

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 14, 2024

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

2. ANTHONY TATUM V. PETRINA TATUM

23FL1230

This matter is before the court for hearing on a Request for Order (RFO) filed by Petitioner on December 18, 2023. He filed his Income and Expense Declaration concurrently therewith. Both documents, along with all other required documents were personally served on January 3, 2024.

Respondent filed and served her Responsive Declaration to Request for Order and her Income and Expense Declaration on March 1st.

On March 4th Petitioner filed and served an updated Income and Expense Declaration along with Petitioner's Supplemental and Reply Declaration to Respondent's Responsive Declaration.

In Petitioner's initial RFO filing he requested joint legal and physical custody of the minor child with visitation as follows: Petitioner to have every Monday through drop off at school every Wednesday (or 9:00am if no school), and Respondent to have every Wednesday from pick up to Friday drop off at school (or 9:00am if no school). The parties to then alternate Friday through Monday. He also requested the court adopt his proposed holiday schedule which he attached to his moving papers. He asked that the exchange time for Christmas Eve and Christmas day be 9:00 pm instead of 5:00 pm. Finally, he requested a non-disparagement order. In his supplemental declaration, however, he noted the current temporary restraining order and asked that he continue to have sole legal and sole physical custody of the minor until Respondent completes a psychological evaluation. He asks that Respondent have only 3 hours of supervised visits once per week, instead of twice per week as currently ordered. In the alternative, he asks that the two weekly visits be on a set schedule to help the minor with her anxiety. He proposes Mondays from 5:30pm-7:30pm and either Wednesdays from 5:30pm-7:30pm or Thursdays from 7:00pm-9:00 pm when the minor has a weekend softball tournament. On weeks where there is no softball he proposes Respondent have visits on Saturdays from 4:00pm-6:00pm.

In addition to the custody and visitation orders, Petitioner is requesting guideline child support in the amount of \$1,061 per month, and guideline spousal support in the amount of \$1,931 per month. He is asking for \$10,000 in attorney's fees pursuant to Family Code § 2030.

Respondent agrees to joint legal and joint physical custody with an equal timeshare utilizing either a 2-2-5-5 schedule or a week on/week off schedule. She does not oppose the request for guideline child support but asks that the court use each party's correct income in its calculation. Finally, she is opposing the request for spousal support and attorney's fees. If spousal support is awarded, Respondent requests a reduction in support based on the regular expenses and community debt that she alone has been paying.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 14, 2024

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

The parties attended Child Custody Recommending Counseling (CCRC) on January 19th and a report with recommendations was prepared on February 6th, though from the declarations Respondent seems to be of the belief that the parties reached agreements in CCRC. Regardless, there is a temporary restraining order in place which includes the minor as a protected party. The matter is set for hearing on April 24th. Given the presumptions that may apply pursuant to Family Code § 3044 the court does not find it would be appropriate to make custody orders until a ruling has been made on the request for a Domestic Violence Restraining Order (DVRO). As such, this matter is continued to join with the pending DVRO hearing. In the meantime, the current custody orders remain in place. Respondent shall have two hours of professionally supervised visits twice per week. Visits shall take place on Mondays from 5:30pm – 7:30pm and Saturdays from 4:00pm – 6:00pm. However, when the minor has a weekend softball tournament, the Saturday visit shall instead take place on Wednesday from 5:30pm – 7:30pm. The court reserves jurisdiction to award support back to the date of filing the RFO.

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 #2: THE ISSUE OF CUSTODY IS CONTINUED TO JOIN WITH THE PENDING DVRO HEARING. IN THE MEANTIME, THE CURRENT CUSTODY ORDERS REMAIN IN PLACE. RESPONDENT SHALL HAVE TWO HOURS OF PROFESSIONALLY SUPERVISED VISITS TWICE PER WEEK. VISITS SHALL TAKE PLACE ON MONDAYS FROM 5:30PM – 7:30PM AND SATURDAYS FROM 4:00PM – 6:00PM. HOWEVER, WHEN THE MINOR HAS A WEEKEND SOFTBALL TOURNAMENT, THE SATURDAY VISIT SHALL INSTEAD TAKE PLACE ON WEDNESDAY FROM 5:30PM – 7:30PM. THE COURT RESERVES JURISDICTION TO AWARD SUPPORT BACK TO THE DATE OF FILING THE RFO. 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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 14, 2024

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

3. DANIELA WARD V. RORY WARD

22FL0614

On June 30, 2023, the court set a hearing for determination of support arrears, spousal support, and attorney's fees for September 7, 2023. The court reserved arrears retroactive to June 30, 2023.

On August 24, 2023 parties submitted a stipulation in order to continue the September 7th hearing to a date after October 12th. The court signed the stipulation and set the further review hearing for October 19, 2023.

Petitioner submitted a declaration of counsel on October 6, 2023 requesting the matter be continued again as Petitioner's counsel had not had contact with his client and Respondent had signed a substitution of attorney with his prior counsel substituting out of the matter. The court found good cause to continue the matter. A hearing was set for January 11, 2024 which again was continued to the present date.

After reviewing the file, it appears that neither party has filed an updated Income and Expense Declaration with the court since last October. As such, the matter is dropped from calendar.

TENTATIVE RULING #3: THIS MATTER IS DROPPED FROM CALENDAR.

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 14, 2024

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

4. JORDAN NICHOLE KIDD V. ANDREW CHRISTAIN KIDD

22FL1141

Petitioner filed and served a Request for Order (RFO) on December 21, 2023. She concurrently filed and served her Income and Expense Declaration. Respondent filed and served his Income and Expense Declaration and his Responsive Declaration to Request for Order on January 12, 2024. Petitioner filed and served her reply declaration, which she titled Petitioner's Responsive Declaration to Respondent's Responsive Declaration to Request for Order on February 29, 2024.

