

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
February 17, 2022
8:30 a.m./1:30 p.m.

1. & 11. BROOKE WASHBURN V. WILIAM WASHBURN

PFL20200659

On June 29, 2021, the court approved the parties' stipulation to continue Petitioner's Temporary Restraining Order to June 24, 2022. The parties also stipulated that the parties would participate in private CCRC, with costs to be shared equally. The court set a hearing for review of the CCRC report on October 28, 2021, with the issues of child support modification, if there were to be a change in timeshare, and Petitioner's request for discovery sanctions also on calendar.

At the October 28, 2021 hearing, the court adopted its tentative ruling in part, striking the portion of the tentative ruling regarding sanctions and the review hearing date. The court set a review hearing on February 17, 2022 regarding the private CCRC, child support, and Petitioner's sanctions request.

Per the tentative ruling for the October 28, 2021 hearing, the court adopted the recommendations contained within the Interim Report from the private CCRC counselor, which recommended that the current supervised visitation order remain in place, that the minor continue to participate in individual therapy, and that the parties continue to participate in the CCRC process to determine an ongoing parenting plan.

Upon review of the file, the court finds that the private CCRC counselor has not filed a comprehensive report with the court for its consideration. The court continues the CCRC review hearing as well as the issue of child support modification to April 21st, 2022 at 8 :30 a.m. in Department 5 to receive a more comprehensive report and to assess whether a modification of child support is appropriate.

On February 3, 2022, Petitioner filed a Supplemental Brief Regarding Forensic Inspection Results and Discovery Sanctions, served on Respondent electronically that same day. Petitioner argues that Respondent untimely objected to the court's tentative ruling regarding sanctions. Nonetheless, the court continued the sanctions issue to February 17, 2022. Petitioner requests additional sanctions in the amount of \$1,400 for Petitioner's attorney's fees in having to defend against Respondent's untimely objection at the October 28, 2021 hearing, preparing and filing the supplemental brief, and preparing for the February 17, 2022 hearing.

The court finds that Respondent has not filed any additional pleadings regarding the sanctions issues for the court's consideration. As such, the court's analysis contained within the October 28, 2021 tentative ruling remains unchanged.

In short, Petitioner's previous filings on the sanctions issues contend that Respondent intentionally concealed data from the forensic inspection of his phone, thereby hiding vital evidence from the restraining order proceeding. At the February 9, 2021 hearing, the court

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granted Petitioner's Motion to Compel in part, finding that sanctions were appropriate in this matter but reserving over the type of sanction.

Upon its review of the filings submitted by Petitioner, particularly the findings of the forensic examiner, the court finds that monetary sanctions are appropriate. Petitioner requests \$15,934.50, both for her attorney's fees and the fees of the forensic examiner. As the court finds that the costs incurred were entirely the result of Respondent's actions, the court finds that the sanctions requested by Petitioner are appropriate.

Respondent is ordered to pay Petitioner \$15,934.50 in sanctions under Code of Civil Procedure 2023.010, 2021.040, 2023.050, and 2031.300(c) for Respondent's misuse of the discovery process, disobeying of a court order to preserve discovery, and unsuccessful opposition to the motion to compel. The court orders the sanctions to paid out of Respondent's share of the community property at the time of division.

Additionally, on January 12, 2022, Petitioner filed an RFO requesting reimbursement for payments to the minor's private school and an order under Family Code 4062(b)(1) for a discretionary child support add-on for school expenses for the minor. Specifically, Petitioner seeks \$10,585 as reimbursement for half of the private school expenses paid by Petitioner.

Petitioner declares that the parties had agreed to enroll the minor in private school, that when a dispute arose the court at the April 13, 2021 hearing ordered that there shall be no change in the minor's child (thereby maintaining his private school enrollment), and that the court at the same hearing reserved over the issue of who would pay for the private schooling.

Respondent was served with the RFO electronically on January 14, 2022 and by mail on January 17, 2022.

On February 8, 2022, Petitioner filed a Notice of Unopposed Request for Tuition Reimbursement and Family Code § 4062(b)(1) Support, served on Respondent electronically that same day. Petitioner contends that Respondent failed to file a Responsive Declaration by the filing deadline and therefore any Responsive Declaration filed thereafter should be stricken.

On February 9, 2022, Respondent filed a Responsive Declaration, served on Petitioner electronically the day prior. Respondent argues that the parties agreed to enroll the child in public school, but kept the child in private school longer than originally anticipated due to COVID. Respondent further asserts that at the April 13, 2021 hearing the court ordered the child to remain in public school for the coming year, maintaining the status quo and that Respondent should not be held responsible for Petitioner's decision to enroll the child in private school.

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On February 10, 2022, Petitioner filed Petitioner's Evidentiary Objections to the Responsive Declaration and Petitioner's Reply to Respondent's Untimely Responsive Declaration, served on Respondent electronically that same day. In addition to objecting to the content of the Responsive Declaration on several grounds, Petitioner renews her argument that the filing should be stricken for being untimely. Petitioner further contends that Respondent failed to adequately respond to the content of the RFO itself and that the filing was frivolous which should subject Respondent to sanctions of \$1,400 for Petitioner's attorney's fees incurred in responding to the filing.

Upon review of the April 13, 2021 minute order, the court finds no support for Respondent's contention that the minor was to attend public school or that Respondent was not to be financially responsible for the private school tuition costs. As to the former, the minute order when read in the context of the child's school at that time, which appears to not be in dispute, ordered that the child remain in private school. As to the later, the court specifically reserved over the issue of payment of the private school costs.

