

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 7, 2023

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

**1. ASHLEY D. VAN BUREN V. KYLE VAN BUREN**

**PFL20150183**

On January 20, 2023, Petitioner filed a Request for Order (RFO) seeking child support orders as well as orders regarding the payment of expenses for the children and claiming the children on taxes. Concurrently with her RFO, Petitioner filed her Income and Expense Declaration. There is no Proof of Service establishing proper service of these documents, however, Respondent filed his Responsive Declaration to Request for Order and his Income and Expense Declaration on June 7<sup>th</sup> thereby waiving any defect in service. Respondent served his documents on June 6<sup>th</sup> and then again on June 9<sup>th</sup>. On August 25, 2023, Respondent filed a Supplemental Declaration of Respondent and an updated Income and Expense Declaration. Both documents were mail served on August 25<sup>th</sup> and then electronically served on August 28<sup>th</sup>.

Hearing on the RFO was initially set for April 13<sup>th</sup>. At Petitioner's request, the hearing was rescheduled to June 22<sup>nd</sup>. Petitioner once again requested to continue the hearing. Her request was once again granted, and the hearing was set for the present date.

Petitioner filed her RFO requesting child support on the basis that Respondent voluntarily moved to Texas and therefore the parenting schedule has been substantially modified. She further requests that each party pay ½ of the expenses for the children to participate in sports, and ½ of all unreimbursed medical, dental, orthodontic, and mental health costs. Given that Petitioner will have the majority timeshare, she also requests that she be allowed to claim the children on her tax returns.

Respondent does not object to paying ½ of the expenses for agreed upon extracurricular activities, but he asks the court to keep child support at \$0 due to his current lack of income. He also requests attorney's fees in the amount of \$7,500 pursuant to Family Code section 2030, and an additional \$10,000 in sanctions pursuant to Family Code section 271. Respondent does not address the request for reimbursement of uncovered health and dental expenses, nor the request to allow Petitioner to claim the children for tax purposes. He does, however, point to numerous discrepancies in Petitioner's Income and Expense Declaration and he notes that her declaration is now outdated.

"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, the matter was continued several times at Petitioner's request and, as it now stands, her Income and Expense Declaration is almost eight months old. Given that the continuances were upon the request of Petitioner, and she failed to file an updated Income and Expense Declaration, the request for child support is denied.

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The parties are ordered to split equally the costs of the children's extracurricular activities so long as those activities were mutually agreed upon between the parties. The parties are ordered to split equally all medical, dental, orthodontic, and mental health costs that are not covered by insurance. Finally, Petitioner's request to claim the children on her tax returns is granted.

**TENTATIVE RULING #1: THE REQUEST FOR CHILD SUPPORT IS DENIED. THE PARTIES ARE ORDERED TO SPLIT EQUALLY THE COSTS OF THE CHILDREN'S EXTRACURRICULAR ACTIVITIES SO LONG AS THOSE ACTIVITIES WERE MUTUALLY AGREED UPON BETWEEN THE PARTIES. THE PARTIES ARE ORDERED TO SPLIT EQUALLY ALL MEDICAL, DENTAL, ORTHODONTIC, AND MENTAL HEALTH COSTS THAT ARE NOT COVERED BY INSURANCE. FINALLY, PETITIONER'S REQUEST TO CLAIM THE CHILDREN ON HER TAX RETURNS IS GRANTED. 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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**2. DARBA SIDHU V. FATEMEH SIDHU**

**22FL0406**

This matter is before the court on a Request for Order (RFO) filed by Respondent on March 14, 2023. Respondent's Income and Expense Declaration and an Attorney Declaration in Support of Respondent's Request for Attorney Fees Pursuant to FC 2030 and FC 271, were filed concurrently with the RFO. All documents were electronically served on March 20<sup>th</sup>.

Petitioner filed his Responsive Declaration to Request for Order and his Income and Expense Declaration on June 9<sup>th</sup>. Both were served on June 6<sup>th</sup>. The matter came before the court on June 22<sup>nd</sup> at which time the parties stipulated to continue the hearing to the present date. Thereafter, Petitioner filed an Amended Income and Expense Declaration and a Supplemental Declaration of Darbara Sidhu. Both documents were electronically served on July 3<sup>rd</sup>.

Respondent requests the court make orders regarding spousal support, attorney's fees pursuant to Family Code section 2030, and sanctions pursuant to Family Code section 271. She proposes that upon receiving spousal support she will be solely responsible for the mortgage and the property taxes for the marital residence, though it appears that the parties stipulated to Petitioner continuing all such payments. Respondent's moving papers indicate that she has included an Xspousal calculation, though there is not one attached to the pleadings.

According to Respondent, Petitioner has the ability to pay attorney's fees for both himself, and Respondent given his significant 401k assets as well as a restricted stock award he received from his company in May of 2022. Additionally, she asks the court to consider duplicative litigation in two different states which has caused her to incur excessive attorney's fees. She is requesting \$12,000 in attorney's fees and costs.

In addition to her request for Section 2030 attorney's fees, Respondent is requesting Section 271 sanctions. She requests sanctions on the basis of Petitioner's redundant litigation and gamesmanship. Previously Respondent had filed for divorce in California while Petitioner had filed in Missouri. Petitioner had the California matter dismissed and was awarded sanctions against Respondent for the filing. Thereafter, he filed to dismiss the Missouri case and then re-filed in California. This has caused Respondent to incur significant attorney's fees.

Petitioner objects to all of the requested orders. He states he was terminated from his job at the end of March 2023 and has not had any income since that time despite his efforts to obtain work. He has withdrawn money from his 401k to pay for living expenses. Given his current financial position he believes Respondent owes him spousal support. Additionally, he requests \$1,500 in attorney's fees pursuant to Family Code section 2030.

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Generally speaking, a married person has a duty to support his or her spouse. Cal. Fam. Code § 4300. The intent is to ensure that each party, upon separation, is able to maintain the marital standard of living. *See* Cal. Fam. Code § 4330(a). The court maintains broad discretion in determining whether a support award is warranted and if so, the amount and duration thereof. *In re Marriage of McLain*, 7 Cal. App. 5<sup>th</sup> 262, 269 (2017).

Utilizing the same figures as outlined in the attached DissoMaster report, the court finds that spousal support per the Alameda formula is \$1,471 per month. The court adopts the attached DissoMaster report and orders Respondent to pay Petitioner \$1,471 per month as and for temporary spousal support, payable on the 15th of the month until further order of the court or legal termination. The court orders the temporary spousal support order effective June 15, 2023.

The court finds the above order results in arrears in the amount of \$4,413 through and including August 15, 2023. The court orders Respondent pay Petitioner \$367.75 on the 1st of each month until paid in full (approximately 12 months). If a payment is late or missed the remaining balance is due in full with legal interest within five (5) days.

The court further finds Respondent routinely earns 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.

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. 4<sup>th</sup> 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. 4<sup>th</sup> 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. 4<sup>th</sup> 964; 975 (2012).

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Here, while there is a disparity in income prior to the support orders, there is very little disparity after the orders of support as listed above. Likewise, considering Petitioner's trial tactics and filings in multiple jurisdictions, the court does not feel an award of attorney's fees to Petitioner would be just under the circumstances. As such, Petitioner's request for attorney's fees is denied.

Respondent's request for Section 2030 attorney's fees is likewise denied. Respondent is the higher earner between the parties and given Petitioner's current unemployment the court does not feel he has the ability to pay fees for both parties at this time.

The court reserves jurisdiction on Respondent's request for Section 271 sanctions.