Petitioner filed her RFO requesting custody and visitation orders as well as child support. According to Petitioner the parties stipulated to custody and visitation in April of 2023 however, due to Respondent's work schedule the parties verbally agreed to amend the visitation schedule. She is now requesting that Respondent have visitation every other weekend. Additionally, she is asking for modification of the child support orders to be retroactive back to August 3, 2023 since the court used a 42% timeshare to calculate the orders but in actuality she says Respondent has never had the children 42% of the time.

Respondent disagrees with many of Petitioner's contentions. He asks that the court allow third parties to do exchanges as Petitioner has previously used this as grounds to deny Respondent visitation. He also asks that the court adopt the current schedule of the parties which is as follows: Week 1 – Respondent has visitation from Thursday at 7:45 pm to Saturday at 10:00 am; Week 2 – Respondent has visitation from Thursday at 7:45 pm to Monday school drop off at 10:00 am. Regarding support, Respondent asks the court to impute Petitioner with full-time minimum wage. He asks that the support order be retroactive to December 21, 2023, the date the RFO was filed. Additionally, if child support is modified he requests spousal support be modified as well.

The parties attended Child Custody Recommending Counseling (CCRC) on January 22nd and agreed to maintain their current informal custody arrangement until Respondent gets reassigned to his previous patrol shift in March of 2024. If Respondent's work schedule does not revert back to the previous assignment, Petitioner will file an additional request for modification of the order. A report with the agreement was prepared on February 27th and sent to the parties on March 4th.

The court has reviewed the filings of the parties as outlined above and finds the agreements as stated in the February 27, 2024 CCRC report to be in the best interests of the minors, they are therefore, adopted as the orders of the court.

The court declines to impute Petitioner with full-time minimum wage income for the same reasons as enumerated in its August 3, 2023 tentative ruling. However, as was done in

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 14, 2024

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

August, Petitioner is imputed with part time minim wage which amounts to 20 hours per week at \$16 per hour.

Regarding the timeshare, the parties have agreed to continue their informal visitation schedule which amounts to a 28% timeshare. Therefore, the court is calculating spousal and child support based on this timeshare. However, the court declines to amend the orders all the way back to the prior hearing date. Instead, these orders will be effective as of the date of filing the RFO.

Utilizing the same figures as outlined above, the court finds that child support is \$2,591 and spousal support per the Alameda formula is \$1,700 per month. See attached Dissomaster report. The court adopts the attached Dissomaster report and orders Respondent to pay Petitioner \$4,291 per month as and for child support and temporary spousal support, payable on the 1st of the month until further order of the court or legal termination. These orders are effective as of January 1, 2024.

The court finds the above order results in arrears in the amount of \$12,873 through and including March 1, 2024. The court orders Respondent pay Petitioner \$1,073 on the 15th of each month commencing April 15, 2024 and continuing until paid in full (approximately 12 months). If a payment is late or missed the remaining balance is due in full, with legal interest within five (5) days.

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

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

TENTATIVE RULING #4: THE COURT FINDS THE AGREEMENTS AS STATED IN THE FEBRUARY 27, 2024 CCRC REPORT TO BE IN THE BEST INTERESTS OF THE MINORS, THEY ARE THEREFORE ADOPTED AS THE ORDERS OF THE COURT. THE COURT FINDS THAT CHILD SUPPORT IS \$2,591 AND SPOUSAL SUPPORT PER THE ALAMEDA FORMULA IS \$1,700 PER MONTH. THE COURT ADOPTS THE ATTACHED DISSOMASTER REPORT AND ORDERS RESPONDENT TO PAY PETITIONER \$4,291 PER MONTH AS AND FOR CHILD SUPPORT AND TEMPORARY SPOUSAL SUPPORT, PAYABLE ON THE 1ST OF THE MONTH UNTIL FURTHER ORDER OF THE COURT OR LEGAL TERMINATION. THESE ORDERS ARE EFFECTIVE AS OF JANUARY 1, 2024.

THE COURT FINDS THE ABOVE ORDER RESULTS IN ARREARS IN THE AMOUNT OF \$12,873 THROUGH AND INCLUDING MARCH 1, 2024. RESPONDENT IS ORDERED TO PAY PETITIONER \$1,073 ON THE 15TH OF EACH MONTH COMMENCING APRIL 15, 2024 AND

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 14, 2024

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

CONTINUING UNTIL PAID IN FULL (APPROXIMATELY 12 MONTHS). IF A PAYMENT IS LATE OR MISSED THE REMAINING BALANCE IS DUE IN FULL, WITH LEGAL INTEREST WITHIN FIVE (5) DAYS.

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

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

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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	DISSOMASTER REPORT 2024, Monthly	
		CASE NUMBER:

