

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
October 14, 2021
8:30 a.m./1:30 p.m.

18. ASHLEY KELLEY V. GABRIEL LOPEZ

PFL20090878

On September 9, 2021, Petitioner filed an application for ex parte relief requesting that the court grant her sole custody with visits to Respondent contingent on him being in counseling. Petitioner also requested that the court order drug testing for Respondent and his wife.

On September 10, 2021, the court ordered the parties to attend a CCRC session on September 21, 2021 with a hearing set on October 14, 2021. Pending the hearing, Respondent was ordered to not leave the child alone with his wife.

The underlying Request for Order (RFO) was filed on September 10, 2021. Upon review of the file, the court finds that there is no proof of service indicating service of the RFO on Respondent.

However, on September 10, 2021, Respondent filed a Responsive Declaration, served by mail on Petitioner that same day, in which he references the October 14, 2021 hearing date.

On September 16, 2021, Petitioner filed a Declaration of Andrew Holvick, the co-parent of her other child, served on Respondent by mail that same day. Mr. Holvick claims that Petitioner is a good co-parent.

Petitioner attended the CCRC session, but Respondent did not. On September 22, 2021, Respondent filed an ex parte request asking for a new CCRC date, stating that he got confused with the CCRC date and the court date. On September 27, 2021, the court granted this request, resetting the CCRC session for September 28, 2021. The court also sanctioned Respondent in the amount of \$100 for his failure to appear at the CCRC session on September 21, 2021.

Both parties appeared at the second CCRC session and reached some agreements but not on all issues. A CCRC report was issued on October 7, 2021 with copies mailed to the parties on October 8, 2021. Per the report, the parties agreed that each would complete a co-parenting class, that the minor would be enrolled in individual counseling, and that the parties would communicate via *talkingparents.com* and not allow any third party to utilize this application regarding the minor.

The report noted the high conflict and poor communication between the parents and recommends a week-on/week-off schedule to minimize their interactions with exchanges to take place at the El Dorado Sheriff's office in Placerville, unless they agree on a different location. The report further recommends the appointment of a CASA advocate to provide support to the child and provide oversight to ensure the parents act in the child's best interest.

Having reviewed the filings of the parties and the CCRC report, the court finds that the agreements and recommendations contained within the CCRC report are in the best interest of the child and adopts them as the orders of the court. The court continues the matter to

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 14, 2021

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

February 10th, 2022 at 1:30 p.m. in Department 5 to receive input from the CASA advocate and to consider modifications to the custody and parenting time orders as appropriate.

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

TENTATIVE RULING #19: THE AGREEMENTS AND RECOMMENDATIONS CONTAINED WITHIN THE CCRC REPORT ARE ADOPTED AS THE ORDERS OF THE COURT. THE COURT CONTINUES THE MATTER TO FEBRUARY 10TH, 2022 AT 1:30 P.M. IN DEPARTMENT 5 TO RECEIVE INPUT FROM THE CASA ADVOCATE AND TO CONSIDER MODIFICATIONS TO THE CUSTODY AND PARENTING TIME ORDERS AS APPROPRIATE. PETITIONER IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
October 14, 2021
8:30 a.m./1:30 p.m.

19. ANNETTE T. HUMPHREYS V. CHRISTOPHER J. HUMPHREYS

PFL20110723

On July 22, 2021, Petitioner filed a Request for Order (RFO) requesting the court modify the custody and visitation orders, specifically to make more specific orders to reduce conflict in the future, and to make child support orders, including to require Respondent to pay a reasonable security for child support payments and to make orders regarding the minor's medical expenses. A CCRC session was scheduled for August 25, 2021 with a hearing on the RFO set for October 14, 2021.

On July 9, 2021, Petitioner filed an Income and Expense Declaration, which was served by mail along with the RFO on Respondent on August 16, 2021.

Both parties participated in the CCRC session and came to an agreement on all issues except Petitioner's request to be granted final decision-making authority if the parties cannot agree on legal custody issues. Given the contention of the parties, the CCRC report recommends that Petitioner be granted final decision-making authority provided they first attempt to reach an agreement by having a considerable conversation, as evidence by the *talkingparents.com* log.

