objection that the request is not reasonably calculated to lead to the discovery of admissible evidence is overruled. Generally speaking, "...a party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in

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the pending action or to the determination of any motion made in that action, if the matter is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence.” Cal. Civ. Pro. § 2017.010. The need for broad discovery is so critical to ensuring the fairness of the litigation process that “[a]ny doubt about discovery is to be resolved in favor of disclosure.” Advanced Modular Sputtering, Inc. v. Sup. Ct., 132 Cal. App. 4th 826 (2005). Here, the request seeks information which would directly reveal whether or not Respondent is operating her business and to what extent she is doing so. This is reasonably calculated to lead to the discovery of evidence of income. Given that child support is one of the many issues in the upcoming trial the discovery is reasonably calculated to lead to the discovery of admissible evidence and therefore the objection is overruled.

The response that Respondent does provide, that she does not have the documents in her possession, custody, and control, is insufficient. A statement of inability to comply shall “affirm that a diligent search and a reasonable inquiry has been made in an effort to comply with that demand. This statement shall also specify whether the inability to comply is because the particular item or category has never existed, has been destroyed, has been lost, misplaced, or stolen, or has never been, or is no longer, in the possession, custody, or control of the responding party. The statement shall set forth the name and address of any natural person or organization known or believed by that party to have possession, custody, or control of that item or category of item.” Cal. Civ. Pro. § 2031.230. Here, the response given by Respondent states only that she does not have the documents requested. She does not provide any information regarding who does have possession of the documents and the relevant contact information.

For the foregoing reasons, the Motion to Compel further response to Request for Production number 14 is granted. Respondent’s verified amended response, without the waived objection, shall be served no later than March 7, 2024.

Request No. 15

This request seeks information regarding Respondent’s living expenses from 2020 through the date of production. As with her response to request number 14, Respondent initially only objected on the basis that “Petitioner already has this information” and the information sought is “irrelevant to the scope [sic] the matter before the court.” In her supplemental response Respondent adds objections on the basis that the request is “burdensome, harassing, oppressive, and cost prohibited.” As discussed above, Respondent waived her right to assert any of these additional objections and therefore they will not be addressed on the merits herein.

As with request number 14, the information sought is likewise relevant to the issue of child support especially where Respondent is requesting to deviate from child support.

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Respondent's statement that Petitioner has equal access to the requested information is also without merit. In conducting discovery, each "party is permitted to use multiple methods of obtaining discovery and the fact that information was disclosed under one method is not, standing alone, proper basis for refusing to provide discovery under another method." Irvington-Moore, Inc. v. Sup. Ct. 14 Cal. App. 4th 733 (1993). The mere fact that a party allegedly has access to the requested information through some other means is insufficient grounds for the responding party to refuse to fully comply with her discovery obligations. As such, Respondent's verified amended response to Request for Production number 15, without the objections she raised in her supplemental response, shall be served no later than March 7, 2024.

Request No. 18

Request number 18 seeks any and all documents regarding Respondent's receipt of governmental benefits. Her response states only that such documents are not in her possession, custody, and control or they do not exist. As discussed above, where a party is claiming that she cannot provide responsive documents because such documents are not in her possession, custody, or control, her response "...shall set forth the name and address of any natural person or organization known or believed by that party to have possession, custody, or control of that item or category of item." Cal. Civ. Pro. § 2031.230. As such, for any documents that exist, or that Respondent believes exist, she is clearly required to give the contact information for any person or organization who may have the requested documents. She failed to do so and therefore, her response must be amended. Respondent's verified amended response to Request for Production number 18 shall be served no later than March 7, 2024.

Request No. 29

Request number 29 seeks any and all communications between the parties themselves. Respondent objected that Petitioner is already in possession of said information, however, as she did with other responses, she added objections to her supplemental responses. The additional objections are on the basis that the request is "burdensome, harassing, oppressive, and cost prohibited..." Again, by not asserting these objections in her initial responses Respondent effectively waived them. Therefore, the court will not reach them on their merits.