Input Data	Father	Mother	Guideline (2024)	Cash Flow Analysis	Father	Mother
Number of children	0	2	Nets (adjusted)	Guideline		
% time with Second Parent	28%	0%	Father	9,390	Payment (cost)/benefit	(4,291) 4,291
Filing status	MFJ->	<-MFJ	Mother	1,111	Net spendable income	5,099 5,403
# Federal exemptions	1*	3*	Total	10,501	% combined spendable	48.6% 51.4%
Wages + salary	11,202	1,386	Support (Nondeductible)	Total taxes	2,539	275
401(k) employee contrib	0	0	CS Payor	Father	Comb. net spendable	10,501
Self-employment income	0	0	Presumed	2,591	Proposed	
Other taxable income	2,844	0	Basic CS	2,591	Payment (cost)/benefit	(4,291) 4,291
Short-term cap. gains	0	0	Add-ons	0	Net spendable income	5,099 5,403
Long-term cap. gains	0	0	Presumed Per Kid		NSI change from gdl	0 0
Other gains (and losses)	0	0	Child 1	992	% combined spendable	48.6% 51.4%
Ordinary dividends	0	0	Child 2	1,599	% of saving over gdl	0% 0%
Tax. interest received	0	0	SS Payor	Father	Total taxes	2,539 275
Social Security received	0	0	Alameda	1,700	Comb. net spendable	10,501
Unemployment compensation	0	0	Total	4,291	Percent change	0.0%
Operating losses	0	0	Proposed, tactic 9		Default Case Settings	
Ca. operating loss adj.	0	0	CS Payor	Father		
Roy, partnerships, S corp, trusts	0	0	Presumed	2,591		
Rental income	0	0	Basic CS	2,591		
Misc ordinary tax. inc.	2,844	0	Add-ons	0		
Other nontaxable income	0	0	Presumed Per Kid			
New-spouse income	0	0	Child 1	992		
SS paid other marriage	0	0	Child 2	1,599		
CS paid other relationship	0	0	SS Payor	Father		
Adj. to income (ATI)	0	0	Alameda	1,700		
Ptr Support Pd. other P'ships	0	0	Total	4,291		
Health insurance	335	0	Savings	0		
Qual. Bus. Inc. Ded.	0	0	No releases			
Itemized deductions	0	0				
Other medical expenses	0	0				
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	160	0				
Cr. for Pd. Sick and Fam. L.	0	0				
Mandatory retirement	1,622	0				
Hardship deduction	0*	0*				
Other gdl. adjustments	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	0				



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

"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	2,591	1,700	4,291
250	12.54	31	16.22	41	2,623	1,741	4,363
500	12.51	63	16.22	81	2,654	1,781	4,435
750	12.41	93	16.22	121	2,654	1,821	4,505
1,000	12.35	124	16.08	161	2,715	1,821	4,576
1,250	12.30	154	16.08	201	2,715	1,901	4,646
1,500	12.27	184	16.04	241	2,715	1,941	4,716
1,750	12.23	214	16.02	280	2,805	1,981	4,716
2,000	12.20	214	16.01	320	2,835	2,020	4,856
1,250	12.17	274	16.01	360	2,835	2,060	4,925
2,500	12.15	304	16.00	400	2,895	2,100	4,995
2,750	12.15	333	16.08	440	2,925	2,100	5,065
1,000	12.11	363	16.00	280	2,954	2,180	5,135
3,250	12.09	393	16.08	521	2,984	2,221	5,205
3,500	12.16	426	16.14	565	3,017	2,265	5,282
3,750	12.27	458	16.25	609	3,050	2,309	5,359
4,000	12.27	491	16.34	654	3,050	2,354	5,436
4,250	12.32	523	16.43	698	2,715	2,100	5,513
4,500	12.35	556	16.50	743	3,147	2,443	5,590
4,250	12.38	588	16.57	787	3,180	2,487	5,667
5,000	12.41	621	16.82	831	3,212	2,532	5,743
5,250	12.43	653	16.88	876	3,244	2,576	5,820
5,000	12.15	685	16.73	320	3,276	5,820	5,897
5,750	12.47	717	16.78	965	3,308	2,665	5,973
6,000	12.48	749	16.81	1,009	3,308	2,709	6,049



LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 14, 2024

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

5. JULIE ANNE BARRAZA V. NICHOLAS VINCENT BARRAZA

PFL20170408

On December 20, 2023, Respondent filed a Request for Order (RFO) seeking custody and visitation orders. He filed his Income and Expense Declaration concurrently therewith. Both documents, along with all other required documents, were personally served on January 8, 2024.

Petitioner filed and served her Responsive Declaration to Request for Order and her Income and Expense Declaration on February 29th.

Respondent filed and served an Updating Declaration on March 1st. On March 8th, Petitioner filed and served Petitioner's Reply to Respondent's Updating Declaration.

Respondent is requesting primary physical custody of both minor children or, in the alternative, a significant expansion of his parenting time to take place in California and to include all summers, all of winter break on alternating years and half of winter break on the years he does not have the entire break. He is also requesting a Family Code § 3111 child custody evaluation.

In addition to the custody and visitation orders Respondent is requesting the following: (1) The receiving parent to schedule and pay for flights for the minors whether or not Petitioner is available to travel with them and confirmation that they may fly unaccompanied by an adult into specified airports; (2) Non-emergency communications between the parties to be brief, peaceful and to take place using either Talking Parents or Our Family Wizard. He requests an order directing the parties to respond to communications within 24 hours of receipt, even if the response is just an acknowledgment of receipt; (3) The court to issue the standard CCRC respect guidelines; and (4) Confirmation of the child support modification agreed upon by the parties on March 20, 2022 which set support at \$600 per month plus payment of the children's airline flights.

Petitioner is opposing the requested change in visitation as well as the request for a 3111 evaluation. She asks that the parent receiving the children pay for flights and fly out to pick up the children. She agrees with non-emergency communications to take place using Talking Parents as well as the imposition of non-disparagement/respect guidelines. Finally, she also asks the court to confirm the agreed upon modification of the child support orders.

Respondent objects to the court's consideration of Petitioner's Responsive Declaration. He also states that Petitioner failed to timely serve a copy of her Income and Expense Declaration or attach her most recent state and federal tax returns pursuant to Family Code § 3665(a).

