

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 4, 2024

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

**1. ALISA BROCKMAN V. JUSTIN BROCKMAN**

**PFL20200063**

Counsel for Respondent, Kelly Bentley, filed her Notice of Motion and Motion to be Relieved as Counsel and her supporting declaration on October 13, 2023. On December 15<sup>th</sup>, a Substitution of Attorney form was filed. Therefore, the motion is moot and dropped from calendar.

**TENTATIVE RULING #1: THE MATTER IS DROPPED FROM CALENDAR AS THE MOTION IS MOOT.**

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

**2. ANDREW SELLEN V. REBECCA SELLEN**

**22FL0615**

The parties appeared before the court on November 2, 2023 to assess Petitioner's compliance with the court's prior rulings and to address a potential step-up in visitation. The court re-referred the parties to Child Custody Recommending Counseling (CCRC) with an appointment on November 16<sup>th</sup> and a review hearing was set for the present date. The court also made rulings as to visitation and reserved jurisdiction over the tax refund issue.

The parties attended CCRC as scheduled and were able to reach agreements on legal custody, physical custody, a reunification step-up parenting plan, the exchange location, a holiday schedule, and additional provisions. The agreements are codified in the CCRC report dated November 16, 2023.

Respondent's Supplemental Declaration was filed and served on December 22, 2023. Another declaration entitled Respondent's Supplemental Declaration was filed on December 26<sup>th</sup> and mail served on the 23<sup>rd</sup>. It appears these two documents are the same. Petitioner has not filed a supplemental declaration.

According to Respondent, Petitioner has not yet contacted Family Time Visitation Center to conduct the inspection of his home and ensure it is fit for overnight visits. Respondent requests the court adopt the agreements reached in CCRC, however, she does want to confirm that the prior orders for Soberlink testing and complying with Colleen Moore's Substance Abuse Evaluation recommendations remain in effect until further order of the court. She also requests the court order Petitioner to take an in-person anger management course. She states that Petitioner had agreed to this, though it is not mentioned in the CCRC report.

The court has reviewed the agreements of the parties as stated in the CCRC report and finds them to be in the best interests of the minors. Therefore, the agreements as stated in the November 16, 2023 CCRC report are hereby adopted as the orders of the court. All prior orders regarding Soberlink testing and compliance with Colleen Moore's Substance Abuse Evaluation recommendations remain in full force and effect until further order of the court. Respondent's request for an in-person anger management course is denied. Petitioner previously represented to the court that he was enrolled in a 52-week batterer's intervention program. Respondent has not established grounds for an in-person anger management program.

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 #2: THE COURT HAS REVIEWED THE AGREEMENTS OF THE PARTIES AS STATED IN THE CCRC REPORT AND FINDS THEM TO BE IN THE BEST INTERESTS OF THE MINORS. THEREFORE, THE AGREEMENTS AS STATED IN THE NOVEMBER 16, 2023 CCRC**

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**REPORT ARE HEREBY ADOPTED AS THE ORDERS OF THE COURT. ALL PRIOR ORDERS REGARDING SOBERLINK TESTING AND COMPLIANCE WITH COLLEEN MOORE'S SUBSTANCE ABUSE EVALUATION RECOMMENDATIONS REMAIN IN FULL FORCE AND EFFECT UNTIL FURTHER ORDER OF THE COURT. RESPONDENT'S REQUEST FOR AN IN-PERSON ANGER MANAGEMENT COURSE IS DENIED.**

**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 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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**3. 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. Respondent was electronically served on October 6, 2023 and mail served on October 11<sup>th</sup>. The matter came before the court for hearing on November 9, 2023.

At the hearing the court made child and spousal support orders but reserved jurisdiction to retroactively modify support back to November 15, 2023. The court set a review hearing for the present date and stated that it would review its prior ex parte orders at the review hearing. Parties were ordered to file and serve updated Income and Expense Declarations no later than 10 days prior to the hearing date.

On December 14, 2023, Respondent filed and served his Responsive Declaration and his Income and Expense Declaration. However, the Proof of Service is signed by Respondent and is therefore defective. The court cannot consider these documents due to the defect in service.

Petitioner filed her Income and Expense Declaration on December 27, 2023. It was served December 22<sup>nd</sup>. This document was filed just 8 days prior to the hearing and is therefore untimely.

Parties are ordered to appear to appear.

