

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 9, 2023

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

1. CHELSEA HARRISON V. JOSEPH HARRISON

23FL0289

On September 26, 2023, Petitioner filed and served a Request for Order (RFO) along with ex parte orders setting the matter on shortened time and referring the parties to Child Custody Recommending Counseling (CCRC). The parties were assigned a CCRC appointment on October 10th.

Respondent filed and served two Responsive Declarations to Request for Order on October 27th. Petitioner's Reply Declaration to Respondent's Responsive Declaration in Support of Request for Modification of Custody and Visitation, Attorney Fees, and Order Shortening Time was filed and served on October 31st.

Petitioner brings her RFO making the following requests: (1) Petitioner to have temporary primary physical custody, with visitation to Respondent on Wednesdays and Fridays from 3:00 p.m. to 7:00 p.m., and Sunday from 12:00 p.m. to 4:00 p.m., so long as Respondent is complying with any recommendations made by Colleen Moore-DeVere and providing clean drug tests. Respondent shall pick up the children from Petitioner's home. (2) Respondent to submit to random drug testing three times per month with a certified testing center. (3) Respondent to submit to a Substance Abuse Evaluation with Colleen Moore-DeVere. (4) Respondent to pay Petitioner the previously ordered \$5,000 in attorney's fees and costs immediately payable in full and an additional \$3,000 for additional attorney's fees and costs incurred.

Respondent opposes Petitioner's RFO and in doing so, makes the following requests: (1) Deny Petitioner's request to modify child custody and confirm the parties' agreement to resume the child custody orders contained in the Findings and Orders After Hearing filed on 8/24/23. (2) Deny Petitioner's request for a substance abuse evaluation. (3) Deny Petitioner's request for random drug testing. (4) Deny Petitioner's request for attorney's fees. Respondent states he is currently unemployed and unable to pay the fees of both parties. Additionally, he states that he has complied with the prior order for attorney's fees and has paid \$1,500. He states he is current on payments through October. (5) Order Petitioner to pay Respondent costs and fees pursuant to Family Code section 271 in the amount of \$3,000. He argues that Petitioner's filing of the motion caused him to unnecessarily incur attorney's fees and costs.

Petitioner asks the court to deny Respondent's request for sanctions as she believes she has raised valid concerns regarding Respondent's suspected drug use and she has engaged in extensive meet and confer efforts. Petitioner asks that the parties be re-referred to CCRC.

Only Petitioner appeared at the CCRC appointment as scheduled. According to Respondent, the parties have agreed to return to the court ordered 2-2-3 schedule. The agreement was reached on September 27th via text message and therefore he states that he was of the impression that he did not need to appear at the CCRC appointment.

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The parties are re-referred to CCRC with an appointment on 12/27/2023 at 1:00 PM with Norman Labat. A review hearing is set for 2/15/2024 at 8:30 a.m. in Department 5. Hearing on the RFO is continued to join with the review hearing and the court reserves on the requests for attorney's fees and sanctions. All prior orders remain in full force and effect.

TENTATIVE RULING #1: THE PARTIES ARE RE-REFERRED TO CCRC WITH AN APPOINTMENT ON 12/27/2023 AT 1:00 PM WITH NORMAN LABAT. A REVIEW HEARING IS SET FOR 2/15/2024 AT 8:30 A.M. IN DEPARTMENT 5. HEARING ON THE RFO IS CONTINUED TO JOIN WITH THE REVIEW HEARING AND THE COURT RESERVES ON THE REQUESTS FOR ATTORNEY'S FEES AND SANCTIONS. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT.

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

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2. CHRISTIE BROWN V. BENJAMIN BROWN

PFL20160612

Respondent filed an RFO on April 7, 2023, requesting unsupervised visits with the younger child or, in the alternative, supervised visits with the paternal grandmother as supervisor. He also requested an order directing Petitioner to communicate on the status of the minor's counseling and provide the contact information for the minor's therapist. The court issued a tentative ruling and Respondent requested oral argument which was held on June 29th.

At the June 29th hearing the court maintained the current orders with the following modifications. Respondent was ordered to provide the names of three potential reunification therapists to Petitioner no later than July 20th and Petitioner was ordered to choose one no later than August 3rd. Respondent was to pay the cost of reunification counseling. Reunification therapy was to commence when deemed appropriate by the counselor. The reunification counselor was to be given the contact information for the minor's individual therapist and all necessary releases were to be signed by the parties. A review hearing was set for the present date. The parties were ordered to file supplemental declarations no later than 10 days prior to the hearing date.

The Supplemental Declaration of Benjamin Brown was filed and served on October 26th. Petitioner has not filed a supplemental declaration.

In his supplemental declaration Respondent reiterates the same requests he made in his RFO. He also asks that the minor be interviewed by the CCRC counselor. According to Respondent, the parties chose Marcey Navarro to conduct the reunification counseling. Respondent has reached out to Ms. Navarro several times but has not received a response. He is concerned that Petitioner is alienating their son and delaying the reunification process. He notes that he still does not have a trial date for the criminal proceedings.

It is unclear to the court if Petitioner has been in contact with Ms. Navarro and how or why Respondent believes Petitioner is the one delaying the reunification process. The parties are ordered to appear.

TENTATIVE RULING #2: THE PARTIES ARE ORDERED TO APPEAR FOR HEARING.

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3. COLE SIMONS V. ALANA NELSON

PFL20210111

Petitioner filed a Request for Order (RFO) on July 11, 2023, seeking a change in custody and visitation orders. Petitioner filed a Supplemental Declaration of Petitioner in Support of Custody Modification on August 21st. The RFO was filed on August 28th but there is no indication that the supplemental declaration was served therefore the court has not read or considered it.

The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on September 19th. Both parties appeared at CCRC and were able to reach a full agreement. The terms of the agreement are codified in the CCRC report dated October 30, 2023. The court has reviewed the agreement of the parties and finds it to be in the best interests of the minor. Therefore, the court hereby adopts the agreement of the parties as stated in the October 30, 2023 CCRC report as the order of the court. Petitioner shall prepare and file the findings and orders after hearing.

TENTATIVE RULING #3: THE COURT HEREBY ADOPTS THE AGREEMENT OF THE PARTIES AS STATED IN THE OCTOBER 30, 2023 CCRC REPORT AS THE ORDER OF THE COURT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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4 & 14. DAVID STEVEN MERCADO V. APRIL LOCKHART

PFL20180104

Petitioner (David Mercado) filed an Order to Show Cause and Affidavit for Contempt (OSC) on April 25, 2023, alleging 20 counts of contempt by Respondent (April Lockhart) for failure to pay attorney's fees. The parties appeared for hearing on June 15th at which time the court appointed a public defender and continued the arraignment to August 10th.

The parties appeared for arraignment on August 10th and Respondent requested another continuance. The continuance was granted and the matter was set for October 19th. The parties once again appeared for arraignment on October 19th and the matter was once again continued.

The parties are ordered to appear for arraignment.