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 14, 2024

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

Civil Procedure section 1005(b) states all opposition papers are to be filed at least nine court days before the hearing date. Additionally, 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 March 1st the last day for filing the Responsive Declaration. It was filed prior to that, on February 29th and therefore was timely. Respondent's objection is overruled.

The parties attended Child Custody Recommending Counseling (CCRC) on January 22nd and a report containing agreements and recommendations was prepared on January 25th. The CCRC report was mailed to the parties on January 26th. Respondent is requesting the parties be re-referred to CCRC with an order directing the CCRC counselor to interview the children.

Where appropriate, in making custody decisions the court may take into account the preferences of the child. Fam. Code 3042(a) ("If a child is of sufficient age and capacity to reason so as to form an intelligent preference as to custody, the court shall consider and give due weight to the wishes of the child in making an order granting or modifying custody"). In re Marriage of Burgess, 13 Cal. 4th 25, 37-40 (1996).

After reviewing the filings as outlined above, the court is of the opinion that input from the minors would be beneficial in determining their best interests. The minors are 13 and 16 years of age and the court sees no reason why they would not be of sufficient capacity to form intelligent preferences as to custody. Additionally, the court is in need of information regarding the missed phone/video calls between Respondent and the minors and whether it is of their own choosing. The parties are, therefore, re-referred to CCRC with an appointment on 3/28/2024 at 9:00 am with Micheala Murphy CCRC is instructed to interview the minors to discuss visitation and phone/video call contact. Hearing on the RFO is continued to 5/30/2024 at 8:30 am.

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

TENTATIVE RULING #5: THE PARTIES ARE RE-REFERRED TO CCRC WITH AN APPOINTMENT ON 3/28/2024 AT 9:00 AM WITH MICHAELA MURPHY CCRC IS INSTRUCTED TO INTERVIEW THE MINORS TO DISCUSS VISITATION AND PHONE/VIDEO CALL CONTACT. HEARING ON THE RFO IS CONTINUED TO 5/30/2024 AT 8:30 AM. 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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 14, 2024

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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

March 14, 2024

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

8. LINDA FULLERTON V. LARRY FULLERTON

PFL20210556

Counsel for Respondent, Tessa Mayer, filed a Notice of Motion and Motion to be Relieved as Counsel and a supporting declaration on December 20, 2023. The motion was mail served on December 27th and then personally served on Respondent on January 4, 2024. While the declaration filed by counsel indicates that there are no upcoming hearings scheduled, at the time of filing there were set trial and MSC dates. However, now that those dates were vacated the court finds good cause for counsel's withdrawal as the attorney of record for Respondent due to the irreparable breakdown of the attorney-client relationship. The motion is granted.

TENTATIVE RULING #8: THE MOTION TO BE RELIEVED AS COUNSEL IS GRANTED. WITHDRAWAL WILL BE EFFECTIVE AS OF THE DATE OF FILING PROOF OF SERVICE OF THE FORMAL, SIGNED ORDER, UPON THE CLIENT.

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

March 14, 2024

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

10. MARY JO ADAMS-HERRMANN V. MICHAEL JOSEPH HERRMANN

22FL0326

On December 18, 2023, Petitioner filed a Request for Order (RFO) seeking attorney's fees and an order regarding disbursement of retirement funds. The RFO was served on December 19th. Respondent has not filed a Responsive Declaration to Request for Order.

Petitioner is requesting the court order Respondent to personally appear at the Fidelity Investment office in Folsom, CA at a date and time as ordered by the court to execute IRA transfer documents to facilitate the transfer of \$650,000 from Respondent's IRA account to Petitioner's IRA account. In addition, she is seeking attorney's fees in the amount of \$3,500 as well as sanctions in an amount determined by the court.

On February 29, 2024, the parties entered into a stipulation which, in part, superseded and replaced the prior agreement that \$650,000 be transferred from Respondent's IRA to Petitioner's. Therefore, the court finds this issue to be moot and declines to rule on it.

Given the stipulation on the issue, the court denies Petitioner's request for sanctions. Regarding the request for attorney's fees, it is unclear if Petitioner is making her request pursuant to Family Code § 2030 or Family Code § 271. She requested attorney's fees "as well as sanctions," therefore it stands to reason that the request is being made pursuant to Section 2030. That being the case, Petitioner has not filed the requisite FL-158 or a declaration addressing the factors covered therein. As such, the request for attorney's fees is denied.

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

TENTATIVE RULING #10: PETITIONER'S REQUESTS FOR ATTORNEY'S FEES AND SANCTIONS ARE DENIED. THE COURT FINDS THE ISSUE OF THE TRANSFER OF \$650,000 TO BE MOOT AND THEREFORE DECLINES TO RULE ON IT. 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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 14, 2024

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

11. MICHAEL BIELIK V. AMANDA HARMON

PFL20180288

Respondent filed an ex parte request for emergency custody orders on January 4, 2024. Respondent requested temporary sole legal and physical custody of the minors. The court granted the request on January 5, 2024, and referred the parties to an emergency set Child Custody Recommending Counseling (CCRC) appointment on January 23, 2024 and a review hearing on March 14th. Proof of Service shows Petitioner was personally served on January 18, 2024.

Only Respondent appeared for the January 23rd CCRC appointment. As such a single parent report was filed with the court and copies were mailed to the parties the same day.

Petitioner filed and served a Responsive Declaration on February 20, 2024. Petitioner requests the parties be rereferred to CCRC, as he was unable to attend due to his incarceration and needing additional time to make arrangements to appear telephonically.

The court finds good cause to rerefer the parties to CCRC. Parties are to attend CCRC on 4/4/2024 at 1:00 pm with Michaela Murphy. The court continues the review hearing to 5/30/2024 at 8:30 am in Department 5. The court maintains the current ex parte orders pending the review hearing.