Having reviewed the filings, the court finds that the parties should share the costs of the minor's private school education and orders the parties to do so under Family Code 4062(b)(1). The court further finds that Respondent should reimburse Petitioner for the payments she has already made as outlined in her RFO. Respondent has not presented credible information to show that these costs were not reasonable for the child's schooling. As such, the Respondent is ordered to pay Petitioner 50% of the tuition she has paid, totalling \$10,585. The parties are ordered to meet and confer to determine payment terms. If the parties cannot reach an agreement regarding terms, the parties shall file and serve on the other party a declaration specifying their proposed terms at least 10 days in advance of the April 21st, 2022 hearing date.

The court reserves over Petitioner's requests for sanctions totaling \$2,800 (\$1,400 for each request) under Family Code 271 to the time of trial regarding the division of the community property.

Petitioner is ordered to prepare and file the Findings and Order After Hearing.

TENTATIVE RULING #1 AND #11: THE COURT CONTINUES THE CCRC REVIEW HEARING AS WELL AS THE ISSUE OF CHILD SUPPORT MODIFICATION TO APRIL 21ST, 2022 AT 8 :30 A.M. IN DEPARTMENT 5 TO RECEIVE A MORE COMPREHENSIVE REPORT AND TO ASSESS WHETHER A MODIFICATION OF CHILD SUPPORT IS APPROPRIATE. RESPONDENT IS ORDERED TO PAY PETITIONER \$15,934.50 IN SANCTIONS UNDER CODE OF CIVIL PROCEDURE 2023.010, 2021.040, 2023.050, AND 2031.300(C) FOR RESPONDENT'S MISUSE OF THE DISCOVERY PROCESS, DISOBEYING OF A COURT ORDER TO PRESERVE DISCOVERY, AND UNSUCCESSFUL OPPOSITION TO THE MOTION TO COMPEL. THE COURT ORDERS THE PARTIES TO SHARE THE

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PRIVATE SCHOOL EXPENSES EQUALLY UNDER FAMILY CODE 4062(B)(1). RESPONDENT IS ORDERED TO PAY PETITIONER 50% OF THE TUITION SHE HAS PAID, TOTALLING \$10,585. THE PARTIES ARE ORDERED TO MEET AND CONFER TO DETERMINE PAYMENT TERMS. IF THE PARTIES CANNOT REACH AN AGREEMENT REGARDING TERMS, THE PARTIES SHALL FILE AND SERVE ON THE OTHER A PARTY A DECLARATION SPECIFYING THEIR PROPOSED TERMS AT LEAST 10 DAYS IN ADVANCE OF THE APRIL 21ST, 2022 HEARING DATE. THE COURT RESERVES OVER PETITIONER'S REQUESTS FOR SANCTIONS TOTALING \$2,800 (\$1,400 FOR EACH REQUEST) UNDER FAMILY CODE 271 TO THE TIME OF TRIAL REGARDING THE DIVISION OF THE COMMUNITY PROPERTY. PETITIONER IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

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2. CHRISTOPHER CONNORS V. ERIKA O'LEARY

PLF20120316

On August 2, 2021 the court granted Petitioner's request for an Order Shortening time and set Petitioner's Request for Order (RFO) for the instant hearing. Petitioner requests referral to CCRC, sanctions against Respondent for failure to follow the current orders issued August 11, 2017, and specific additional custody and visitation orders. On August 19, 2021 Petitioner filed a Proof of Electronic Service showing service upon Respondent on August 9, 2021.

On September 9, 2021 the court ordered the parties to attend CCRC and to return to court on November 18, 2021 for hearing on the RFO and CCRC review. Pending return, the court affirmed all prior orders. Finally, the court ordered any supplemental declarations to be filed and served no later than 10 days prior to the next hearing date.

On September 27, 2021 the court granted the parties' request and continued the hearing on the RFO and CCRC review to December 2, 2021.

The parties appeared for CCRC and a CCRC report was issued on November 8, 2021. Copies of the CCRC report were mailed to the parties on November 9, 2021.

On November 23, 2021 Respondent filed a Responsive Declaration to the RFO and a Proof of Service by Mail and Electronic Service showing service upon Petitioner on November 23, 2021. Respondent refutes Petitioner's allegations and proposes a schedule.

On November 29, 2021 Petitioner filed a Reply Declaration to the Responsive Declaration and CCRC report. Additionally, Petitioner filed a Proof of Electronic Service showing service upon Respondent on November 29, 2021.

On December 9, 2022 the court reappointed Stephanie Holtz as Minor's Counsel in this matter. The court reserved over the issue of allocation of costs and ordered the parties to file and serve current Income and Expense Declarations no later than 10 days prior to the next hearing.

The court made interim orders pending return for review and input of Minor's Counsel. The court found that the parties' minor son wishes to spend more time with Petitioner, while the parties' daughter does not wish to spend any time with Petitioner. The minors are now 16 years old and the court considers their desires. The court found that there are compelling circumstances demonstrating that different visitation schedules should be granted for the minors at this time.

As temporary orders, the court ordered that the parties' son shall have visitation with Petitioner alternating Thursday after school (or 3pm if no school) to Wednesday drop off at

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school (or 8am if no school). Any non-school exchange shall occur at Safeway on 2207 Francisco Drive in El Dorado Hills and shall be brief in length and include no discussion of co-parenting issues. The court finds that this is an increase in Petitioner's parenting time from what has been being practiced, which is in the minor's best interest, and will provide time for the minor to adjust, while giving time for input of Minor's Counsel on the CCRC's recommendation for week on/off. The holiday schedule shall remain unchanged.

The court ordered that the parties' daughter may choose to participate in visitation with her brother if she desires to do so.

The court ordered Minor's Counsel to provide input regarding the need for individual counseling for the minors to address the issues with Petitioner, as well as to prepare for reunification counseling and/or family counseling. The court requested Minor's Counsel speak with the parties' daughter regarding both forms of counseling and her willingness to participate. The court also sought input regarding the week on/off schedule recommended. The court had conflicting information regarding the minor sons wishes. The court requested Minor's Counsel provide additional information regarding the cell phones and whether Petitioner is blocked from contacting the minors.