A CCRC report was issued on August 31, 2021 with copies mailed to the parties on September 1, 2021.

On September 25, 2021, the Department of Child Support Service (DCSS), also a party in the case, was served with the RFO.

On September 30, 2021, Petitioner filed two Declarations, served on Petitioner by mail on September 27, 2021. Petitioner contends that these Declarations show Respondent's failure to co-parent and abide by orders regarding co-parenting classes. Petitioner requests that the minor not be forced into family therapy with Respondent, as the parties purportedly agreed to in the CCRC session.

On October 1, 2021, Respondent filed a Responsive Declaration, served on Petitioner by mail that same day. Respondent request that the current custody orders remain in place.

On October 7, 2021, DCSS filed a Responsive Declaration, served on the other parties by mail on October 6, 2021. DCSS requests that the child support issues be continued to the November 8, 2021 hearing at 8:30 a.m. in Department 5 to be heard in conjunction with the other child support issues currently set in front of the Child Support Commissioner on that date. Consistent with Family Code 4251, the court continues the child support issues to November 8, 2021 at 8:30 a.m. in Department 5.

Regarding the custody issues, having reviewed the filings of the parties and the CCRC report, the court finds that the agreements and recommendations contained within the CCRC report are in the best interest of the minor and adopts them as the orders of the court.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 14, 2021

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

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

TENTATIVE RULING #19: THE COURT CONTINUES THE CHILD SUPPORT ISSUES TO NOVEMBER 8, 2021 AT 8:30 A.M. IN DEPARTMENT 5. THE AGREEMENTS AND RECOMMENDATIONS CONTAINED WITHIN THE CCRC REPORT ARE ADOPTED AS THE ORDERS OF THE COURT. PETITIONER IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
October 14, 2021
8:30 a.m./1:30 p.m.

20. BRIAN REID V. EUNICE REID

PFL20170006

On September 10, 2021, Respondent filed a Request for Order (RFO) asking the court to modify the spousal support orders. An Income and Expense Declaration was filed concurrently with the RFO, both of which were served on Petitioner by mail on September 10, 2021.

Upon review of the file, the court finds that Petitioner did not file a Responsive Declaration nor an Income and Expense Declaration. As such, the court only has the information as contained on Respondent's Income and Expense Declaration to calculate support.

Per Respondent's Income and Expense Declaration, Petitioner makes about \$5,385 per month, and Respondent makes about \$3,000 per month. Using these figures and a married filing separately status for both parties, the court finds that temporary spousal support per the Alameda formula is \$431. See attached DissoMaster Report.

Petitioner is ordered to pay Respondent as and for temporary spousal support \$431 per month, payable on the 1st of the month, commencing on October 1, 2021, until further order of the court or termination by operation of law. Respondent may collect the support through a wage garnishment by filing an Income Withholding Order with the court.

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

TENTATIVE RULING #20: PETITIONER IS ORDERED TO PAY RESPONDENT AS AND FOR TEMPORARY SPOUSAL SUPPORT \$431 PER MONTH, PAYABLE ON THE 1ST OF THE MONTH, COMMENCING ON OCTOBER 1, 2021, UNTIL FURTHER ORDER OF THE COURT OR TERMINATION BY OPERATION OF LAW. RESPONDENT MAY COLLECT THE SUPPORT THROUGH A WAGE GARNISHMENT BY FILING AN INCOME WITHHOLDING ORDER WITH THE COURT. SEE ATTACHED DISSOMASTER REPORT. RESPONDENT IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER 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: Husband	DISSOMASTER REPORT 2021, Monthly	
		CASE NUMBER: PFL20170606

