

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 4, 2021

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

1. CHRISTOPHER RODRIGUEZ V. JACQUELINE RODRIGUEZ

PFL20180591

On August 12, 2021, Respondent filed a Request for Order (RFO) requesting the court appoint a new therapist for the children and a new reunification counselor. On August 31, 2021, Petitioner was served with the RFO by mail. On September 9, 2021, Minor's Counsel was served by mail with the RFO.

On September 28, 2021, Petitioner filed a Responsive Declaration, served by mail and electronically on the other parties on September 29, 2021.

In the RFO, Respondent claims that the children's therapist has refused to abide by court orders and has acted unprofessionally. At the March 11, 2021 hearing, the court ordered the children's therapist to provide periodic updates to Respondent and her therapist regarding the progress of the children's therapy and for all parties to sign any documentation to allow for this communication. Respondent contends that after the orders were made she made requests for updates to which the therapist did not respond until May 19, 2021. The next update, per Respondent's RFO, occurred on August 2, 2021.

In the Responsive Declaration, Petitioner objects to changing the therapist.

At the hearing on October 7, 2021, by agreement of the parties the court adopted its tentative ruling as modified, including to reaffirm its prior order for the children's therapist to provide periodic updates regarding the status of therapy to Respondent and her therapist and for the parties to sign any and all documents that may be necessary to allow for this communication. The court ordered that these updates occur no less than once per month and that the updates include the dates of all therapy sessions which the children attended since the last update.

Moreover, per the parties' agreement the court ordered that within 5 days of the hearing the parties determine whether they consent to Ms. Sloper-Bettencourt serving as the reunification therapist. If so, the intakes were to take place immediately. The minor's therapy was to continue with Ms. Arevalo; however, Ms. Arevalo would no longer determine whether reunification therapy should commence.

The court continued the matter to November 4, 2021 at 8:30 a.m. in Department 5 to coincide with a previously calendared hearing with a CCRC session set on September 20, 2021.

Both parties participated in the CCRC session and came to no agreements. A CCRC report was issued on October 18, 2021 with copies mailed to the parties on October 19, 2021.

The report recommends no changes to the current court orders and that the children continue to work with their current therapist. The report further recommends that the parties

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agree on a reunification therapist and, if they cannot agree, that Minor's counsel select one. Lastly, the report recommends that the children's individual therapist determine when reunification therapy should commence.

On October 29, 2021, Petitioner filed an Updating Declaration, served on the other parties electronically that same day. Petitioner requests that the court adopt the recommendations within the CCRC report as its orders, which the court notes deviate from the court's orders at the October 7, 2021 hearing, particularly with regard to whether the children's therapist can decide when reunification therapy should begin.

On October 29, 2021, Respondent filed a Reply Statement regarding the CCRC review, served by mail on the other parties the day prior. Respondent argues that the CCRC report presents no new information sufficient to change the court's October 7, 2021 orders.

The court agrees. The court reaffirms its prior orders and declines to make any changes to them. The court finds that these orders remain in the best interest of the minors.

Minor's Counsel is ordered to prepare and file the Findings and Order After Hearing.

TENTATIVE RULING #1: THE COURT REAFFIRMS ITS PRIOR ORDERS MADE AT THE OCTOBER 7, 2021 HEARING AND DECLINES TO MAKE ANY CHANGES TO THEM. MINOR'S COUNSEL IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

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2. DANIEL VAN DER WYK V. MAI-SAM PHAI-SAN VAN DER WYK

PFL20150823

On September 8, 2021, Counsel for Petitioner filed a Motion to be Relieved as Counsel with a supporting declaration. Per the supporting declaration, Counsel confirmed Respondent's current mailing address within 30 days of the filing of the motion.

The Motion was originally set to be heard on November 4, 2021. However, on September 10, 2021, Counsel for Petitioner requested an Order Shortening Time for the Motion, which was granted on September 13, 2021, with a new hearing date of October 7, 2021.

On October 7, 2021, the Motion to be Relieved as Counsel was granted. As such, the current hearing date is moot. The court drops the matter from calendar.

TENTATIVE RULING #2: MATTER DROPPED FROM THE COURT'S CALENDAR AS MOOT.

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3. DAVID STOCKER V. MEAGAN OCOCK

PFL20210437

On July 21, 2021, Petitioner filed a Request for Order (RFO) requesting the court to make custody and visitation orders. A CCRC session was scheduled on August 25, 2021 with a hearing on the RFO scheduled for November 4, 2021.

On August 13, 2021, the court received a letter from Petitioner's Counsel requesting that the CCRC session be scheduled on a later date to allow more time for service of the Respondent. The court approved the request rescheduling the CCRC session to September 13, 2021.

Both parties participated in the CCRC session and reached a full agreement, granting Peititoner temporary legal custody with limited visitation to Respondent. A CCRC report was issued on September 15, 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 minor and adopts them as the orders of the court.

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

TENTATIVE RULING #3: THE AGREEMENTS 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.

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4. DAVID JONES V. CERRAH O'QUINN

PFL20210180

On September 10, 2021, Respondent filed a Request for Order (RFO) requesting the court to modify the custody and visitation orders, appoint Minor's Counsel, and set aside the orders made at the September 2, 2021 hearing.

Upon review of the file, the court finds that there is no proof of service indicating service of the RFO on Petitioner. As such, the court denies Respondent's RFO in its entirety and drops the matter from calendar for lack of service.

TENTATIVE RULING #4: RESPONDENT'S RFO IS DENIED FOR LACK OF SERVICE AND THE MATTER IS DROPPED FROM THE CALENDAR.

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5. DIANA GOODING v. ANTHONY GOODING

PFL20200296

On September 1, 2021 Respondent filed a Motion to Compel under CCP sections 2031.310 and 2033.290, which included a request for sanctions in the amount of \$10,000. Respondent additionally filed a Declaration of Respondent's Attorney and a Separate Statement in support of the motion. On November 2, 2021 Respondent filed a Proof of Service by Mail showing service upon Petitioner on September 24, 2021.