**TENTATIVE RULING #3: THE PARTIES ARE ORDERED TO APPEAR.**

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**4. DANIEL WALKER V. JESSICA JOHNSTON**

**PFL20190280**

On September 25, 2023, Respondent filed a Request for Order (RFO) seeking custody and visitation orders. The RFO and all other required documents were personally served on September 28, 2023. Petitioner filed his Responsive Declaration to Request for Order on October 5<sup>th</sup>. It was personally served on October 8<sup>th</sup>. On November 14<sup>th</sup>, Respondent filed an additional Declaration. There is no Proof of Service of this document and therefore the court cannot consider it.

Respondent brings her RFO requesting joint legal and joint physical custody with a week on/week off schedule, and weekly exchanges to take place on Mondays. This is a change from the court's prior orders which were put in place in 2019.

Petitioner does not consent to the week on/week off schedule but instead he proposes a 3-4 schedule where Respondent has Sunday through Tuesday, Petitioner has Wednesday through Friday and the parties alternate Saturdays. He believes this would give both parties the opportunity to have weekends with the minor while ensuring that neither party has to spend much time apart from her.

The parties attended Child Custody Recommending Counseling (CCRC) on November 16<sup>th</sup>. While they were unable to reach any agreements, the CCRC counselor did prepare a report on December 6, 2023, which contained recommendations regarding custody.

The court has reviewed the filings as outlined above and finds the recommendations contained in the CCRC report to be in the best interests of the minor. The court therefore adopts the recommendations of the December 6, 2023 report as the orders of the court.

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 #4: THE COURT ADOPTS THE RECOMMENDATIONS OF THE DECEMBER 6, 2023 REPORT AS THE ORDERS OF THE COURT. 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 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**

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**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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**5. JAMES WHITE V. KIMBERLY WHITE**

**PFL20180249**

*Motion to Compel*

Petitioner filed a Request for Order (RFO) on October 26, 2023 seeking to compel Respondent's attendance at her depositions as well as the production of documents and monetary sanctions. The RFO was filed along with Petitioner's Separate Statement. Both documents were mail served on October 31<sup>st</sup>.

Respondent's Opposition to Petitioner's Motion to Compel Respondent's Deposition with Document Request; Declaration of Cynthia G. Lawrence in Support Thereof was filed on January 2, 2024 along with a declaration of Kimberly A. White in support of the opposition, and a Declaration of Cynthia G. Lawrence in Opposition to Petitioner's Motion to Compel Appearance and Production of Documents at Deposition and Notice That Petitioner's Motion to Compel is Moot.

The parties are ordered to appear.

*Post-Judgment Modification of Spousal Support*

On July 31, 2023, Petitioner filed a request to modify spousal support. Petitioner's Income and Expense Declaration was filed concurrently therewith and both documents were mail served on August 1<sup>st</sup>. The Request for Order (RFO) was originally scheduled to be heard on October 5<sup>th</sup> but, at the request of Petitioner, the hearing was continued for 90 days due to ongoing discovery.

Respondent filed and served her Responsive Declaration to Request for Order, her Income and Expense Declaration, and a Spousal Support Declaration of Kimberly White in Support of Her Opposition to Petitioner's Request for Orders on September 20<sup>th</sup>.

"For all hearings involving child, spousal, or domestic partner support, both parties must complete, file, and serve a current Income and Expense Declaration." Cal. Rule Ct. 5.260(1); *See also* Cal. Fam. Code §2100. "'Current' means the form has been completed within the past three months providing no facts have changed." Cal. Rule Ct. 5.260(3). Neither party has filed an updated Income and Expense Declaration, therefore this matter is dropped from calendar.

**TENTATIVE RULING #5: PARTIES ARE ORDERED TO APPEAR ON THE MOTION TO COMPEL.**

**THE REQUEST FOR POST-JUDGMENT MODIFICATION OF SPOUSAL SUPPORT IS DROPPED FROM CALENDAR. NO HEARING ON THIS ISSUE 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**

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**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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**6. JENNIFER IOTA MARCOUX BARRY V. MARK DAVID BARRY**

**22FL0585**

On January 12, 2023, the parties were referred to Child Custody Recommending Counseling (CCRC). A CCRC appointment was scheduled for March 9<sup>th</sup> and a review hearing was set for May 11<sup>th</sup>. At the May 11<sup>th</sup> hearing the parties presented the court with an agreed upon step up plan for Respondent's parenting time. The court adopted the step-up plan and set a review hearing for September 21, 2023.