Input Data	Husband	Wife	Guideline (2021)		Cash Flow Analysis		Husband	Wife
Number of children	0	0	Nets (adjusted)		Guideline			
% time with NCP	0%	0%	Husband	4,134	Payment (cost)/benefit	(396)	410	
Filing status	MFS->	<-MFS	Wife	2,451	Net spendable income	3,703	2,882	
# Federal exemptions	1*	1*	Total	6,585	% combined spendable	56.2%	43.8%	
Wages + salary	5,385	3,000	Support (Nondeductible)		Total taxes	1,251	549	
401(k) employee contrib	0	0	SS Payor	Husband	# WHA	0	0	
Self-employment income	0	0	Alameda	431	Net wage paycheck/mo	4,169	2,462	
Other taxable income	0	0	Total	431	Comb. net spendable	6,585		
Other nontaxable income	0	0	Proposed, tactic 9		Proposed			
New-spouse income	0	0	SS Payor	Husband	Payment (cost)/benefit	(396)	410	
Wages + salary	0	0	Alameda	431	Net spendable income	3,703	2,882	
Self-employment income	0	0	Total	431	NSI change from gdl	0	0	
Misc ordinary tax. inc.	0	0	Savings	0	% combined spendable	56.2%	43.8%	
SS paid other marriage	0	0	No releases		% of saving over gdl	0%	0%	
Retirement contrib if ATI	0	0			Total taxes	1,251	549	
Required union dues	0	0			# WHA	0	0	
Nec job-related exp.	0	0			Net wage paycheck/mo	4,169	2,462	
Adj. to income (ATI)	0	0			Comb. net spendable	6,585		
SS paid other marriage	0	0			Percent change	0.0%		
CS paid other relationship	0	0			Default Case Settings			
Qual. Bus. Inc. Ded.	0	0						
Health insurance	0	0						
Itemized deductions	0	0						
Other medical expenses	0	0						
Property tax expenses	0	0						
Ded. interest expense	0	0						
Charitable contribution	0	0						
Miscellaneous itemized	0	0						
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	0						
TANF,SSI and CS received	0	0						



LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
October 14, 2021
8:30 a.m./1:30 p.m.

21. LEONARD ALDERETTE V. MEGAN ALDERETTE

PFL20170261

On September 1, 2021, Petitioner filed a Request for Order (RFO) to modify the child support orders. An Income and Expense Declaration was filed concurrently with the RFO.

Upon review of the file, the court finds that there is no proof of service showing service of the RFO and Income and Expense Declaration on Respondent. The court further finds that on August 16, 2021 the Placer County Department of Child Support Services registered the child support order in the Placer Superior Court in case # SFS0031708, giving that court exclusive jurisdiction to modify the child support orders.

Therefore, this court has no jurisdiction to modify child support. Even if it did, there is no evidence that Respondent has been served with the RFO.

As such, the court drops the matter from its calendar.

TENTATIVE RULING #21: MATTER DROPPED FROM THE COURT'S CALENDAR

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
October 14, 2021
8:30 a.m./1:30 p.m.

22. ARRON GERRI MCGHEE V. THEADORE MCGHEE JR.

PFL20180520

On June 29, 2021, Petitioner filed a Request for Order (RFO) requesting modification of the current child custody orders, specifically to order that the minors return to in-person schooling at a public school. A CCRC session was scheduled for July 29, 2021, and a hearing on the RFO was scheduled for September 9, 2021. On July 13, 2021, Respondent was served with the RFO and Referral to CCRC.

On July 28, 2021, Respondent filed a Responsive Declaration, served by mail on Petitioner on July 27, 2021.

On July 29, 2021, Petitioner filed a Declaration replying to the Responsive Declaration. The following day, Petitioner filed another Declaration to which records for the children's homeschooling was attached. Both Declarations were served by mail on Respondent on August 5, 2021.

Both parties participated in the CCRC sessions but reached no agreements. A CCRC report was issued on August 18, 2021, and copies were mailed to the parties on August 19, 2021.

Per the CCRC report, while preferring that the children remain in homeschooling, Respondent was open to the children attending a public school, specifically Pine Wood Elementary, which is closer to his home than Petitioner's preferred option of Golden Oak Elementary. The report acknowledged that the two older minors have friends already at Golden Oak where they attended school prior to the beginning of the pandemic. The report recommends that the two older minors attend Golden Oak, with the youngest who will be attending 1st grade going to Pine Wood.

On August 24, 2021, Petitioner filed a Declaration, served on Respondent by mail that same day, in which she requested modifications to the recommendations as contained within the CCRC report.