**TENTATIVE RULING #2: UTILIZING THE SAME FIGURES AS OUTLINED IN THE ATTACHED DISSOMASTER REPORT, THE COURT FINDS THAT SPOUSAL SUPPORT PER THE ALAMEDA FORMULA IS \$1,471 PER MONTH. THE COURT ADOPTS THE ATTACHED DISSOMASTER REPORT AND ORDERS RESPONDENT TO PAY PETITIONER \$1,471 PER MONTH AS AND FOR TEMPORARY SPOUSAL SUPPORT, PAYABLE ON THE 15TH OF THE MONTH UNTIL FURTHER ORDER OF THE COURT OR LEGAL TERMINATION. THE COURT ORDERS THE TEMPORARY SPOUSAL SUPPORT ORDER EFFECTIVE JUNE 15, 2023.**

**THE COURT FINDS THE ABOVE ORDER RESULTS IN ARREARS IN THE AMOUNT OF \$4,413 THROUGH AND INCLUDING AUGUST 15, 2023. THE COURT ORDERS RESPONDENT PAY PETITIONER \$367.75 ON THE 1ST OF EACH MONTH UNTIL PAID IN FULL (APPROXIMATELY 12 MONTHS). IF A PAYMENT IS LATE OR MISSED THE REMAINING BALANCE IS DUE IN FULL WITH LEGAL INTEREST WITHIN FIVE (5) DAYS.**

**THE COURT FURTHER FINDS RESPONDENT ROUTINELY EARNS 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.**

**BOTH REQUESTS FOR SECTION 2030 ATTORNEY'S FEES ARE DENIED. THE COURT RESERVES JURISDICTION ON RESPONDENT'S REQUEST FOR SECTION 271 SANCTIONS. PETITIONER IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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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.**

ATTORNEY (NAME AND ADDRESS):  <div style="font-size: 1.2em; font-weight: bold; margin-top: 20px;">California</div> ATTORNEY FOR: <b>Father</b>	TELEPHONE NO:	Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
<b>DISSOMASTER REPORT</b> 2023, Monthly		CASE NUMBER:

Input Data	Father	Mother	Guideline (2023)	Cash Flow Analysis	Father	Mother
Number of children	0	1	<b>Nets (adjusted)</b>	<b>Guideline</b>		
% time with Second Parent	0%	0%	Father	0	Payment (cost)/benefit	1,471 (1,403)
Filing status	MFS->	<-MFS	Mother	3,678	Net spendable income	1,471 2,207
# Federal exemptions	1	1	Total	3,678	% combined spendable	40% 60%
Wages + salary	0	4,577	<b>Support (Nondeductible)</b>	Total taxes	0	796
401(k) employee contrib	0	172	Presumed	blocked	Comb. net spendable	3,678
Self-employment income	0	0	Basic CS	blocked	<b>Proposed</b>	
Other taxable income	0	0	Add-ons	blocked	Payment (cost)/benefit	1,471 (1,403)
Short-term cap. gains	0	0	SS Payor	Mother	Net spendable income	1,471 2,207
Long-term cap. gains	0	0	Alameda	1,471	NSI change from gdl	0 0
Other gains (and losses)	0	0	Total	1,471	% combined spendable	40% 60%
Ordinary dividends	0	0	<b>Proposed, tactic 9</b>		% of saving over gdl	0% 0%
Tax. interest received	0	0	Presumed	blocked	Total taxes	0 796
Social Security received	0	0	Basic CS	blocked	Comb. net spendable	3,678
Unemployment compensation	0	0	Add-ons	blocked	Percent change	0.0%
Operating losses	0	0	SS Payor	Mother	<b>Default Case Settings</b>	
Ca. operating loss adj.	0	0	Alameda	1,471		
Roy, partnerships, S corp, trusts	0	0	Total	1,471		
Rental income	0	0	Savings	0		
Misc ordinary tax. inc.	0	0	No releases			
Other nontaxable income	0	0				
New-spouse income	0	0				
SS paid other marriage	0	0				
CS paid other relationship	0	0				
Adj. to income (ATI)	0	0				
Ptr Support Pd. other P'ships	0	0				
Health insurance	0	103				
Qual. Bus. Inc. Ded.	0	0				
Itemized deductions	1,281	1,326				
Other medical expenses	0	0				
Property tax expenses	457	481				
Ded. interest expense	824	845				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
State sales tax paid	0	0				
Required union dues	0	0				
Cr. for Pd. Sick and Fam. L.	0	0				
Mandatory retirement	0	0				
Hardship deduction	0*	0*				
Other gdl. adjustments	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	0				

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

"R" denotes that Mother 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

Mother'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	0	1,471	1,471
100	0.00	0	30.67	31	0	1,502	1,502
200	0.00	0	30.67	61	0	1,533	1,533
300	0.00	0	30.67	92	0	1,563	1,563
400	0.00	0	30.75	123	0	1,594	1,594
500	0.00	0	30.61	153	0	1,624	1,624
600	0.00	0	30.00	180	0	1,651	1,651
700	0.00	0	29.56	207	0	1,678	1,678
800	0.00	0	29.23	234	0	1,705	1,705
900	0.00	0	28.98	261	0	1,732	1,732
1,000	0.00	0	28.77	288	0	1,759	1,759
1,100	0.00	0	28.60	315	0	1,786	1,786
1,200	0.00	0	28.46	342	0	1,813	1,813
1,300	0.00	0	28.35	369	0	1,840	1,840
1,400	0.00	0	28.23	395	0	1,867	1,867
1,500	0.00	0	28.10	422	0	1,893	1,893
1,600	0.00	0	27.99	448	0	1,919	1,919
1,700	0.00	0	27.89	474	0	1,945	1,945
1,800	0.00	0	27.81	500	0	1,972	1,972
1,900	0.00	0	27.73	527	0	1,998	1,998
2,000	0.00	0	27.66	553	0	2,024	2,024
2,100	0.00	0	27.59	579	0	2,051	2,051
2,200	0.00	0	27.54	606	0	2,077	2,077
2,300	0.00	0	27.48	632	0	2,103	2,103
2,400	0.00	0	27.44	658	0	2,130	2,130
2,500	0.00	0	27.39	685	0	2,156	2,156
2,600	0.00	0	27.35	711	0	2,182	2,182
2,700	0.00	0	27.31	737	0	2,209	2,209
2,800	0.00	0	27.28	764	0	2,235	2,235
2,900	0.00	0	27.24	790	0	2,261	2,261
3,000	0.00	0	27.21	816	0	2,288	2,288
3,100	0.00	0	27.18	843	0	2,314	2,314
3,200	0.00	0	27.15	869	0	2,340	2,340
3,300	0.00	0	27.11	895	0	2,366	2,366
3,400	0.00	0	27.07	920	0	2,392	2,392
3,500	0.00	0	27.03	946	0	2,417	2,417



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

Mother's Gross Overtime	Basic CS%	Basic CS	Alameda SS%	Alameda SS	Total Basic CS	Total SS	Total Support CS+SS
3,600	0.00	0	26.99	972	0	2,443	2,443
3,700	0.00	0	26.96	997	0	2,469	2,469
3,800	0.00	0	26.93	1,023	0	2,495	2,495
3,900	0.00	0	26.89	1,049	0	2,520	2,520
4,000	0.00	0	26.87	1,075	0	2,546	2,546



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**3. DCSS V. CODY ELDERD (OTHER PARTY: BRANDI WILKINSON)**

**PFS20120291**

On May 22, 2023, Minor's Counsel filed a Request for Order and Statement of Issues and Contentions (SIC) and a Request for Order (RFO) to change child custody and visitation orders. Proof of Service showing Respondent's attorney and Other Party were electronically served was filed on the same date, as well as a Proof of Service showing both parties were served via mail. No Proof of Service was filed showing service on DCSS.

On July 17, 2023, Respondent and Other Party attended Child Custody Recommending Counseling (CCRC). On August 23, 2023, Respondent filed a Responsive Declaration to Request for Order. A Proof of Electronic Service was filed on the same date showing DCSS, Minor's Counsel, and Other Party were served electronically on August 22, 2023. On August 24, 2023, Respondent filed a Proof of Service by First Class Mail indicating that Minor's Counsel, DCSS and Other Party were served by mail.

On August 25, 2023, Minor's Counsel filed a Supplemental Statement of Issues and Contentions and Request for Orders in Response to CCRC Report. A Proof of Electronic Service was filed on the same date, showing Respondent's counsel and Other Party were served; however, no Proof of Service was filed showing service to DCSS. A Proof of Service by Mail was also filed on the same date showing Respondent's counsel and Mother were served; however, there is no Proof of Service for DCSS.