The matter was then continued to February 17, 2022 for the court to receive input from Minors' Counsel.

On February 7, 2022, Minors' Counsel filed a declaration. It was served on the parties via mail on the same day, with Proof of Service filed the same day. Minors' Counsel was able to speak with the minors via Zoom on February 4, 2022. Based on conversations with both minors, Minors' counsel is recommending the status quo be maintained, with no change to the previously ordered parenting schedule. Minors' Counsel did verify that Petitioner is blocked on the parties' daughter's cell phone, but is able to call via the house landline, via Respondent's cell phone, and the son's cell phone. Minors' Counsel suggests Petitioner reach out via letter or email to reestablish a line of communication, without expectation of a response. Based on conversations with the parties' daughter, Minors' Counsel does not believe court ordered therapy would be in the minor's best interest. Minors' Counsel also included suggestions for how Petitioner take steps to repair the relationship between him and his daughter.

The court finds the recommendations contained within Minor's counsel's statement to be in the best interests of the minors. The court orders the current visitation schedule ordered on December 9, 2021, shall remain in full force an effect. Petitioner shall prepare and file the findings and orders after hearing.

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

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3. COUNTY V. SAMUEL SALAZAR (OTHER PARENT: KRISTINE ROUNSEVILLE) PFS20150168

On September 3, 2021, Respondent filed an ex parte application asking the court to grant Respondent sole legal and physical custody. On September 7, 2021, the court denied the ex parte request and referred the parties to a CCRC session on October 13, 2021 with a CCRC review hearing set on December 2, 2021.

On October 13, 2021, Other Parent was served with the RFO, the Referral to CCRC, as well as a Declaration of Respondent's attorney. In this Declaration, Respondent's attorney states that due to a miscommunication the RFO and Referral to CCRC were not served until that day, which was too late to give Other Parent timely notice of the CCRC session. As such, Respondent requests a re-referral to CCRC.

Only Respondent participated in the CCRC session, so the report contained no recommendations. A single parent CCRC report was issued on October 21, 2021 with copies mailed to the parties that same day.

On November 12, 2021, Other Parent filed a Responsive Declaration. However, had not filed a Proof of Service at the time and therefore the court had not considered it.

Parties were re-referred to CCRC on December 2, 2021. On January 6, 2022 parties were provided notice that CCRC was rescheduled to January 11, 2022. On January 6, 2022, Respondent's counsel filed a Declaration stating notice of the change in CCRC was provided to the Other party via phone call.

On December 20, 2021, Respondent filed a Supplemental Declaration. Other Party was served via mail on December 23, 2022, with a Proof of Service Filed on December 30, 2021. Respondent outlines his concerns about the Other Party's and minors' relocation to Sacramento County as well as his request to have the children during he week, with the Other Party to have parenting time on the weekends.

On January 11, 2022, no parties appeared at CCRC.

On February 7, 2022, the Other Party filed a Responsive Declaration to the September 7, 2021 RFO by Respondent. Respondent was served by mail on December 13, 2021, with Proof of Service Filed on February 7, 2022. The Other Party is requesting the minors continue to reside with the mother and attend their current school, Respondent to have visitation the first and third weekend of the month from 4:00 P.M. on Friday until 4 P.M. on Sunday. The Other Party states in her Declaration that Respondent has not been utilizing his parenting time.

On February 8, 2022 Respondent filed a supplemental declaration. The Other Party was served my mail on February 8, 2022 with a Proof of Service filed the same day. In Respondent's

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declaration, he states the January 11, 022 CCRC session was missed due to being in quarantine for Covid-19. Respondent is requesting to be re-referred to CCRC. Respondent is also concerned with the minors change in school and excessive absences this school year. Respondent is requesting the minors be returned to their previous school and full custody.

Parties have been referred to CCRC twice with Other Party failing to appear for the first session and both parties failing to appear for the re-referral. The court re-refers the parties to CCRC, this will be the last referral. Should either party fail to attend the CCRC session, the court will consider sanctions against that party under Local Rule 8.10.02.

The court reminds the Other Party of her responsibility to abide by the joint custody orders and ensure the minors regular school attendance.

The court re-refers the parties to a CCRC session on March 23rd, 2022 at 1:00PM with Ady Langer and continues the custody and visitation issues to May 12th, 2022 at 8:30 a.m. in Department 5. Respondent is ordered to prepare and file the findings and orders after hearing.

TENTATIVE RULING #3: THE COURT RE-REFERS THE PARTIES TO A CCRC SESSION ON MARCH 23RD, 2022 AT 1:00PM WITH ADY LANGER AND CONTINUES THE CUSTODY AND VISITATION ISSUES TO MAY 12TH, 2022 AT 8:30 A.M. IN DEPARTMENT 5. RESPONDENT IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING

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**4. COUNTY V. SAUL ALVAREZ-BOJOQUEZ (OTHER PARTY: ERLINDA GONZALEZ)
PFS20150297**

Upon review of the file, the court finds no pending Request for Order or a Review hearing has been set in this case. The court also reviewed the file for the Related Case, Case Number PFL20150601, and found no RFO or review hearing set in that matter. Therefore, the matter is dropped from calendar.

All prior orders remain in full force and effect.

TENTATIVE RULING #4: THE MATTER IS DROPPED FROM CALENDAR. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT.

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5. HOLLY TODD V. BRIAN TODD

21FL0015

On November 23, 2021, Petitioner filed a Request for Order (RFO) requesting the court make orders as to custody, visitation, child support, and spousal support. A Child Custody Recommendation Counseling session was requested and set for January 3, 2022, with a review hearing set for February 17, 2022. The RFO and referral to CCRC was personally served on Respondent on November 27, 2021, although there does appear to be an error on the Proof of Service. The individual who effectuated the service listed themselves as the party served. Regardless of this error, Respondent has filed responsive documents in this matter as well as attended the Child Custody Recommendation Counseling session.