The parties appeared before the court at the review hearing and presented a written stipulation regarding video calls and holidays. The court adopted the stipulation as its orders. The court denied Respondent's request for joint legal custody stating that the Family Code § 3044 presumption had not been overcome. After 90 days of full compliance with the court's orders, Respondent's visitation was to step-up and take place from Saturday at 10:00 am to Sunday at 6:00 pm commencing as of August 30, 2023. Respondent was ordered to provide Petitioner with at least 5 days advance written notice of the location where overnight visits were to occur. The parties were referred to CCRC and a review hearing was set for the present date.

Since the September hearing date Respondent has filed declarations regarding his attendance at AA on October 2<sup>nd</sup> and November 13<sup>th</sup>. Also filed and served on November 13<sup>th</sup> was Respondent's Supplemental Declaration. Petitioner's Supplemental Declaration Re: CCRC Report and Petitioner's Supplemental Declaration Re: Respondent's Supplemental Declaration 11/13/23 Re Custody were both filed and served on December 26<sup>th</sup>.

Respondent requests a finding that he has rebutted the Section 3044 presumption and asks the court to award the parties joint legal custody of both children. He also asks the court to order that neither party may schedule any extracurricular activity during the other parent's custodial time without the other parent's written consent. He is requesting joint physical custody in addition to joint legal custody and requests his parenting time increase to include overnights from Friday at 5pm through Sunday at 5pm on the first, second, fourth, and fifth weekend of each month. Finally, he asks that the overnight visits be allowed to take place in Modesto and for the parties meet in Modesto at a public location off Highway 99 to exchange the children.

Petitioner asks the court to deny Respondent's request for joint legal custody. If joint legal custody is awarded, she asks that she retain final decision-making authority. Further, she requests the court deny joint physical custody but then does state that she agrees to parenting time from Friday at 5pm to Sunday at 5pm on the first, second, fourth, and fifth weekends of each month. She proposes exchanges take place in Sacramento once per month with the remainder of the exchanges taking place at the El Dorado County Sheriff's Office.

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The parties attended CCRC on November 15, 2023. A report dated December 9, 2023, was prepared in which the CCRC counselor states that the parties reached agreements regarding education and exchanges but were not able to agree on any other matters. The report includes the counselor's recommendations on all other matters. Petitioner agrees to the mediator's recommendations with the following caveats: (1) Exchanges to take place in Sacramento once per month at the Sacramento Police Department located at 5303 Franklin Blvd. All other exchanges to take place at the El Dorado County Sheriff's Office; (2) Commencing January 6<sup>th</sup>, Respondent to have visits from Friday at 5pm to Sunday at 5pm on the 1<sup>st</sup>, 2<sup>nd</sup>, 4<sup>th</sup>, and 5<sup>th</sup> weekend each month; and (3) Respondent to continue Soberlink testing on his parenting days for 120 days with a start date of 12/19/23. Petitioner requests Respondent pay for the plan that provides her with real time results so she can pick up the children in the event of a positive test result.

As previously found by the court, the provisions of Family Code Section 3044 are applicable and must be addressed when making custody orders. Fam. Code § 3044(a). Section 3044 gives rise to a rebuttable presumption that an award of sole or joint physical or legal custody to an individual who has perpetrated domestic violence is not in the best interest of the child. *Id.* "This presumption may only be rebutted by a preponderance of the evidence." *Id.* To overcome the presumption, the perpetrator bears the burden of proving (1) giving sole or joint legal or physical custody to the perpetrator is in the best interest of the child; and (2) a balancing of the factors listed in Section 3044(b)(2) supports the legislative findings in Section 3020. Fam. Code § 3044(b). Among the factors to be considered are the following: Completion alcohol or drug abuse counseling, completion of a batterer's treatment program, completion of a parenting class, compliance with terms and conditions of probation, parole, or a restraining order, if any, and whether or not further acts of domestic violence have occurred. *Id.*

Here, it does appear that Respondent has overcome the presumption imposed by Section 3044. He has substantially completed the batterer's intervention program and, as of the date of the hearing it is believed that he has completed the program. He has completed co-parenting and parenting courses. Regarding substance abuse, Respondent has provided ongoing documentation of his continued participation in AA and Soberlink testing. The court is satisfied with the documentation from Soberlink regarding the August 9 and August 29<sup>th</sup> tests and therefore Respondent has completed 90 consecutive days of clean tests from August 8 through November 8<sup>th</sup>. That said, the court is concerned with Petitioner's assertion that there was another positive test in December and therefore the court is not inclined to do away with testing in full.

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Given Respondent's satisfaction of the Section 3044 factors, the court does find the agreements and recommendations of the CCRC report to be in the best interests of the minors with the modifications as stated herein.

