

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

September 16, 2021

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

**15. JACOB NICHOLSON v. SAMANTHA RICE**

**PFL20080140**

On July 9, 2021 the court denied Respondent's ex parte application and referred the parties to CCRC with a return to court for review on the instant hearing. Respondent was ordered to serve Petitioner with the filing and referral. On July 27, 2021 Respondent filed a Proof of Personal Service showing service upon Petitioner on July 26, 2021.

Petitioner has not filed a Responsive Declaration.

The parties attended their CCRC appointment and a CCRC report was issued on August 6, 2021. Copies were mailed to the parties on August 10, 2021. Respondent's copy of the report was returned to the court on August 24, 2021.

The court has read the above filing and CCRC report and makes the following findings and orders:

The parties reached a full agreement during their CCRC appointment, which is reflected in the 8/6/21 CCRC report. The court finds the agreement reached to be in the best interest of the minor child and adopts the agreement as the court order. All prior orders not in conflict shall remain in full force and effect.

If Respondent was unable to obtain another copy of the CCRC report and needs additional time to receive and review the CCRC report, Respondent shall request oral argument and notify Petitioner of the request, to request a continuance. If no such request is made pursuant to Local Rule 8.05.07 and California Rules of Court, rule 3.1308 this ruling shall become the order of the court.

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

**TENTATIVE RULING #15: THE COURT ADOPTS THE AGREEMENT CONTAINED IN THE 8/6/21 CCRC REPORT AS THE COURT ORDER. ALL PRIOR ORDERS NOT IN CONFLICT REMAIN IN FULL FORCE AND EFFECT. IF RESPONDENT NEEDS MORE TIME TO REVIEW THE CCRC REPORT, RESPONDENT SHALL FOLLOW THE PROCEDURES IN LOCAL RULE 8.05.07 AND CALIFORNIA RULES OF COURT, RULE 3.1308. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.**

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**16. JEFFREY LEWIS-WOMACK V. CLAUDIA LEWIS-WOMACK**

**PFL20090716**

On July 1, 2021, Petitioner filed an ex parte application requesting the court to modify the custody orders to grant Petitioner sole custody and to order Respondent to submit to a hair follicle test. On July 2, 2021, the court denied the ex parte request and set the matter on calendar on September 16, 2021. A CCRC session was scheduled for August 2, 2021.

On July 28, 2021, Petitioner filed a Declaration. Upon review of the file, the court finds that there is no proof of service indicating service of this Declaration on Respondent. As such, the court has not reviewed nor considered this Declaration.

The court further finds that there is no proof of service indicating service of the underlying Request for Order (RFO) on Respondent. However, both parties participated in the CCRC session and the only issue before the court is custody, so the court finds that Respondent had notice of the issues raised in the RFO.

A CCRC report was issued on August 26, 2021, with copies mailed to the parties on September 8, 2021. The report states that Respondent has a lack of understanding of how her actions negatively impact the children, specifically when she has placed them in the middle of the custody disputes. At the same time, the parties' 17-year-old son is estranged from Petitioner and does not want to spend time with him. The parties' minor daughter in contrast likes the current week-on/week-off schedule.

The CCRC recommends that the current custody orders remain in full force and effect, which the court finds to be consistent with the wishes of the children. Having reviewed the filings of the parties and the CCRC report, the court finds that the recommendation contained with the CCRC report is in the best interest of the children and adopts it as the order of the court. Nonetheless, the court remains concerned about the actions of Respondent in placing them in the middle of the custody dispute. The court admonishes both parties that if either party places the children in the middle of their custody issues such actions could form a basis for reducing that parent's custodial time.