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

APRIL LOCKHART V. DAVID MERCADO

PFL20200534

On October 5, 2023, the parties appeared before the court for hearing on a Request for Order (RFO) filed by Respondent (David Mercado). At the hearing, Petitioner (April Lockhart) requested a continuance for the issue of attorney's fees pursuant to Family Code § 3121. The continuance was granted and a hearing was set for the present date.

Both Petitioner and Respondent filed their respective Income and Expense Declaration on October 26th. On October 27th Respondent filed and served Response to Petitioner [sic] Request for Attorney Fees. On November 2nd, Petitioner filed and served her Responsive Declaration Filed on Opctober [sic] 27, 2023 by David Mercado.

Respondent asks the court to deny Petitioner's request for attorney's fees and notes that Respondent has also requested attorney's fees but his request is reserved for trial. Respondent points to the fact that Petitioner's Income and Expense Declaration is incomplete, stating that she does list income of \$2,207 but she fails to disclose the source of that income. He also argues that an award of attorney's fees would be inequitable where Petitioner owes Respondent over \$20,000 in accordance with prior court orders.

Petitioner argues that Respondent's I&E is likewise deficient as he has failed to complete Section 7 and failed to provide a Schedule C or a profit and loss statement. He also fails to disclose rental income he receives under Section 6(b) and his real property equity under Section 11(c). Petitioner asks the court to order Respondent to file a complete I&E prior to ruling on her request for fees. She also requests sanctions pursuant to Family Code § 271 for Respondent's

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intentional misrepresentation regarding his income. Finally, she requests the court continue the January 20, 2024 trial date as the continuance on this motion will cut into her time to obtain counsel.

Where a request for need-based attorney's fees is made, the court is to make findings regarding "whether there is a disparity in access to funds to retain counsel, and whether one party is able to pay for legal representation of both parties." Fam. Code § 3121. Here, the court is unable to make any findings in this regard as both parties appear to have filed incomplete and questionable Income and Expense Declarations.

On Petitioner's declaration Section 1 is left blank, therefore there is no listed source of her income. Furthermore, she provides three profit and loss statements from 2022 but has redacted relevant information such as the business name and principal business or profession for each business. She also provides a Schedule SE for self-employment tax but does not include any income from self-employment on Section 7 of her I&E. Additionally, Section 14 is left blank though Petitioner apparently recently purchased a new Tesla Model 3. So, she either has left off her car payment or she purchased the vehicle outright. If it is the latter, then she clearly has *access* to the funds necessary to pay for legal fees she simply chose to use the money for other purposes.

Respondent's I&E is also deficient such that the court cannot make the requisite findings under Section 3121. Respondent lists his average salary and provides pay stubs from Next Day Fence, though in his declaration he references income from self-employment. It is unclear if additional income should be listed in Section 7 to account for his self-employment. There also appears to be questions regarding the accuracy of his disclosures in Section 11. Likewise, Section 6 of the I&E requires the disclosing party to list rental property income, not rental property profits. If Respondent's contention is that the income is the same as the amount of the mortgage, he may list a schedule showing gross income less expenses as indicated on the form.

Given that the court lacks sufficient information to make the requisite findings under Section 3121, the matter is continued to 12/14/2023) at 8:30 am in Department 5. Both parties are ordered to file and serve *full and complete* Income and Expense Declarations no later than 10 days prior to the hearing date as well as any supplemental declarations. The court reserves on Petitioner's request to continue the trial date. Petitioner's request for Section 271 sanctions is denied as the matter is being continued due to the failure of *both* parties to fully complete their Income and Expense Declarations.

TENTATIVE RULING #14: THE MATTER IS CONTINUED TO 12/14/2023 AT 8:30 AM IN DEPARTMENT 5. BOTH PARTIES ARE ORDERED TO FILE AND SERVE *FULL AND COMPLETE* INCOME AND EXPENSE DECLARATIONS NO LATER THAN 10 DAYS PRIOR TO THE HEARING DATE

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AS WELL AS ANY SUPPLEMENTAL DECLARATIONS. THE COURT RESERVES ON PETITIONER'S REQUEST TO CONTINUE THE TRIAL DATE. PETITIONER'S REQUEST FOR SECTION 271 SANCTIONS IS DENIED AS THE MATTER IS BEING CONTINUED DUE TO THE FAILURE OF *BOTH* PARTIES TO FULLY COMPLETE THEIR INCOME AND EXPENSE DECLARATIONS.

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6. HAYLEY SCHULZ V. TREVOR HARDING

23FL0002

The parties appeared before the court on August 31, 2023 at which time the court made temporary support orders. The court ordered Respondent to serve Petitioner with his Income and Expense Declaration. A review hearing was set for the present date and the court reserved jurisdiction to retroactively modify support back to May 11, 2023. The parties were ordered to file updated Income and Expense Declarations no later than 10 days prior to the hearing date.

Respondent filed an Income and Expense Declaration on October 31st but there is no Proof of Service indicating that this document was served on Petitioner. Petitioner has not filed an updated Income and Expense Declaration though the last one the court has on file is dated August 10th.

The parties are ordered to appear for hearing.

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

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7. JEAN GASTALDI V. MICHAEL GASTALDI

23FL0154

This matter is before the court on a Motion for Reconsideration/Request for Order (RFO) filed by Respondent on September 5, 2023. The RFO was mail served on September 27th. Petitioner filed and served a Responsive Declaration to Request for Order on October 26th. Respondent has not filed a Reply Declaration.

Respondent requests the court reconsider its order entered on August 17, 2023 using the amounts he proposes for each party's income. Respondent argues his monthly income is \$2,825.73 and Petitioner's monthly income should be \$2,099.34. This includes \$1,709 per month in income Petitioner receives from investments.

Petitioner opposes the request for reconsideration and cites Respondent's failure to provide new or different facts or circumstances as required by Civil Procedure § 1008.

Any party may move for reconsideration of a court's order where the moving party (1) has been affected by the court's order; and (2) moves for reconsideration within 10 days of the service upon the moving party written notice of the entry of the order. Cal. Civ. Pro. § 1008. The moving party must establish "...new or different facts, circumstances, or law..." that would warrant reconsideration of the order and such facts, circumstances or law shall be set forth in a written affidavit including "...what application was made before, when and to what judge, [and] what order or decisions were made..." *Id.* The moving party must also provide a satisfactory explanation for its failure to present the new or different facts or law earlier. Yolo County Dept. of Child Support Services v. Myers, 248 Cal. App. 4th 42, 50 (2016).

Here, Respondent concedes in his motion that the facts presented and the arguments made in his motion were the same as those presented at the hearing. As such, Respondent has failed to make the required showing under Civil Procedure § 1008 and therefore the motion is denied.

**TENTATIVE RULING #7: RESPONDENT'S MOTION FOR RECONSIDERATION IS DENIED.
PETITIONER SHALL PREPARE THE FINDINGS AND ORDERS AFTER HEARING.**

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

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8. LEANN PARRISH V. GREG PARRISH

PD921359

Respondent filed a Request for Order (RFO) on September 6, 2023, seeking to appoint the court clerk as elisor. The RFO, and all other required documents were mail served on September 19th. Petitioner has not filed a response.