Petitioner filed a Responsive Declaration on October 18, 2021, as well as a Declaration and a Declaration of Petitioner's Attorney. Petitioner filed a Proof of Service by Mail showing service upon Respondent on October 14, 2021.

On October 26, 2021 Respondent filed a Supplemental Declaration and a Proof of Service by Mail showing service upon Petitioner the same day.

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

Demand for Production – Set 3

Respondent's motion satisfies the requirements of CCP section 2031.310. The court finds that Respondent has established good cause for the discovery as granted below.

Request #1: Granted. The court overrules Petitioner's objections. Petitioner is ordered to fully comply within 10 days of this order.

Request #4: Granted. The court overrules Petitioner's objections. Petitioner is ordered to fully comply within 10 days of this order.

The court denies Respondent's motion as to Request #9, finding good cause has not been shown. Further, the court sustains Petitioner's objection as to relevance, finding that payments that may or may not have been made for rent for a child of another relationship 8-12 years prior to trial is not relevant.

Request for Admissions – Set 2

Respondent's motion satisfies the requirements of CCP section 2033.290.

Request #2: Granted. Petitioner's objection is overruled. Petitioner has an obligation to make a reasonable investigation of the facts before answering items that are not within the party's personal knowledge. The court finds that Petitioner failed to meet this requirement. (CCP § 2033.220(c); *Grace v. Mansourian* (2015) 240 Cal.App.4th 523, 530.) Petitioner is ordered to provide complete and verified responses within 10 days of this order.

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Request #3: Denied. Petitioner's objection as to vague is sustained. The court finds the question is vague as to time.

Request #9: Denied. Petitioner's objection as to relevance is sustained. Further, this question is cumulative of other questions and includes information relevant to a juvenile delinquency matter.

Request #10: Granted. Petitioner's objection is overruled. The court finds that this question is vague as to time, however, and orders the question rephrased to limit the time frame to age 22 for the minor. The court finds this information is relevant to the issue of the credibility of Petitioner. Petitioner is ordered to provide a complete and verified answer within 10 days of this order.

Request #11: Denied. Petitioner's objection as to relevance is sustained.

Request #12: Granted. Petitioner's objection is overruled. The court finds this information is relevant to the issue of the credibility of Petitioner. Petitioner is ordered to provide a complete and verified answer within 10 days of this order.

Request #13: Denied. Petitioner's objection as to relevance is sustained.

Request #19: Granted. Petitioner's objection is overruled. Petitioner has an obligation to make a reasonable investigation of the facts before answering items that are not within the party's personal knowledge. The court finds that Petitioner failed to meet this requirement. (CCP § 2033.220(c); *Grace v. Mansourian* (2015) 240 Cal.App.4th 523, 530.) Petitioner is ordered to provide complete and verified responses within 10 days of this order.

Requests #20-22: Denied. The court sustains Petitioner's objection that these requests exceed the allowed 35 requests for admission. (CCP § 2033.050.) The court finds that Respondent has not provided proof of an order allowing the number of requests to exceed 35, and in filings, Respondent appears to concede that the requests to exceed 35.

Request for Special Interrogatories – Set 2

The court finds that the applicable section to Respondent's motion regarding the Special Interrogatories is CCP section 2030.300, and the related sections. The court finds that Respondent's motion meets the requirements of CCP section 2030.300.

Request #7: Granted. Petitioner's objection is overruled. Petitioner is ordered to comply within 10 days of this order.

Request #8: Granted. Petitioner's objection is overruled. Petitioner is ordered to comply within 10 days of this order.

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Request #11: Granted. Petitioner's objection is overruled. The objection raised is applicable to requests for admission per CCP section 2033.060, but is not applicable to this request. Petitioner is ordered to comply within 10 days of this order.

Request #12: Granted. Petitioner's objection is overruled. The objection raised is applicable to requests for admission per CCP section 2033.060, but is not applicable to this request. Petitioner is ordered to comply within 10 days of this order.

Request #16: Denied. Petitioner's objection as to the privacy rights of the minor child are sustained. The court finds the request implicates a juvenile case. The court weighed the rights of Respondent to request the information for the provided purpose of impeachment against the privacy rights of the minor and finds that the requesting purposes does not outweigh the minor's interests. The court finds that the information sought by Respondent is available in a more direct question, not referencing a juvenile matter, that has been permitted in other requests already addressed.

Request #19: Granted. Petitioner's objection is overruled. Petitioner is ordered to comply within 10 days of this order.

Request #20: Granted. Petitioner's objection is overruled. Petitioner is ordered to comply within 10 days of this order.

Request #21: Granted. Petitioner's objection is overruled. Petitioner is ordered to comply within 10 days of this order.

Request #22: Granted. Petitioner's objection is overruled. Petitioner is ordered to comply within 10 days of this order.

Request #23: Denied. Petitioner's objection as to the privacy rights of the minor child are sustained. The court finds the request implicates a juvenile case. The court weighed the rights of Respondent to request the information for the provided purpose of impeachment against the privacy rights of the minor and finds that the requesting purposes does not outweigh the minor's interests. The court finds that the information sought by Respondent is available in a more direct question, not referencing a juvenile matter, that has been permitted in other requests already addressed.

Request #26: Denied. Petitioner's objection as to the privacy rights of the minor child are sustained. The court finds the request implicates a juvenile case. The court weighed the rights of Respondent to request the information for the provided purpose of impeachment against the privacy rights of the minor and finds that the requesting purposes does not outweigh the minor's interests. The court finds that the information sought by Respondent is available in a more direct question, not referencing a juvenile matter, that has been permitted in other requests already addressed.