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

**TENTATIVE RULING #16: THE RECOMMENDATION CONTAINED WITH THE CCRC REPORT IS ADOPTED AS THE ORDER OF THE COURT. THE COURT ADMONISHES BOTH PARTIES THAT IF EITHER PLACES THE CHILDREN IN THE MIDDLE OF THEIR CUSTODY ISSUES SUCH ACTIONS COULD FORM A BASIS FOR REDUCING THAT PARENT'S CUSTODIAL TIME. PETITIONER IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.**

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**17. JOHN PEARSON V. AMBER PEARSON**

**PFL20140137**

On June 18, 2021, Petitioner filed a Request for Order requesting that the court modify the visitation orders, specifically to grant the parties the first right of refusal if the child is out of the care of a parent for more than two hours. A CCRC session was scheduled for July 29, 2021, with a hearing on the RFO scheduled for September 16, 2021.

On June 21, 2021, Respondent filed her own RFO requesting the court modify the visitation orders, specifically to have exchanges take place at the Folsom Police Department, to refer the parties to co-parenting counseling, and to order that any licensed and insured driver can facilitate the exchanges.

On July 12, 2021, Petitioner was served by mail with Respondent's RFO. On July 14, 2021, Respondent was served by mail with Petitioner's RFO. Petitioner also filed an Address Verification on July 20, 2021.

While Respondent did not file an Address Verification for her RFO as required for mail service of a postjudgment RFO regarding visitation issues under Family Code 215, Petitioner filed a Responsive Declaration on July 21, 2021, served by mail on Respondent the following day (although the proof of service was dated as signed on July 21, 2021, the court infers that this was a clerical error and finds the service to be valid). As the requests in Petitioner's RFO overlap the issues raised in Respondent's RFO and given that Petitioner raised no issues regarding the service defects in his Responsive Declaration, the court has considered both RFOs and will address the issues raised in each.

In the Responsive Declaration, Petitioner consents to have exchanges at a law enforcement location, but he requests that they be at the El Dorado Sheriff's Office.

On July 23, 2021, Respondent filed a Responsive Declaration, served electronically on Petitioner on July 20, 2021. Respondent objects to the first right of refusal as requested by Petitioner.

On July 29, 2021, Respondent filed an additional Responsive Declaration. Upon review of the file, there is no proof of service indicating service of this filing on Petitioner. As such, the court has not reviewed or consider this filing.

On September 1, 2021, Respondent filed another Responsive Declaration, served by mail on Petitioner that same day.

On September 9, 2021, Respondent filed a Supplemental Declaration, served by mail on Petitioner on September 8, 2021. In this Declaration, Respondent states that she now works remotely and no longer needs assistance with the pick-up and drop off of the child.

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Both parties participated in the CCRC session but came to no agreements. A CCRC report was issued on August 25, 2021 with copies mailed to the parties on September 1, 2021.

The CCRC report states that Respondent claims that the individual watching the minor when she gets out of school is the mother of the minor's best friend and therefore it is beneficial to the minor to have this social interaction. The report recommends that the current orders remain in effect and not be changed. The report further recommends that the parents communicate with one another regarding the child's needs through Talkingparents.com.

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

Regarding the exchange location, the court finds that both parties agree that having exchanges at a location that is monitored would be in the parties' interests. However, the parties do not agree on which law enforcement location to conduct the exchanges. The court orders that at the beginning of Petitioner's parenting time exchanges shall take place at the El Dorado County Sheriff's Office. The court orders that at the beginning of Respondent's parenting time exchanges shall take place at the Folsom Police Department. The court further orders that any licensed or insured driver can exchange the minor, provided that the party gives prior notice to the other party of who the individual will be that will exchange the minor.

The court orders both parties to complete a co-parenting class, which may be in-person or online, and provide proof of completion to the court and the other party. The class must be completed by November 15, 2021.