The court is not adopting the agreement regarding exchanges. Respondent chose to move to Fresno and therefore he should bear the burden of traveling for his visits. As such, exchanges shall take place in Sacramento once per month at the Sacramento Police Department located at 5303 Franklin Blvd. All other exchanges shall take place at the El Dorado County Sheriff's Office.

The court is not adopting CCRC's recommendation regarding parenting time. Instead, Respondent shall have parenting time from Friday at 5pm to Sunday at 5pm on the 1<sup>st</sup>, 2<sup>nd</sup>, 4<sup>th</sup>, and 5<sup>th</sup> weekend each month. One visit per month may take place in Fresno. The parties are to meet and confer to choose which visit will take place in Fresno. If the parties cannot agree then the visit on the 4<sup>th</sup> weekend of the month shall be the Fresno visit. This schedule is to commence on January 6, 2024.

Respondent shall Soberlink test on his parenting days commencing on January 6, 2024 and continuing until he has tested negative for 120 consecutive days. Respondent shall pay for the Soberlink plan that provides Petitioner with real time results. Tests are to be taken at 7am, 12pm, and 9pm on Fridays and Saturdays. On Sundays, tests are to be taken at 7am and 12pm. If, at any time during his parenting time, Respondent misses a test or tests positive, Petitioner may immediately discontinue the visit and pick up the children.

Given the increased parenting time and the fact that one weekend per month parenting time will be held in Fresno, the court finds it to be in the best interests of the children to award Respondent joint legal custody. As such, commencing immediately the parties shall share joint legal custody of the children.

CCRC recommends that both parties complete a co-parenting class. Respondent has provided documentation that he has done so. If Petitioner has not already completed a co-parenting class, then she is ordered to do so and file documentation thereof with the court.

Regarding phone contact between the parties and the children, the court strongly stresses to Respondent the importance of allowing the children to have phone or video calls with Petitioner during their visits with him. As such, during Respondent's parenting time he shall make the children available for phone calls with Petitioner on Fridays at 7pm and Saturdays at 7pm. Petitioner shall make the children available for phone calls with Respondent on Tuesdays at 7pm and Wednesdays at 7pm. All calls shall take place via the Talkingparents app.

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The remainder of the CCRC agreements and recommendations are adopted without modification. All prior orders not in conflict with this order shall remain in full force and effect. Respondent shall prepare and file the Findings and Orders After Hearing.

**TENTATIVE RULING #6: THE COURT FINDS RESPONDENT TO HAVE SATISFIED THE SECTION 3044 FACTORS AND THEREFORE OVERCOME THE PRESUMPTION IT IMPOSES. THE COURT FURTHER FINDS THE AGREEMENTS AND RECOMMENDATIONS OF THE CCRC REPORT TO BE IN THE BEST INTERESTS OF THE MINORS WITH THE MODIFICATIONS AS STATED HEREIN.**

**THE COURT IS NOT ADOPTING THE AGREEMENT REGARDING EXCHANGES. INSTEAD, EXCHANGES SHALL TAKE PLACE IN SACRAMENTO ONCE PER MONTH AT THE SACRAMENTO POLICE DEPARTMENT LOCATED AT 5303 FRANKLIN BLVD. ALL OTHER EXCHANGES SHALL TAKE PLACE AT THE EL DORADO COUNTY SHERIFF'S OFFICE.**

**THE COURT IS NOT ADOPTING CCRC'S RECOMMENDATION REGARDING PARENTING TIME. INSTEAD, RESPONDENT SHALL HAVE PARENTING TIME FROM FRIDAY AT 5PM TO SUNDAY AT 5PM ON THE 1<sup>ST</sup>, 2<sup>ND</sup>, 4<sup>TH</sup>, AND 5<sup>TH</sup> WEEKEND EACH MONTH. ONE VISIT PER MONTH MAY TAKE PLACE IN FRESNO. THE PARTIES ARE TO MEET AND CONFER TO CHOOSE WHICH VISIT WILL TAKE PLACE IN FRESNO. IF THE PARTIES CANNOT AGREE THEN THE VISIT ON THE 4<sup>TH</sup> WEEKEND OF THE MONTH SHALL BE THE FRESNO VISIT. THIS SCHEDULE IS TO COMMENCE ON JANUARY 6, 2024.**