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Sanctions:

The court finds that Petitioner did not act with substantial justification in failing to comply as indicated above. Therefore, the court finds that sanctions are required against Petitioner per CCP sections 2030.300(d), 2031.300(c), 2031.310(h), and 2033.290(d). The court awards sanctions per the above sections in the amount of \$5,000. The court denies the requests for sanctions per Family Code section 271 and CCP section 2023.010(g) against Petitioner without prejudice. Petitioner's requests for sanctions are denied.

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

TENTATIVE RULING #5: RESPONDNET'S MOTION IS GRANTED IN PART AS SET FORTH IN THE WRITTEN RULING. RESPONDENT'S REQUEST FOR SANCTIONS IS GRANTED AS SET FORTH. PETITIONER'S REQUEST FOR SANCTIONS IS DENIED. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

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6. GULNARA KARIMOVA v. ALBERT SIEGEL

PFL20200725

On September 14, 2021 Petitioner filed a Request for Order (RFO) seeking an order to compel Respondent's Preliminary Declarations and Disclosures (PDD), an order preventing Respondent from using information that should be contained in the PDD if Respondent fails to comply, a waiver of Respondent's PDDs, and sanctions. The RFO was calendared for November 4, 2021. After review of the file, the court finds no Proof of Service has been filed for this RFO.

On September 21, 2021 Petitioner filed an Amended RFO, raising the same issues, which was set for December 2, 2021. On September 28, 2021 Petitioner filed a Proof of Service by Mail showing service upon Respondent of the Amended RFO on September 22, 2021.

Respondent has not yet filed a Responsive Declaration.

The court has read and considered the above filings and finds that as there is no Proof of Service upon Respondent for the September 14, 2021 RFO, the court denies that RFO for lack of notice to Respondent. The court affirms the December 2, 2021 hearing date on the Amended RFO.

TENTATIVE RULING #6: RESPONDENT'S MOTION IS DENIED FOR LACK OF SERVICE. THE HEARING ON THE AMENDED RFO SET FOR DECEMBER 2, 2021 IS AFFIRMED.

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7. JAMES WADDINGTON v. PAMELA WADDINGTON

PFL20210330

On August 31, 2021 Respondent filed a Request for Order (RFO) requesting the court order Temporary Spousal Support effective the date that the Petition for Dissolution was filed. Respondent filed an Income and Expense Declaration with the RFO. Respondent filed a Proof of Service by Mail showing service of the above filings upon Petitioner on August 31, 2021.

On October 12, 2021 Petitioner filed a Responsive Declaration to the RFO asking the court to deny Respondent's request entirely. On October 18, 2021 Petitioner filed an Income and Expense Declaration. On October 28, 2021 Petitioner filed a Proof of Service showing service upon Respondent of the filings the same day.

The court has reviewed the above filings and makes the following findings and orders:

Respondent's Income and Expense Declaration is incomplete, and the court requires further information to assess Respondent's request, including Respondent's income available for support. Petitioner alleges that Respondent is able to work as a nurse, that he is in the nursing field as well and there are positions available that Respondent qualifies for, and that Respondent worked up until the beginning of 2021. Petitioner's assertion is corroborated by Respondent's Income and Expense Declaration, which includes that she worked for Marshall Hospital for 6 weeks to help with COVID within the last 12 months. However, Respondent did not provide information as to when she worked for Marshall Hospital, or what income she earned during that time. Further, Respondent did not attach any documentation regarding the income received and did not fully fill out page 1 of the FL-150. The court finds that evidence has been presented that Respondent may have the ability and opportunity to work. However, the court needs additional information.

As such, the court continues the matter to January 27, 2022 at 8:30 am and orders Respondent to file and serve a complete FL-150, including paystubs for the time Respondent worked for Marshall Hospital within the last 12 months. Respondent is ordered to provide dates that she was employed within the last 12 months for the court's consideration. This documentation shall be filed and served no later than 10 days prior to the next hearing date.

TENTATIVE RULING #7: THE MATTER IS CONTINUED. RESPONDENT IS ORDERED TO FILE AND SERVE A COMPLETE FL-150 AS INDICATED, TO INCLUDE PROOF OF INCOME WITHIN THE LAST 12 MONTHS AND DATES RESPONDENT WORKED.

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8. JASON KOHAGEN v. KATELYN KOHAGEN

PFL20190858

On August 17, 2021 Respondent filed a Request for Order (RFO) requesting custody and visitation order, child support, temporary spousal support, and attorney's fees. Respondent concurrently filed an Income and Expense Declaration. The parties were referred to CCRC and given a return to court date. On September 10, 2021 Respondent filed a Proof of Service by Mail showing service upon Petitioner on August 23, 2021.

On October 22, 2021 Petitioner filed a Responsive Declaration to the RFO and an Income and Expense Declaration. Petitioner indicates that the parties reached a full agreement prior to CCRC and the CCRC session was cancelled. Petitioner requests that the court impute Respondent with income for purposes of calculating support and asserts the court should consider Respondent's cohabitation for purposes of calculating temporary spousal support. Finally, Petitioner argues that Respondent failed to address the requirements for 2030 and if the court is inclined to award attorney fee's a more reasonable amount is \$2,000 payable at \$200/month. On October 22, 2021 Petitioner filed a Proof of Service by Mail showing service upon Respondent on October 21, 2021.

On October 28, 2021 Respondent filed a Reply to Petitioner's Responsive Declaration, with an attached Proof of Service showing electronic service upon Petitioner the same day.

Although Petitioner asserts the CCRC was cancelled, the court file contains a CCRC report that was issued on October 20, 2021. Copies of the report were mailed to the parties on October 26, 2021. The CCRC report reflects that the parties reached an agreement, which appears to be roughly an equal time share. However, there is also a letter report in the file indicating that the parties failed to appear for the appointment.

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

The parties each submitted DissoMaster reports that reflect an equal parenting time for the parties' minor child. Therefore, the court finds that the parties have reached an agreement for an equal time share for their child.