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

**TENTATIVE RULING #17: THE RECOMMENDATIONS CONTAINED WITHIN THE CCRC REPORT ARE ADOPTED AS THE ORDERS OF THE COURT. THE COURT ORDERS THAT AT THE BEGINNING OF PETITIONER'S PARENTING TIME EXCHANGES SHALL TAKE PLACE AT THE EL DORADO COUNTY SHERIFF'S OFFICE. THE COURT ORDERS THAT AT THE BEGINNING OF RESPONDENT'S PARENTING TIME EXCHANGES SHALL TAKE PLACE AT THE FOLSOM POLICE DEPARTMENT. THE COURT FURTHER ORDERS THAT ANY LICENSED OR INSURED DRIVER CAN EXCHANGE THE MINOR, PROVIDED THAT THE PARTY GIVES PRIOR NOTICE TO THE OTHER PARTY OF WHO THE INDIVIDUAL WILL BE THAT WILL EXCHANGE THE MINOR. THE COURT ORDERS BOTH PARTIES TO COMPLETE A CO-PARENTING CLASS, WHICH MAY BE IN-PERSON OR ONLINE, AND PROVIDE PROOF OF COMPLETION TO THE COURT AND THE OTHER PARTY. THE CLASS MUST BE COMPLETED BY NOVEMBER 15, 2021. PETITIONER IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.**

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**18. KRISTI SECCOMBE V. NOEL SECCOMBE**

**PFL20160463**

On August 18, 2021, Petitioner filed a Request for Order requesting that the court modify the child support order and set aside child support order of August 10, 2017. On August 18, 2021, the RFO was served by mail on Respondent and personally on the Department of Child Support Services (DSS), who is also a party to the case.

On September 7, 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 the other parties. As such, the court has not reviewed or considered this filing.

On September 7, 2021 DCSS filed a Responsive Declaration to the RFO indicating they are enforcing support and acknowledging that there may be an issue with the 2017 order and minute order. DCSS also filed a Proof of Service showing service of the filing upon the parties on September 7, 2021.

As DCSS is a party to the case, under Family Code 4251 the matter should be heard on the DCSS calendar by the Child Support Commissioner. The court therefore continues the matter to the DCSS calendar on September 27, 2021 at 8:30 a.m. in Department 5. The parties may appear for this hearing via Zoom. Respondent is ordered to serve his Responsive Declaration on Petitioner and DCSS at least 7 days in advance of the hearing and to file a proof of service with the court.

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

**TENTATIVE RULING #18: THE COURT CONTINUES THE MATTER TO THE DCSS CALENDAR ON SEPTEMBER 27, 2021 AT 8:30 A.M. IN DEPARTMENT 5. THE PARTIES MAY APPEAR FOR THIS HEARING VIA ZOOM. RESPONDENT IS ORDERED TO SERVE HIS RESPONSIVE DECLARATION ON PETITIONER AND DCSS AT LEAST 7 DAYS IN ADVANCE OF THE HEARING AND TO FILE A PROOF OF SERVICE WITH THE COURT. PETITIONER IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.**

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**19. SHARON VANDERPOOL v. MATTHEW VANDERPOOL**

**PFL20180647**

**(OTHER PARTY: JANE DAVIS)**

On August 13, 2021 Other Party, Ms. Davis, filed a Request for Order (RFO) requesting grandparent visitation. On September 3, 2021 Ms. Davis filed a Proof of Service by Mail, however, it shows service of a "FL-320" upon Ms. Davis the same day.

On September 3, 2021 Respondent filed a Responsive Declaration objecting to the RFO. Petitioner has not filed a Response.

On September 7, 2021 Ms. Davis filed Proof of Service of Summons, showing substituted service upon both parties with unknown individuals.

On September 8, 2021 Ms. Davis filed a Declaration. However, as there is no proof of service showing the parties were served with the filing, the court cannot consider it.

The court has read and considered the above, as indicated, and makes the following findings and orders.

Judgement was entered on January 24, 2020 and grants Petitioner and Respondent equal parenting time per their attached MSA. Therefore, it appears this action is brought by Ms. Davis under Family Code section 3104.