On August 30, 2023, Respondent filed a Reply to Minor Counsel's Supplemental Statement requesting the court to adopt the CCRC report with modifications. Proof of Electronic Service was filed on the same date showing service to DCSS, Minor's Counsel and Other Party.

Generally, all parties to an action are to be served with all pleadings. This includes DCSS. However, given that the matter pending before the court addresses the issue of custody only, and given that DCSS has been served with Respondent's filings, the court finds that they are aware of the pending motion to change custody and therefore the court finds good cause to reach the matter on its merits despite the defect in service of the documents filed by Minor's Counsel.

Minor's Counsel filed her RFO requesting a change to the standing visitation orders. At the time of filing the order was for Respondent to have visits the 1<sup>st</sup> and 3<sup>rd</sup> weekends of the month plus holidays and vacations. The parties stipulated to a temporary change as follows: (1) Respondent to have visits on alternating Saturdays and may elect to visit on Sunday instead of Saturday if appropriate notice is given; (2) Respondent's visits shall be from 10 am to 6 pm unless otherwise agreed; (3) Visits shall be between Respondent and the minor only, however Respondent may bring the minor's half-sister Paisley; (4) Parties shall sign releases allowing communication between counselors; and (5) Neither party shall discuss parenting or custody issues with the minor. After several visits adhering to this schedule, Respondent stated he was going to be returning to the prior schedule which would allow him

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to have visits that include his new wife ("Stepparent"). Minor's Counsel reports that the minor is afraid of Stepparent and visits with Respondent cause the minor extreme anxiety when Stepparent participates.

According to the CCRC report dated August 16, 2023, the parties agreed, among other things, that Respondent and Other Party will share joint legal custody of the child, the child shall reside primarily with Respondent, Respondent shall have visitation with the child on alternate weekends and his parenting time may be increased when therapeutically indicated.

Respondent does not consent to the order requested and instead is requesting they continue the current visitation schedule with a provision that allows for the child's sister and Stepparent to attend visits, as well as a request for the assistance of a reunification therapist.

In response to the CCRC report, Minor's Counsel requests the court adopt the agreements or recommendations included in the CCRC report, as well as deny Respondent's request to have Stepparent attend visits and order that Stepparent may attend visits after recommended by the child-parent conflict resolution and reunification counselor.

In reply to Minor's Counsel's declaration, Respondent added the following additional requests: (1) Child-parent conflict resolution and reunification therapy to begin in 30 days; (2) sibling and Stepparent may participate in visitation; and (3) a holiday schedule as enumerated in Respondent's declaration.

After reviewing the filings of the parties as stated above, the court finds the agreements stated in the August 16, 2023 CCRC report to be in the best interests of the minor with the following modifications: (1) Paragraph 1 of the Parenting Time section shall be amended to read "the child shall reside primarily with Mother;" and (2) The Counseling section will be modified to include an additional paragraph stating "the minor is to continue therapy with her current counselor. When her counselor believes the minor is ready to participate in child-parent conflict resolution and reunification counseling, the minor, Respondent, and Stepparent will begin counseling with a separate provider. The parties shall sign releases allowing the reunification therapist and the minor's individual therapist to communicate directly." The court hereby adopts the agreements of the CCRC report, with the aforementioned modifications, as the orders of the court. Respondent's requested holiday schedule and his request to allow Stepparent to participate in visits is denied.

**TENTATIVE RULING #3: THE COURT ADOPTS THE AGREEMENTS OF THE CCRC REPORT AS THE ORDERS OF THE COURT WITH THE FOLLOWING MODIFICATIONS: (1) PARAGRAPH 1 OF THE PARENTING TIME SECTION SHALL BE AMENDED TO READ "THE CHILD SHALL RESIDE PRIMARILY WITH MOTHER;" AND (2) THE COUNSELING SECTION WILL BE MODIFIED TO INCLUDE AN ADDITIONAL PARAGRAPH STATING**

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**“THE MINOR IS TO CONTINUE THERAPY WITH HER CURRENT COUNSELOR. WHEN HER COUNSELOR BELIEVES THE MINOR IS READY TO PARTICIPATE IN CHILD-PARENT CONFLICT RESOLUTION AND REUNIFICATION COUNSELING, THE MINOR, RESPONDENT AND STEPPARENT WILL BEGIN COUNSELING WITH A SEPARATE PROVIDER. THE PARTIES SHALL SIGN RELEASES ALLOWING THE REUNIFICATION THERAPIST AND THE MINOR’S INDIVIDUAL THERAPIST TO COMMUNICATE DIRECTLY.”**  
**RESPONDENT’S REQUESTED HOLIDAY SCHEDULE AND HIS REQUEST TO ALLOW THE MINOR’S STEPPARENT TO PARTICIPATE IN VISITS IS DENIED. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER SHALL REMAIN IN FULL FORCE AND EFFECT. MINOR’S COUNSEL IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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**4. JACINTA LASHE BADELITA V. BOGDANEL BADELITA**

**22FL0797**

On December 19, 2022, Petitioner filed her Income and Expense Declaration along with a Request for Order (RFO) requesting orders for custody, visitation, child support, spousal support, property control and attorney's fees. On July 6<sup>th</sup> the court made orders regarding custody and property control but, since the court did not have an Income and Expense Declaration from Respondent, nor a current one from Petitioner, the issues of child support, spousal support, attorney's fees, and 271 sanctions were continued to the present date. Both parties were ordered to file updated Income and Expense Declarations no later than 10 days prior to the date of the hearing. Respondent was admonished that should he fail to file his declaration the court will use Petitioner's estimate of Respondent's income for the purpose of calculating fees and support. The court reserved jurisdiction to award support back to the date of filing the RFO. The court further ordered the parties to meet and confer regarding a holiday schedule and submit their agreement at least 10 days prior to the next hearing date.

On August 28<sup>th</sup>, Respondent filed his Income and Expense Declaration along with two additional declarations. There is no Proof of Service on file for these documents, as such, the court cannot consider them. Also on August 28<sup>th</sup>, Petitioner filed and served her Income and Expense Declaration and a Supplemental Declaration of Petitioner Jacinta Lashae Badelita.

In her declaration, Petitioner sets forth several requested orders for the upcoming hearing: (1) Non-custodial parent to have one call per day with the children from 8:00 to 8:30 p.m.; (2) The parties to share parenting time over holidays as proposed by Petitioner; (3) Respondent to disclose immediately (at the hearing) his current residential address; (4) Respondent to be ordered not to discuss the divorce or court orders with the children, or to speak in a derogatory or accusatory manner of Petitioner in front of the children; (5) Respondent to pay guideline child support in the amount of \$3,688; (6) Respondent to pay guideline pendente lite spousal support in the amount of \$5,120; (7) Respondent to pay attorney's fees in the amount of \$20,000 pursuant to Family Code § 2030; (8) Respondent to pay \$15,000 for expert witness fees; and (9) Family Code § 271 sanctions due to Respondent's failure to file his Income and Expense Declaration.

Given that it is unclear whether Petitioner was served with Respondent's Income and Expense Declaration as well as his two additional declarations, the court cannot issue a tentative ruling on the matter. The parties are ordered to appear for hearing.

**TENTATIVE RULING #4: THE PARTIES ARE ORDERED TO APPEAR FOR HEARING.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 7, 2023

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

**5. JUSTIN REEDY V. KAYLA MCKINNY**

**PFL20180289**

Petitioner filed an Order to Show Cause and Affidavit for Contempt (“OSC”) on February 24, 2023 alleging Respondent has violated prior court orders including from the court’s May 12, 2022 tentative ruling. Respondent was personally served on March 28, 2023.

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

The parties were ordered to appear for arraignment on April 20, 2023 at which time a continuance was requested in order to allow Petitioner time to amend the contempt allegations. The court granted the request and continued the matter to the present date. On May 10, 2023, Petitioner filed his Amended Order to Show Cause and Affidavit for Contempt which was personally served on May 31<sup>st</sup>.