On September 8, 2021, Respondent filed a Declaration. Upon review of the file, there is no proof of service indicating service of this filing on Petitioner. As such, the court cannot review nor consider it.

At the initial hearing on the RFO on September 9, 2021, Respondent appeared, although no oral argument request was made. Respondent indicated that he was evacuated due to the Caldor fire. The court took judicial notice of the evacuation orders due to the fire and continued the matter to September 30, 2021 and ordered Respondent to provide notice to Petitioner of the new hearing.

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
October 14, 2021
8:30 a.m./1:30 p.m.

Pending the next hearing, the court adopted its tentative ruling, finding that the recommendations contained within the CCRC report are in the best interest of the children and adopting them as the orders of the court with the following modifications. The parties' minors were ordered to attend Golden Oak Elementary School and, upon completion of elementary school, to attend Pleasant Valley Middle School.

On September 16, 2021, Respondent filed an RFO to modify the custody and visitation orders. From its review of the RFO, the court finds that the issues to be addressed are the same as set for calendar on September 30, 2021.

On September 22, 2021, Petitioner was served by mail with the RFO. However, the court finds that the service of the RFO was not timely per Code of Civil Procedure 1005, which requires service at least 16 court days prior to the hearing plus 5 calendar days if service is by mail.

At the September 30, 2021, hearing, the court found that there was no proof of service or other evidence that Respondent provided Petitioner with notice of the September 30, 2021 hearing. The court indicated that it would hold oral argument on the pending issues of both parties appeared at the September 30, 2021 hearing; otherwise, the court would drop the matter from calendar and address the issues at the October 14, 2021 hearing.

Petitioner has not filed a Responsive Declaration or any other responsive pleading regarding the October 14, 2021 hearing. Due to the lack of timely service, the court continues the matter to December 2nd, 2021 at 1:30 p.m. in Department 5 to afford Petitioner an opportunity to file a Responsive Declaration if she wishes to do so.

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

TENTATIVE RULING #22: DUE TO THE LACK OF TIMELY SERVICE, THE COURT CONTINUES THE MATTER TO DECEMBER 2ND, 2021 AT 1:30 P.M. IN DEPARTMENT 5 TO AFFORD PETITIONER AN OPPORTUNITY TO FILE A RESPONSIVE DECLARATION IF SHE WISHES TO DO SO. RESPONDENT IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 14, 2021

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

23. KIRK BARTH V. CANDACE BARTH

PFL20180841

Upon review of the file, the court finds that this matter was set on calendar per the tentative ruling for the September 16, 2021 for Respondent's Counsel Motion to be Relieved as Counsel filed on July 28, 2021. At the September 16, 2021 hearing, Respondent's Counsel noted that Respondent had signed the Substitution of Attorney form and the issue is now moot. The court finds that the instant hearing was set in error and therefore drops the matter from calendar.

TENTATIVE RULING #23: MATTER DROPPED FROM COURT'S CALENDAR

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
October 14, 2021
8:30 a.m./1:30 p.m.

8 & 24. ALEA BENAVIDES V. IGNACIO BENAVIDES

PFL20190032

On June 2, 2021, Petitioner filed a Request for Order (RFO) asking the court to order the sale of the former family home, to authorize Petitioner to select a listing agent and set a listing price for the sale, to order Respondent to vacate the residence or in the alternative cooperate with the showing of the residence and its upkeep to ensure it is in a sellable condition, to appoint a clerk of the court as an elisor to sign any and all paperwork necessary to effectuate the sale if Respondent refuses to cooperate with the sale, and to award omitted assets to Petitioner.

On June 17, 2021, Respondent was personally served with the RFO.

In the RFO, Petitioner asserted that Respondent has remained in the former family home since the parties' separation. Petitioner stated that she requested that Respondent cooperate with selling the home, but he has refused to do so. In the parties' judgment filed on May 20, 2019, each party was awarded one-half of the interest in the home, and Petitioner contended that due to Respondent's lack of cooperation she cannot obtain any of her interest in the home. Petitioner declared that the home and the mortgage thereon is in Petitioner's name solely.