In the RFO Petitioner requests sole physical and legal custody of the minor, with Respondent to have unsupervised visitation not to exceed five (5) hours, Respondent to complete a parenting class, guideline child support, and temporary spousal support. Petitioner also requests Respondent enroll in and complete an age-appropriate parenting course.

Parties attended CCRC on January 3, 2022. A report was issued on January 5, 2022. Parties were mailed a copy on February 2, 2022. Parties were able to reach a full agreement at CCRC, except for a holiday schedule, which parties intend to create in co-parenting counseling. Parties will have joint legal and physical custody with the Respondent to have parenting time on Wednesday and Thursdays. Parties have not set a start time for Respondent's parenting time but have agreed the time will end at 7:00 P.M. each day. Parties also agreed as to the exchange location and where the parenting time will take place. Parties agreed to participate in co-parenting counseling. The court finds the agreements of the parties contained within the CCRC report are in the minor's best interest and adopts them as the court's order. The court orders parties to enroll and participate in co-parenting counseling. The court declines to order Respondent participate in a parenting class at this time.

Respondent filed a Responsive Declaration to the RFO on January 25, 2022. Petitioner was served by mail and Proof of Services were filed on the same date. Respondent filed and Income and Expense Declaration contemporaneously. Respondent requests joint legal and joint physical custody, agrees to guideline child support, and objects to temporary spousal support.

Petitioner filed a Reply to the Responsive Declaration, along with an Income and Expense Declaration on February 8, 2022. Respondent was served via overnight service on February 8, with Proof of Service filed the same day.

Based on the Income and Expense filed, the court finds the Petitioner currently has no income, and receives \$207 in Cal-Fresh benefits a month. Respondent receives \$5,848 in

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monthly income. Respondent has deductions of \$228 for health insurance, \$117 for required union dues, and \$628 in mandatory retirement.

Using the above figures, a 11% timeshare for Respondent based on the agreement reached by the parties at CCRC contained within the January 5, 2022 report, a married filing jointly with three (3) exemptions for Respondent, and a married filing jointly with 0 exemptions for Petitioner, the court finds that guideline child support is \$1,044. See attached DissoMaster Report. The court adopts the attached DissoMaster report and orders Respondent to pay Petitioner as and for child support \$1,044 per month beginning December 1, 2021, payable on the 1st of the month, until further order of the court or termination by operation of law. This results in an arrears amount of \$3132 for December 1, 2021 through and including February 1, 2022. The court orders Respondent to pay Petitioner \$261/month on the 15th 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.

Utilizing the same figures as outlined above, the court finds that spousal support per the Alameda formula is \$1,069/month. See attached DissoMaster report. The court adopts the attached DissoMaster report and orders Respondent to pay Petitioner \$1,069 per month as and for temporary spousal support, payable on the 1st of the month until further order of the court or legal termination. The court orders the temporary spousal support order effective December 1, 2021.

The court finds the above order results in arrears in the amount of \$3,207 for December 1, 2021 through and including February 1, 2022. The court orders Respondent pay Petitioner \$267.25/month on the 15th 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.

Petitioner to prepare and file the findings and orders after hearing.

TENTATIVE RULING #5: THE AGREEMENT OF THE PARTIES CONTAINED WITHIN THE JANUARY 5, 2022 CCRC REPORT ARE ADOPTED AS THEY ARE IN THE BEST INTEREST OF THE MINOR. PARTIES ARE TO ENROLL IN AND COMPLETE CO-PARENTING COUNSELING. THE COURT ORDERS CHILD SUPPORT AS OUTLINED ABOVE. THE COURT ORDERS TEMPORARY SPOUSAL SUPPORT AS OUTLINED ABOVE. PETITIONER TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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: Resp		
DISSOMASTER REPORT 2022, Monthly		CASE NUMBER: 2FL 0015

Input Data	Resp	Pet	Guideline (2022)	Cash Flow Analysis	Resp	Pet
Number of children	0	1	Nets (adjusted)	Guideline		
% time with NCP	11%	0%	Resp	4,226	Payment (cost)/benefit	(2,112) 2,112
Filing status	MFJ->	<-MFJ	Pet	0	Net spendable income	2,114 2,112
# Federal exemptions	3	0	Total	4,226	% combined spendable	50% 50%
Wages + salary	5,696	0	Support (Nondeductible)	Total taxes	649	0
401(k) employee contrib	0	0	CS Payor	Resp	# WHA	8 0
Self-employment income	0	0	Presumed	1,044	Net wage paycheck/mo	5,012 0
Other taxable income	152	0	Basic CS	1,044	Comb. net spendable	4,226
Other nontaxable income	0	0	Add-ons	0	Proposed	
New-spouse income	0	0	Presumed Per Kid		Payment (cost)/benefit	(2,112) 2,112
Wages + salary	0	0	Abigail	1,044	Net spendable income	2,114 2,112
Self-employment income	0	0	SS Payor	Resp	NSI change from gdl	0 0
Misc ordinary tax, inc.	0	0	Alameda	1,069	% combined spendable	50% 50%
SS paid other marriage	0	0	Total	2,113	% of saving over gdl	0% 0%
Retirement contrib if ATI	0	0	Proposed, tactic 9		Total taxes	649 0
Required union dues	0	0	CS Payor	Resp	# WHA	8 0
Nec job-related exp.	0	0	Presumed	1,044	Net wage paycheck/mo	5,012 0
Adj. to income (ATI)	0	0	Basic CS	1,044	Comb. net spendable	4,226
SS paid other marriage	0	0	Add-ons	0	Percent change	0.0%
CS paid other relationship	0	0	Presumed Per Kid		Default Case Settings	
Qual. Bus. Inc. Ded.	0	0	Abigail	1,044		
Health insurance	228	0	SS Payor	Resp		
Itemized deductions	0	0	Alameda	1,069		
Other medical expenses	0	0	Total	2,113		
Property tax expenses	0	0	Savings	0		
Ded. interest expense	0	0	No releases			
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
Required union dues	117	0				
Mandatory retirement	628	0				
Hardship deduction	0*	0*				
Other gdl. deductions	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	207				

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6. JENNIFER WIDAU V. TOM SANDOVAL

PFL20210301

Matter continued by stipulation to March 24, 2022.