According to Respondent, the parties have been separated for 30 years and he has not seen, heard from, or spoken with Petitioner in that time. Despite Respondent's diligent efforts to search for Petitioner he believes that Petitioner may be deceased. Respondent now wishes to obtain his retirement funds from his pension with the National Electrical Benefit Fund but a QDRO is needed for the funds to be released. Respondent therefore requests the court appoint the clerk as elisor to sign the QDRO on behalf of Petitioner.

The court requires additional information regarding Respondent's efforts to track down Petitioner and why he believes she is deceased. The parties are ordered to appear for hearing.

TENTATIVE RULING #8: THE PARTIES ARE ORDERED TO APPEAR FOR HEARING.

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10. LISA SHEBL V. JOSEF SHEBL

PFL20180008

On July 25, 2023, Petitioner filed an Ex Parte Application and Declaration for Orders and Notice requesting sole legal and physical custody, supervised parenting time to Respondent and alcohol monitoring. The court ordered joint legal custody but awarded Petitioner sole physical custody and deferred the alcohol monitoring orders until hearing. The parties were referred to Child Custody Recommending Counseling (CCRC) and a hearing was set for the present date.

After obtaining the ex parte orders, Petitioner filed her Request for Order (RFO) on July 26th once again making the requests she did in her ex parte. A Declaration of Supervised Visitation Provider was filed on August 3rd. Thereafter, on August 18th Respondent was served with the RFO, the ex parte orders, and all other required documents. Respondent filed a Responsive Declaration to Request for Order on November 7th. The court finds this to be late filed pursuant to Civil Procedure section 1005(b) which states all opposition papers are to be filed at least nine court days before the hearing date. Section 12c states, “[w]here any law requires an act to be performed no later than a specified number of days before a hearing date, the last day to perform that act shall be determined by counting backward from the hearing date, *excluding the day of the hearing* as provided by Section 12.” Cal. Civ. Pro. § 12c. Section 1005(b) in conjunction with Section 12c would have made October 27th the last day for filing the Responsive Declaration to Request for Order. Therefore, it is late filed and has not been considered by the court.

Petitioner is requesting the following orders: (1) Temporary sole legal and physical custody of the minor; (2) Non-agency supervised visits to Respondent by either John or Nicole Shebl or Joe or Lexi Caposelle at the discretion and scheduling of the parties; (3) Respondent to successfully complete a 30-day residential treatment program for substance abuse; (4) Respondent to get a sponsor and participate in an Alcoholics Anonymous program with proof of attendance provided to Petitioner and the court; and (5) Respondent to demonstrate his sobriety by blowing into a face recognition hand-held alcohol monitoring device (such as Soberlink) at Respondent’s expense, as a condition to any unsupervised visitation with the minor child.

The parties attended CCRC on October 5th. A report dated October 30th was prepared with recommendations from the CCRC counselor.

The court has reviewed the moving papers and the CCRC report and shares in Petitioner’s concern regarding Respondent’s alcohol abuse and the effect it is having on the minor. Therefore, Petitioner is awarded temporary sole physical custody of the minor. Respondent may have non-agency supervised visits with supervision by either John or Nicole Sheble. Respondent shall have a minimum of one supervised visit per week for a minimum

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duration of two hours to be scheduled at the discretion of the parties. Respondent may have additional supervised visits if agreed upon by the parties.

Respondent shall sign up for Soberlink and shall include Petitioner as a contact to receive test results in real time. Respondent shall test immediately before and immediately after each visit with the minor. If any test result is positive the visit will not take place and Respondent will not receive a make-up visit. Should the individual supervising the visit reasonably believe that Respondent is under the influence of alcohol during a visit the supervisor may require Respondent to test. If the test is positive the visit is to be immediately terminated and no make-up visit will be given.

Supervised visitation shall continue until Respondent has satisfactorily completed an alcohol/substance abuse treatment program, can provide proof of said treatment, can provide proof of engagement in substance abuse counseling/aftercare treatment, provides ongoing test results to verify continuous sobriety, and provides proof of attendance to in-person community-based self-help support groups such as Alcoholics Anonymous. Once Respondent has complied with the foregoing for 90 consecutive days, Respondent may have unsupervised parenting time with the child on Tuesdays from 3:00 p.m. until Wednesday at 8:00 p.m. and Fridays at 3:00 p.m. until Saturday at 5:00 p.m.

Once Respondent commences unsupervised visits with the minor, Respondent shall continue to Soberlink test in accordance with the above until he has gone 60 consecutive days with all negative tests. At that time the tests may be discontinued.

The court adopts the provisions of the Alcohol or Substance Abuse section of the CCRC report with the exception of paragraph 5. The court also adopts the Counseling section of the CCRC report as the order of the court.

Petitioner's request for sole legal custody is denied at this time. Petitioner is to contact Respondent on all matters of legal custody. If Petitioner does not receive a response within 72 hours of the contact, Petitioner shall have final decision-making authority.

TENTATIVE RULING #10: PETITIONER IS AWARDED TEMPORARY SOLE PHYSICAL CUSTODY OF THE MINOR. RESPONDENT MAY HAVE NON-AGENCY SUPERVISED VISITS WITH SUPERVISION BY EITHER JOHN OR NICOLE SHEBLE. RESPONDENT SHALL HAVE A MINIMUM OF ONE SUPERVISED VISIT PER WEEK FOR A MINIMUM DURATION OF TWO HOURS TO BE SCHEDULED AT THE DISCRETION OF THE PARTIES. RESPONDENT MAY HAVE ADDITIONAL SUPERVISED VISITS IF AGREED UPON BY THE PARTIES.

RESPONDENT SHALL SIGN UP FOR SOBERLINK AND SHALL INCLUDE PETITIONER AS A CONTACT TO RECEIVE TEST RESULTS IN REAL TIME. RESPONDENT SHALL TEST IMMEDIATELY BEFORE AND IMMEDIATELY AFTER EACH VISIT WITH THE MINOR. IF ANY TEST RESULT IS

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POSITIVE THE VISIT WILL NOT TAKE PLACE AND RESPONDENT WILL NOT RECEIVE A MAKE-UP VISIT. SHOULD THE INDIVIDUAL SUPERVISING THE VISIT REASONABLY BELIEVE THAT RESPONDENT IS UNDER THE INFLUENCE OF ALCOHOL DURING THE VISIT THE SUPERVISOR MAY REQUIRE RESPONDENT TO TEST. IF THE TEST IS POSITIVE, THE VISIT IS TO BE IMMEDIATELY TERMINATED AND NO MAKE-UP VISIT WILL BE GIVEN.