Petitioner brings his amended OSC arguing eight counts of contempt and requesting attorney’s fees and costs for the necessity of bringing the present motion.

Respondent filed and served her Responsive Declaration to Request for Order on June 30<sup>th</sup> requesting the court deny the OSC in full. She argues Petitioner’s claims are vague and meritless and rely more on Petitioner’s feelings than on any factual basis.

Parties appeared on July 6, 2023. The court had previously struck certain counts from the OSC. Petitioner argued this was an error and requested the court proceed on all counts. The court granted Petitioner’s request to reinstate all counts. The court advised Respondent of her rights, appointed the Public Defender to Respondent, and continued the matter for further arraignment.

The parties are ordered to appear for the hearing on the further arraignment.

**TENTATIVE RULING #5: THE PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 7, 2023

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

**6. LISA TOMASON V. LOUIS MOLAKIDES**

**PFL20210494**

On May 17, 2022, Respondent filed a Request for Order (RFO) requesting the court order the parties to participate in a Family Code section 3111 evaluation, with Respondent to cover the expense subject to reallocation. Petitioner was served with the RFO electronically on May 18, 2022. Respondent requested the court modify the standing parenting plan pending return of the 3111 Evaluation. The matter was set to be heard on July 14, 2022.

At the July 14, 2022, hearing the court granted Respondent's request for a Family Code section 3111 evaluation. Respondent was ordered to pay the expense of the evaluation subject to reallocation. Parties were later ordered to utilize Jack Love as the evaluator.

After several scheduled review hearings, this matter is once again before the court for a review hearing of the 3111 Report. As of the last review hearing on February 23rd, Respondent informed the court that the 3111 Evaluation was in progress with Mr. Jack Love and the report was expected to be completed by early June. The court continued the review hearing and made custody and visitation orders as follows: (1) The no contact order with Mr. Whitaker remains in full force and effect; (2) Petitioner to have parenting time from 3:45 on Friday to 6pm on Sunday every other weekend.

On August 11th Petitioner filed and served a Responsive Declaration to Request for Order updating the court on the status of the 3111 report and requesting several orders as stated therein. Respondent has not filed a status update with the court or a response to Petitioner's requested orders.

According to Petitioner, as of the date of her declaration she had yet to receive the 3111 Report. As such, she requests the court reinstate the previous custodial schedule as set forth in the orders of December 9, 2021. She also requests that the no contact order with Mr. Whitaker be set aside but she agrees to an order precluding the children from being left alone with Mr. Whitaker without another adult present and an order precluding Mr. Whitaker from disciplining the children. Petitioner points to the fact that Mr. Whitaker's guilty verdict has been set aside and the conviction for domestic violence has since been dismissed. She argues that regardless of the set aside, the Family Code section 3044 factors do not apply since she is the one seeking custody orders, not Mr. Whitaker. Petitioner goes on to provide several examples in which she feels Respondent has been untruthful with the court and has deliberately failed to comply with custody orders.

The 3111 evaluation report was filed with the court on August 16, 2023, which was not timely for the August 24, 2023 hearing. There is no Proof of Service showing when the parties received a copy of the report.

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

The parties appeared for the hearing on August 24, 2023, on Respondent's request for oral argument. Respondent requested the court proceed with adopting the recommendations as set forth in the 3111 report. Given the untimely filing of the report, the court denied the request to proceed with adopting the recommendations. However, the court modified the parenting plan for Petitioner, authorizing non-professional supervision by the maternal grandparents. The court continued the matter to September 7, 2023. Any supplemental declarations were due at least 10 days prior to the hearing.

Respondent filed a Supplemental Declaration on August 28, 2023. Petitioner was served electronically on August 28, 2023. Respondent states the parties were electronically served with a copy of the 3111 report on August 14, 2023. Respondent asserts Petitioner has disclosed the confidential 3111 report, and is seeking sanctions. Respondent requests the court adopt the recommendations as set forth in the 3111 report and maintain the no contact order with Michael Whitaker.

Petitioner has not filed a Supplemental Declaration.

The court orders parties to appear for the hearing.

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



LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 7, 2023

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

**7. MICHELLE GREENE V. JOSHUA SEATS**

**PFL20210580**

Respondent filed a Request for Order (RFO) on June 1, 2023 requesting a modification of the parenting plan as well as attorney's fees pursuant to Family Code section 3121 and 271. Respondent concurrently filed an Income and Expense Declaration (I&E). The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on July 24, 2023 and a review hearing on September 7, 2023. Petitioner was served with the RFO and I&E by mail on June 1, 2023.

Both parties attended CCRC on July 24, 2023, and were unable to reach any agreements. A report with recommendations was filed on August 16, 2023. Copies were mailed to the parties the same date. The CCRC counselor recommends all current orders remain in full force and effect.

Petitioner filed a Responsive Declaration as well as an I&E on August 24, 2023. Proof of Services shows Respondent was personally served on August 24, 2023. Petitioner objects to the requested modification and objects to the request for attorney's fees both under Family Code section 3121 and 271.

Respondent filed a Response to CCRC report on August 25, 2023 and an Amended Response to CCRC report on August 29, 2023. They were served on Petitioner by mail on August 25 and August 29, 2023 respectively. Respondent raises new concerns about Petitioner's ability to adequately supervise the parties' daughter. Respondent has included text messages between himself and Petitioner as an exhibit, as well as pictures of his current living situation.

On September 5, 2023, Petitioner filed an Order Shortening Time (OST) along with a RFO requesting court authorization to travel with the minors out of state at the end of September. The court granted the OST and set the matter to join with the hearing already on calendar. Petitioner served Respondent electronically on September 5, 2023.

Petitioner filed a Declaration on September 6, 2023, however there is no Proof of Service for this document, and therefore, the court has not considered it.

The court orders parties to appear for the hearing.

**TENTATIVE RULING #7: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.**

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DEPARTMENT 5

September 7, 2023

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

**8. SANDY MORRIS V. JAMES MORRIS**

**22FL1132**

This matter is before the court on a Request for Order (RFO) filed by Petitioner on July 7, 2023. Concurrently therewith, Petitioner filed her Income and Expense Declaration. Both documents, along with all other required documents, were mail served on July 10<sup>th</sup>. Respondent filed his Income and Expense Declaration and his Responsive Declaration to Request for Order on August 1<sup>st</sup>. Both documents were mail served on July 31<sup>st</sup>. Thereafter the Reply Declaration of Petitioner was filed and served on August 23<sup>rd</sup>.

Petitioner brings her RFO requesting \$15,000 as and for attorney's fees and costs. She states that Respondent has not cooperated in moving forward with the dissolution process thereby necessitating her use of an attorney. She states she has approximately \$835,841 in her savings account but this is not listed on her Income and Expense Declaration.

Respondent objects to the requested order. He argues that Petitioner has sufficient money to pay her own fees in accounts totaling \$944,208, as well as the \$1,000 he pays her monthly for "storage fees." He further argues that he has significantly fewer assets than Petitioner. Additionally, he is retired and injured and is unlikely to be able to obtain employment in his prior field of work, which was construction.

Petitioner argues that Respondent is able to work and simply chooses not to. Further, she claims her assets are not liquid and she is unable to use them to pay for her attorney. She argues Respondent's income is twice that of her own and he has at least \$64,000 in liquid assets that she is aware of.

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. 4<sup>th</sup> 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. 4<sup>th</sup> 238,251(2009). In the face of a request for attorney's fees and costs, the court is to make findings on "whether there is a disparity in access to funds to retain counsel, and whether one party is able to pay for legal representation of both parties." Fam. Code § 2030(a)(2).

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

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

Here, the court does not find there to be a disparity in access to funds to retain counsel nor does the court find that Respondent has the ability to pay for counsel for both parties. While Petitioner is correct that her monthly income is less than that of Respondent, she has significantly more assets, both liquid and in the form of property. As such, Petitioner's request for attorney's fees is denied.