Assuming that the parties received notice per the filed Proofs of Service, the court considers the merits of the request. The court finds that Ms. Davis has failed to establish the requirements for visitation per Family Code section 3104(a)(1) in that she has failed to show a preexisting relationship such that it would be in the best interest of the children to order such visitation. Further, Respondent has objected. The court has no credible evidence that the parents are not appropriately exercising their parental authority in this matter.

Ms. Davis' motion is denied.

**TENTATIVE RULING #19: OTHER PARTY, MS. DAVIS', MOTION IS DENIED AS SET FORTH.**

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**21. ROB M. GRONEWOLD V. KATHERINE MAY GRONEWOLD**

**PFL20190313**

On June 28, 2021, Petitioner filed a Request for Order requesting a modification of the custody and visitation orders, specifically as it relates to the holiday schedule, exchange location, and the school of the child, and an order for attorney's fees and costs. On June 28, 2021, Petitioner filed a second RFO requesting the court to order attorney's fees and to enter the agreement reached by the parties at the October 5, 2020 Mandatory Settlement Conference as the judgment of the court. A Financial Statement (Simplified) and Income and Expense Declaration were filed concurrently with the RFOs.

A CCRC session was scheduled for August 4, 2021 with a hearing on the RFO scheduled for September 16, 2021. On July 7, 2021 and again on July 12, 2021, Petitioner filed a Proof of Service by Mail indicating service of the RFOs, Income and Expense Declaration, and Financial Statement (Simplified) on Respondent. The July 12, 2021 Proof of Service makes reference to both RFOs, so the court finds that Respondent was given notice of all of Petitioner's requests.

On September 2, 2021, Petitioner filed a Declaration, served on Respondent by mail on September 3, 2021. The Declaration addresses concerns Petitioner has with the agreements contained within the CCRC report as discussed below.

Both parties participated in the CCRC session and came to a full agreement on most issues, but not on the exchange location. A CCRC report was issued on August 12, 2021, with copies mailed to the parties that same day.

The CCRC report notes that Petitioner moved from El Dorado County to Red Bluff to live with his girlfriend, which resulted in a 3-hour distance between the parties' homes. As such, the report recommends that the parties consider having Petitioner pick up the minor from Respondent's home on Fridays at the beginning of his parenting time and for the parties to meet in Woodland at the Arco Gas Station on Road 102 at the beginning of Respondent's parenting time.

Upon review of the filings, the court finds that Petitioner states his gross average income is about \$5,440, whereas Petitioner claims Respondent's gross average income is about \$2,050. Respondent did not file a Responsive Declaration nor an Income and Expense Declaration, so this is the only information the court has regarding the parties' current finances, which the court takes into consideration regarding the exchange issue.

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 with the court with the modifications as noted below. Petitioner shall pick up the minor from Respondent's home on Fridays at the beginning of his parenting time. The parties shall exchange the child in Woodland at the Arco Gas Station on

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Road 102 at the beginning of Respondent's parenting time. The court finds that these orders are appropriate given the information regarding the parties' finances and the fact that the Petitioner chose to move farther away from the Respondent's home.

Section "1f" of the Legal Custody section of the CCRC report shall be modified to state only "Out-of-country" travel, with the court finding that the parties need not obtain the other's consent for travel out of state. The court orders that if a party plans to travel with the minor out of state the party shall first notify the other parent as soon as possible and provide an itinerary of the travel plans.

Respondent is ordered to provide a list to Petitioner of three possible co-parenting counselors by September 30, 2021. Thereafter, Respondent shall select one of the counselors within 7 days of receiving the list and schedule the first appointment in consultation with Petitioner.

The court declines to make any orders regarding getting the minor a passport finding it to be out of the scope of the original request.

The court finds that Petitioner raised in his RFO the issue of the child's school for this school year. However, this issue was not addressed in the CCRC report. The court re-refers the parties to a CCRC session with Ady Langer on 10/18/2021 at 1:00 p.m. to address the issue of the child's school for this school year.