SUPERVISED VISITATION SHALL CONTINUE UNTIL RESPONDENT HAS SATISFACTORILY COMPLETED AN ALCOHOL/SUBSTANCE ABUSE TREATMENT PROGRAM, CAN PROVIDE PROOF OF SAID TREATMENT, CAN PROVIDE PROOF OF ENGAGEMENT IN SUBSTANCE ABUSE COUNSELING/AFTERCARE TREATMENT, PROVIDES ONGOING TEST RESULTS TO VERIFY CONTINUOUS SOBRIETY, AND PROVIDES PROOF OF ATTENDANCE TO IN-PERSON COMMUNITY-BASED SELF-HELP SUPPORT GROUPS SUCH AS ALCOHOLICS ANONYMOUS. ONCE RESPONDENT HAS COMPLIED WITH THE FOREGOING FOR 90 CONSECUTIVE DAYS, RESPONDENT MAY HAVE UNSUPERVISED PARENTING TIME WITH THE CHILD ON TUESDAYS FROM 3:00 P.M. UNTIL WEDNESDAY AT 8:00 P.M. AND FRIDAYS AT 3:00 P.M. UNTIL SATURDAY AT 5:00 P.M.

ONCE RESPONDENT COMMENCES UNSUPERVISED VISITS WITH THE MINOR, RESPONDENT SHALL CONTINUE TO SOBERLINK TEST IN ACCORDANCE WITH THE ABOVE UNTIL HE HAS GONE 60 CONSECUTIVE DAYS WITH ALL NEGATIVE TESTS. AT THAT TIME THE TESTS MAY BE DISCONTINUED.

THE COURT ADOPTS THE PROVISIONS OF THE ALCOHOL OR SUBSTANCE ABUSE SECTION OF THE CCRC REPORT WITH THE EXCEPTION OF PARAGRAPH 5. THE COURT ALSO ADOPTS THE COUNSELING SECTION OF THE CCRC REPORT AS THE ORDER OF THE COURT.

PETITIONER'S REQUEST FOR SOLE LEGAL CUSTODY IS DENIED AT THIS TIME. PETITIONER IS TO CONTACT RESPONDENT ON ALL MATTERS OF LEGAL CUSTODY. IF PETITIONER DOES NOT RECEIVE A RESPONSE WITHIN 72 HOURS OF THE CONTACT, PETITIONER SHALL HAVE FINAL DECISION-MAKING AUTHORITY.

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11. MARCI ERICKSON V. ROBERT ERICKSON

PFL20210456

On September 13, 2023, Respondent filed a Request for Order (RFO) seeking property control orders, reimbursement and sanctions. The RFO was electronically served on October 11th. Respondent thereafter filed a Supplemental Declaration of Brigit S. Barnes in Support of Request for Order Re Safe Contents on October 25th. Petitioner filed and served her Responsive Declaration to Request for Order on November 1st.

According to Respondent, when Petitioner moved out of the family residence she took several items from the parties' safe including gold, silver, coins and cash. Respondent asks the court to order Petitioner to deposit all of the aforementioned items into a safe deposit box held in the names of both parties' attorneys and allow the items to be appraised by a reputable appraiser. He further asks that Petitioner be ordered to pay her half of the property appraisals as agreed upon by the parties. If Petitioner fails to pay her portion of the appraisals prior to November 13th the parties will not be in possession of them for their scheduled mediation. Finally, he requests sanctions against Petitioner pursuant to Family Code § 271.

Petitioner asks that the RFO be denied. She notes that the issue of property division is set for hearing on January 2, 2024. She further notes all of the community assets that Respondent is in possession of and argues that it would be inequitable to force her to relinquish the only community asset in her possession. She further argues that the letter provided by Respondent listing the contents of the safe is fraudulent and should be disregarded.

Respondent's request to order the contents of the safe be placed in a safety deposit box is denied as the issue of property division is already set to begin trial on January 2nd. That said, while Petitioner is not being ordered to relinquish control of the items from the safe, the items must be produced in order to allow Respondent the opportunity to have them appraised. Therefore, Respondent's request to produce the items for appraisal is granted. Petitioner is ordered to produce the contents of the safe at an agreed upon time and date so Respondent may have them appraised. They will thereafter be returned to Petitioner. Both parties are reminded they are required to comply with the ATROS regarding any community property in their possession. Petitioner is ordered to pay her portion of the property appraisals forthwith. The court reserves jurisdiction on the request for Section 271 sanctions until the time of trial.

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

TENTATIVE RULING #11: RESPONDENT'S REQUEST TO ORDER THE CONTENTS OF THE SAFE BE PLACED IN A SAFETY DEPOSIT BOX IS DENIED AS THE ISSUE OF PROPERTY DIVISION IS ALREADY SET TO BEGIN TRIAL ON JANUARY 2ND. THAT SAID, HIS REQUEST TO PRODUCE THE ITEMS FOR APPRAISAL IS GRANTED. PETITIONER IS ORDERED TO PRODUCE THE CONTENTS OF THE SAFE, INCLUDING ALL GOLD/SILVER/COINS/CASH, AT AN AGREED UPON TIME AND DATE

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SO RESPONDENT MAY HAVE THEM APPRAISED. THEY WILL THEREAFTER BE RETURNED TO PETITIONER. BOTH PARTIES ARE REMINDED THEY ARE REQUIRED TO COMPLY WITH THE ATROS REGARDING ANY COMMUNITY PROPERTY IN THEIR POSSESSION. PETITIONER IS ORDERED TO PAY HER PORTION OF THE PROPERTY APPRAISALS FORTHWITH. THE COURT RESERVES JURISDICTION ON THE REQUEST FOR SECTION 271 SANCTIONS UNTIL THE TIME OF TRIAL. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

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12. NIKOLAS PAECH V. CAROLINE GIROUX

PFL20210276

The parties appeared before the court on August 24 ,2023 to assess the status of the parties' participation in family therapy. The court made several orders regarding therapy for the parties and the minors and ordered the appointment of a Parent Coach. The court set a review hearing for the present date and ordered the parties to file Supplemental Declarations no later than 10 days prior to the hearing date.

Petitioner filed and served Status Brief of Nikolas Paech on October 30th. Also on October 30th, Respondent filed and served Declaration of Respondent, Caroline Giroux.

Petitioner asks the court to continue the review hearing stating that the court's orders have been implemented but it is simply too soon to expect any change in circumstances. He asks that custody litigation be paused for 6 months to focus on reunification.

According to Respondent there has been little progress since the last review hearing. Krista Kent was chosen to act as the Parenting Coach but then was told by Petitioner that the minors are not interested in participating in parenting work at this time and therefore the parenting coaching would be between Respondent and Ms. Kent only. Respondent renews her request from the prior hearing and asks that the court appoint someone to assist with visits between her and the minors outside of their therapy sessions. She asks that the visitation assistant be the one to transport the minors for visits. She requests Petitioner incur the entirety of the cost for the person facilitating the visits given his refusal to follow the custody orders. Finally, Respondent is requesting the court increase the frequency of conjoint counseling with Ms. Giordano-Brenghause and that the sessions take place in person.

As previously ordered, appointments with Ms. Giordano-Brenghause are to be held at least every other week. The court will defer to Ms. Giordano to decide whether additional visits are necessary at this time. The parties are reminded they have been ordered to comply with Ms. Giordano's recommendations. The family therapy sessions shall take place in person, unless Ms. Giordano is unable to accommodate, or is not agreeable to doing in-person visits.