**TENTATIVE RULING #8: PETITIONER'S REQUEST FOR ATTORNEY'S FEES IS DENIED.  
RESPONDENT IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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

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

**9. SARAH MACCHIA V. GEORGE MACCHIA**

**22FL1202**

On July 13, 2023, Petitioner filed a Request for Order (RFO) seeking orders for spousal support and attorney's fees. The RFO along with Petitioner's Income and Expense Declaration and all other required documents were electronically served the same date as filing. On August 16<sup>th</sup> Respondent filed and served his Responsive Declaration to Request for Order and his Income and Expense Declaration. Petitioner has not filed a Reply.

Petitioner brings her RFO requesting spousal support back to the date of filing the Petition for Dissolution of Marriage on December 28, 2022. Petitioner makes her request on the basis that she did not work during the marriage. She has since obtained employment, but her income is not sufficient to maintain the marital standard of living. For this reason, she is also requesting attorney's fees in the amount of \$3,500 pursuant to Family Code § 2030.

Respondent objects to the requests. He maintains that Petitioner has the ability to pay her own attorney's fees. He also argues that, taking into account the child support order by DCSS, he is left with only \$4,350 per month while Respondent has \$4,484 per month. He argues his net spendable after taxes and child support is less than that of Petitioner's and his monthly expenses far outweigh his income. As of April 2023, child support was set at \$2,606. DCSS is currently withdrawing \$2,726 per month to collect on arrears. Respondent further points to several discrepancies in the amount Petitioner claims to be earning as opposed to the amount she told DCSS she was earning, and he has reason to believe she has a dog walking business that contributes to her earnings. He is requesting the court impute full time income at \$19.00 per hour which would result in a monthly income of \$3,293.33. If a support award is made, Respondent argues he will be forced to file bankruptcy.

In addition to responding to the support requests, Respondent makes requests for a credit of \$17,774.30 to cover separate property funds, his portion of community property funds, and his post-separation separate property payments of community expenses.

In reviewing the filings of the parties, the court notes the discrepancies in Petitioner's Income and Expense Declaration. First and foremost, Petitioner did not attach copies of her pay stubs for the prior two months. She states she earns \$15 per hour but the ADP print out she did attach, which shows only hours worked and gross payments, calculates to a \$19 per hour pay rate. Further, she states that she paid her attorney \$5,000 with credit cards but did not list any credit cards in Section 14. Given these deficiencies, this matter is continued to 10/12/2023 at 8:30 a.m. in Department 5. Petitioner is ordered to file an updated Income and Expense Declaration with paystubs attached no later than 10 days prior to the hearing date.

**TENTATIVE RULING #9: THIS MATTER IS CONTINUED TO 10/12/2023 AT 8:30 A.M. IN DEPARTMENT 5. PETITIONER IS ORDERED TO FILE AN UPDATED INCOME AND EXPENSE**

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**DECLARATION WITH PAYSTUBS ATTACHED NO LATER THAN 10 DAYS PRIOR TO THE HEARING DATE. THE COURT RESERVES JURISDICTION TO AWARD SPOUSAL SUPPORT BACK TO THE DATE OF FILING THE PETITION.**

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

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

**10. STATE OF OREGON V. CALVIN GRAYSON (OTHER PARENT: KELLY STEVENSON) PFS20100278**

On May 11, 2023, the court adopted its tentative ruling with modifications. Other Parent was ordered to participate in Soberlink Level II daily testing. Other Parent shall bear the cost at the Level I rate, and the parties were ordered to split the additional cost for the difference between Level I and Level II. Other Parent was ordered to participate in hair follicle testing every 90 days, with Respondent to reimburse for all negative tests. The court set a further review hearing to assess Other Parent's progress and the parenting plan. Parties were ordered to file and serve Supplemental Declarations no later than 10 days prior to the hearing date, to update the court on the status on Other Parent's sobriety and the parenting plan.

Respondent filed a Declaration on August 31, 2023, which was less than 10 days prior to the hearing. There is no Proof of Service for this document, and therefore, the court cannot consider it.

Other Parent has not filed a Supplemental Declaration.

The court orders the parties to appear for the hearing.

**TENTATIVE RULING #10: THE PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.**

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

**11. TALIB AL HASAN V. DANIELLE HASAN**

**23FL0461**

Petitioner's counsel, Kenneth Stanton, filed a Notice of Motion and Motion to be Relieved as Counsel on July 10, 2023, along with a declaration in support of attorney's motion to be relieved as counsel. Petitioner and Respondent were served by mail on July 20, 2023, and Proof of Service was filed for both on the same date.

On August 22, 2023, a Substitution of Attorney was filed indicating the Petitioner will be representing himself. Both Petitioner and Kenneth Stanton signed the Substitution of Attorney and consented to the substitution. A Proof of Service by Mail was filed on the same date to Respondent.

The court, therefore, finds the Motion to be Relieved is moot.

**TENTATIVE RULING #11: THE COURT DECLINES TO RULE ON THE MOTION AS IT IS MOOT DUE TO THE SUBSTITUTION OF ATTORNEY FORM.**

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

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**11A. NATASHA TRUXLER V. CHRIS TRUXLER**

**23FL0639**

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

*Request for Judicial Notice*

Respondent filed a Request for Judicial Notice in support of his anti-SLAPP motion. Respondent requests the court take judicial notice of the following: (1) El Dorado Superior Court, Case No. 23FL0037 filed Jan. 17, 2023; (2) Clark County Department of Family Services Child Protective Services Report Summary; (3) Court Order, in Robert Fogarty v. Natasha Purnell f/k/a Natasha Fogarty, Case No. D-15-515171-D, District Court, Family Division, Clark County Nevada (March 22, 2017); (4) Letter from Lyon County District Attorney, Child Support Enforcement Division dated December 22, 2022. Petitioner has not opposed the requests.

Judicial notice is a mechanism which allows the court to take into consideration matters which are presumed to be indisputably true. California Evidence Code sections 451, 452, and 453 govern the circumstances in which judicial notice of a matter may be taken. While Section 451 provides a comprehensive list of matters that must be judicially noticed, Section 452 sets forth matters which *may* be judicially noticed, including "[r]ecords of (1) any court of this state or (2) any court of record of the United States or of any state of the United States."

Section 452 provides that the court "may" take judicial notice of the matters listed therein, while Section 453 provides a caveat that the court "shall" take judicial notice of any matter "specified in Section 452 if a party requests it and: (a) Gives each adverse party sufficient notice of the request...to enable such adverse party to prepare to meet the request; and (b) Furnishes the court with sufficient information to enable it to take judicial notice of the matter." Cal. Evid. Code § 453.

Request numbers 1-3 fall well within the confines of Section 452. Respondent provided opposing counsel and the court sufficient notice of the request as well as sufficient information for the court to take such notice. These requests are therefore granted.

Regarding the letter from the Lyon County District Attorney regarding past-due support, the court finds that this letter does contain information that is "...capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy." Ev. Code §



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452(h). Further, Petitioner has not opposed the request nor provided any information disputing the contents of the letter. Accordingly, Respondent's Request for Judicial Notice is granted.

*Anti-SLAPP*

On January 17, 2023, Respondent filed for a Domestic Violence Restraining Order (DVRO), he obtained, a Domestic Violence Temporary Restraining Order ("DVTRO") against Petitioner pending a hearing on the DVRO. The DVTRO protects Respondent and his minor son from Petitioner. The hearing on Respondent's request for a DVRO is currently set for October 4, 2023. Petitioner filed for a DVRO of her own on July 14, 2023. Respondent now argues that the July 14<sup>th</sup> request for DVRO is meritless and was filed solely in retaliation against Respondent for exercising his protected right to obtain a DVRO.