The court has insufficient information as to what the specific agreement for custody and visitation is. The parties are ordered to submit a written stipulation reflecting the terms of the agreement for custody and visitation within 10 days of this order.

The court finds that Petitioner's income available for support is \$ 14,044/month (\$4,761 disability retirement + \$9,283 wages). Petitioner has deductions of \$371/month for 401(k) contributions, \$563/month for health insurance, \$1,189/month deductible interest and \$812/month for property tax expenses.

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The court finds that Respondent's income available for purposes of support is \$2,630/month. In making this finding, the court imputes Respondent with income based on the expenses that she includes on her Income and Expense Declaration. Based on the information provided by Respondent, monthly expenses of \$2,630 are being met by Respondent with very little credit card debt and no evidence of loans or other means of meeting these obligations. In fact, Respondent specifically indicates that her cohabitating partner does not pay any of these expenses. Respondent has no deductions. The court denies the request by Petitioner to impute Respondent with a greater income, finding that Petitioner has not made the required showing.

The court used the above figures in the attached DissoMaster Report to calculate guideline child support. The court finds that guideline child support is \$1,164/month and adopts the DissoMaster report as the court order. The court orders child support beginning September 1, 2021 and the 1st of each month thereafter until further order of the court or legal termination. This order results in back support owed in the amount of \$2,328, which shall be paid in monthly installments of \$200 beginning November 15, 2021 and continuing the 15th of each month until paid in full (approximately 12 months). Guideline support of \$1,164 for November 2021 shall be paid forthwith.

Regarding the request for temporary spousal support, the court finds that the reasoning behind the presumption in Family Code section 4323 – that there is a decreased need for support based on cohabitation – applies to a request for temporary spousal support. To conclude otherwise would not be equitable. In this case, the court finds that it needs additional information regarding the total expenses being paid by Respondent's cohabitating partner and Respondent before it can analyze the request for support, as the court must examine whether there is a decreased need for support given the total circumstances. Therefore, the issue of temporary spousal support is continued to February 3rd, 2022 at 8:30 am in Department 5. The court orders Respondent to provide the above information to the court and Petitioner no later than 10 days before the next hearing date.

Regarding the request for Family Code section 2030 attorney fees, the court finds that there is a disparity in income. Even with the imputation of income, Petitioner earns 5 times that of Respondent. The court further finds that Petitioner has a greater ability to pay the costs of representation for both parties. The court finds that the declaration filed by Respondent contain sufficient information to satisfy the requirements of bringing this request. As such, the court orders Petitioner to pay \$5,000 for Family Code section 2030 attorney fees. The court orders payments of \$400/month until paid in full (approximately 13 months) to be paid on the 15th of each month beginning December 15, 2021.

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

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TENTATIVE RULING #8: THE COURT FINDS THE PARTIES HAVE REACHED AN AGREEMENT FOR AN EQUAL PARENTING PLAN AND ORDERS THE PARTIES TO SUBMIT A WRITTEN STIPULATION REFLECTING THE TERMS OF THE AGREEMENT. THE COURT GRANTS RESPONDENT'S REQUESTS FOR CHILD SUPPORT AND 2030 ATTORNEY'S FEES AS SET FORTH. THE COURT CONTINUES THE REQUEST FOR TEMPORARY SPOUSAL SUPPORT AND ORDERS RESPONDENT TO FILE AND SERVE ADDITIONAL INFORMATION AS INDICATED NO LATER THAN 10 DAYS PRIOR TO THE HEARING DATE. RESPONDENT SHALL 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: Petitioner	DISSOMASTER REPORT 2021, Monthly	
		CASE NUMBER: PFL20190858 (#8)

Input Data	Petitioner	Respondent	Guideline (2021)	Cash Flow Analysis	Petitioner	Respondent
Number of children	0	1	Nets (adjusted)	Guideline		
% time with NCP	49.99%	0%	Petitioner	11,156	Payment (cost)/benefit	(1,164) 1,164
Filing status	HH/MLA	<-MFS	Respondent	2,474	Net spendable income	9,992 3,638
# Federal exemptions	1*	2*	Total	13,630	% combined spendable	73.3% 26.7%
Wages + salary	9,283	2,630	Support		Total taxes	2,325 156
401(k) employee contrib	371	0	CS Payor	Petitioner	# WHA	5 4
Self-employment income	0	0	Presumed	1,164	Net wage paycheck/mo	6,898 2,365
Other taxable income	0	0	Basic CS	1,164	Comb. net spendable	13,629
Other nontaxable income	4,761	0	Add-ons	0	Proposed	
New-spouse income	0	0	Presumed Per Kid		Payment (cost)/benefit	(1,237) 1,237
Wages + salary	0	0	Child 1	1,164	Net spendable income	10,201 3,442
Self-employment income	0	0	Spousal support	blocked	NSI change from gdl	209 (196)
Misc ordinary tax. inc.	0	0	Total	1,164	% combined spendable	74.8% 25.2%
SS paid other marriage	0	0	Proposed, tactic 9		% of saving over gdl	1587.1% -1487.1%
Retirement contrib if ATI	0	0	CS Payor	Petitioner	Total taxes	2,043 426
Required union dues	0	0	Presumed	1,237	# WHA	8 0
Nec job-related exp.	0	0	Basic CS	1,237	Net wage paycheck/mo	7,154 2,184
Adj. to income (ATI)	0	0	Add-ons	0	Comb. net spendable	13,642
SS paid other marriage	0	0	Presumed Per Kid		Percent change	0.1%
CS paid other relationship	0	0	Child 1	1,237	Default Case Settings	
Qual. Bus. Inc. Ded.	0	0	Spousal support	blocked		
Health insurance	563	0	Total	1,237		
Itemized deductions	2,001	0	Savings	13		
Other medical expenses	0	0	Total releases to	1		
Property tax expenses	812	0	Petitioner			
Ded. interest expense	1,189	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				

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9. JENNA SPILLERS V. CASEY NEET

PFL20180029

At the June 9, 2021 hearing, the court set a trial setting conference regarding the pending Contempt complaint against Respondent. Respondent was ordered to appear at the next hearing. Respondent is ordered to appear.