Respondent's request for someone to facilitate the visits and transport the minors is denied at this time as it appears the minors are still refusing to attend visits and the court is not willing to appoint a third party to attempt to force them to do so.

The court sets a further review hearing for May 9, 2024 at 8:30 am in Department 5 to assess the progress of the parties in therapy. Supplemental declarations are due to be filed and served no later than 10 days prior to the hearing date.

All prior orders not in conflict with this order remain in full force and effect. Petitioner shall prepare and file the Findings and Orders After Hearing.

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

TENTATIVE RULING #12: APPOINTMENTS WITH MS. GIORDANO-BRENGHAUSE ARE TO BE HELD AT LEAST EVERY OTHER WEEK. THE COURT WILL DEFER TO MS. GIORDANO TO DECIDE WHETHER ADDITIONAL VISITS ARE WARRANTED AT THIS TIME. THE PARTIES ARE REMINDED THEY HAVE BEEN ORDERED TO COMPLY WITH MS. GIORDANO'S RECOMMENDATIONS. THE FAMILY THERAPY SESSIONS SHALL TAKE PLACE IN PERSON, UNLESS MS. GIORDANO IS UNABLE TO ACCOMMODATE, OR IS NOT AGREEABLE TO DOING IN-PERSON VISITS.

RESPONDENT'S REQUEST FOR AN INDIVIDUAL TO FACILITATE THE VISITS AND TRANSPORT THE MINORS IS DENIED AT THIS TIME AS IT APPEARS THE MINORS ARE STILL REFUSING TO ATTEND VISITS.

THE COURT SETS A FURTHER REVIEW HEARING FOR MAY 9, 2024 AT 8:30 AM IN DEPARTMENT 5 TO ASSESS THE PROGRESS OF THE PARTIES IN THERAPY. SUPPLEMENTAL DECLARATIONS ARE DUE TO BE FILED AND SERVED NO LATER THAN 10 DAYS PRIOR TO THE HEARING DATE.

ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

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13. ST. OF OREGON V. C. GRAYSON, II (OTHER PARENT: KELLY STEVENSON) PFS20100278

On May 11, 2023, the court adopted its tentative ruling with modifications. Other Parent was ordered to participate in Soberlink Level II daily testing. Other Parent shall bear the cost at the Level I rate, and the parties were ordered to split the additional cost for the difference between Level I and Level II. Other Parent was ordered to participate in hair follicle testing every 90 days, with Respondent to reimburse for all negative tests. The court set a further review hearing on September 7th to assess Other Parent's progress and the parenting plan. Parties were ordered to file and serve Supplemental Declarations no later than 10 days prior to the hearing date, to update the court on the status on Other Parent's sobriety and the parenting plan.

Respondent filed a Declaration on August 31, 2023 which was fewer than 10 days prior to the hearing date and Petitioner did not file a supplemental declaration. The September 7th hearing was therefore continued at the request of counsel.

Declaration of Joined Party/Parent Kelly Stevenson, In Opposition to Respondent's Request for Order was filed and served on October 25th along with a Responsive Declaration to Request for Order and a Declaration of Jacob Stevenson in Opposition of Respondent's Request for Order. Respondent has not filed a Supplemental Declaration since the filing of his August 31st Declaration.

According to Other Parent, she has been clean and sober since January 10, 2023. Her sobriety is evidenced by her successful use of Soberlink since May 24, 2023 as well as her clean hair follicle test from August of 2023. She maintains that she is abiding by the no contact order between the children and Jacob Stevenson though she would like the order lifted. She and Mr. Stevenson state that he has been sober for over 4 years and is employed full time. She also requests visitation with the children from Friday at 3:00 pm to Tuesday before school. Respondent would then have from Tuesday at 3:00 pm to Friday before school. She is agreeable to continued Soberlink testing while the children are in her care. Her proposed visitation schedule is on the basis that Respondent works Fridays through Mondays from 10:00 pm through 7:00 am and leaves the children home alone during that time.

Based on the documentation provided by Other Parent it does appear that she is actively working to maintain her sobriety. The court therefore finds it warranted to award Other Parent's requested parenting schedule. Other Parent shall have the minors from Friday at 3:00 pm to Tuesday before school. Respondent shall have parenting time from Tuesday at 3:00 pm through Friday before school. This schedule is to commence on Friday November 10th when the children are released from school. Other Parent is ordered to continue drug testing in accordance with the court's prior orders. If Other Parent has a positive test at any time, the visit shall be immediately terminated and no make-up visit will be allowed. The visitation schedule will then

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revert to Other Parent having unsupervised visits with the children on the 1st, 3rd, and 5th Saturdays and Sundays of each month from 10:00 am until 6:00 pm. This schedule will continue until Other Parent can produce 90 days of clean tests. Then the schedule will return as ordered above.

Mr. Stevenson is ordered to undergo a hair follicle test no later than November 16th. Upon the return of a clean test the no contact order between Mr. Stevenson and the children may be lifted.

All prior orders not in conflict with this order remain in full force and effect. Other Parent shall prepare and file the Findings and Orders After Hearing.

TENTATIVE RULING #13: OTHER PARENT'S REQUESTED VISITATION SCHEDULE IS GRANTED. OTHER PARENT SHALL HAVE THE MINORS FROM FRIDAY AT 3:00 PM TO TUESDAY BEFORE SCHOOL. RESPONDENT SHALL HAVE PARENTING TIME FROM TUESDAY AT 3:00 PM THROUGH FRIDAY BEFORE SCHOOL. THIS SCHEDULE IS TO COMMENCE ON FRIDAY NOVEMBER 10TH WHEN THE CHILDREN ARE RELEASED FROM SCHOOL. OTHER PARENT IS ORDERED TO CONTINUE DRUG TESTING IN ACCORDANCE WITH THE COURT'S PRIOR ORDERS. IF OTHER PARENT HAS A POSITIVE TEST AT ANY TIME, THE VISIT SHALL BE IMMEDIATELY TERMINATED AND NO MAKE-UP VISIT WILL BE ALLOWED. THE VISITATION SCHEDULE WILL THEN REVERT TO OTHER PARENT HAVING UNSUPERVISED VISITS WITH THE CHILDREN ON THE 1ST, 3RD, AND 5TH SATURDAYS AND SUNDAYS OF EACH MONTH FROM 10:00 AM UNTIL 6:00 PM. THIS SCHEDULE WILL CONTINUE UNTIL OTHER PARENT CAN PRODUCE 90 DAYS OF CLEAN TESTS. THEN THE SCHEDULE WILL RETURN AS ORDERED ABOVE.

MR. STEVENSON IS ORDERED TO UNDERGO A HAIR FOLLICLE TEST NO LATER THAN NOVEMBER 16TH. UPON THE RETURN OF A CLEAN TEST THE NO CONTACT ORDER BETWEEN MR. STEVENSON AND THE CHILDREN MAY BE LIFTED.

OTHER PARENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT.

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

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14. APRIL LOCKHART V. DAVID MERCADO

PFL20200534

This matter is advanced to be heard on the 8:30 calendar along with #4.