In conjunction with granting Respondent's DVTRO, the court ordered Petitioner to move out of Respondent's home and awarded Respondent sole custody of the minor child. The parties made attempts at settlement but those attempts ultimately failed. Thereafter Petitioner texted Respondent asking him not to give up on their marriage. Respondent did not reply. Petitioner then filed a police report alleging abuse from August of 2021, and then filed her request for DVRO. The request for DVRO states among other things, that it seeks to remedy two injuries: (1) the court's order requiring Petitioner to move out of Respondent's home; and (2) the court's order awarding custody of the minor to Respondent. She cites abuse that allegedly occurred in August of 2021 and July of 2019.

On July 14<sup>th</sup> the court denied Petitioner's request for a DVTRO. Petitioner then filed an Application for Order Shortening Time and Order ("OST") on July 20<sup>th</sup>. The application for an OST reiterated the claims of the request for DVTRO and states that custody should be 50/50 because the domestic violence claims are bilateral. Petitioner's request for custody was denied.

Respondent argues that his act of filing a request for DVRO was an act in furtherance of his right to free speech and Petitioner's filing arises solely from Respondent's decision to engage in protected activity. He points to the fact that Petitioner's Request for DVRO expressly states that the injury she suffered was the court order obtained by Respondent. He further argues that Petitioner cannot satisfy her burden to make a prima facie showing that she would be successful at trial on the DVRO request because there is no threat of violence or domestic abuse and the last alleged incident is too remote in time to justify a DVRO. Furthermore, even if she could make a prima facie showing of abuse, he argues she cannot overcome his substantive defenses.

Petitioner opposes the anti-SLAPP motion arguing that Respondent failed to show the DVRO arises from an act in furtherance of his constitutional right and because Petitioner is likely to be successful on her DVRO. Petitioner first points to Respondent's acts toward Kayla Truxler that occurred in May of 2023. She next alleges domestic violence that occurred on August 15,

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2021 at which time she claims Respondent chased her up the stairs, threw her to the ground, yelled profanities at her and pinned her down so she could not breathe. Finally, she points to an incident that she states happened on November 28, 2021, where Respondent was intoxicated and again began shouting profanities at Petitioner. Petitioner argues the gravamen of her DVRO request arises from these three incidents, not from Respondent's filing of his DVRO. Further, she argues her likelihood of success on the DVRO because neither the litigation privilege nor the unclean hands doctrine applies. Petitioner requests she be awarded attorney's fees as Respondent's motion is frivolous and only intended to cause delay.

With the intention of shielding an individual's right to engage in constitutionally protected conduct from the burden of frivolous or meritless litigation, the Legislature established the anti-SLAPP mechanism as codified in Civil Procedure § 425.16. "The statutory language establishes a two-part test. First, [to] determine whether plaintiff's causes of action arose from acts by defendants in furtherance of defendants' rights of petition or free speech in connection with a public issue. [Citations]." Seelig v. Infinity Broadcasting Corp., 97 Cal.App.4th 798, 806-807 (2002). Assuming this threshold condition is satisfied, the court then turns to "... whether plaintiff has established a reasonable probability that she will prevail on her claims at trial." *Id.* While the statute is intended to be interpreted broadly, "[o]nly a cause of action that satisfies both prongs of the anti-SLAPP statute--i.e., that arises from protected speech or petitioning and lacks even minimal merit--is a SLAPP, subject to being stricken under the statute." Navellier v. Sletten, 29 Cal.4th 82, 89 (2002).

As to the threshold issue of whether the anti-SLAPP statute is applicable, Defendant has the burden of establishing that Plaintiff's claim arises from Defendant's protected activity within the meaning of the statute. Cal. Civ. Pro. § 425.16(b)(1); *See also Annette F. v. Sharon S.*, 19 Cal. App. 4th 1146, 1159 (2004). In deciding whether a claim "arises from" the defendant's protected activity, "...the court shall consider the pleadings, and supporting and opposing affidavits stating the facts upon which the liability or defense is based." Cal. Civ. Pro. § 425.16.

"Where a cause of action alleges both protected and unprotected activity, the cause of action will be subject to Section 425.15 unless the protected activity is 'merely incidental' to the unprotected conduct" Scott v. Metabolife Int'l., 115 Cal. App. 4th 404, 419 (2004). The fact that a cause of action "arguably may have been triggered by protected activity does not necessarily mean that it arises from such activity" for purposes of determining whether to strike a suit under California's anti-SLAPP law. Sonoma Foods, Inc. v. Sonoma Cheese Factory, LLC, 634 F. Supp. 2d 1009 (2007). Rather, "...the critical point is whether plaintiff's cause of action itself was based on an act in furtherance of the defendant's right of petition or free speech." City of Cotati v. Cashman et. al., 29 Cal. 4th 69, 78 (2002). In other words, "...the focus is on determining what the defendant's activity is that gives rise to his or her asserted liability, and whether that activity

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constitutes protected speech or petitioning.” Whitehall v. County of San Bernardino, 17 Cal. App. 5<sup>th</sup> 352, 361 (2017). “Allegations of protected activity that merely provide context, without supporting a claim for recovery, cannot be stricken under the anti-SLAPP statute.” Baral v. Schnitt, 1 Cal. 5<sup>th</sup> 376, 394 (2016).

Here, looking only at Respondent’s actions as alleged in the petition, Petitioner states that Respondent physically assaulted her, pushing her onto the stairs and pinning her down. She further alleges that he yelled profanities at her while intoxicated causing her fear and intimidation. It is inarguable that these alleged actions do not fall within the confines of protected speech for the purposes of Section 425.16. The court concedes that given the timing of Petitioner’s DVRO request, as well as the text message to Respondent, her filing of the DVRO request was likely triggered by Respondent’s filing for his own DVRO. However, the mere fact that Petitioner’s filing of her DVRO was likely triggered by Respondent’s protected activity (filing and maintaining his DVRO), is not in and of itself sufficient to subject Petitioner’s DVRO request to an anti-SLAPP motion. Instead, the actions of assaulting Petitioner, both verbally and physically, as she so alleges, are not protected activity.

Respondent cites the petition’s statements regarding “perjury” and “manipulating the court system” which are in reference to Respondent’s DVRO proceedings. Respondent relies heavily on Long Beach Unified Sch. Dist. v. Margaret Williams to support his argument. Long Beach Unified Sch. Dist. v. Margaret Williams, 43 Cal. App. 5<sup>th</sup> 87, 99 (2019). As stated by Respondent, in Long Beach the court held “...that but for Williams’ underlying action, the District’s second lawsuit ‘would have no basis’ because the court order Williams sought in the first action is the ‘injury’ the District sought to remedy through the second action.” Reply, Aug. 24, 2023, p. 8:3-6 citing Long Beach, pg. 97. Respondent argues this is analogous to the matter at hand. Such is not the case. Here, even if the court were to strike all references to perjury and the court’s prior orders, the petition still alleges verbal and physical abuse and makes prayers for relief including an order not to abuse, a request for a no-contact order, a stay away order and an order to record communications. Even without the protected activity, the petition would stand.

Respondent also heavily relies on Baral v. Schnitt urging the court to look to the prayer for relief instead of the underlying actions of Respondent as they are alleged in the Petition. Baral v. Schnitt, 1 Cal. 5<sup>th</sup> 376, 394 (2016). However, the reference to the prior orders being obtained by “perjury” was made in response to the question “why do you want to change the order?” In other words, the reference to protected activity merely gives context, it is not the basis of her cause of action for domestic violence. Again, this may go to show that the filing of Petitioner’s DVRO was “triggered by” Respondent exercising his protected activity, but it is not the actual basis for her claim. These references are superfluous to the actual allegations on

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which her request for a DVRO is based and therefore they “cannot be stricken under the anti-SLAPP statute” as stated in *Baral*. *Baral v. Schnitt*, 1 Cal. 5<sup>th</sup> 376, 394 (2016).

Because Respondent has failed to satisfy the threshold condition by making a showing that the petitioner arises from his protected activity, there is no need for the court to address Petitioner’s likelihood of success on the merits. Respondent’s Motion to Dismiss and Strike Petitioner Natasha Truxler’s Petition is denied.