TENTATIVE RULING #6: MATTER CONTINUED BY STIPULATION TO MARCH 24, 2022

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7. JOSEPH WEINBERGER V. ROBIN FINE-WEINBERGER

PFL20160002

On November 8, 2021 Respondent filed a Request for Order (RFO) requesting an order enforcing the terms of the Clarification Order entered on November 13, 2020, namely that Respondent be restored full access to the Garcia Annuity account as previously ordered in the Parties' Judgement file on January 19, 2017, an order that if either party dies before the final Garcia Annuity payment is made, the surviving party shall ensure that all remaining payment shall be made to the deceased spouse's designated beneficiary or heir, that the past due quarterly payment be made to Respondent within seven (7) days, and Family Code Section 271 sanctions in the amount of \$5,000. Petitioner was served with the RFO by mail on November 18, 2021.

Respondent asserts in her declaration that Petitioner has not complied with the Agreement and Order Clarifying the Amended Judgement (Clarifying Judgement) order that parties agreed to on November 13, 2020. In the agreement, Petitioner was to ensure Respondent received copies of the Garcia Annuity account monthly. Petitioner was to provide statements for December 2019 through September 2020 on or before November 30, 2022. Respondent further asserts Petitioner was to provide written evidence of the procedure for continuation of the payments in the event of his death on or before April 28, 2021. Petitioner was to provide a copy of the insurance policy that generates the payments for the Garcia account on or before November 30, 2020. Respondent asserts that Petitioner has breached each of these agreements. Respondent is requesting as a remedy that she be restored as an authorized user of the Garcia account, subject to the other terms and conditions of the Clarifying Judgement. Respondent requests that Petitioner provide a complete copy of the Garcia annuity file, including the insurance policy within 10 calendar days. Respondent later in her pleading requests the order be within seven (7) calendar days.

Respondent next asserts Petitioner has failed to make the required quarterly payment as set forth in the terms of the Clarifying Judgement. Petitioner bought out Respondent's interest in the parties' community property law firm. Parties agreed to quarterly installment payments in the minimum amount of \$25,000. Respondent asserts Petitioner failed to make the September 2021 quarterly payment.

Lastly, Respondent requests the court order Family Code Section 271 sanctions as Petitioner has had more than a year to comply with the Clarifying Judgement, and has failed to do so, requiring her to file this RFO and return to court.

Petitioner filed a Responsive Declaration on February 3, 2022. Respondent was served electronically on the same day, with the Proof of Service filed the same day. Petitioner does not address the claims made by Respondent regarding the lack of compliance with the

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Clarifying Judgement order. Petitioner does admit to not making the minimum quarterly payment for September 2021. Petitioner asserts he was authorized to prepay the quarterly payments, and was paid ahead, so to speak, and therefore, a payment was not required for the third quarter. Petitioner did make the fourth quarter payment, for more than the minimum required. Petitioner asserts that Respondent has been paid in full for 2021.

Petitioner asserts Respondent made a withdrawal from the Garcia annuity account April 26, 2019 in the amount of \$12,857. The agreement limited withdrawals to June and December annually. Petitioner attached Exhibit A which purports to show this withdrawal.

Respondent filed a Reply on February 10, 2022. Petitioner was served electronically on the same day with Proof of Service filed contemporaneously. Respondent renews each of her requests as made in her original RFO.

The court finds that Petitioner has failed to comply with the Clarifying Order. Petitioner is ordered to provide Respondent with the monthly account statements for the Garcia annuity, to the extent they have not already been provided. Petitioner shall provide those statements on a monthly basis. Petitioner is ordered to provide Respondent written evidence ensuring the Garcia annuity will continue should Petitioner predecease Respondent no later than March 3, 2022. The court declines to reinstate Respondent as authorized user of the Garcia account, subject to the other terms and conditions of the Clarifying Judgement at this time. The court expects Petitioner to comply with the above order. Failure to do so may result in the court granting Respondent's request should this issue be raised in the future.

The court orders Petitioner to pay Respondent the \$25,000 minimum quarterly payment for September 30, 2021 on or before March 10, 2022. While the Clarifying Order does allow for prepayment, it does not allow for payments to be skipped. A minimum payment of \$25,000 is due quarterly. Any additional payment is credited towards the total amount owed. If there are pre-payments, in amounts less than the quarterly minimum, made with the intention of satisfying the \$25,000 due quarterly, the entire minimum amount must be met on or before the due date. Surplus payments, above the quarterly minimum are to be credited towards the total amount owed.

Additionally, the court finds that the request for sanctions pursuant to Family Code Section 271 is warranted in this matter. Petitioner has failed to comply with court orders on several occasions, has failed to provide the required account statement, and failed to provide the written evidence of the procedure for continuation of the payments in the event of his death on or before April 28, 2021, and failed to make the quarterly buy-out payment for September 30, 2021. This necessitated the filing of instant RFO by Respondent. Petitioner's conduct has increased Respondent's costs of litigation and frustrated the policy of the court to

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promote settlement of the issues as he has been uncooperative and has disregarded court orders to provide information. Therefore, the court orders that Petitioner pay Family Law Section 271 sanctions in the amount of \$5,000 to Respondent.

Respondent is to prepare and file the findings and orders after hearing.