TENTATIVE RULING #9: RESPONDENT IS ORDERED TO APPEAR.

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10. KELSEY BROOKS V. NATHAN BROOKS

PFL20190875

On March 17, 2021, Respondent filed a Request for Order (RFO) asking the court to modify the custody, visitation, and child support orders. An Income and Expense Declaration was filed concurrently with the RFO. A CCRC session was scheduled on April 21, 2021, and a hearing on the RFO was scheduled for June 3, 2021.

At the hearing on June 3, 2021, the court adopted its tentative ruling which continued the child support issue to the DCSS calendar under Family Code 4251 and re-referred the parties to CCRC given the lack of timely notice of the CCRC session to Petitioner. A review hearing was scheduled for August 5, 2021.

Both parties participated in the CCRC session and came to several agreements but did not reach a full agreement on the actual parenting time. A CCRC report was issued on July 16, 2021 and mailed to the parties on July 19, 2021.

The CCRC report recommended that the current parenting schedule, granting Respondent the 1st, 3rd, and 5th weekends of the month, remain in place until Respondent moves and provide Petitioner with a video of his fifth wheel. Thereafter, the current parenting plan is recommended to remain in effect until the winter break of the 2021/2022 school year, when, if Respondent has moved and provided the video to Petitioner as noted above, the parties shall exercise a 2-2-5-5 parenting plan unless they agree on a different plan.

At the August 5, 2021 hearing, the court adopted its tentative ruling, which included the adoption of the agreements and recommendations contained within the CCRC report as clarified below. As this statement was not explicit in the recommendation, the court clarified that the 2-2-5-5 plan will commence at the beginning of the winter break of the 2021/2022 school year if the parties do not agree on a different parenting plan.

The court additionally set a review hearing on November 4, 2021 and ordered that Respondent is to have his drivers' license and insurance or adequate and safe transportation for the custody exchanges.

On October 29, 2021, Respondent filed a Declaration, served on Petitioner by mail that same day. In the Declaration, Respondent declares his current address, which is closer to the children, and attached copies of the car insurance and drivers' licenses for the individuals that typically provide transportation for the minors for Respondent's parenting time. While the copies are not entirely legible, they appear to reflect valid licenses and insurance of the individuals referenced.

Upon review of the file, the parties have not filed any other documents. As such, the court confirms its prior orders, including the commencement of the 2-2-5-5 parenting plan at the commencement of the minors' winter break.

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

TENTATIVE RULING #10: THE COURT FINDS RESPONDENT HAS COMPLIED WITH THE COURT'S ORDERS AND AFFIRMS ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT.

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11. KIMBERLY KENT V. STEVEN KENT

PFL20210223

& 14. STEVEN KENT V. KIMBERLY KENT

PFL20210325

On May 7, 2021, Respondent (in the lead case, PFL20210325) filed a Request for Order (RFO) asking the court for custody, visitation, and child support orders.

At the initial hearing on the RFO on July 29, 2021, Respondent's Counsel represented to the court that all parties had agreed to a continuance, which the court approved, continuing the matter to September 16, 2021. The court allowed Respondent's Counsel to have the CCRC session reset by letter request. On August 5, 2021, the court received the letter request to reset the CCRC session, scheduling a new session on October 1, 2021 and continuing the hearing date to November 4, 2021.

Also, on August 5, 2021, Petitioner was served by mail with the RFO.

On September 1, 2021, Respondent filed a Declaration with a Proof of Personal Service from case number PFL20210223 attached, indicating personal service of the RFO on Petitioner on August 28, 2021. This Declaration was served by mail on Petitioner on August 31, 2021.

On October 7, 2021, Respondent filed a Declaration declaring that she missed the CCRC appointment on October 1, 2021 due to being evacuate as a result of the Caldor Fire. This Declaration was served by mail on Petitioner that same day.

Only Petitioner participated in the CCRC session, as noted above. A single parent CCRC report was issued on October 20, 2021 with copies mailed to the parties on October 26, 2021. As only one party appeared, the report contains no recommendations.

The court finds good cause to continue the matter and to reset the CCRC session given that Respondent missed the CCRC session due to the Caldor Fire. However, if Respondent misses the next session, Respondent is advised that the court may consider sanctions against her under Local Rule 8.10.02.

The court continues the matter to January 27th at 8:30 a.m. in Department 5 and reset the CCRC session for December 9th, 2021 at 9:00 a.m. with Norman Labat.

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

TENTATIVE RULING #11 & #14: THE COURT CONTINUES THE MATTER TO JANUARY 27TH, 2022 AT 8:30 A.M. IN DEPARTMENT 5 AND RESET THE CCRC SESSION FOR DECEMBER 9TH, 2021 AT 9:00 A.M. WITH NORMAN LABAT. RESPONDENT IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 4, 2021

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

12. JOHN TILLMAN V. JODIE TILLMAN

PFL20070538

On June 10, 2021, Petitioner filed a Request for Order (RFO) requesting the court modify or terminate the current spousal support orders post-judgment. Petitioner concurrently filed an Income and Expense Declaration. On June 29, 2021 Petitioner filed a Proof of Service by Mail showing service of the filings upon Respondent on June 29, 2021.

On July 30, 2021, Respondent filed a Responsive Declaration to the RFO and an Income and Expense Declaration. Respondent requests the court deny Petitioner's RFO and grant her Family Code section 2030 attorney's fees in the amount of \$10,000. On August 10, 2021 Respondent filed a Proof of Service by First-Class Mail showing service upon Petitioner the same day. On August 20, 2021 Respondent filed a Supplemental Declaration and a Proof of Electronic Service showing service upon Respondent on August 19, 2021.