*Attorney’s Fees*

Both parties request attorney’s fees pursuant to Civil Procedure § 425.16(c)(1) which states, in pertinent part, “...a prevailing defendant on a special motion to strike shall be entitled to recover that defendant’s attorney’s fees and costs. If the court finds that a special motion to strike is frivolous or is solely intended to cause unnecessary delay, the court shall award costs and reasonable attorney’s fees to a plaintiff prevailing on the motion, pursuant to Section 128.5.” Cal. Civ. Pro. § 426.16(c)(1).

While the court is not inclined to grant Respondent’s anti-SLAPP motion on the basis that Petitioner does make prayers for relief that are not based on Respondent’s underlying DVRO, the court does not find this motion to be frivolous or filed solely with the intent to cause unnecessary delay. As stated above, Petitioner’s request for DVRO does repeatedly refer to statements made by Respondent in his DVRO request, and it does allege the court’s prior orders as injury suffered by Petitioner. While those portions of the DVRO may be subject to the anti-SLAPP statute, the motion was filed with regard to the entirety of the pleading and the court does not find that the entirety of the pleading should be dismissed. Because the motion was not frivolous, nor was it brought solely with the intention to cause unnecessary delay, Petitioner’s request for attorney’s fees is denied. Needless to say, given that Respondent was not the successful party his request for attorney’s fees is likewise denied.

**TENTATIVE RULING #11A: RESPONDENT’S REQUEST FOR JUDICIAL NOTICE IS GRANTED. THE COURT HEREBY TAKES NOTICE OF THE FOLLOWING: (1) EL DORADO SUPERIOR COURT, CASE NO. 23FL0037 FILED JAN. 17, 2023; (2) CLARK COUNTY DEPARTMENT OF FAMILY SERVICES CHILD PROTECTIVE SERVICES REPORT SUMMARY; (3) COURT ORDER, IN ROBERT FOGARTY V. NATASHA PURNELL F/K/A NATASHA FOGARTY, CASE NO. D-15-515171-D, DISTRICT COURT, FAMILY DIVISION, CLARK COUNTY NEVADA (MARCH 22, 2017); (4) LETTER FROM LYON COUNTY DISTRICT ATTORNEY, CHILD SUPPORT ENFORCEMENT DIVISION DATED DECEMBER 22, 2022. RESPONDENT’S MOTION TO DISMISS AND STRIKE PETITIONER NATASHA TRUXLER’S PETITION IS DENIED. EACH PARTY’S RESPECTIVE REQUEST FOR ATTORNEY’S FEES IS DENIED. PETITIONER IS TO PREPARE AND FILE THE FININGS AND ORDERS AFTER HEARING.**

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**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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**12. BROCK VULGAMORE-HOSTETLER V. ANGEL FARIAS**

**22FL0670**

Respondent filed an ex parte request for emergency orders on May 25, 2023. Petitioner filed a Responsive Declaration on May 30, 2023, however, there is no Proof of Service showing Respondent was served with this document, therefore, the court cannot consider it. On May 31, 2023, the court denied Respondent's ex parte motion. Respondent filed a Request for Order on May 31, 2023, making the same requests as set forth in the ex parte motion. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on July 27, 2023 and a review hearing September 7, 2023. Upon review of the court file, there is no Proof of Service showing Petitioner was served with the RFO or the referral to CCRC.

Neither party appeared at the CCRC appointment on July 27, 2023.

The court drops the matter from calendar due to the lack of proper service, as well as the moving party's failure to appear at CCRC. All prior orders remain in full force and effect.

**TENTATIVE RULING #12: THE COURT DROPS THE MATTER FROM CALENDAR DUE TO THE LACK OF PROPER SERVICE, AS WELL AS THE MOVING PARTY'S FAILURE TO APPEAR AT CCRC. 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.**

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**13. DAVID NIEVES JR. V. CORTNEY NIEVES**

**PFL20170483**

Respondent filed a Request for Order (RFO) on February 22, 2023, requesting a modification of the parenting plan. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on April 10, 2023 and a review hearing on May 25, 2023. Petitioner was served by mail on March 20, 2023. Respondent is seeking clarification of the current orders to avoid continued conflict.

Parties attended CCRC on April 10, 2023 and were able to reach a full agreement. A report with the parties' agreement was filed with the court on May 16, 2023. A copy was mailed to the parties the same day.

Parties appeared for the hearing on May 25, 2023. Both agreed that no agreements had been reached at CCRC, as Petitioner had not attended the appointment. Therefore, the court rereferred the parties to CCRC for an appointment on July 20, 2023 and a further review hearing on September 7, 2023. The court maintained the current orders pending the return hearing.

Both parties attended the CCRC appointment on July 20, 2023. The parties agreed the current orders are appropriate but need further parameters and guidelines. A report with recommendations was filed with the court on August 15, 2023 and mailed to the parties the same day.

The court has read and considered the August 15, 2023 CCRC report and finds the recommendations to be in the best interest of the minor. The court adopts the recommendations as the order of the court.

All prior orders not in conflict with this order remain in full force and effect. Respondent is ordered to prepare and file the findings and orders after hearing.

**TENTATIVE RULING #15: THE COURT ADOPTS THE RECOMMENDATIONS AS SET FORTH IN THE AUGUST 15, 2023 CCRC REPORT AS ITS ORDER. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. RESPONDENT IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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

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**14. DENA BROCK V. MATTHEW BROCK**

**PFL20140501**

On May 26, 2023, Petitioner filed a Request for Order (RFO) requesting a modification of child custody and parenting time. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on July 19, 2023 and a review hearing on September 7, 2023. This is a post-judgment request for modification of child custody and as such notice must comply with Family Code section 215. Proof of Service shows Respondent was served by mail, without address verification, on May 31, 2023. The court finds this is not proper notice.

Nevertheless, both parties appeared for the CCRC appointment on July 19, 2023. The parties were able to reach some agreements. A report with agreements and recommendations was filed with the court on August 8, 2023. It was mailed to the parties the same day.

Respondent filed a Responsive Declaration on August 23, 2023. Petitioner was served by mail on August 23, 2023. Respondent objects to Petitioner's requested modifications.

The court finds good cause to proceed with the matter, despite the lack of compliance with Family Code section 215. Both parties appeared for CCRC and Respondent filed a Responsive Declaration that addresses the requests made by Petitioner.

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

The court adopts the agreements as set forth in the August 8, 2023 CCRC report. The court adopts the recommendations as set forth in the August 8<sup>th</sup> CCRC report with the following modifications: the parties are to continue to use the Our Family Wizard application for all communications about the minors. All other recommendations are adopted as set forth.

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 #14: THE COURT ADOPTS THE AGREEMENTS AS SET FORTH IN THE AUGUST 8, 2023 CCRC REPORT. THE COURT ADOPTS THE RECOMMENDATIONS AS SET FORTH IN THE AUGUST 8<sup>TH</sup> CCRC REPORT WITH THE FOLLOWING MODIFICATIONS: THE PARTIES ARE TO CONTINUE TO USE THE OUR FAMILY WIZARD APPLICATION FOR ALL COMMUNICATIONS ABOUT THE MINORS. ALL OTHER RECOMMENDATIONS ARE ADOPTED AS SET FORTH. 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**



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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.**

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**15. KAREN LUTZ V. MICHAEL LUTZ**

**23FL0624**

Petitioner filed an ex parte request for emergency orders on July 12, 2023, requesting spousal support and attorney's fees. On July 14, 2023, the court denied the ex parte request, however, did set the matter on a shortened time basis. Petitioner filed a Request for Order (RFO) on July 14, 2023, requesting the same orders as set forth in the ex parte request. Petitioner filed an Income and Expense Declaration (I&E) on July 12, 2023. Upon review of the court file, there is no Proof of Service showing Respondent was properly served.