At the August 5, 2021 hearing, the court adopted its tentative ruling, finding good cause to order the sale of the former family residence. The court ordered Petitioner to provide Respondent with the name of three listing agents by August 12, 2021. Within 5 days of receiving these names, Respondent was ordered to select one of the agents. If he failed to do so within 5 days, Petitioner was authorized to select the listing agent. The listing agent thereafter shall set the listing price and list the home for sale. Respondent was ordered to sign any and all documents necessary to effectuate the sale within 5 days of being requested to do so. Respondent also was ordered to maintain the residence in a clean and sellable condition at all times. The parties were ordered to share the net proceeds of the sale of the home equally.

Regarding the omitted assets, the court found that these items must be divided by mutual agreement per the terms of the parties' judgment. The parties were ordered to meet and confer regarding the division of these items.

The matter was continued to September 16, 2021 at 8:30 a.m. in Department 5 to update the court on the status of the sale of the home and the division of the omitted assets. If Respondent had not signed any and all documents necessary to effectuate the sale within 5 days, the court indicated that it was inclined to appoint an elisor to sign the necessary documents in his stead at the next hearing. The court also indicated that it would consider whether to order Respondent to vacate the residence pending the sale of the home. The court further admonished Respondent that his failure to comply with the court's order may subject him to sanctions.

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
October 14, 2021
8:30 a.m./1:30 p.m.

The parties were ordered to file supplemental declarations at least 10 days in advance of the next hearing to inform the court on the status of the sale of the home and the omitted assets. If Petitioner files a declaration and Respondent does not, the court indicated that it would reasonably infer that Respondent does not object to the court awarding the listed assets to Petitioner, and the court thereafter would award them to her.

On September 7, 2021, Petitioner filed a Supplemental Declaration, served on Respondent by mail that same day. On September 8, 2021, Respondent filed a Responsive Declaration. Upon review of the file, the court finds that there is no proof of service indicating service of this filing on Petitioner. As such, the court has not reviewed nor considered it.

On September 8, 2021, Respondent filed an RFO requesting a modification to the division of the proceeds of the sale of the family home due to his alleged post judgment improvements and Petitioner's use of Respondent's separate property funds. A hearing on this RFO was scheduled for October 14, 2021.

On September 14 and 16, 2021, Respondent filed two additional declarations.

At the September 16, 2021 hearing, the court adopted its tentative ruling, which continued the issues raised by Petitioner, including her request for Family Code 271 sanctions to the October 14, 2021 hearing date. The court restated that Respondent's failure to comply with the court's order, including a failure to sign the listing agreement within 5 days after being requested to do so, may subject him to sanctions.

The court further found that Respondent had failed to respond to Petitioner's meet and confer efforts regarding the alleged omitted assets, as evidenced by a letter attached to her September 7, 2021 Supplemental Declaration. As such, the items listed on Exhibit A of Petitioner's Request for Order filed on June 2, 2021 were awarded to Petitioner with a total value of \$30 per the property declaration as attached to Petitioner's Supplemental Declaration filed on September 7, 2021. Upon sale of the home, Respondent was ordered to receive an equalization payment of \$30 prior to the equal division of the net proceeds.

Upon review of the file, the court find that there is no proof of service indicating service of Respondent's two September 2021 declarations nor his RFO. On September 29, 2021, Petitioner filed a Responsive Declaration, served on Respondent by mail that same day, which does not raise the serve defect of the RFO as an issue. As such, while the court cannot consider the two additional declarations, the court has considered the RFO filed by Respondent.

In the Responsive Declaration, Petitioner claims that Respondent essentially is requesting a modification of the judgment, as the judgment awarded each party one-half of the

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 14, 2021

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

interest in the home upon its sale or buy-out, or a modification of the court's August 5, 2021 order, which specifically stated that the net proceeds shall be divided equally. Petitioner argues that the correct remedy to modify the judgment would have been to seek to set aside either through Code of Civil Procedure 473(b) or through Family Code 2122(e), if appropriate. The court agrees. As correctly noted in the Responsive Declaration, the statute of limitations for relief under either code has passed.

Regarding the August 5, 2021 order, Petitioner argues that an attack on this order is prohibited by the doctrine of res judicata. The court again agrees. The court in its August 5, 2021 tentative ruling ordered the equal division of the net proceeds, to which neither party objected. Therefore, the court finds that the issue was resolved on its merits and Respondent's RFO is an attempt to address this same issue.