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 #11: THE COURT FINDS GOOD CAUSE TO REREFER THE PARTIES TO CCRC. PARTIES ARE TO ATTEND CCRC ON 4/4/2024 AT 1:00 PM WITH MICHAELA MURPHY. THE COURT CONTINUES THE REVIEW HEARING TO 5/30/2024 AT 8:30 AM IN DEPARTMENT 5. THE COURT MAINTAINS THE CURRENT EX PARTE ORDERS PENDING THE REVIEW HEARING. 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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 14, 2024

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

14. ROGER HEMBD V. KRISTIN HEMBD

PFL20200316

Petitioner filed a Request for Order (RFO) on December 20, 2023, requesting the court modify custody and parenting plan orders as well as authorize a move away for the minor. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on January 5, 2024, and a review hearing on March 14, 2024. Respondent was served both electronically and by mail on December 21, 2023. The court notes this is a post-judgment request for modification and as such service must comply with Family Code section 215. It does not appear an address verification was filed with the court.

Minor's Counsel filed a Responsive Declaration on December 29, 2023, consenting to the requested orders. Parties were served on December 28, 2023. Minor's Counsel believes the requested orders are in the best interest of the minor.

Both parties attended CCRC on January 5, 2024, and were able to reach some agreements. A report with the parties' agreements and further recommendations was filed with the court on January 24, 2024. Copies were mailed to the parties the same day.

Respondent filed an RFO requesting modification of child custody and parenting plan orders on January 25, 2024. Petitioner's counsel was served on January 30, 2024. There is no Proof of Service for Minor's Counsel. Further, this service does not comply with Family Code section 215, in that Petitioner himself was not served. Therefore, the court drops Respondent's January 25, 2024 RFO from calendar due to lack of proper service to Minor's Counsel.

Petitioner filed a Responsive Declaration to Respondent's RFO on February 28, 2024. Parties were served by mail and electronically on February 28, 2024. Petitioner objects to the requested modifications by Respondent.

Respondent filed a Response to the CCRC report on March 6, 2024. Parties were served by overnight delivery on March 6, 2024. Respondent objects to the recommendations, requests the court vacate the report, and rerefer the parties to CCRC with a new mediator.

Respondent filed a Responsive Declaration to the December 20, 2023 RFO on March 4, 2023. Upon review of the court file, there is no Proof of Service for this document. Further, the court finds the Responsive Declaration to Request for Order was 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 29, 2024 the last day for filing the

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 14, 2024

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

responsive declaration. Therefore, because it was not served and because it is late filed, it has not been considered by the court.

The court finds good cause to proceed with Petitioner's RFO as both Respondent and Minor's Counsel have filed Responsive Declarations. The court acknowledges that it cannot consider the Responsive Declaration Respondent filed on March 4, 2024, however, it can consider the Response to the CCRC report which addresses the issues raised in Petitioner's RFO. Further, both parties attended CCRC and it appears Respondent is fully aware of the request orders.

The court denies Respondent's request to vacate the CCRC report and rerefer the parties to a new CCRC counselor. Respondent has not set forth any grounds upon which the court could grant a request to vacate the report. El Dorado County Local Rule 8.11.01 only allows a peremptory challenge at the initiation of CCRC. Further, Local Rule 8.11.04, provides: "A child custody recommending counselor/evaluator will not be replaced after the initial interview with the parties, except for good cause. The request for replacement shall be heard on the regular court calendar by notice of motion." Respondent has not properly requested a change in CCRC counselor; therefore, the request is denied.

As this is a move away request, the court must take testimony. Therefore, parties are ordered to appear to select mandatory settlement and trial dates.

TENTATIVE RULING #14: PARTIES ARE ORDERED TO APPEAR TO SELECT MANDATORY SETTLEMENT AND TRIAL DATES ON PETITIONER'S MOVE AWAY REQUEST.

RESPONDENT'S JANUARY 25, 2024 FILED RFO IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE. THE COURT DENIES RESPONDENT'S REQUEST TO VACATE THE CCRC REPORT, CHANGE CCRC COUNSELORS, AND REREFER THE PARTIES TO CCRC FOR THE REASONS SET FORTH ABOVE.

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 14, 2024

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

15. DAKOTA HENDERSON V. MICAYLA HENDERSON

23FL0630

On November 16, 2023, the court found the presumptions of Family Code section 3044 apply to Respondent. The court made orders adopting the CCRC recommendations and modifying the restraining order to allow non-professional supervision. The court set a review hearing for March 14, 2024, to determine whether Respondent had overcome the Family Code section 3044 presumptions.

Upon review of the court file, neither party has filed a supplemental declaration. Respondent has not provided the court with any documentation that she has overcome the Family Code section 3044 presumptions. Therefore, the court finds the current orders remain in the minor's best interest.

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

TENTATIVE RULING #15: THE COURT FINDS THE CURRENT ORDERS REMAIN IN THE MINOR'S BEST INTEREST. 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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 14, 2024

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

16. GEOVVANI RIVERA V. LAREN STEWART

24FL0076

Petitioner filed a Petition to Establish a Parental Relationship and Request for Order (RFO) on January 26, 2024. A Summons was issued the same day. Upon review of the court file, there is no Proof of Service of the Summons or the RFO.

The matter is dropped from calendar due to the lack of service of the Summons and RFO.

TENTATIVE RULING #16: THE COURT DROPS THE MATTER FROM CALENDAR DUE TO THE FAILURE TO SERVE THE SUMMONS AND RFO.