Also, on July 30, 2021, Respondent filed an RFO for Order for Attorney's Fees and Costs, served by mail on Petitioner on August 2, 2021.

At the August 26, 2021 hearing on Petitioner's RFO, the court granted Petitioner leave to amend his RFO, provided it was filed within one week from the hearing date. The court further ordered Petitioner to pay Respondent \$5,000 in attorney's fees, payable within two weeks of the hearing date, and reserved over Family Code 271 sanctions to the time of trial. The court continued this RFO and Respondent's RFO to October 21, 2021, vacating the previously-set date of September 23, 2021 for Respondent's RFO. The court set the matter for trial on January 12, 2022 with a Mandatory Settlement Conference set on December 6, 2021.

Petitioner filed a Responsive Declaration on September 1, 2021, served on Respondent electronically and by mail on September 1, 2021, which addresses the factors listed on FL-157 which were not fully addressed in the initial RFO.

On September 7, 2021, Respondent filed a Supplemental Declaration, served on Petitioner by mail and electronically that same day. Respondent requests that she be awarded \$15,000 in attorney's fees, rather than the \$10,000 previously requested, as the matter is now set for trial and the anticipated litigation costs are higher.

On September 13, 2021, Respondent filed a Declaration of her attorney, served on Petitioner by mail that same day, which supports Respondent's attorney's fees request.

On October 7, 2021, Petitioner filed a Responsive Declaration, an Income and Expense Declaration, and a Declaration of his attorney, served on Respondent electronically and by mail that same day.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 4, 2021

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

On October 12, 2021, Petitioner filed a Memorandum of Points and Authorities, served on Respondent by mail that same day.

On October 15, 2021, Respondent filed a Memorandum of Points and Authorities, served on Respondent by mail and electronically the day prior.

At the October 21, 2021 hearing, Respondent requested a continuance, which the court granted, continuing the matter to November 4, 2021.

On October 27, 2021, Petitioner filed a Supplemental Declaration, served on Respondent by mail that same day. Attached as exhibits to the Supplemental Declaration are an IRA statement, showing approximately \$1,000,000 in assets for Respondent and a Quit Claim Deed of Respondent's property in Iowa three individuals, who Petitioner alleges is her boyfriend and who the court infers are family members of the alleged boyfriend. Petitioner contends that the home was sold for \$1.

Regarding Respondent's request for attorney's fees, Respondent was previously awarded attorney's fees in the amount of \$5,000 on August 26, 2021 and the issue of 271 sanctions was reserved to the time of trial. Pursuant to a review of the Income and Expense Declarations, there is a disparity in available income between the parties with Petitioner having a greater ability to pay attorney's fees in this matter. However, the court notes that Respondent also has significant real and personal property assets. Therefore, based on an analysis under Family Code Section 2030, the Court awards attorney's fees payable by Petitioner to Respondent in the amount of \$2,500. This award shall be paid no later than December 2, 2021.

Regarding Petitioner's request to modify spousal support, the court finds after considering the more recent filings of the parties that its analysis as noted in its August 26, 2021 tentative ruling remains largely unchanged, pending trial. The court finds that Judgment was entered, which included a spousal support order, on April 1, 2011. Subsequently the parties modified the spousal support order by stipulation, mostly recently on March 28, 2016. In the most recent stipulation, Respondent was issued a *Gavron* warning.

Petitioner indicates that Respondent has failed to become self-supporting since the prior order. Petitioner points to a 2016 Vocational evaluation arguing that the evaluator opined that Respondent was capable of earning approximately \$1,993/month at that time. The court notes that in her recent Income and Expense Declaration Respondent states she has \$3,508/month in expenses and \$12 in assets listed in 11a, although this does not include the nearly \$1,000,000 in an IRA account that Petitioner alleges Respondent has. In contrast, Petitioner's Income and Expense Declaration states his monthly income of \$29,394 with \$15,702/month expense and \$25,000 in assets listed in 11a.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 4, 2021

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

The court finds based on the forgoing the request for modification of spousal support shall be set for trial. The court finds it need to take additional evidence at the trial to determine whether a modification of spousal support is warranted.

All prior orders remain in full force and effect.

Respondent shall prepare and file the Findings and Order After Hearing

TENTATIVE RULING #12: RESPONDENT IS AWARDED ATTORNEY'S FEES IN THE AMOUNT OF \$2,500. PETITIONER SHALL PAY THE TOTAL AMOUNT OF AWARD BY NO LATER THAN DECEMBER 2, 2021. THE COURT DECLINES TO MOIDIFY SPOUSAL SUPPORT PENDING TRIAL. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 4, 2021

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

13. SHANNON MARLETT V. JOHN MARLETT

PFL20170741

On September 10, 2021, Respondent filed a Request for Order (RFO) requesting modification of the spousal support orders. An Income and Expense Declaration was filed concurrently with the RFO, both of which were served personally on Petitioner on October 5, 2021.

On October 22, 2021, Petitioner filed a Responsive Declaration and Income and Expense Declaration, served electronically and by mail on Petitioner the day prior. Petitioner objects to a modification of the current spousal support amount.

The court finds that this request is postjudgment, as the parties' dissolution judgment was entered on December 7, 2018, in which jurisdiction to award spousal support to either party was reserved by the court. As the court needs to take evidence to weigh the Family Code 4320 factors, the court orders the parties to appear at the November 4, 2021 hearing to set dates for a Mandatory Settlement Conference and a trial.

Petitioner additionally requests \$2,400 in attorney's fee, which the court deems to be a request under Family Code 2030. The court finds that after the spousal support payment is made the parties net income is roughly the same. As such, the court finds that there is not a disparity in access to resources to hire an attorney after considering the support payments, and therefore the court denies Petitioner's request for attorney's fee under Family Code 2030.