Even if the court were to address Respondent's RFO on its merits, the court finds that Respondent's has had exclusive possession of the property since the parties' separation and any improvements or mortgage payments he has made to the property would have to be offset by the value of his exclusive use of the property.

As such, Respondent's request for relief is denied.

Neither party has filed any updates with the court regarding the status of the sale of the home, so the court reasonably infers that Respondent is complying with requests to sign necessary documents and that the sale is moving forward without issue. Therefore, the court declines to make any further orders on these issues. All prior orders regarding the sale of the home remain in full force and effect.

The only remaining requests are Petitioner's two requests for Family Code 271 sanctions. The court finds that Respondent's recent RFO was without merit and unnecessarily led to an increase in the cost of litigation. The court further finds that Respondent's lack of cooperation in finalizing the sale of the home as ordered has led to an increase in the cost of litigation as well. As such, the court orders Respondent to pay Petitioner attorney's fees as a sanction under Family Code 271 in the amount of \$500. This sanction is to be deducted from Respondent's one-half share of the net proceeds of the sale of the home.

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

TENTATIVE RULING #8 & #24: RESPONDENT'S REQUEST FOR RELIEF IS DENIED. THE COURT DECLINES TO MAKE ANY FURTHER ORDERS REGARDING THE SALE OF THE HOME. ALL PRIOR ORDERS REGARDING THE SALE OF THE HOME REMAIN IN FULL FORCE AND EFFECT. THE COURT ORDERS RESPONDENT TO PAY PETITIONER ATTORNEY'S FEES AS A SANCTION UNDER FAMILY CODE 271 IN THE AMOUNT OF \$500. THIS SANCTION IS TO BE DEDUCTED FROM

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 14, 2021

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

**RESPONDENT'S ONE-HALF SHARE OF THE NET PROCEEDS OF THE SALE OF THE HOME.
PETITIONER IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.**

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
October 14, 2021
8:30 a.m./1:30 p.m.

25. GRAYSON HOWARD V. NATALIE PETERSON

PFL20210468

On July 26, 2021, Petitioner filed a Request for Order (RFO) asking the court to establish custody and visitation orders. A CCRC session was scheduled on September 1, 2021 with a hearing on the RFO set for October 14, 2021. On August 15, 2021, Respondent was personally served with the RFO.

Both parties participated in the CCRC session and came to a full agreement, which provides for sole legal custody to Respondent with a step-up plan for Petitioner's visitation. A CCRC report was issued on September 1, 2021 with copies mailed to the parties that same day.

Having reviewed the filings of the parties and the CCRC report, the court finds that the agreements contained within the CCRC report are in the best interest of the minors and adopts them as the orders of the court.

Upon review of the file, the court notes that both parties agree that they are both the parents of the minors, with Respondent noting that parentage has already been established in the parties' child support case (PFS20170036), which the court has confirmed. As such, the court enters a judgment of parentage in this case.

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

TENTATIVE RULING #25: THE AGREEMENTS CONTAINED WITHIN THE CCRC REPORT ARE ADOPTED AS THE ORDERS OF THE COURT. THE COURT ENTERS A JUDGMENT OF PARENTAGE IN THIS CASE. PETITIONER IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING AND A PARENTAGE JUDGMENT.

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
October 14, 2021
8:30 a.m./1:30 p.m.

26. MATTHEW FLEEMAN V. EMILY ROLFE

PFL20210476

On August 2, 2021, Petitioner filed a Request for Order (RFO) asking the court to establish custody and visitation orders. A CCRC session was scheduled on August 30, 2021 with a hearing on the RFO set for October 14, 2021.

Upon review of the file, the court finds that there is no proof of service indicating service of the RFO on Respondent. Additionally, the CCRC counselor submitted letter to the file on August 31, 2021, indicating that neither party showed for the CCRC session and that upon calling the parties both indicated that they did not wish to move forward with the matter.

As such, the court drops the matter from its calendar.