TENTATIVE RULING #7: PETITIONER IS ORDERED TO COMPLY WITH THE NOVEMBER 13, 2020 CLARIFYING ORDER. PETITIONER IS TO PROVIDE RESPONDENT WITH MONTHLY STATEMENTS FOR THE GARCIA ANNUITY. STATEMENTS THROUGH FEBRUARY 2022, TO THE EXTENT THEY HAVE NOT ALREADY BEEN PROVIDED ARE TO BE PROVIDED TO RESPONDENT ON OR BEFORE MARCH 3, 2022. PETITIONER IS ORDERED TO PROVIDE RESPONDENT WRITTEN EVIDENCE ENSURING THE GARCIA ANNUITY WILL CONTINUE SHOULD PETITIONER PREDECEASE RESPONDENT NO LATER THAN MARCH 3, 2022. PETITIONER IS ORDERED TO PAY RESPONDENT THE \$25,000 MINIMUM QUARTERLY PAYMENT FOR SEPTEMBER 30, 2021 ON OR BEFORE MARCH 10, 2022. PETITIONER IS TO PAY RESPONDENT \$5,000 AS AND FOR FAMILY CODE SECTION 271 SANCTIONS NO LATER THAN MARCH 10, 2022. RESPONDENT IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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8. KAYLA RICII V. JONATHAN AKINS

PFL20210281

On September 17, 2021 Petitioner filed a Request for Order (RFO) requesting child custody and visitation orders for the parties' minor child. The parties were referred to CCRC and the RFO was calendared on the law and motion calendar. On September 20, 2021 Petitioner filed a Proof of Service by First-Class Mail showing service upon Respondent on September 17, 2021.

On October 12, 2021 Respondent filed a Responsive Declaration to the RFO.

Although there is no Proof of Service showing the Responsive Declaration was served upon Petitioner, on November 19, 2021 Petitioner filed a Reply Declaration and Supplemental Declaration to CCRC report addressing points raised in the Responsive Declaration. The court finds that Petitioner received the filing and will consider both the Responsive Declaration and the Reply. Additionally, Petitioner filed a Proof of Service showing service of the Reply upon Respondent by mail on November 19, 2021.

The parties attended CCRC and a CCRC report was issued on November 2, 2021. Copies of the CCRC report were mailed to the parties on November 8, 2021.

The CCRC report reflects that the parties reached a full agreement. However, Petitioner alleged that due to circumstances occurring on the CCRC date, she was unclear whether or not she reached an agreement with Respondent.

The court had concerns, based on the age of the child and the length of time since the child has seen Respondent, with going directly to a 3-3-4-4. The minor is 2 years old and had not seen Respondent for over 6 months.

The court ordered at step-up plan for Respondent beginning December 4, 2021. Respondent shall have parenting time on alternating Saturdays from 9:00 am to Sunday at 4:00 pm. After two months, Respondent shall have alternating Fridays at 5:00 pm to Sunday at 4:00 pm. The parties may adjust the times by written agreement.

The court ordered that Respondent shall have a six-hour period of time with the child either on Christmas Eve or Christmas Day. If the parties cannot agree, Respondent shall have Christmas Eve from 10:00 am to 4:00 pm.

The exchange locations recommendation is adopted as the court order, as is the recommendation that the minor child must only be driven by a licensed and insured driver.

The court re-referred the parties to CCRC which they attended CCRC on February 2, 2022 and reached a full agreement. Copies of the CCRC report were mailed to the parties on February 4, 2022.

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The court has read and considered the CCRC report and finds the agreements contained therein to be in the best interest of the minor. The court adopts the agreement as the court's order.

Petitioner shall prepare and file the findings and orders after hearing.

TENTATIVE RULING #8: THE PARTIES AGREEMENT REACHED IN CCRC IS IN THE BEST INTEREST OF THE CHILD AND ADOPTED AS THE COURT'S ORDER. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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9. LAURIE HODGKINS V. STEVEN BELMONT

PFL20180699

On November 29, 2021, Respondent filed a Request for Order (RFO) requesting a change in child custody and visitation. Upon Review of the file, the court is unable to locate a Proof of Service. Parties were referred to attend Child Custody Recommendation Counseling (CCRC) on January 7, 2022 with a court review hearing set for February 17, 2022.

On January 7, 2022, the clerk issued an ex parte minute order continuing the CCRC appointment to January 18, 2022 at 1:00 pm. Parties were mailed notice of the change.

No parties appeared at CCRC on January 18, 2022.

The court finds that due to the lack of service on the Petitioner of the RFO as well as both parties failing to attend CCRC the matter is dropped from calendar. All prior orders remain in full force and effect.

TENTATIVE RULING #9: THE MATTER IS DROPPED FROM CALENDAR. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT.

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

10. VITO MIRABILE V. JESSICA MIRABILE

PFL20200461

On December 21, 2021, Respondent filed a motion for joinder, requesting Denise Mirabile be joined to the matter as a necessary party. Respondent asserts Denise Mirabile is a necessary party as she was gifted \$450,000 in early June 2020, prior to the date of separation. The funds were used to purchase a home in Escondido, California in her name along. Respondent asserts the character of the funds used for the gift has not been determined, but they were acquired during the marriage, and therefore the community may have an interest in the funds and in the home. Respondent believes it is necessary to join Denise Mirabile to protect the community interest, as she is the sole person on the title to the home that may have been purchased with community funds. Petitioner was served my mail on January 12, 2022, with a Proof of Service filed on January 14, 2022.

On February 4, 2022, Petitioner filed a responsive declaration to the request for joinder. Respondent was served by mail on February 4, 2022, with a Proof of Service filed on February 4, 2022. Petitioner opposes the request for joinder. Petitioner asserts the funds used for the gift to Denise Mirabile were separate property funds from personal injury funds. Petitioner asserts it is not necessary to join Denise Mirabile as there is an adequate source of community funds that would compensate a potential community interest should the court determine the gift was from community funds. Petitioner further asserts that the joinder would complicate the current proceeding.