Also as discussed above, the argument that the requesting party is in possession of the documents requested is insufficient grounds for refusing to provide a response. As such, Respondent's verified amended response to Request for Production number 18, without the waived objections, shall be served no later than March 7, 2024.

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Request No. 33

Request number 33 seeks all documents or evidence supporting Respondent's assertion that she was kicked out of the house. Respondent initially stated that documents would be produced and while no documents existed at the time of the response, she was in the process of obtaining a witness statement that would be produced. She declined to produce any text messages stating that Petitioner has equal access to them. Her supplemental response then adds a variety of objections including "burdensome, harassing, oppressive, and cost prohibited..." She then goes on to respond that she does not have any responsive documents in her possession, custody, and control, or they do not exist.

As discussed in detail above, Respondent waived her "burdensome, harassing, oppressive, and cost prohibited" objections by failing to assert them in her initial response. Additionally, her statement that Petitioner has equal access to the requested information is insufficient grounds to refuse to provide a full and complete response. In fact, her initial statement, that Petitioner has equal access to the relevant text messages, is in contradiction with Respondent's supplemental response that she does not have any responsive documents or they do not exist. For the foregoing reasons, Respondent shall provide a full and complete, verified response, without the waived objections, no later than March 7, 2024.

Request No. 36

Request number 36 seeks information regarding Respondent's claim that she did not fail to meet Petitioner for an allegedly agreed upon exchange. The responses provided to this request mimic those of the ones above. She initially did not call any objections but then added objections on the basis that the request is "burdensome, harassing, oppressive, and cost prohibited..." She also responded that Petitioner has equal access to the requested information. As discussed above, the objections that she failed to assert in her initial responses were waived and her statement that Petitioner has access to the requested information is not valid grounds for refusing to provide responses. Therefore, Respondent shall provide a full and complete, verified response to this request, without the waived objections, no later than March 7, 2024.

Request No. 50

Request number 50 seeks any and all documents that support Respondent's answer to Special Interrogatory, Set One, Number 15. As with her other responses, Respondent failed to assert objections of "burdensome, harassing, oppressive, and cost prohibited..." in her initial response and therefore waived her right to assert them. She also objected on the basis that Petitioner "has equal access to said documents" which, once again, is an improper objection.

Responding party also stated in her response that she has previously provided copies of the requested text messages. Petitioner makes the argument that this response is insufficient

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because Petitioner does not feel the referenced text messages support Respondent's answer to special interrogatory number 15. The fact that Petitioner does not agree with Respondent's opinion that the texts support her assertion is, in and of itself, not grounds to grant a motion to compel further responses. However, a statement that the party will comply shall include a statement "that all documents or things in the demanded category that are in the possession, custody, or control of that party and to which no objection is being made will be included in the production." Cal. Civ. Pro. § 2031.220. Here, in her supplemental response, Respondent fails to represent that all responsive documents in her possession, custody, and control are or have been produced. Therefore, the response is insufficient, and an amended response is needed. Respondent shall provide a full and complete, verified response to this request, without the waived objections, no later than March 7, 2024.

Sanctions

"[T]he court *shall* impose a monetary sanction...against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel a response to a demand for inspection, copying, testing, or sampling, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust." Cal. Civ. Pro. § 2031.320(b) (emphasis added). Additionally, the court may issue monetary sanctions simply on a showing that the noncompliant party engaged in an unjustified "misuse of the discovery process," regardless of whether or not the noncompliant party opposes the motion. Cal. Civ. Pro. § 2023.030(a). "Misuse of the discovery process" includes, but is not limited to, "making, without substantial justification, an unmeritorious objection to discovery" and "making an evasive response to discovery." Cal. Civ. Pro. §2023.010(e) & (f) respectively.