Regarding Petitioner's attorney's fees requests, the court infers that Petitioner is making this request under Family Code 271. Under a Family Code 271 analysis, the court finds that Petitioner has not provided sufficient evidence to the court to support a finding that Respondent's conduct has frustrated the policy of the law to promote settlement. Therefore, the court denies the request for attorney's fees. While Petitioner alleges that Respondent's conduct has delayed the entry of the dissolution judgment, the court finds as discussed below that the judgment is not yet ripe to be entered.

Regarding Petitioner's request to enter a judgment per the terms of the parties' agreement at the October 5, 2020 Mandatory Settlement Conference, the court finds that the agreement of the parties fails to reference the custody, visitation, and child support issues nor specifically reserve them for later determination. The agreement also includes a waiver of spousal support; however, given the parties had a long-term marriage, the court declines to adopt said waiver absence a clear indication in the agreement that the parties were advised of all their rights regarding spousal support within the context of a long-term marriage. Further, the court finds that the parties have neither completed their final declarations of disclosure nor waived the requirement to complete these disclosures. For all the above reasons, the court finds that parties' agreement at the October 5, 2020 Mandatory Settlement Conference has not sufficiently addressed all the issues necessary for the court to enter a dissolution judgment.

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The court orders the parties to appear at the September 16, 2021 hearing to inquire further of the parties regarding their agreement and whether a judgment can be entered in the matter. Unless either party objects to the tentative ruling pursuant to Local Rule 8.05.07 or California Rules of Court, rule 3.1308, all other issues shall be resolved as set forth in the tentative ruling.

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

**TENTATIVE RULING #21: THE AGREEMENTS AND RECOMMENDATIONS CONTAINED WITHIN THE CCRC REPORT ARE ADOPTED AS THE ORDERS WITH THE COURT WITH THE MODIFICATIONS AS NOTED BELOW. PETITIONER SHALL PICK UP THE MINOR FROM RESPONDENT'S HOME ON FRIDAYS AT THE BEGINNING OF HIS PARENTING TIME. THE PARTIES SHALL EXCHANGE THE CHILD IN WOODLAND AT THE ARCO GAS STATION ON ROAD 102 AT THE BEGINNING OF RESPONDENT'S PARENTING TIME. SECTION 1F OF THE LEGAL CUSTODY SECTION OF THE CCRC REPORT SHALL BE MODIFIED TO STATE ONLY "OUT-OF-COUNTRY" TRAVEL. THE COURT ORDERS THAT IF A PARTY PLANS TO TRAVEL WITH THE MINOR OUT OF STATE THE PARTY SHALL FIRST NOTIFY THE OTHER PARENT AS SOON AS POSSIBLE AND PROVIDE AN ITINERARY OF THE TRAVEL PLANS. RESPONDENT IS ORDERED TO PROVIDE A LIST TO PETITIONER OF THREE POSSIBLE CO-PARENTING COUNSELORS BY SEPTEMBER 30, 2021. THEREAFTER, RESPONDENT SHALL SELECT ONE OF THE COUNSELORS WITHIN 7 DAYS OF RECEIVING THE LIST AND SCHEDULE THE FIRST APPOINTMENT IN CONSULTATION WITH PETITIONER. THE COURT DECLINES TO MAKE ANY ORDERS REGARDING GETTING THE MINOR A PASSPORT FINDING IT TO BE OUT OF THE SCOPE OF THE ORIGINAL REQUEST. THE COURT RE-REFERS THE PARTIES TO A CCRC SESSION WITH ADY LANGER ON 10/18/2021 AT 1:00 P.M. TO ADDRESS THE ISSUE OF THE CHILD'S SCHOOL FOR THIS SCHOOL YEAR. THE COURT DENIES PETITIONER'S REQUEST FOR ATTORNEY'S FEES. THE COURT ORDERS THE PARTIES TO APPEAR AT THE SEPTEMBER 16, 2021 HEARING TO INQUIRE FURTHER OF THE PARTIES REGARDING THEIR AGREEMENT AND WHETHER A JUDGMENT CAN BE ENTERED IN THE MATTER. PETITIONER IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.**

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**22. AIMEE ELSE v. DANIEL ELSE**

**PFL20190360**

On July 8, 2021 the court adopted the 6/21/21 CCRC report as interim orders and appointed a CASA advocate to provide further input to the court. The court continued the matter for receipt of a report by CASA to the instant hearing and ordered any supplemental declarations submitted by the parties to be filed and served no later than 10 days prior to the hearing date.