TENTATIVE RULING #26: MATTER DROPPED FROM COURT'S CALENDAR

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 14, 2021

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

27. DCSS v. VICTOR RUIZ-LUA (OTHER PARTY: JESSICA WILSON)

PFS20130073

On August 9, 2021 the court denied Other Party, Ms. Wilson's, ex parte application for custody and visitation orders. The court appointed CASA advocates for the minor children and set a review hearing for October 14, 2021 at 1:30 pm. The court ordered Ms. Wilson to provide notice of the motion on or before September 3, 2021.

Upon review of the file, the court finds that there is no Proof of Service showing service of the underlying Request for Order (RFO) and August 9, 2021 order on Respondent.

On October 6, 2021, the court received the CASA report, which was served on the parties by mail that same day. The report recommends that the minors continue to reside primarily with Other Parent and that they go to their paternal grandmother's home for their visits with Respondent on his court-ordered weekends. The report further recommends that the parties attend therapy and/or mediation to work through their issues, that either party be permitted to request the other to take a random alcohol and drug screen, and that CPS evaluate the safety concerns raised about Other Parent's home.

While the court finds that Respondent was not given formal notice of the RFO, the court finds that the CASA report references the upcoming court hearing, was served on Respondent, and notes that the CASA advocates met with the minors in Respondent's home. As such, the court finds that Respondent has notice of the custody issues before the court.

Having reviewed the filings of the parties and the CASA report, the court finds that the recommendations contained within the CASA report are in the best interest of the children and adopts them as the orders of the court as specifically set forth below. The parties shall continue to have the same parenting time, with Respondent's parenting time taking place at the paternal grandmother's home in Sacramento.

The parties shall enroll in and participate in co-parenting counseling with costs to be shared equally for the counseling sessions. Other Parent shall provide Respondent with the names of 3 possible co-parenting therapists by October 22, 2021. Respondent shall select one of the therapists within 5 days of receiving the names. Thereafter, the parties shall immediately schedule intake appointments. The therapy may occur via videoconferencing if in-person sessions are not practical.

If either party wants the other party to submit to an alcohol and drug test, that party must contact a testing center in the other party's area, pay for the test in advance, and provide notice to the party either directly or through the testing center itself. The party requested to test must test within 4 hours of being requested to do so. If the test is positive, the party that tested must reimburse the other party for the cost of the test.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 14, 2021

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

The CASA advocates or their supervisors are directed to make a referral to CPS to conduct a wellness check on Other Parent's home.

The matter is continued to February 10th, 2022 at 1:30 p.m. in Department 5. The CASA advocates are directed to prepare an updated report regarding the well-being of the children and any proposed modifications to the orders.

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

TENTATIVE RULING #27: THE RECOMMENDATIONS CONTAINED WITHIN THE CASA REPORT ARE ADOPTED AS THE ORDERS OF THE COURT AS SPECIFICALLY SET FORTH BELOW. THE PARTIES SHALL CONTINUE TO HAVE THE SAME PARENTING TIME, WITH RESPONDENT'S PARENTING TIME TAKING PLACE AT THE PATERNAL GRANDMOTHER'S HOME IN SACRAMENTO. THE PARTIES SHALL ENROLL IN AND PARTICIPATE IN CO-PARENTING COUNSELING WITH COSTS TO BE SHARED EQUALLY FOR THE COUNSELING SESSIONS. OTHER PARENT SHALL PROVIDE RESPONDENT WITH THE NAMES OF 3 POSSIBLE CO-PARENTING THERAPISTS BY OCTOBER 22, 2021. RESPONDENT SHALL SELECT ONE OF THE THERAPISTS WITH 5 DAYS OF RECEIVING THE NAMES. THEREAFTER, THE PARTIES SHALL IMMEDIATELY SCHEDULE INTAKE APPOINTMENTS. THE THERAPY MAY OCCUR VIA VIDEOCONFERENCING IF IN-PERSON SESSIONS ARE NOT PRACTICAL. IF EITHER PARTY WANTS THE OTHER PARTY TO SUBMIT TO AN ALCOHOL AND DRUG TEST, THAT PARTY MUST CONTACT A TESTING CENTER IN THE OTHER PARTY'S AREA, PAY FOR THE TEST IN ADVANCE, AND PROVIDE NOTICE TO THE PARTY EITHER DIRECTLY OR THROUGH THE TESTING CENTER ITSELF. THE PARTY REQUESTED TO TEST MUST TEST WITHIN 4 HOURS OF BEING REQUESTED TO DO SO. IF THE TEST IS POSITIVE, THE PARTY THAT TESTED MUST REIMBURSE THE OTHER PARTY FOR THE COST OF THE TEST. THE CASA ADVOCATES OR THEIR SUPERVISORS ARE DIRECTED TO MAKE A REFERRAL TO CPS TO CONDUCT A WELLNESS CHECK ON OTHER PARENT'S HOME. THE MATTER IS CONTINUED TO FEBRUARY 10TH, 2022 AT 1:30 P.M. IN DEPARTMENT 5. THE CASA ADVOCATES ARE DIRECTED TO PREPARE AN UPDATED REPORT REGARDING THE WELL-BEING OF THE CHILDREN AND ANY PROPOSED MODIFICATIONS TO THE ORDERS. OTHER PARENT IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
October 14, 2021
8:30 a.m./1:30 p.m.