The amount of sanctions awarded centers on two main principles: causation, and reasonableness. See Cornerstone Realty Advisors, LLC. V. Summit Healthcare Reit, Inc. 56 Cal. App. 5th 771 (2020). First, monetary sanctions may only be imposed based on attorney's fees and costs incurred "as a result" of the misuse of the discovery process. Cal. Civ. Pro. § 2023.030(a). Second, "[t]he amount of monetary sanctions is limited to the 'reasonable expenses, including attorney's fees' that a party incurred as a result of the discovery abuse." Cornerstone Realty Advisors, LLC, 56 Cal. App. 5th at 791 *citing* Cal. Civ. Pro. § 2023.030(a). To aid the court in determining the reasonableness of the requested sanction amount, the requesting party shall provide "...a declaration setting forth facts supporting the amount of any monetary sanction sought." Cal. Civ. Pro. § 2023.040. "...[I]n addition to any other sanctions imposed ...a court *shall* impose a two hundred-and-fifty-dollar (\$250) sanction, payable to the requesting party..." if the court finds that the noncompliant party did not respond in good faith to a request for production of documents or failed to make a reasonable, good faith attempt to informally resolve a discovery dispute. Cal. Civ. Pro. § 2023.050(a).

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A party requesting sanctions for reasonable expenses that were incurred as a result of discovery abuse must already be liable for those expenses before the court can award the costs as sanctions. See Tucker v. Pacific Bell Mobile Servs., 186 Cal. App. 4th 1548 (2010) (anticipated costs for future deposition could not be included in award of sanctions).

Petitioner is awarded \$3,465.50 in sanctions. This amount covers the costs and fees incurred by Petitioner which were reasonably associated with Respondent's failure to fully comply with her obligations under the Civil Discovery Act. This includes amounts billed on November 21, 22, 27 and December 8 and 12, plus an additional \$250 for failure to make a good faith response to a Request for Production of Documents. The court is not inclined to award any additional amount as it is of the opinion that the amount awarded is likely sufficient to deter future conduct of this kind. Additionally, Petitioner has not yet incurred any costs or fees for the preparation of and appearance at the hearing, if any. This amount may be subject to increase should a hearing be conducted. Sanctions may be paid in one lump sum or in monthly increments of \$144.40 paid on the 1st of each month commencing March 1, 2024 and continuing until paid in full (approximately 24 months). If any payment is missed or late, the entire amount shall become immediately due in full with legal interest.

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

TENTATIVE RULING #13: PETITIONER'S MOTION TO COMPEL IS GRANTED. RESPONDENT IS ORDERED TO PROVIDE FULL AND COMPLETE VERIFIED RESPONSES TO REQUEST FOR PRODUCTION, INSPECTION, AND PHOTOCOPYING OF DOCUMENTS, RECORDS, AND THINGS, SET ONE REQUEST NUMBERS 14, 15, 18, 19, 33, 36 AND 50, WITHOUT OBJECTIONS UNLESS THE STATED OBJECTION WAS PRESERVED IN THE INITIAL RESPONSES. PETITIONER IS AWARDED \$3,465.50 IN SANCTIONS. THIS AMOUNT MAY BE SUBJECT TO INCREASE SHOULD A HEARING BE CONDUCTED. SANCTIONS MAY BE PAID IN ONE LUMP SUM OR IN MONTHLY INCREMENTS OF \$144.40 PAID ON THE 1ST OF EACH MONTH COMMENCING MARCH 1, 2024 AND CONTINUING UNTIL PAID IN FULL (APPROXIMATELY 24 MONTHS). IF ANY PAYMENT IS MISSED OR LATE, THE ENTIRE AMOUNT SHALL BECOME IMMEDIATELY DUE IN FULL WITH LEGAL INTEREST. 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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**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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15. DCSS V. NEILL STROMBERG (OTHER PARENT: AMANDA PARDO)

PFS20210095

Other Parent filed a Request for Order (RFO) on November 15, 2023, requesting the court modify the current child custody and parenting plan orders. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on January 4, 2024 and a review hearing on February 22, 2024. Petitioner and Respondent were served by mail on December 29, 2023. Other Parent is requesting sole legal and physical custody of the minor. Other Parent has not requested any specified parenting time for Respondent.

Only Other Parent appeared for the CCRC appointment on January 4, 2024. As such, a single parent report with no recommendations or agreements was filed with the court on January 4, 2024. Copies were mailed to the parties on the same day.

Neither Petitioner nor Respondent have filed a Responsive Declaration.