Respondent filed a reply on February 14, 2022. Petitioner was served electronically on February 9, 2022 with Proof of Service filed on February 14, 2022. Respondent asserts that the characterization of the funds utilized is an issue for trial and the joinder remains necessary to help secure the funds and ensure the community is protected if the funds are determined as community at the trial.

Based on the above filings, the court declines to join Denise Mirabile. The court does not find she is not a necessary party for purposes of division of property or to make such orders as are necessary to effectuate a judgment between the parties and divide the community property assets equally. Joining will may result in the delay of the disposition of the case and is not necessary to effectuate an effective judgement in this case. (Cal. Rules of Court 5.24(e)(2).)

The matter was also continued from February 3, 2022 to February 17, 2022 on the issue of the joinder of accounts. The court has not received any supplemental declarations regarding the accounts and reasonably infers that issue has been resolved.

Petitioner is to prepare and file the Findings and Orders After Hearing. All prior orders remain in full force and effect.

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TENTATIVE RULING #10: THE REQUEST FOR JOINDER IS DENIED. PETITIONER IS TO PREPARE THE FINDINGS AND ORDERS AFTER HEARING.

11A. COUNTY V. NICHOLAS DAVIS (OTHER PARTY: KIM PLACEK)

PFS20180144

On October 13, 2021, Other Parent filed a Order to Show Cause and Affidavit for Contempt against Respondent. The matter was heard on January 6, 2022 and continued to allow Other Party to cure the defect in notice.

Respondent was personally served on December 29, 2021, with Proof of Service Filed December 30, 2021. The Department of Child Support Services (DCSS) was served by mail on January 6, 2022 with Proof of Service filed on January 9, 2022.

On February 14, 2022 DCSS filed a Declaration stating DCSS is not involved in the enforcing or collection of child care costs. DCSS has no objection to the contempt proceeding without its participation. Further, DCSS has no objection to any amount of childcare costs determined to be due and payable being added to Respondent's arrears to that DCSS would then collect at a rate determined by the court or an administratively set rate if the court does not set a payment. Parties were served by mail on February 14, 2022 with Proof of Service filed the same day.

Notice has been perfected; parties are ordered to appear. DCSS is excused from participating in the contempt proceedings only.

TENTATIVE RULING #11A: RESPONDENT AND OTHER PARTY ARE ORDERED TO APPEAR. DCSS DOES NOT NEED TO APPEAR

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11B. JESSICA CHOW V. CHRIS WANG

PFL20210060

On September 23, 2021 the court granted Petitioner's request and ordered Respondent to submit to a vocational evaluation with Patrick Sullivan. The court set a review hearing on December 9, 2021 regarding vocational evaluation and review of child support. The parties were ordered to file and serve supplemental declarations no later than 10 days prior to the hearing date.

On November 24, 2021 Respondent filed an Income and Expense Declaration and a Proof of Service by Mail showing service upon Petitioner on November 23, 2021.

On November 30, 2021 Petitioner filed a Supplemental Declaration, and Income and Expense Declaration and a Proof of Electronic Service showing service upon Respondent the same day.

On December 6, 2021 Respondent late filed a Supplemental Declaration and a Proof of Service by Mail showing service upon Petitioner on December 3, 2021. However, as Respondent's Supplemental Declaration was not timely filed per the September 23, 2021 order, the court did not read or consider it.

On December 9, 2021 the court continued the matter as the Vocational Evaluation had not been completed. The court continued the issues of receipt of the Vocational Evaluation/Modification of Child Support to February 17, 2022 at 8:30 am in Department 5. The parties were ordered to file and serve supplemental declarations no later than 10 days prior to the hearing date. The court continued to reserve jurisdiction over retroactive modification back to September 1, 2021.

Petitioner filed her supplemental declaration with the Vocational Evaluation attached on February 3, 2022. Respondent was served electronically, with a Proof of Service filed on the same date. Based on the Vocational Evaluation, Respondent has the capacity to earn \$70,000 per year. Petitioner requests the court impute income in the amount of \$80,000, as it is Petitioner's belief that Respondent can out-earn the imputation. Petitioner also requests the court modify the support orders based on the \$70,000 imputation at minimum. Petitioner also requests the court modify the support orders based on the imputed income back to September 1, 2021, as the court had previously reserved retroactivity to that date. Petitioner also request Family Code Section 271 Sanctions in the amount of \$2,500 and a reallocation of the cost of the Vocational Evaluation.

The Vocational Evaluation finds that Respondent has the ability to work. As of the date of the Evaluation, Respondent was underemployed and under earning, based on his education

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and work history. The evaluator assessed Respondent's earning capacity as a designer to be \$70,000 per year, give or take 10%.

Respondent filed a Supplemental Declaration and Income and Expense Declaration on February 7, 2022. Petitioner was served by mail on the same day. Respondent requests the court vacate the July 8, 2021 seek work order, as he is now employed. Respondent seeks to modify the September 23, 2021 support order based on the new income and expense declaration, and is requesting an Ostler-Smith bonus table for all income Petitioner receives in excess of \$16,739 per month. Respondent seeks to have the \$3,734 in child support add-ons removed from the September 23, 2021 order, and have reimbursement for work related childcare and school tuition in the alternative. Respondent also asks the court to deny Petitioner's request to impute income to him or reserve on the issue to trial set for March 22, 2022.

The court vacates the seek work order issued on July 8, 2021, as Respondent has found adequate employment.

Based on Petitioner's Income and Expense Declaration her average gross month income is \$14,358. Last month she had additional income of \$503 from dividends. She has deductions of \$384 for health insurance, \$551 for property taxes, and \$1,406 for deductible interest expense. There is also a childcare add-on of \$2,008.