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

March 14, 2024

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

17. HILLERI TALAUGON V. GARY TALAUGON

23FL0825

On January 18, 2024, the parties appeared for a hearing to modify child and temporary guideline spousal support. Counsel for Petitioner requested a continuance to complete an Income and Expense Declaration and to receive discovery from Respondent. Counsel for Respondent did not object to a continuance, but requested the court temporarily set support at zero, as Respondent is currently incarcerated and has no income. The court granted the request for a continuance, set support at zero effective February 1, 2024, and reserved jurisdiction to retroactively modify support to February 1, 2024. The court directed parties to ensure their Income and Expense Declarations were up to date.

On January 25, 2024, Petitioner filed an ex parte request seeking property control of the former family residence. Respondent filed a Responsive Declaration on January 26, 2024. The court denied the ex parte request on January 26, 2024, and reserved on the request for sanctions. Petitioner filed a Request for Order (RFO) on January 26, 2024, requesting the same orders as set forth in the ex parte application, as well as a request for joinder of Serena Talaugon/Serena Boet, and sanctions. Petitioner states in her declaration she will amend the RFO with additional facts and circumstances regarding the request for joinder or as part of a separate motion if time does not permit an amendment. Proof of Service shows Respondent was served by mail on February 1, 2024.

Petitioner filed and served Income and Expense Declaration on March 1, 2024. Respondent previously filed an Income and Expense Declaration on January 5, 2024. It was served on Petitioner on January 3, 2024.

As to the request for child and spousal support, the court finds the current orders remain appropriate. Respondent is currently incarcerated and is not earning any income. Therefore, support remains set at zero. The court continues to reserve jurisdiction to retroactively modify support to February 1, 2024.

The court denies Petitioner's request for property control on 1431 Winding Way, Placerville, CA 95667. Petitioner has failed to set forth any grounds upon which the court should grant such relief. The court finds based on Exhibit 1, attached to Respondent's responsive declaration, the property in question is deeded to Joseph Talaugon, a single person. The statutory presumption is that the title is accurate. Further, the court finds the property is subject to probate court orders through the Santa Clara County probate court and as such, this court does not have jurisdiction to grant the request relief.

The court denies Petitioner's request to join Serena Boet. Petitioner has failed to set forth adequate grounds as to why Ms. Boet should be joined as a party to this action.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 14, 2024

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

The court denies Petitioner's request for fees and costs. Petitioner has failed to set forth any facts which would support a grant of attorney's fees and costs. Further, Petitioner has not provided under what statute the court could grant attorney's fees or costs. The court reserves on Respondent's request for Family Code section 271 sanctions until the time of trial.

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 #17: THE COURT FINDS THE CURRENT ORDERS AS TO CHILD AND TEMPORARY GUIDELINE SPOUSAL SUPPORT, REMAIN APPROPRIATE. THEREFORE, SUPPORT REMAINS SET AT ZERO. THE COURT CONTINUES TO RESERVE JURISDICTION TO RETROACTIVELY MODIFY SUPPORT TO FEBRUARY 1, 2024. THE COURT DENIES PETITIONER'S REQUEST FOR PROPERTY CONTROL ON 1431 WINDING WAY, PLACERVILLE, CA 95667. THE COURT DENIES PETITIONER'S REQUEST TO JOIN SERENA BOET. THE COURT DENIES PETITIONER'S REQUEST FOR FEES AND COSTS. THE COURT RESERVES ON RESPONDENT'S REQUEST FOR FAMILY CODE SECTION 271 SANCTIONS UNTIL THE TIME OF TRIAL. 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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 14, 2024

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

18. ISAIAH RUBALCAVA V. JESSICA RUBALCAVA

23FL0670

Respondent filed a Request for Order (RFO) on December 27, 2023, requesting the court set aside the Domestic Violence Restraining Order (DVRO). Upon review of the court file, there is no Proof of Service showing Petitioner was properly served.

Petitioner filed a Responsive Declaration to Request for Order on January 12, 2024. Proof of Service shows Respondent was served on January 26, 2024. Petitioner objects to the DVRO being dropped. Petitioner asserts Respondent continues to violate the DVRO.

The court drops Respondent's December 27, 2023 filed RFO from calendar due to the lack of proper service. Even if the court had reached the RFO on the merits, it would have been denied. Respondent was properly noticed of the request for the DVRO. Respondent filed a responsive declaration to the request for the DVRO. Respondent was present at the initial hearing for the request for the DVRO on August 11, 2023, with counsel. The hearing was continued at Respondent's request to September 1, 2023. Respondent failed to appear for the hearing on September 1, 2023, despite being present when the hearing was set. The court found by a preponderance of the evidence, Respondent had perpetrated domestic violence against Petitioner and granted the DVRO. Respondent has set forth no ground upon which the DVRO should be set aside.

Respondent filed an RFO on January 12, 2024, requesting the court reconsider its orders from December 21, 2023. Proof of Service shows Petitioner was personally served on January 22, 2023. Respondent is requesting the court reconsider its prior order based on Code of Civil Procedure section 1008. Respondent asserts she and her counsel were unaware of the court's tentative ruling process and therefore, failed to request oral argument.

Petitioner filed a Responsive Declaration to Request for Order on January 25, 2024. Respondent was served on January 26, 2024. Petitioner objects to Respondent's request to reconsider the prior orders. Petitioner asserts Respondent's counsel contacted him the day the tentative ruling was posted to inform him she was no longer representing Respondent. Petitioner also asserts the Findings and Orders After Hearing were filed and served the day of the hearing on December 21, 2023. Petitioner states in his declaration that the minor is thriving in his care and Respondent continues to violate the DVRO.