The court is concerned about Respondent receiving the notice of the CCRC appointment timely, due to the notice being mailed on December 29, 2023, and the appointment being scheduled for January 4, 2024. Giving the New Year holiday, it is unlikely Respondent would have received the notice in time to request a telephonic appearance at CCRC. Parties are ordered to appear for the hearing.

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

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16. KAYLA BURGESS V. KYLE BURGESS

23FL0919

Petitioner filed a Request for Order (RFO) on November 17, 2023, requesting a modification of the child custody and spousal support orders. Petitioner concurrently filed an Income and Expense Declaration. Respondent was served on December 18, 2023. Petitioner is requesting \$800 per month in spousal support.

The court finds the parties have submitted a stipulation and order, which the court signed on January 12, 2024, which resolves the child custody portion of the RFO.

Respondent filed a Responsive Declaration and Income and Expense Declaration on February 5, 2024. Petitioner was served on February 5, 2024. Respondent requests the court maintain the parties' agreements, as set forth in the stipulation, however, Respondent is requesting the court add a time for custody exchanges. Respondent requests Petitioner's parenting time begin at 7:00 am on Fridays and the Monday exchanges take place at noon. Respondent also objects to the court making spousal support orders. Respondent asserts Petitioner has secured employment and has failed to provide the court with an updated Income and Expense Declaration.

The court notes Petitioner's Income and Expense Declaration was filed on November 17, 2023. As such, it is now out of date. The parties are ordered to appear for the hearing. Petitioner is ordered to bring an updated Income and Expense Declaration with her, including copies of her most recent paystubs.

TENTATIVE RULING #16: THE PARTIES ARE ORDERED TO APPEAR FOR THE HEARING. PETITIONER IS ORDERED TO BRING AN UPDATED INCOME AND EXPENSE DECLARATION WITH HER, INCLUDING COPIES OF HER MOST RECENT PAYSTUBS.

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17. NIKOLAS PAECH V. CAROLINE GIROUX

PFL20210276

Respondent filed a Request for Order (RFO) on December 4, 2023, requesting the court modify orders including that Petitioner be ordered to provide information on his court ordered therapy, appoint Donnelle Anderson to provide access to the minors for parenting time, including that the minors spend a minimum of eight hours a week with Respondent outside therapeutic sessions, Petitioner to pay the costs for Donnelle Anderson, more frequent family therapy sessions, and more frequent review hearings. Petitioner and Minors' Counsel were served by mail on December 6, 2023.

Neither Petitioner nor Minors' Counsel have filed a Responsive Declaration.

The court orders parties to appear for the hearing.

TENTATIVE RULING #17: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.

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18. REBECCA BURT-ORTIZ V. DAVIS ORTIZ

23FL0384

On June 6, 2023, Petitioner filed a Request for Order (RFO) seeking orders regarding child support, spousal support, property control, and attorney's fees. Concurrently with the RFO, Petitioner filed her Income and Expense Declaration. Both documents, along with all other required documents, were mail served on June 14th. Respondent has not filed a Responsive Declaration to Request for Order or an Income and Expense Declaration.

Petitioner brings her RFO requesting the following orders: (1) Guideline child support; (2) Guideline spousal support; (3) Attorney's fees in the amount of \$5,000 pursuant to Family Code section 2030; and (4) Exclusive use, possession, and control of the marital residence located on Platt Circle in El Dorado Hills.

As of the August 17, 2023 hearing, Respondent had not filed a Responsive Declaration to Request for Order, nor an Income and Expense Declaration. Further, Petitioner conceded she is unaware of Respondent's monthly income. However, as of July 24th Respondent filed a Substitution of Attorney. The court continued the matter to September 14, 2023 at 8:30 a.m. in Department 5. Both parties were ordered to file Income and Expense Declarations no later than 10 calendar days prior to the hearing date. Petitioner was ordered to provide notice of the continued hearing to Respondent's counsel no later than August 24, 2023.

On August 18, 2023, a Stipulation and Order for Temporary Spousal Support, Child Support, Custody & Parenting Time, and Other was filed, indicating the parties have reached agreements regarding custody and visitation, child support, temporary spousal support and real property. All parties have signed the stipulation. However, it references attachments pertaining to child support and custody agreements, which were not actually attached.