On August 31, 2021 Petitioner filed a Declaration. On September 14, 2021 Petitioner filed a Proof of Service showing service of the filing upon Respondent on August 31, 2021 by Mail.

On September 8, 2021 CASA filed a report and a Proof of Service by Mail showing service upon each party the same day.

The court has read and considered the above, as indicated, and makes the following findings and orders:

The CASA advocate recommends that the children remain with Respondent per the current orders.

The court finds that the current orders remain in the best interest of the minor children. The court affirms the current orders as the orders of the court.

**TENTATIVE RULING #22: THE COURT AFFIRMS THE CURRENT ORDERS AS IN THE BEST INTEREST OF THE MINOR CHILDREN AND ORDERS THAT THEY SHALL REMAIN IN FULL FORCE AND EFFECT.**

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**23. SERAIAH SETELE v. MICHAEL SETELE**

**PFL20200060**

On August 9, 2021 Petitioner filed a Request for Order (RFO) requesting the court to transfer venue to another county per CCP section 397.5. Petitioner also file a Declaration in support of RFO. On August 9, 2021 Petitioner filed a Proof of Service by Mail showing service of a "FL-300, FL-320 (Blank), supportive declaration" upon Respondent on August 7, 2021.

Respondent has not filed a Responsive Declaration.

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

Service upon Respondent was deficient and did not provide Respondent with notice of the hearing date in that the Proof of Service reflects that the documents served were served two days prior to the RFO being filed with the court. This is insufficient service in that a file endorsed copy, including the hearing date, was not served upon Respondent.

Therefore, Petitioner's RFO is denied without prejudice for lack of proper service.

**TENTATIVE RULING #23: PETITIONER'S MOTION IS DENIED WITHOUT PREJUDICE FOR LACK OF PROPER SERVICE.**

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**24. WENDY JONES V. LUCAS JONES**

**PFL20210015**

On April 28, 2021, Petitioner filed a Request for Order requesting child support, spousal support, and property orders. Prior to filing the RFO, on April 19, 2021, Petitioner filed an Income and Expense Declaration. On May 17, 2021, Respondent was served by mail with the RFO.

On May 6, 2021, Respondent filed a Responsive Declaration, but 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 or considered it.

On July 23, 2021, Petitioner filed an updated Income and Expense Declaration, served by mail on Respondent on July 27, 2021.

At the initial hearing on the RFO, the court adopted its tentative ruling, in which it found that Respondent did not file an Income and Expense Declaration and that an Income and Expense Declaration was necessary to adjudicate Petitioner's requests. The court continued the matter to September 16, 2021 at 1:30 p.m. in Department 5. Respondent was ordered to file and serve on Petitioner an updated and completed Income and Expense Declaration at least 10 days in advance of the next hearing date. Petitioner was ordered to provide notice of the hearing date to the Department of Child Support Services (DCSS).

On August 5, 2021, DCSS filed a Responsive Declaration, served on the parties by mail that same day. DCSS declares that there is an existing child support case between the parties in case # PFS20140120. The judgment in that case is attached to the Responsive Declaration. DCSS requests that the matter be continued to the DCSS calendar to be heard by the Child Support Commissioner.

On August 20, 2021, DCSS filed another Responsive Declaration. Upon review of the file, the court finds that there is no proof of service indicating service of this filing on the parties. As such, the court has not reviewed or considered it.