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

**TENTATIVE RULING #15: THE COURT DROPS THE MATTER 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.**

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**16. MALIA GREEN V. BRYCE DANIELS, SR.**

**22FL0712**

On May 19, 2023, at the conclusion of the Domestic Violence Restraining Order (DVRO) trial, the court set a hearing for July 20, 2023 regarding spousal support. Petitioner is also seeking attorney's fees pursuant to Family Code section 6344. Parties were directed to prepare and file Income and Expense Declarations (I&E) at least 10 days prior to the hearing. On July 12, 2023, the court granted Petitioner's request to continue the July 20, 2023 hearing due to the unavailability of her counsel. The matter was set for a hearing on August 24, 2023. The court reserved jurisdiction to retroactive modify support to the date of the request.

Respondent filed an I&E on July 20, 2023. There is no Proof of Service showing Petitioner was served with this document. Therefore, the court cannot consider it.

Petitioner filed an I&E on August 14, 2023. Respondent was served electronically on August 10, 2023.

The court continued the matter on its own motion from August 24, 2023 to September 7, 2023, as the court had neglected to address the attorney's fees request in its tentative ruling, and, the court had not been provided with Petitioner's I&E at the time the tentative ruling was drafted, despite being timely filed. The court stayed its tentative ruling pending the next hearing and reserved jurisdiction to award spousal support and the request for attorney's fees back to the date of the DVRO hearing. The court directed the clerk of the court to mail copies of the minute order from the August 24, 2023 hearing to the parties.

Petitioner filed a Declaration of Counsel, Tessa Mayer, regarding the attorney's fees pursuant to Family Code section 6344, on August 23, 2023. Respondent was served electronically on August 23, 2023.

As the court cannot consider Respondent's I&E, the court orders parties to appear for the hearing.

**TENTATIVE RULING #16: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.**

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**17. NICOLE RILEY V. RANDY HOFF**

**22FL0770**

On June 23, 2023, Petitioner filed an ex parte application for emergency orders regarding visitation between Respondent and the minor children. On June 26, 2023, the court maintained the current orders for professionally supervised visitation between Respondent and the minors but added further clarification. The court ordered that the visits take place in El Dorado County and that the visitation supervisor maintain a direct line of sight and hearing distance between themselves, the minors, and Respondent. The court also clarified when visits were to occur.

On June 26, 2023, Petitioner filed an application for an Order Shortening Time (OST) along with a Request for Order (RFO) requesting the court modify orders as to visitation, the Domestic Violence Restraining Order (DVRO), a request for attorney's fees and costs, as well as an Order to Show Cause re Contempt (OSC) of the Temporary Restraining Order. The court granted the OST and set the RFO and OSC for a hearing on July 27, 2023. Petitioner was directed to serve Respondent on or before June 28, 2023. The court allowed Respondent to file and serve a Responsive Declaration on or before July 14, 2023.

Petitioner requests the court terminate Respondent's visits or, in the alternative, the court maintain the modifications made in the ex parte orders. Petitioner additionally requests the court award her \$4,250 in attorney fees. Petitioner has submitted a declaration from counsel, however, upon review of the court file, Petitioner has not filed an Income and Expense Declaration as required. Petitioner requests the court modify the current Temporary Restraining Order to add the three minors as protected parties. Petitioner asserts Respondent continues to contact the minors outside the court's orders and is using the minors to surveil her.

Respondent filed a Responsive Declaration on July 14, 2023. Petitioner was served electronically on July 14, 2023. Respondent asserts in his declaration that he was not served the underlying RFO. Respondent acknowledges being served the OSC and OST. Respondent requests the court maintain the current visitation orders pending the evidentiary hearing currently set for September 20, 2023. Respondent disputes any violation of the Temporary Restraining Order. Respondent requests the court appoint Minors' Counsel to represent the children.

Parties appeared on July 27, 2023 for the hearing on Petitioner's request for oral argument. The court modified its tentative ruling to not drop the OSC from calendar due to lack of proper service and continued the hearing to September 7, 2023. The request for issues sanctions will trail the contempt matter. The court authorized Respondent's counsel to be personally served in lieu of Respondent, with Respondent's consent. The court made additional

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orders regarding potential professional visitation supervisors and continued the request to add the minors to the DVRO to the trial on September 20, 2023.

Petitioner filed a Proof of Personal Service on August 9, 2023, showing Respondent's counsel was personally served with a plethora of documents including the OSC on July 27, 2023.

The parties are ordered to appear for the arraignment on the OSC. Per the court's July 27, 2023 minute order, the parties may appear remotely.

**TENTATIVE RULING #17: THE PARTIES ARE ORDERED TO APPEAR FOR THE ARRAIGNMENT ON THE OSC. PER THE COURT'S JULY 27, 2023 MINUTE ORDER, THE PARTIES MAY APPEAR REMOTELY.**

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**18. RICHARD PIRRELLO V TARA MCCOLLEY**

**23FL0437**

**TARA MCCOLLEY V. RICHARD PIRRELLO**

**23FL0526**

On June 2, 2023, the parties appeared for a hearing on Petitioner's request for a Domestic Violence Restraining Order (DVRO). After taking testimony from both parties the court denied the DVRO and referred the parties to Child Custody Recommending Counseling (CCRC) for an appointment on July 27, 2023 and a review hearing on September 7, 2023.

In case number 23FL0526, Petitioner is Tara McColley and Respondent is Richard Pirello. Petitioner filed a Petition to Establish a Parental Relationship on June 8, 2023. Petitioner also filed an ex parte request for emergency child custody and parenting plan orders the same day. On June 12, 2023, the court denied the ex parte request, and reaffirmed the referral to CCRC and review hearing. Petitioner filed a Request for Order (RFO) the same date. Upon review of the court file, there is no Proof of Service of the RFO. Petitioner also failed to file an Income and Expense Declaration, despite requesting child support in the RFO.

The court orders cases 23FL0437 and 23FL0526 consolidated, with 23FL0526 as the lead case. All future filings will be in 23FL0526. The court will, therefore, be proceeding with case number 23FL0526 and referring to Ms. McColley as Petitioner and Mr. Pirrello as Respondent.

Only Respondent appeared at the CCRC appointment on July 27, 2023, despite Petitioner being present in court on June 2, 2023, when the parties were referred to CCRC in person and despite Petitioner being the moving party in the underlying RFO.

The court orders parties to appear for the hearing.

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

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**19. RYAN RICHARDS V. JENNIFER RICHARDS**

**23FL0665**

Petitioner filed an ex parte request for emergency custody, parenting plan, and property control orders on July 26, 2023. The court granted the request in part, granting Petitioner's request for temporary sole physical custody, and supervised parenting time for Respondent, and denied the request for property control. Petitioner filed an RFO making the same requests as set forth in the ex parte application on July 26, 2023. The parties were referred to an emergency set Child Custody Recommending Counseling (CCRC) appointment on August 15, 2023 and a review hearing on September 7, 2023. Respondent was served by mail with the RFO and CCRC referral as well as the ex parte orders on July 26, 2023.

Respondent has not filed a Responsive Declaration and the court is not yet in receipt of the CCRC report. The parties are ordered to appear.

**TENTATIVE RULING #19: THE PARTIES ARE ORDERED TO APPEAR FOR HEARING.**

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**20. SANDRA GRANADE V. TIMOTHY GRANADE**

**PFL20190133**

On August 10, 2023, the parties appeared for the hearing on Petitioner's request to continue the trial date and sanctions. The court vacated the Mandatory Settlement Conference date, the trial dates, and the trial setting date. The court set a review hearing for September 7, 2023 to address trial setting as well as temporary modification of support. Parties were directed to file updated Income and Expense Declarations (I&E) at least 10 days prior to the hearing. The court reserved jurisdiction to retroactively modify support to the date the RFO was filed.

Respondent filed a Declaration and an I&E on August 28, 2023. Petitioner was served by mail and electronically on August 28, 2023.

On August 31<sup>st</sup>, Petitioner filed and served Petitioner's Reply Declaration to Respondent's Declaration Regarding Modification of Support.

Respondent filed and served his Reply of Respondent Timothy Granade to Sandra Granade's Declaration Re Temporary Modification of Child and Spousal Support on September 1<sup>st</sup>.

The parties are ordered to appear.

**TENTATIVE RULING #20: THE PARTIES ARE ORDERED TO APPEAR.**