On September 14, 2023, the parties appeared with a written stipulation. The issues of child support, spousal support and attorney fees were continued to December 14, 2023. Parties were once again ordered to file and serve updated Income and Expense Declarations not later than 10 days prior to the hearing.

On December 14, 2023, parties appeared for the hearing. Petitioner requested the matter be continued. The court again granted the continuance request. Again, the court ordered the parties to file and serve updated Income and Expense Declarations.

There have been no new filings since December 14, 2023.

The court denies the request for child, and spousal support, as well as attorney's fees due to Petitioner's failure to file a current Income and Expense Declaration. "For all hearings involving child, spousal, or domestic partner support, both parties must complete, file, and

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serve a current Income and Expense Declaration.” Cal. Rule Ct. 5.260(1); *See also* Cal. Fam. Code §2100. Given Petitioner’s failure to file the requisite documents, this request is denied.

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 #18: THE COURT DENIES THE REQUEST FOR CHILD, AND SPOUSAL SUPPORT AS WELL AS, ATTORNEY’S FEES DUE TO PETITIONER’S FAILURE TO FILE A CURRENT INCOME AND EXPENSE DECLARATION. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

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19. RYAN KOMPA V. KATHLEEN KOMPA

23FL1091

Respondent filed a Request for Order (RFO) on November 16, 2023, requesting the court make child custody and parenting plan orders, as well as finalize the divorce. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on January 19, 2024 and a review hearing on February 22, 2024. Petitioner was served by mail on November 20, 2023.

Only Respondent appeared for the CCRC appointment on January 19, 2024. As such a single parent report with no recommendations or agreements was filed with the court on January 19, 2024. Copies were mailed to the parties the same day.

Respondent is requesting sole legal and physical custody of the minors. Respondent requests the court not order a parenting plan for Petitioner, as Petitioner has had no contact with the minors since approximately 2012.

Additionally, Respondent has checked the box other on the face sheet of the FL-300 requesting to “finalize the divorce”. However, Respondent has failed to address that request in her RFO.

Petitioner has not filed a Responsive Declaration.

The court finds Petitioner has failed to contact the minors or participate in their care since 2012. Therefore, the court finds Respondent’s request to be in the minors’ best interests. The court grants Respondent’s request for sole legal and physical custody of the minors. The court denies Respondent’s request to “finalize the divorce”. The court has reviewed the file, and finds the case is not proper for a status only judgment. There are retirement plans that have not been joined. Further, there is no proof of service showing Petitioner properly served his preliminary declarations of disclosure. Therefore, Respondent’s request to “finalize the divorce” is denied. The court advises Respondent to work with the Family Law Facilitator’s office to proceed with finalizing the dissolution.

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 #19: THE COURT FINDS PETITIONER HAS FAILED TO CONTACT THE MINORS OR PARTICIPATE IN THEIR CARE SINCE 2012. THEREFORE, THE COURT FINDS RESPONDENT’S REQUEST TO BE IN THE MINORS’ BEST INTERESTS. THE COURT GRANTS RESPONDENT’S REQUEST FOR SOLE LEGAL AND PHYSICAL CUSTODY OF THE MINORS. THE COURT DENIES RESPONDENT’S REQUEST TO “FINALIZE THE DIVORCE”. THE COURT HAS REVIEWED THE FILE, AND FINDS THE CASE IS NOT PROPER FOR A STATUS ONLY JUDGMENT. THERE ARE RETIREMENT PLANS THAT HAVE NOT BEEN JOINED. FURTHER, THERE IS NO PROOF OF

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SERVICE SHOWING PETITIONER PROPERLY SERVED HIS PRELIMINARY DECLARATIONS OF DISCLOSURE. THEREFORE, RESPONDENT'S REQUEST TO "FINALIZE THE DIVORCE" IS DENIED. THE COURT ADVISES RESPONDENT TO WORK WITH THE FAMILY LAW FACILITATOR'S OFFICE TO PROCEED WITH FINALIZING THE DISSOLUTION. 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.