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

TENTATIVE RULING #13: THE COURT ORDERS THE PARTIES TO APPEAR AT THE NOVEMBER 4, 2021 HEARING TO SET DATES FOR A MANDATORY SETTLEMENT CONFERENCE AND A TRIAL. THE COURT DENIES PETITIONER'S REQUEST FOR ATTORNEY'S FEE UNDER FAMILY CODE 2030. RESPONDENT IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 4, 2021

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

15. TIFFANY JONES v. MATTHEW JONES

PFL20190959

On May 5, 2021, Petitioner filed a Request for Order (RFO) asking the court to make child and spousal support orders. An Income and Expense Declaration was filed concurrently with the RFO. On May 18, 2021, Respondent was served by mail with the RFO.

On June 9, 2021, Respondent filed an RFO requesting modification of the current custody and visitation orders. The parties were referred to CCRC and given a return to court date. On June 16, 2021 Respondent filed a Proof of Electronic Service and a Proof of Service by First-Class Mail showing service upon Petitioner on June 15, 2021.

On June 25, 2021, Respondent filed a Responsive Declaration to Petitioner's RFO and an Income and Expense Declaration, served on Petitioner by mail that same day. Respondent contends that his income is much lower (\$4,285.42 on average per month) than what Petitioner claims in her RFO (over \$10,000). Respondent also requests that Petitioner be imputed at full-time minimum wage.

On July 8, 2021, Respondent filed a Declaration Regarding Journal Entry and Transcript of Phone Call, served on Petitioner electronically and by mail that same day.

At the hearing on July 15, 2021 regarding Petitioner's RFO, the court found that, while both parties have an equal obligation to support the minor children to the extent of their earning capacity, Respondent has not met his burden of showing that Petitioner has the ability and opportunity to work to this earning capacity.

The court further noted that while there is no proof of service indicating service of Petitioner's Income and Expense Declaration, the proof of service for the RFO indicates that 21 total pages were served, which is consistent with the Income and Expense Declaration being included. Nonetheless, absent confirmation from Respondent that he received the filing, the court determined it could not consider this filing.

The court continued the matter to September 16, 2021 at 8:30 a.m. in Department 5. Both parties were ordered to file and serve on one another updated Income and Expense Declarations at least 10 days in advance of the next hearing date.

On July 19, 2021, Petitioner filed a Responsive Declaration to Respondent's RFO and a Declaration in Support of the Responsive Declaration. Petitioner additionally filed a Proof of Electronic Service showing service upon Respondent the same day.

The parties attended their CCRC appointment and a CCRC report was issued on August 2, 2021. Copies of the report were mailed to the parties on August 31, 2021. The CCRC report reflects that the parties have agreed to maintain the current custody and visitation orders.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 4, 2021

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

On September 7, 2021, Respondent filed an Income and Expense Declaration, served electronically on Petitioner on September 3, 2021.

At the hearing on September 9, 2021, the parties requested a continuance of the hearing to October 21, 2021. The parties also requested that the September 16, 2021 hearing be continued to that date as well. The court approved both requests.

On September 22, 2021, Respondent filed a Reply Declaration to CCRC Report and Supplemental Declaration, served by mail and electronically on Petitioner that same day. Respondent claims that he only agreed to maintain the current orders because he was told in CCRC that his request for sole custody would be denied by the court. Respondent alleges that Petitioner is abusing alcohol and requests that he be granted custody of the kids until Petitioner can prove she can provide a health and safe home for the kids with no alcohol. Respondent further requests that Petitioner be ordered to no consume alcohol up to 24 hours prior to her parenting time (an increase from the current order to refrain from using alcohol 8 hours prior to her parenting time) and that Petitioner be ordered to submit to 80-hour EtG testing after her parenting time when requested and to attend AA meetings.

Also, on September 22, 2021, Petitioner filed an Income and Expense Declaration, served on Respondent by mail that same day.

On October 14, 2021, Respondent filed a Supplemental Declaration, served on Petitioner by mail on October 28, 2021. Respondent requests that Petitioner have alternate weekends with the minors, who he claims are refusing to spend time with Petitioner. Respondent declares that in late September the oldest minor showed up at Respondent's home during Petitioner's parenting time, saying he does not want to be at Petitioner's home. Respondent also alleges that on September 27, 2021 Petitioner physically assaulted the oldest minor and called him derogatory names.

At the October 21, 2021, the court inadvertently did not post a tentative ruling, as the parties stipulated to drop a separate issue set for hearing that day, which the court interpreted to mean that all issues were dropped from calendar. Rather, both parties appeared and requested a continuance. The court continued the matter to November 4, 2021.

The court finds that the vast majority of information provided by Respondent regarding the children's concerns are from the children themselves or from anonymous neighbors. While the court is concerned about the alleged conduct, the court does not have competent evidence regarding what is occurring in Petitioner's home. Given the conflicting narratives and the apparent struggles of the children, the court finds good cause to appoint a Court Appointed Special Advocate (CASA) to advocate for the children. The CASA is ordered to file and serve on

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 4, 2021

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

all parties a report to provide input to the court regarding the minors' best interest at least 10 days in advance of the next hearing.

The court continues the matter to January 27th, 2022 at 8:30 a.m. in Department 5. Pending the next hearing, the current custody and visitation orders shall remain in full force and effect.

Regarding child support, the court uses the most recent Income and Expense Declarations to determine parties' respective income. Per Petitioner's Income and Expense Declaration, she makes on average \$975 per month, based on 15 hours per week at \$15 per hour. Per Respondent's Income and Expense Declaration, he makes on average \$3,723 per month in self-employment income, based on his profit and loss statement for the first 8 months of the year. Respondent also claims a health insurance premium of about \$525 per month, which the court reasonably infers is a post-tax deduction. The court further considers the Qualified Business Income Deduction based on Respondent's 2021 earnings to date, as Respondent's attached tax returns reflect that he takes this deduction. This amounts to about \$274 per month per the attached DissoMaster Report.