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

15. BRADLEY HUNT V. TANYA HUNT

PFL20120221

Respondent filed a Request for Order (RFO) on September 20, 2023, requesting the court order reunification therapy resume and to reinstate supervised phone contact with the minors. Petitioner and Minors' Counsel were served by mail on October 13, 2023. The court finds this to be a post-judgment request for modification, and as such Family Code section 215 applies. Respondent has not filed an address verification. The court notes Petitioner was subsequently personally served on October 18, 2023.

Respondent asserts she has complied with the prior orders to engage in individual therapy. Respondent therefore requests the court reinstate reunification therapy between Respondent and the minors, as well as reinstate supervised phone contact.

Petitioner filed a Responsive Declaration opposing the requests on October 23, 2023. Respondent was served by mail on October 19, 2023. Minors' Counsel was served electronically on October 22, 2023. Petitioner asserts the copy of the RFO that he was personally served with was unsigned. Petitioner raises the UCCJEA as no parties currently reside in California. Petitioner requests the court deny Respondent's requests due to Respondent's failure to sign the pleadings, failure to serve Minors' Counsel, Petitioner asserts the parties should have been referred to Child Custody Recommending Counseling (CCRC) as this is a request for visitation, this court no longer has jurisdiction, and that Respondent has failed to meet the conditions precedent to reinstate reunification services and reinstate supervised phone contact.

Petitioner filed a Supplemental Opposition on October 27, 2023. Petitioner asserts he was not properly served with the RFO by mail, as it was served less than 16 court days, plus 10 calendar days prior to the hearing. Petitioner requests the matter be dropped due to the lack of proper service.

Minors' Counsel filed a Statement of Issues and Contentions on October 31, 2023. Respondent was served by mail on October 23, 2023. Petitioner and Respondent were served electronically on October 23, 2023. Minors' Counsel raises the issue of jurisdiction, as it appears no parties or the minors currently reside in California. Minors' Counsel requests the court appoint new Minors' Counsel if the court finds it does have ongoing jurisdiction.

Respondent filed a Reply Declaration on October 27, 2023. Petitioner was served by mail on October 27, 2023. There is no Proof of Service showing Minors' Counsel was served with this document, and therefore, the court cannot consider it.

Respondent filed a further Declaration on October 31, 2023. It was served by mail on Petitioner and Minors' Counsel. The Declaration includes an attachment with a Domestic Violence program report.

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The court first needs to determine whether California or Idaho is the appropriate jurisdiction. This requires the court to schedule an UCCJEA conference with the bench officer hearing the matter in Idaho. Additionally, the court needs to appoint new Minors' Counsel, as Ms. Newman has retired.

The court finds good cause to proceed with the RFO, as Petitioner received personal service timely, which was followed by mail service. Petitioner is aware of the requested orders and has filed a Responsive Declaration. The court on its own motion continues this matter to February 1, 2024 at 1:30 pm in Department 5. The court thanks and relieves Barbara Newman as Minors' Counsel. The court appoints Rebecca Esty-Burke as Minors' Counsel.

All prior orders remain in full force and effect. Respondent shall prepare and file the Findings and Orders After Hearing.

TENTATIVE RULING #15: THE COURT FINDS GOOD CAUSE TO PROCEED WITH THE RFO, AS PETITIONER RECEIVED PERSONAL SERVICE TIMELY, WHICH WAS FOLLOWED BY MAIL SERVICE. PETITIONER IS AWARE OF THE REQUESTED ORDERS AND HAS FILED A RESPONSIVE DECLARATION. THE COURT ON ITS OWN MOTION CONTINUES THIS MATTER TO FEBRUARY 1, 2024 AT 1:30 PM IN DEPARTMENT 5. THE COURT THANKS AND RELIEVES BARBARA NEWMAN AS MINORS' COUNSEL. THE COURT APPOINTS REBECCA ESTY-BURKE AS MINORS' COUNSEL. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

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

16. CYNTHIA JACKS V. TODD JACKS

23FL0881

Petitioner filed a Request for Order (RFO) on September 11, 2023, following an ex parte request for property control and spousal support. Petitioner filed an Income and Expense Declaration on September 7, 2023. Respondent was served by mail on October 11, 2023. Respondent was served electronically on October 6, 2023.

Respondent filed a Declaration and Special Appearance to Continue on October 4, 2023. There is no Proof of Service for this document, therefore, the court cannot consider it.

Respondent has not filed a Responsive Declaration.

The court orders parties to appear for the hearing.

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

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

17. EUGENE SALMINA V. CASSIDY SALMINA

22FL0644

Respondent filed a Request for Order (RFO) on July 13, 2023, requesting the court make orders as to child custody and parenting time, as well as child support. Respondent concurrently filed an Income and Expense Declaration. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on September 20, 2023 and a review hearing on November 9, 2023. Petitioner was served by mail on July 18, 2023.

Both parties attended CCRC on September 20, 2023 and reached a full agreement. Parties submitted a Stipulation and Order regarding child custody and parenting time on September 21, 2023. The court signed and adopted the parties' stipulation as its order. The court, therefore, finds the issues of child custody and parenting time have been resolved.

Petitioner has not filed a Responsive Declaration or an Income and Expense Declaration.

The court finds Respondent's Income and Expense Declaration to be out of date, as it has been more than 90 days since it was filed. Additionally, the court does not have an Income and Expense Declaration from Petitioner, and therefore, does not have the requisite information it needs to make child support orders. The court continues the request for child support and directs both parties to file and serve Income and Expense Declarations at least 10 days prior to the hearing. The court reserves jurisdiction to retroactively modify support to the date of the filing of the RFO.

All prior orders not in conflict with this order remain in full force and effect.

TENTATIVE RULING #17: THE COURT CONTINUES THE REQUEST FOR CHILD SUPPORT TO 1/25/2024 AT 1:30 PM IN DEPARTMENT 5. BOTH PARTIES ARE TO FILE AND SERVE INCOME AND EXPENSE DECLARATIONS AT LEAST 10 DAYS PRIOR TO THE HEARING. THE COURT RESERVES JURISDICTION TO RETROACTIVELY MODIFY SUPPORT TO THE DATE OF THE FILING OF THE RFO. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT.

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

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

18. GABRIEL LOPEZ V. ALEXANDRIA MONTALVO

23FL0656

Petitioner filed a Request for Order (RFO) on July 13, 2023, requesting child custody and parenting plan orders as well as property control orders. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on September 27, 2023 and a review hearing on November 9, 2023. Respondent was personally served on August 5, 2023.

The court notes there is a companion case number 23FL0412, for a Domestic Violence Restraining Order, wherein Petitioner is the protected party. The parties were referred to CCRC in the restraining order matter where they reached a full agreement on August 24, 2023. That order is contained in the amended DV-130 filed on August 28, 2023.

The court finds the only matter before the court currently is the request for property control.

Respondent filed a Responsive Declaration to Request for Order on November 2, 2023. Petitioner was served by mail on November 2, 2023. As this document is late filed, the court has not considered it.