On September 13, 2021, Respondent filed an Income and Expense Declaration, served on Petitioner personally on September 12, 2021.

Regarding child and spousal support, the court continues these issues to the DCSS calendar on October 4, 2021 at 8:30 a.m. in Department 5. Respondent is ordered to file with the court and serve on DCSS an updated Income and Expense Declaration at least 10 days in advance of the next hearing.

Regarding the property orders requested by Petitioner, the court finds that Petitioner has not provided sufficient justification for the court to grant her exclusive possession and control of the home or truck prior to the final division of the parties' assets. Therefore, the

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court denies these requests. Regarding the stimulus checks, the court finds that Petitioner has the majority timeshare with the children and therefore has the right to claim the children on her taxes along with any corresponding tax benefits, including the stimulus payments. The court finds that Petitioner is entitled to receive the stimulus payments for herself and for the minor children. If Respondent received stimulus payments for Petitioner and/or the minor children, he is ordered to pay Petitioner the amount of these stimulus payments by October 15, 2021.

Regarding the uncovered medical costs of the one of the minors, the court finds that the parties stipulated to a judgment in their child support case, ordering Respondent to pay Petitioner for one-half of the uncovered health care costs of the minors. The court continues this issue to the October 4, 2021 hearing and orders Petitioner to file and serve on all parties, including DCSS, at least 10 days in advance of the hearing a declaration explaining any past due health care costs for which she is seeking reimbursement and to attach proof of these expenses.

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

**TENTATIVE RULING #24: THE COURT CONTINUES THE ISSUES OF CHILD SUPPORT, SPOUSAL SUPPORT, AND UNCOVERED HEALTH CARE COSTS TO THE DCSS CALENDAR ON OCTOBER 4, 2021 AT 8:30 A.M. IN DEPARTMENT 5. RESPONDENT IS ORDERED TO FILE WITH THE COURT AND SERVE ON PETITIONER AND DCSS AN UPDATED INCOME AND EXPENSE DECLARATION AT LEAST 10 DAYS IN ADVANCE OF THE NEXT HEARING. PETITIONER IS ORDERED TO FILE AND SERVE ON ALL PARTIES, INCLUDING DCSS, AT LEAST 10 DAYS IN ADVANCE OF THE HEARING A DECLARATION EXPLAINING ANY PAST DUE HEALTH CARE COSTS FOR WHICH SHE IS SEEKING REIMBURSEMENT AND TO ATTACH PROOF OF THESE EXPENSES. THE COURT DENIES PETITIONER'S REQUEST FOR PROPERTY CONTROL ORDERS REGARDING THE HOME AND TRUCK. THE COURT FINDS THAT PETITIONER IS ENTITLED TO RECEIVE THE STIMULUS PAYMENTS FOR HERSELF AND FOR THE MINOR CHILDREN. IF RESPONDENT RECEIVED STIMULUS PAYMENTS FOR PETITIONER AND/OR THE MINOR CHILDREN, HE IS ORDERED TO PAY PETITIONER THE AMOUNT OF THESE STIMULUS PAYMENTS BY OCTOBER 15, 2021. PETITIONER IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.**

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**25. RACHEL MARTINEZ v. STEVEN MARTINEZ**

**PFL20210134**

On July 7, 2021 Petitioner filed a Request for Order (RFO) requesting child custody order, child support orders, temporary spousal support orders, property control orders, and attorney's fees and costs. Petitioner concurrently filed an Income and Expense Declaration. The parties were referred to CCRC on August 8, 2021 and given a return to court date. The court has reviewed the file and does not find a Proof of Service has been filed showing service of the motion upon Respondent.

Respondent appeared for CCRC and Petitioner did not. A CCRC report was issued on August 9, 2021 and mailed to the parties on August 9, 2021.