Using a married filing separately status for Petitioner with 1 exemption and a head of household status for Respondent with 3 exemptions and an equal timeshare, the court finds that guideline child support is \$686 and temporary spousal support under the Alameda formula is \$302. See attached DissoMaster Report. Respondent is ordered to pay Petitioner as and for child support \$686 per month and as and for temporary spousal support \$302 per month, payable on the 1st of the month, commencing on June 1, 2021, until further order of the court or termination by operation of law.

These orders result in an arrears amount. Respondent is ordered to pay an additional \$50 per month towards the arrears balance, payable on the 1st of the month, commencing with December 1, 2021, until the balance is paid in full.

The court reserves jurisdiction to modify child and spousal support retroactive to the date of filing of Petitioner's RFO. The court continues the issues of child and spousal support to the January 27th, 2022 hearing. Both parties are ordered to file and serve on one another updated Income and Expense Declarations at least 10 days in advance of the hearing.

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

TENTATIVE RULING #15: THE COURT CONTINUES ALL ISSUES TO JANUARY 27TH, 2022 AT 8:30 A.M. IN DEPARTMENT 5. PENDING THE NEXT HEARING, THE CURRENT CUSTODY AND VISITATION ORDERS SHALL REMAIN IN FULL FORCE AND EFFECT. RESPONDENT IS ORDERED TO PAY PETITIONER AS AND FOR CHILD SUPPORT \$686 PER MONTH AND AS AND FOR TEMPORARY SPOUSAL SUPPORT \$302 PER MONTH, PAYABLE ON THE 1ST OF THE MONTH,

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 4, 2021

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

COMMENCING ON JUNE 1, 2021, UNTIL FURTHER ORDER OF THE COURT OR TERMINATION BY OPERATION OF LAW. SEE ATTACHED DISSOMASTER REPORT. THESE ORDERS RESULT IN AN ARREARS AMOUNT. RESPONDENT IS ORDERED TO PAY AN ADDITIONAL \$50 PER MONTH TOWARDS THE ARREARS BALANCE, PAYABLE ON THE 1ST OF THE MONTH, COMMENCING WITH DECEMBER 1, 2021, UNTIL THE BALANCE IS PAID IN FULL. THE COURT RESERVES JURISDICTION TO MODIFY CHILD AND SPOUSAL SUPPORT RETROACTIVE TO THE DATE OF FILING OF PETITIONER'S RFO. BOTH PARTIES ARE ORDERED TO FILE AND SERVE ON ONE ANOTHER UPDATED INCOME AND EXPENSE DECLARATIONS AT LEAST 10 DAYS IN ADVANCE OF THE HEARING. PETITIONER 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: Father	DISSOMASTER REPORT 2021, Monthly	
		CASE NUMBER: #15

Input Data	Father	Mother	Guideline (2021)	Cash Flow Analysis	Father	Mother
Number of children	2	0	Nets (adjusted)	Guideline		
% time with NCP	0%	49.99%	Father	3,175	Payment (cost)/benefit	(988) 988
Filing status	HH/MLA	<-MFS	Mother	889	Net spendable income	2,187 1,877
# Federal exemptions	3*	1*	Total	4,064	% combined spendable	53.8% 46.2%
Wages + salary	0	975	Support (Nondeductible)	Total taxes	23	86
401(k) employee contrib	0	0	CS Payor	Father	# WHA	0 0
Self-employment income	3,723	0	Presumed	686	Net wage paycheck/mo	0 889
Other taxable income	0	0	Basic CS	686	Comb. net spendable	4,063
Other nontaxable income	0	0	Add-ons	0	Proposed	
New-spouse income	0	0	Presumed Per Kid		Payment (cost)/benefit	(988) 988
Wages + salary	0	0	Child 2	323	Net spendable income	2,187 1,877
Self-employment income	0	0	Child 3	362	NSI change from gdl	0 0
Misc ordinary tax. inc.	0	0	SS Payor	Father	% combined spendable	53.8% 46.2%
SS paid other marriage	0	0	Alameda	302	% of saving over gdl	0% 0%
Retirement contrib if ATI	0	0	Total	988	Total taxes	23 86
Required union dues	0	0	Proposed, tactic 9		# WHA	0 0
Nec job-related exp.	0	0	CS Payor	Father	Net wage paycheck/mo	0 889
Adj. to income (ATI)	0	0	Presumed	686	Comb. net spendable	4,063
SS paid other marriage	0	0	Basic CS	686	Percent change	0.0%
CS paid other relationship	0	0	Add-ons	0	Default Case Settings	
Qual. Bus. Inc. Ded.	274	0	Presumed Per Kid			
Health insurance	525	0	Child 2	323		
Itemized deductions	0	0	Child 3	362		
Other medical expenses	0	0	SS Payor	Father		
Property tax expenses	0	0	Alameda	302		
Ded. interest expense	0	0	Total	988		
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	0				
TANF, SSI and CS received	0	0				



LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 4, 2021

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

16. VINCENT FOSS v. SHANNON FOSS

PFL20210247

On July 22, 2021 the parties appeared before the court on Petitioner's RFO and the court referred the parties back to CCRC with temporary orders.

The parties appeared for CCRC and a CCRC report was issued on October 22, 2021. Copies of the CCRC report were mailed to the parties on October 26, 2021.

No other filings have been submitted by the parties.

The court has read and considered the CCRC report, as well as the prior orders, and makes the following findings and orders:

The recommendation contained in the CCRC report to maintain the current orders is in the best interest of the children. As such, the court affirms the prior orders as the court order.

TENTATIVE RULING #16: THE COURT AFFIRMS THE PRIOR ORDERS AS THE COURT ORDER PER THE RECOMMENDATION CONTAINED IN THE 10/22/21 CCRC REPORT.