On June 30, 2023, the court granted Petitioner's request for property control in the domestic violence action. The court grants the request for property control in this matter as well.

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

TENTATIVE RULING #18: THE COURT GRANTS THE REQUEST FOR PROPERTY CONTROL, AS IT WAS PREVIOUSLY GRANTED IN CASE NUMBER 23FL0412. THE COURT MAINTAINS THE ORDERS FOR CHILD CUSTODY AND PARENTING TIMES AS SET FORTH IN THE DV-130 IN CASE NUMBER 23FL0412. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

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

19. GERRIT VAN DEN OEVER V. CHRISTINA VAN DEN OEVER

PFL20180661

Petitioner has filed three Requests for Orders (RFO). The first, a request for court reporter fees was filed on July 7, 2023; next a request for DNA paternity testing was filed on July 7, 2023; and finally, a request to change venue was filed on July 13, 2023. On July 24, 2023, the parties reached an agreement to vacate the trial date, refer the matter to Child Custody Recommending Counseling (CCRC), and set all the RFOs for a hearing on November 9, 2023. Proof of Service shows Respondent was served by mail with all three RFOs on August 1, 2023.

Both parties appeared for CCRC on October 4, 2023. They were unable to reach any agreements. A report with recommendations was filed with the court on October 30, 2023. Copies were mailed to the parties the same day.

Respondent has not filed a Responsive Declaration to any of the RFOs.

The court has read and considered the filings as set forth above. Regarding the request to waive court report fees, the court does not charge a court report fee as there are currently no court reporters in family court. Therefore, the court finds this issue to be moot.

As to the request for DNA paternity testing, the court finds the parties were married at the time of the minor's birth, the parties were living together at the time the minor was conceived, Petitioner was present at the birth, and is named on the birth certificate. Further, Petitioner has taken the minor into his home and holds the minor out as his own. The court, therefore, finds pursuant to Family Code section 7611(a) and (d) Petitioner is the presumed parent of the minor. The court has previously issued custody orders in this matter, thereby finding Petitioner to be the conclusively presumed parent. Petitioner has taken no action since 2018 to set aside that judgment. The minor is currently seven years old. Therefore, the court finds the request for paternity testing is not in the best interest of the minor. The court denies the request for DNA paternity testing.

The court finds the recommendations as set forth in the October 30, 2023 CCRC report to be in the best interest of the minor. The court adopts those recommendations as its orders.

As to Petitioner's request to change venue, the court notes Petitioner has previously requested the matter be transferred to Los Angeles County, as that is where he currently resides. Petitioner asserts Respondent also resides in Los Angeles County however, the court notes Respondent filed a change of address with the court on July 13, 2023, stating she resides in Anaheim, California, which is in Orange County. The court further notes, Respondent has not filed any opposition to the change of venue, and Los Angeles and Orange County abut one another, and are significantly closer in distance to each other, than to El Dorado County. Code of Civil Procedure section 397.5 provides: "...where it appears that both petitioner and respondent have moved from the county rendering the order, the court may, when the ends of

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justice and the convenience of the parties would be promoted by the change, order that the proceedings be transferred to the county of residence of either party.” Additionally, with the resolution of the current RFOs there are no additional matters pending before the court. Therefore, the court finds the convenience of the parties and the interest of justice are served by transferring the matter to Los Angeles County. The court, therefore, grants the request to transfer venue to Los Angeles County. Petitioner is ordered to pay the fees or obtain a fee waiver to effectuate the transfer to Los Angeles County.

All prior orders not in conflict with this order remain in full force and effect. Petitioner shall prepare and file the Findings and Orders After Hearing.

TENTATIVE RULING #19: REGARDING THE REQUEST TO WAIVE COURT REPORT FEES, THE COURT DOES NOT CHARGE A COURT REPORT FEE AS THERE ARE CURRENTLY NO COURT REPORTERS IN FAMILY COURT. THEREFORE, THE COURT FINDS THIS ISSUE TO BE MOOT.

AS TO THE REQUEST FOR DNA PATERNITY TESTING THE COURT FINDS PURSUANT TO FAMILY CODE SECTION 7611(A) AND (D) PETITIONER IS THE PRESUMED PARENT OF THE MINOR. THE COURT FURTHER FINDS THE REQUEST FOR PATERNITY TESTING IS NOT IN THE BEST INTEREST OF THE MINOR. THE COURT DENIES THE REQUEST FOR DNA PATERNITY TESTING.

THE COURT FINDS THE RECOMMENDATIONS AS SET FORTH IN THE OCTOBER 30, 2023 CCRC REPORT TO BE IN THE BEST INTEREST OF THE MINOR. THE COURT ADOPTS THE RECOMMENDATIONS AS ITS ORDERS.

THE COURT FINDS THE CONVENIENCE OF THE PARTIES AND THE INTEREST OF JUSTICE ARE SERVED BY TRANSFERRING THE MATTER TO LOS ANGELES COUNTY. THE COURT, THEREFORE, GRANTS THE REQUEST TO TRANSFER VENUE TO LOS ANGELES COUNTY. PETITIONER IS ORDERED TO PAY THE FEES OR OBTAIN A FEE WAIVER TO EFFECTUATE THE TRANSFER TO LOS ANGELES COUNTY.

ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

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

20. HILLERI TALAUGON V. GARY TALAUGON

23FL0825

Petitioner filed a Request for Order (RFO) and Order Shortening Time (OST) on October 25, 2023, requesting child and spousal support as well as attorney fees. Petitioner concurrently filed an Income and Expense Declaration. The court granted the OST and set the matter for a hearing on November 9, 2023, and directed Petitioner to serve Respondent on or before October 27, 2023. Proof of Service shows Respondent was personally served on October 25, 2023. Petitioner is requesting guideline child a temporary spousal support as well as Family Code section 2032 attorney fees.

Respondent filed a Responsive Declaration on November 2, 2023, along with an Income and Expense Declaration. Neither document has been served on Petitioner, therefore, the court cannot consider them.

The court orders parties to appear for the hearing.

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 9, 2023

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

21. JENNIFER PARHAM V. JOSHUA PARHAM

PFL20200200

Respondent filed a Request for Order (RFO) requesting the court modify child custody orders on August 29, 2023. Respondent had filed an ex parte request for emergency custody orders on August 28, 2023, which was granted. Respondent was ordered to have temporary sole physical custody of the minors with Petitioner to have professionally supervised parenting time. The parties were referred to an emergency set Child Custody Recommending Counseling (CCRC) appointment on September 12, 2023 with a review hearing on October 5, 2023. There is no Proof of Service showing Petitioner was served with the RFO, referral to CCRC, or the ex parte orders.

Neither party appeared for the CCRC appointment on September 12, 2023.

On October 5, 2023, following oral argument by Respondent, the court granted Respondent's request to continue the matter and re-refer the parties to CCRC. The court set a further emergency CCRC appointment for October 17, 2023 and a review hearing on November 9, 2023. Respondent was admonished that failure to appear for the CCRC appointment could result in the court issuing sanctions.

Respondent served Petitioner with the CCRC referral on October 9, 2023.