On August 10, 2021 Respondent filed an ex parte application, which was denied, and the parties were referred to CCRC on September 8, 2021 with a return to court date on October 21, 2021. Respondent concurrently filed RFO was set for that same date. After review of the file the court finds there is no proof of service in the file for Respondent's RFO.

On September 7, 2021 Petitioner appeared for the pending DVRO hearing and Respondent did not due to medical issues. That matter was continued at Respondent's request to September 28, 2021 for hearing.

Additionally, the parties submitted a stipulation requesting to move the CCRC date, due to Respondent's unavailability. The parties were referred back to CCRC on October 6, 2021 with a return to court date of November 18, 2021 at 1:30 pm.

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

Petitioner's RFO set for the instant hearing is continued to November 18, 2021. If Petitioner has served Respondent, she is ordered to file the Proof of Service forthwith. The court is reserving jurisdiction to November 18th, pending proof of service, back to the date of filing. The court finds that it needs the CCRC recommendations and proof of service upon Respondent to address the issues in the RFO.

As Respondent's RFO, currently set for October 21, 2021 also requires the parties to attend CCRC, the court vacates the October 21, 2021 hearing date and sets Respondent's RFO for November 18, 2021 at 1:30 as well. The court additionally finds these RFOs raise competing requests and the court shall hear them together. However, Respondent must also properly serve Petitioner and provide proof to the court.

Pending return, all prior orders remain in full force and effect.

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**TENTATIVE RULING #25: ALL PENDING MATTERS ARE CONTINUED TO NOVEMBER 18, 2021 AT 1:30 PM. THE COURT VACATES THE OCTOBER 21, 2021 HEARING ON RESPONDENT'S RFO AND CONTINUES THAT MATTER TO NOVEMBER 18, 2021 AS WELL.**

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**26. BRANDON KRATZER v. HEATHER WHITE**

**PFL20210349**

On July 6, 2021 the court denied Petitioner's ex parte application and referred the parties to CCRC. Petitioner's RFO was set on the law and motion calendar on the instant hearing date and Petitioner was ordered to serve Respondent as required by law. Petitioner additionally filed a Petition (FL-200).

Petitioner appeared for the CCRC appointment, but Respondent did not. A CCRC report was issued on August 9, 2021 and copies were mailed to the parties on August 10, 2021. In the CCRC report, the mediator notes that Petitioner was unable to service Respondent prior to the CCRC date. Petitioner alleges Respondent was evading service.

On August 11, 2021 Petitioner filed a Proof of Personal Service of Summons, and the RFO and CCRC referral showing service upon Respondent on August 9, 2021.

On September 3, 2021 Respondent filed a Responsive Declaration to the RFO and the Petition. Respondent acknowledges Petitioner is the father of the minor children who are subject of the Petition. Respondent disagrees with Petitioner's request for custody and visitation orders.

Both parties filed additional declarations. Petitioner filed a Proof of Service showing his filing was served upon Respondent by Mail on September 7, 2021. Respondent did not file a Proof of Service.

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

Respondent is ordered to serve Petitioner with all of her filings and provide proof of service to the court forthwith.

The court finds that, per the provided birth certificates and agreement of the parties, Petitioner is the father of the two minor children in the Petition. Petitioner is ordered to prepare and submit a judgment reflecting this finding.

The parties are referred back to CCRC on 10/21/2021 at 9:00 a.m. with Ms. Langer. The parties shall return to court on 12/9/2021 at 1:30 pm in Department 5 for CCRC review. The court finds that Respondent was not served until after the CCRC appointment and referral to CCRC is appropriate to provide recommendations to the court per the Local Rules and California Rules of Court.

**TENTATIVE RULING #26: THE COURT FINDS PETITIONER IS THE FATHER OF THE MINOR CHILDREN SUBJECT OF THE PETITION AND ORDERS PETITIONER TO PREPARE AND SUBMIT THE JUDGMENT. THE PARTIES ARE REFERRED BACK TO CCRC WITH A RETURN TO COURT AS INDICATED ABOVE.**