Respondent has an average monthly income of \$4,100 based on his Income and Expense Declaration, with no deductions.

Based on the above, Respondent would pay Petitioner \$ in child support, including the childcare add-on as a 50/50 allocation, which would be offset by Petitioner paying Respondent \$1,660 in spousal support. Offsetting Petitioner's spousal support obligation by Respondent's child support obligation results in a net payment of \$431. The court orders the Petitioner pay Respondent \$431 per month commencing September 1, 2021. See attached Dissomaster report.

The court reserved jurisdiction on the support issue to September 1, 2021, for receipt of the Vocational Evaluation. On September 23, 2021 the court ordered Petitioner to pay Respondent \$1,391 per month for support. The current order results in an overpayment for September 2021 through February of 2022, a period of five (5) months. The prior support payments total \$6,955. The current support payments for the prior five months would total \$2,155. The difference is \$4,800. The court orders Respond to reimburse the Petitioner for the overpayments in the amount of \$4,800. The Petitioner may be reimbursed from the Apartment account upon final division.

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The court also reserved on the reallocation of costs for the Vocational Evaluation on September 23, 2021. The court is ordering the Respondent to reimburse Petitioner 50% of the cost of the Vocational Evaluation in the amount of \$487.50.

The court reserves on the issue Family Code Section 271 Sanctions to Petitioner at this time.

The court finds that the parties' Income and Expense Declaration demonstrate that there is a disparity in monthly income, with Petitioner earning more than twice that of Respondent per month prior to support. Following the support order, the disparity in income is decreased but Respondent's expenses will increase. The court finds that Petitioner does continue to have greater access to funds and ability to pay attorney's fees for both parties. The court orders Petitioner to pay \$2,500 in attorney's fees under Family Code 2030 within 30 days of this order, finding that this is sufficient to address Respondent's request for Family Code section 2030 fees.

TENTATIVE RULING 11B.: THE COURT VACATES THE SEEK WORK ORDER FOR THE RESPONDENT. THE COURT MODIFIES THE PRIOR SUPPORT ORDERS RETROACTIVE TO SEPTEMBER 1, 2021. THE COURT ORDERS PETITIONER TO PAY RESPONDENT \$431 PER MONTH AS AND FOR SUPPORT. THE RESPONDENT IS ORDERED TO REIMBURSE PETITIONER \$4,800 FOR THE PRIOR FIVE MONTHS OF OVERPAYMENT. THE REIMBURSEMENT MAY BE ALLOCATED FROM THE APARTMENT ACCOUNT UPON FINAL DIVISION. RESPONDENT IS ORDERED TO REIMBURSE PETITIONER \$487.50 FOR 50% OF THE COST OF THE VOCATIONAL EVALUATION. PETITIONER IS ORDERED TO PAY RESPONDENT \$2,500 IN FAMILY CODE 2030 ATTORNEY FEES.

ATTORNEY (NAME AND ADDRESS): <div style="text-align: center; font-weight: bold; font-size: 1.2em;">California</div>	TELEPHONE NO.:	Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
ATTORNEY FOR: Resp.		CASE NUMBER: <div style="font-family: cursive; font-size: 1.2em; color: gray;">PFL 20210060</div>
DISSOMASTER REPORT 2022, Monthly		

Input Data	Resp.	Pet	Guideline (2022)	Cash Flow Analysis	Resp.	Pet
Number of children	0	2	Nets (adjusted)	Guideline		
% time with NCP	16.9%	0%	Resp.	2,940	Payment (cost)/benefit	432 (432)
Filing status	MFJ->	<-MFJ	Pet	10,501	Net spendable income	3,372 10,070
# Federal exemptions	1	3	Total	13,441	% combined spendable	25.1% 74.9%
Wages + salary	4,100	14,358	Support (Nondeductible)	Total taxes	1,160	3,976
401(k) employee contrib	0	0	CS Payor	Resp.	# WHA	0 0
Self-employment income	0	0	Presumed	(1,229)	Net wage paycheck/mo	3,337 10,260
Other taxable income	0	503	Basic CS	(225)	Comb. net spendable	13,442
Other nontaxable income	0	0	Add-ons	(1,004)	Proposed	
New-spouse income	0	0	Presumed Per Kid		Payment (cost)/benefit	432 (432)
Wages + salary	0	0	Child 1	(1,090)	Net spendable income	3,372 10,070
Self-employment income	0	0	Child 2	(139)	NSI change from gdl	0 0
Misc ordinary tax, inc.	0	0	SS Payor	Pet	% combined spendable	25.1% 74.9%
SS paid other marriage	0	0	El Dorado	1,660	% of saving over gdl	0% 0%
Retirement contrib if ATI	0	0	Total	431	Total taxes	1,160 3,976
Required union dues	0	0	Proposed, tactic 9		# WHA	0 0
Nec job-related exp.	0	0	CS Payor	Resp.	Net wage paycheck/mo	3,337 10,260
Adj. to income (ATI)	0	0	Presumed	(1,229)	Comb. net spendable	13,442
SS paid other marriage	0	0	Basic CS	(225)	Percent change	0.0%
CS paid other relationship	0	0	Add-ons	(1,004)	Default Case Settings	
Qual. Bus. Inc. Ded.	0	0	Presumed Per Kid			
Health insurance	0	384	Child 1	(1,090)		
Itemized deductions	0	1,957	Child 2	(139)		
Other medical expenses	0	0	SS Payor	Pet		
Property tax expenses	0	551	El Dorado	1,660		
Ded. interest expense	0	1,406	Total	431		
Charitable contribution	0	0	Savings	0		
Miscellaneous itemized	0	0	No releases			
Required union dues	0	0				
Mandatory retirement	0	0				
Hardship deduction	0*	0*				
Other gdl. deductions	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	2,008				
TANF, SSI and CS received	0	0				