Both parties appeared for CCRC on October 17, 2023. Parties were unable to reach any agreements. A report with recommendations was filed with the court on November 1, 2023, and mailed to the parties on November 2, 2023.

Respondent has not filed a Responsive Declaration to Request for Order.

The court has read and considered the filings of the parties and the CCRC report. The court finds the recommendations as set forth in the November 1, 2023 CCRC report to be in the best interest of the minors. The court adopts the recommendations as its orders.

All prior orders not in conflict with this order remain in full force and effect. Respondent shall prepare and file the Findings and Orders After Hearing.

TENTATIVE RULING #21: THE COURT FINDS THE RECOMMENDATIONS AS SET FORTH IN THE NOVEMBER 1, 2023 CCRC REPORT TO BE IN THE BEST INTEREST OF THE MINORS. THE COURT ADOPTS THE RECOMMENDATIONS AS ITS ORDERS. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6725 BY 4:00 P.M. ON THE DAY THE TENTATIVE

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 9, 2023

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

RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; *SEE ALSO* LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999). NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 9, 2023

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

22. JUSTIN SIMARRO V. YAJAIRA SIMARRO

PFL2020099

Respondent filed a Request for Order (RFO) on August 9, 2023, requesting the court compel Petitioner to complete and serve his Preliminary Declarations of Disclosure (PDD) and enter the Judgment of Dissolution per the court's orders made on April 20, 2022. Petitioner was personally served on September 1, 2023.

On October 12, 2023, the court granted Respondent's request to compel Petitioner to serve his PDD and file Proof of Service with the court. Petitioner was ordered to serve Respondent with his PDD on or before October 19, 2023. Petitioner was ordered to file his Proof of Service on or before October 26, 2023.

Petitioner filed Proof of Service of the PDD on October 23, 2023, showing Respondent was served on October 16, 2023.

Respondent filed an Order to Show Cause and Affidavit for Contempt (OSC) on August 11, 2023, alleging Petitioner has failed to make the monthly equalization payments as ordered on April 20, 2022. Respondent asserts Petitioner has missed 16 payments since May 1, 2022. Petitioner was personally served with the OSC on September 1, 2023.

Parties appeared for arraignment on October 12, 2023. The court appointed the Public Defender to Petitioner and continued the matter for further arraignment on November 9, 2023. Parties are ordered to appear on the OSC.

TENTATIVE RULING #22: THE COURT FINDS PETITIONER HAS COMPLIED WITH THE ORDER TO SERVE RESPONDENT WITH THE PDD. PARTIES ARE ORDERED TO APPEAR ON THE OSC.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 9, 2023

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

23. SCOTT RUSSELL V. OLIVIA RUSSELL

23FL0133

Respondent filed a Request for Order (RFO) on August 18, 2023, requesting the court make orders as to child custody, parenting time, child and spousal support, property control, and Family Code section 2032 attorney's fees. Respondent concurrently filed an Income and Expense Declaration. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on September 21, 2023 and a review hearing on November 9, 2023. Petitioner was served by mail on August 28, 2023.

Respondent is requesting joint legal custody of the minors and primary physical custody. Respondent is also requesting guideline child support and guideline temporary spousal support. Respondent is requesting property control of the former marital residence with Petitioner to continue making the mortgage payments. Lastly, Respondent is requesting Family Code section 2030 attorney fees in the amount of \$7,500.

Both parties attended CCRC on September 21, 2023 and reached a full agreement. A report with the parties' agreement was filed with the court on September 21, 2023 and mailed to the parties on September 29, 2023.

Petitioner filed an RFO on September 25, 2023, requesting the former marital residence be listed for sale. Respondent was served by mail on September 27, 2023. Petitioner asserts neither party is able to afford the mortgage on their own, and therefore, the home should be listed for sale. Petitioner asserts he is no longer able to work the extensive overtime required to afford the mortgage.

Petitioner filed a Responsive Declaration to Respondent's RFO and Income and Expense Declaration on October 13, 2023. Respondent was served by mail on October 11, 2023. Petitioner requests the court adopt the agreements reached at CCRC. Petitioner consents to guideline child and temporary spousal support, however, asserts Respondent earns more income than what is disclosed in her Income and Expense Declaration. Petitioner asserts he is unable to pay for both his attorney and Respondent's attorney, and after the award of support there is parity between the parties. Petitioner requests the court deny Respondent's request for Family Code section 2030 attorney's fees.

Respondent filed a Responsive Declaration to Petitioner's RFO on October 26, 2023 along with an updated Income and Expense Declaration. Petitioner was personally served on October 26, 2023. Respondent objects to the request to sell the former marital residence. Respondent disputes Petitioner's assertions regarding paying all utilities and living expenses since the parties separated. Respondent requests Family Code section 271 sanctions based on what she asserts are false statements and misrepresentations.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 9, 2023

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

Petitioner filed a Reply Declaration on October 30, 2023. Respondent was served by mail on October 30, 2023. Petitioner requests the court use Respondent's average income over the last three years for purposes of calculating support. Petitioner has included two proposed DissoMasters. Petitioner asserts that even with support, Respondent is unable to pay the bills along with the mortgage, and he is unwilling to continue to work the overtime hours required to pay the mortgage.

Respondent filed a Reply to Petitioner's Responsive Declaration on October 31, 2023. Upon review of the court file, there is no Proof of Service which corresponds with this filing. Therefore, the court cannot consider it.

Petitioner filed a Supplemental Declaration on November 1, 2023. Respondent was served by mail on October 31, 2023. The court will not consider this document as it was filed less than 10 days prior to the hearing.

Respondent filed two Declarations on November 2, 2023. It appears Petitioner was personally served on October 31, 2023, with an MC-030, but it is unclear which MC-030 was served that day. Regardless, these documents were not filed timely, and therefore, the court will not consider them.

The court has read and considered the filings as outlined above. The court finds the agreements of the parties as set forth in the September 21, 2023 CCRC report are in the best interest of the minors. The court adopts the agreement of the parties as its orders.

The court orders parties to appear on the property control, child and spousal support, and attorney's fees requests, as well as the request to sell the former marital home.

Respondent shall prepare and file the Findings and Orders After Hearing as to the child custody and parenting plan orders.

TENTATIVE RULING #23: THE COURT ORDERS PARTIES TO APPEAR ON THE PROPERTY CONTROL, CHILD AND SPOUSAL SUPPORT, AND ATTORNEY'S FEES REQUESTS, AS WELL AS THE REQUEST TO SELL THE FORMER MARITAL HOME.

THE COURT FINDS THE AGREEMENTS OF THE PARTIES AS SET FORTH IN THE SEPTEMBER 21, 2023 CCRC REPORT ARE IN THE BEST INTEREST OF THE MINORS. THE COURT ADOPTS THE AGREEMENT OF THE PARTIES AS ITS ORDERS. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING AS TO THE CHILD CUSTODY AND PARENTING PLAN ORDERS.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6725 BY 4:00 P.M. ON THE DAY THE TENTATIVE

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

November 9, 2023

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

RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; *SEE ALSO* LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999). NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07