Respondent's former counsel filed a Declaration on January 29, 2024. Petitioner was served on January 25, 2024. Counsel states she was unaware of the tentative ruling process, as she does not routinely practice in El Dorado County. She requests the court set aside the prior orders and allow Respondent an opportunity to be heard.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 14, 2024

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

Petitioner filed additional Declarations on January 26, 2024, January 31, 2024, and February 7, 2024. All were properly served on Respondent. Petitioner asserts Respondent continues to violate the DVRO.

Respondent filed a Declaration on February 15, 2024. There is no Proof of Service for this document and therefore, the court cannot consider it.

When a party seeks an amendment or revocation of a court order, the party so requesting must show "...what new or different facts, circumstances, or law are claimed to be shown." Cal. Civ. Pro. § 1008. Respondent's RFO seeks an order setting aside the court's prior order and thus falls within the purview of Section 1008. That said, Respondent has not provided any new or different facts or circumstances on which the court should rely to set aside its prior order. Respondent further argues that she and her counsel were unaware of the tentative ruling procedure and the need to call for oral argument. The court does not find this statement to be credible. Respondent's counsel is charged with making herself aware of the local rules and procedures where she is practicing. Without any new or different information, the court sees no reason to set aside its prior ruling.

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

TENTATIVE RULING #18: THE COURT DROPS RESPONDENT'S DECEMBER 27, 2023 FILED RFO FROM CALENDAR DUE TO THE LACK OF PROPER SERVICE. EVEN IF THE COURT HAD REACHED THE RFO ON THE MERITS, IT WOULD HAVE BEEN DENIED. RESPONDENT HAS SET FORTH NO GROUND UPON WHICH THE DVRO SHOULD BE SET ASIDE.

THE COURT DENIES RESPONDENT'S REQUEST TO SET ASIDE THE DECEMBER 21, 2023 ORDERS. RESPONDENT HAS FAILED TO SET FORTH ANY NEW OR DIFFERENT FACTS, CIRCUMSTANCES, OR LAW WHICH WOULD ALLOW THE COURT TO DO SO.

ALL PRIOR 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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 14, 2024

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

19. JODI GRAHM V. NICHOLAS GRAHAM

22FL1083

Petitioner filed a Request for Order (RFO) on November 28, 2023, requesting a change in the parenting plan orders. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on February 1, 2024 and a review hearing on February 8, 2024. Respondent was served on November 29, 2023.

Petitioner is requesting the court suspend all parenting time for Respondent as he has not maintained consistent contact with the minors since February of 2022. The current order allows Respondent to have monthly visits for two hours. Petitioner asserts Respondent has failed to take advantage of those visits. Further, Petitioner asserts Respondent has failed to maintain sobriety and is currently incarcerated.

On January 12, 2024, the court issued an ex parte minute order correcting the calendaring error and resetting the review hearing for March 14, 2024. The ex parte minute order was mailed to the parties on January 12, 2024.

Only Petitioner appeared for the CCRC appointment on February 1, 2024. Respondent is currently incarcerated at the South Lake Tahoe jail. A single parent report was filed with the court on February 1, 2024 and mailed to the parties the same day.

The court finds Petitioner's request to be in the best interest of the minors. The court finds Respondent has been incarcerated since May 2023. Respondent was inconsistent in exercising his parenting time prior to his incarceration. The court grants Petitioner's request to suspend Respondent's parenting time.

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

TENTATIVE RULING #19: THE COURT FINDS PETITIONER'S REQUEST TO BE IN THE BEST INTEREST OF THE MINORS. THE COURT GRANTS PETITIONER'S REQUEST TO SUSPEND RESPONDENT'S PARENTING TIME. ALL PRIOR ORDERS NOT INCONSISTENT 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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 14, 2024

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

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 14, 2024

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

20. JOSEPH CARLISLE V. GINA CARLISLE

PFL20170803

On December 7, 2023, the court adopted its tentative ruling, sustaining Petitioner's demurrer, without leave to amend as to counts 1-8, 33, and 35-47 based on the statute of limitations. The demurrer was denied as to count 34. The demurrer was sustained with leave to amend as to counts 59-60 and 64-69. Respondent was authorized to file an amended pleading as to these counts no later than December 21, 2023.

Respondent filed an Amended Order to Show Cause and Affidavit for Contempt (OSC) on December 22, 2023. Respondent did not file the OSC at the proper court, filing at the Main Street court, rather than in Department 5. The court notes the Main Street court clerk's office received the filing on December 21, 2023. The court could drop the matter due to the untimely filing.

Upon review of the court file, Proof of Service shows Petitioner was served by mail on February 28, 2024. If mail service were permissible, this service was not timely. Therefore, the court could drop the matter from calendar due to the untimely service. Nonetheless, "[s]ervice of an order to show cause to bring a party into contempt is insufficient if made by mail..." (*Koehler v. Superior Court* (2010) 181 Cal.App.4th 1153, 1169.) The court therefore drops the matter from calendar due to the lack of proper service.

TENTATIVE RULING #20: 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 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

March 14, 2024

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

21. KELLI ALDERMAN V. ADAM ALDERMAN

PFL20070219

Petitioner filed a Request for Order (RFO) on January 19, 2024, requesting the court modify the current child custody orders. Proof of Service shows Respondent was personally served a "Notice of Hearing" on January 26, 2024.

The court finds the service on Respondent to be deficient. There is no Proof of Service showing Respondent was served with the RFO, the notice of tentative ruling, or a blank FL320. Therefore, the court drops the matter from calendar due to the lack of proper service.