28. DCSS V. AARON PARSONS (OTHER PARENT: AMANDA BREWER)

PFL20180154

On March 12, 2021, Other Parent filed a Request for Order (RFO) asking the court for custody orders. A CCRC session was scheduled on April 20, 2021 with a hearing on the RFO set for June 3, 2021. Other Parent was unable to have Respondent served prior to the CCRC date. On May 26, 2021, Other Parent requested that the hearing be rescheduled, which was approved by the court with a rescheduled court date of August 5, 2021.

On July 13, 2021, Respondent was served by mail with the notice of the new court date. However, upon review of the file, the court finds that there is no proof of service indicating service of the RFO on Respondent. The court further finds that the service of the notice of the new court date was not timely per Code of Civil Procedure 1005, which requires service at least 16 court days prior to the hearing plus 5 calendar days if service is by mail.

Only Other Parent participated in the CCRC session, so the report contains no recommendations in compliance with Cal. Rules of Court, rule 5.210(h)(4). A CCRC report was issued on May 10, 2021 and mailed to the parties that same day.

At the August 5, 2021 hearing, the court re-referred the parties to a CCRC session on August 30, 2021 and continued the matter to October 14, 2021. Other Parent was ordered to have Respondent served with notice of the new CCRC and hearing dates and to have him served with the RFO. If she were to fail to do so as required by law, the court indicated its inclination to drop the matter at the next hearing date.

Both parties participated in the CCRC session and came to a full agreement for Other Parent to have sole legal and physical custody with Respondent having no contact with the minor. A CCRC report was issued on August 31, 2021 with copies mailed to the parties on September 1, 2021.

Having reviewed the filings of the parties and the CCRC report, the court finds that the agreements contained within the CCRC report are in the best interest of the child and adopts them as the orders of the court.

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

TENTATIVE RULING #28: THE AGREEMENTS CONTAINED WITHIN THE CCRC REPORT ARE ADOPTED AS THE ORDERS OF THE COURT. OTHER PARENT IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 14, 2021

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

29. SERAIAH SETELE V. MICHAEL SETELE

PFL20200060

On October 8, 2021, Petitioner filed an ex parte application requesting that the court continue the trial currently set for October 20, 2021 to late December 2021 or January 2022. The request was based on Petitioner's understanding that the 3111 evaluation would not be completed in time for the current trial date. In the alternative, Petitioner requests an Order Shortening Time (OST) on her request for a continuance.

On October 12, 2021, the court granted the OST, setting a hearing on October 14, 2021 with a service deadline of October 12, 2021 and a response deadline of October 13, 2021.

As the court must issue its tentative ruling per local rules prior to the deadline for the response elapsing, the court cannot make a determination on the pleadings. Rather, the court orders the parties to appear at the October 14, 2021 hearing. Parties may appear via Zoom.

TENTATIVE RULING #29: THE COURT ORDERS THE PARTIES TO APPEAR AT THE OCTOBER 14, 2021 HEARING. PARTIES MAY APPEAR VIA ZOOM.