Even if the court had reached the RFO on the merits, it would have been denied. The court notes the parties were last before the court on December 14, 2023, for hearing on an RFO filed by Petitioner seeking modification of the child custody and parenting plan orders. The parties attended Child Custody Recommending Counseling (CCRC) on October 27, 2023. The court adopted the recommendations as set forth in the October 21, 2023 CCRC report on December 14, 2023. Therefore, the court finds this RFO to be akin to a motion for reconsideration. When a party seeks an amendment or revocation of a court order, the party so requesting must show "...what new or different facts, circumstances, or law are claimed to be shown." Cal. Civ. Pro. § 1008. Petitioner has failed to set forth any new or different facts or law that were not available at the time of the December 14, 2023 hearing. Therefore, the court would have denied the request to modify custody.

All prior orders remain in full force and effect.

TENTATIVE RULING #21: THE COURT DROPS THE MATTER FROM CALENDAR DUE TO THE LACK OF PROPER SERVICE. EVEN IF THE COURT HAD REACHED THE RFO ON THE MERITS, IT WOULD BE DENIED FOR FAILURE TO ESTABLISH NEW OR DIFFERENT FACTS OR LAW THAT WOULD WARRANT RECONSIDERATION OF THE COURT'S PRIOR ORDERS. 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 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

March 14, 2024

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

22. NATHAN HAYNES V. CHELSEY DORSEY

PFL20160512

Respondent filed a Request for Order (RFO) requesting modification of parenting time and child support orders on October 10, 2023. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on December 6, 2023 and a review hearing on January 25, 2024.

Petitioner filed an ex parte request for emergency custody orders on November 7, 2023. On November 8, 2023, the court denied Petitioner's request. Petitioner filed an RFO making the same requests as set forth in the ex parte application. The parties were referred to CCRC and a review hearing was set on the same date as previously set by Respondent's RFO. Upon review of the court file, there is no Proof of Service of Petitioner's RFO.

Both parties and the minor participated in the December 6, 2023 CCRC appointment. The parties were unable to reach any agreements. A report with recommendations was filed with the court on January 12, 2024. Copies were mailed to the parties the same day.

Petitioner filed a Declaration on December 7, 2023. There is no Proof of Service for this document, therefore, the court cannot consider it.

Petitioner filed a further Declaration on January 4, 2024. There is no Proof of Service for this document, therefore, the court cannot consider it.

On January 25th, the parties reached an agreement to continue all issues to March 14, 2024, as there was a pending request for a Domestic Violence Restraining Order (DVRO) in Placer County.

Petitioner filed a Supplemental Declaration on March 5, 2024. Respondent was served by mail on March 4, 2024. Petitioner requests the court not adopt the recommendations from the CCRC report. Petitioner asserts Respondent is neglectful in her care of the minor and that the neglect places the minor at substantial risk. Petitioner states the Placer Country request for DVRO was denied.

On March 7, 2024, Respondent filed an ex parte application for emergency orders. The court denied the requested orders on March 8, 2024, but did set the RFO on a shortened time basis to join with Respondent's currently pending RFO. The court directed Respondent to serve Petitioner no later than March 8, 2024.

The court finds it need to take testimony. Therefore, parties are ordered to appear for the hearing to select mandatory settlement and trial dates.

TENTATIVE RULING #22: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING TO SELECT MANDATORY SETTLEMENT AND TRIAL DATES.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 14, 2024

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

23. SHURIE BOCANEGRA V. RICHARD BOCANEGRA

23FL0479

Petitioner filed an ex parte request for emergency orders on January 9, 2024, requesting the court order Respondent have a Breathalyzer installed in his vehicle. On January 12, 2024, the court denied the request for the installation of a Breathalyzer, however, Respondent was ordered not to transport the minors with any measurable amount of alcohol or other intoxicating substance in his system. The court further ordered Respondent to comply with all requirements to operate a motor vehicle as set forth by the criminal court and California Department of Motor Vehicles. Respondent was further ordered not to transport the minors unless he has a valid California driver's license and insurance.

On January 12, 2024, Petitioner filed a Request for Order (RFO) making the same requests as set forth in the ex parte application. Respondent was personally served with the FL-300 and FL-320 on January 12, 2024. The court notes the Proof of Service does not show Respondent was served with the Notice of Tentative Ruling.

Petitioner asserts Respondent was arrested for Driving Under the Influence on January 7, 2024, while the minors were in the vehicle.

Respondent filed a responsive declaration on March 1, 2024. There is no Proof of Service for this document, and therefore, the court cannot consider it.

The court denies Petitioner's request to have Respondent install a Breathalyzer installed on his vehicle. The court, however, does maintain the ex parte orders. Respondent shall not transport the minors with any measurable amount of alcohol or other intoxicating substance in his system. Respondent shall comply with all requirements to operate a motor vehicle as set forth by the criminal court and California Department of Motor Vehicles. Respondent shall not transport the minors unless he has a valid California driver's license and insurance.

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 #23: THE COURT DENIES PETITIONER'S REQUEST TO HAVE RESPONDENT INSTALL A BREATHALYZER ON HIS VEHICLE. THE COURT, HOWEVER, DOES MAINTAIN THE EX PARTE ORDERS. RESPONDENT SHALL NOT TRANSPORT THE MINORS WITH ANY MEASURABLE AMOUNT OF ALCOHOL OR OTHER INTOXICATING SUBSTANCE IN HIS SYSTEM. RESPONDENT SHALL COMPLY WITH ALL REQUIREMENTS TO OPERATE A MOTOR VEHICLE AS SET FORTH BY THE CRIMINAL COURT AND CALIFORNIA DEPARTMENT OF MOTOR VEHICLES. RESPONDENT SHALL NOT TRANSPORT THE MINORS UNLESS HE HAS A VALID CALIFORNIA DRIVER'S LICENSE AND INSURANCE. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 14, 2024

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

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.