**RESPONDENT SHALL SOBERLINK TEST ON HIS PARENTING DAYS COMMENCING ON JANUARY 6, 2024 AND CONTINUING UNTIL HE HAS TESTED NEGATIVE FOR 120 CONSECUTIVE DAYS. RESPONDENT SHALL PAY FOR THE SOBERLINK PLAN THAT PROVIDES PETITIONER WITH REAL TIME RESULTS. TESTS ARE TO BE TAKEN AT 7AM, 12PM, AND 9PM ON FRIDAYS AND SATURDAYS. ON SUNDAYS, TESTS ARE TO BE TAKEN AT 7AM AND 12PM. IF, AT ANY TIME DURING HIS PARENTING TIME, RESPONDENT MISSES A TEST OR TESTS POSITIVE, PETITIONER MAY IMMEDIATELY DISCONTINUE THE VISIT AND PICK UP THE CHILDREN.**

**RESPONDENT AND PETITIONER SHALL SHARE JOINT LEGAL CUSTODY OF THE CHILDREN. IF PETITIONER HAS NOT ALREADY COMPLETED A CO-PARENTING CLASS, THEN SHE IS ORDERED TO DO SO AND FILE DOCUMENTATION THEREOF WITH THE COURT.**

**RESPONDENT SHALL MAKE THE CHILDREN AVAILABLE FOR PHONE CALLS WITH PETITIONER DURING HIS PARENTING TIME ON FRIDAYS AT 7PM AND SATURDAYS AT 7PM. PETITIONER SHALL MAKE THE CHILDREN AVAILABLE FOR PHONE CALLS WITH RESPONDENT ON TUESDAYS AT 7PM AND WEDNESDAYS AT 7PM. ALL CALLS SHALL TAKE PLACE VIA THE TALKINGPARENTS APP.**

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**THE REMAINDER OF THE CCRC AGREEMENTS AND RECOMMENDATIONS ARE ADOPTED WITHOUT MODIFICATION. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER SHALL 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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**7. MARIA C. FULWILER V. JAMES FUWILER**

**23FL0557**

On September 20, 2023, Petitioner filed a Request for Order (RFO) seeking spousal support and attorney's fees. Concurrently therewith, she filed her Income and Expense Declaration and a Declaration of Attorney, Taryn M. Scharf in Support of Petitioner's Request for Order for Spousal Support and Attorney Fees and Costs. All documents were electronically served on September 27<sup>th</sup>.

Respondent filed his Responsive Declaration to Request for Order and his Income and Expense Declaration on October 6<sup>th</sup>. Both documents were mail served on October 5<sup>th</sup>.

Petitioner brings her RFO requesting guideline spousal support and attorney's fees pursuant to Family Code Section 2030 in the amount of \$5,000. She makes her requests based on the fact that the parties were married for 34 years and 11 months during which she was the primary homemaker. With her recent employment, Petitioner states she makes significantly less than Respondent.

Respondent opposes both requests. He argues Petitioner worked until after their second child was born and she has experience in accounts payable and as a legal secretary. She also has \$450,000 in proceeds from the sale of the marital residence. Respondent further states that Petitioner works full time at FedEx and will soon be on the same level as him.

"For all hearings involving child, spousal, or domestic partner support, both parties must complete, file, and serve a current Income and Expense Declaration." Cal. Rule Ct. 5.260(1); *See also* Cal. Fam. Code §2100. While Respondent did file and serve his Income and Expense Declaration, it is incomplete. In Section 1 he does not state the date his current job started nor does he provide his gross monthly or hourly wages. In Section 5, he provides last month's income but does not provide an average over the past 12 months. Additionally, the document requires the filing party to attach copies of paystubs for the last two months. Respondent provides only one paystub dated September 8<sup>th</sup>.

Given Respondent's failure to file a complete Income and Expense Declaration, this matter is continued to 3/21/2024 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. Respondent is admonished that he may be subject to monetary sanctions should he once again fail to fully complete the Income and Expense Declaration. The court reserves jurisdiction to award support and attorney's fees back to the date of filing the RFO.

**TENTATIVE RULING #7: THIS MATTER IS CONTINUED TO 3/21/2024 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**

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**DATE. RESPONDENT IS ADMONISHED THAT HE MAY BE SUBJECT TO MONETARY SANCTIONS SHOULD HE ONCE AGAIN FAIL TO FULLY COMPLETE THE INCOME AND EXPENSE DECLARATION. THE COURT RESERVES JURISDICTION TO AWARD SUPPORT AND ATTORNEY'S FEES BACK TO THE DATE OF FILING THE RFO.**

**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. MICHAEL MARQUEZ V. TONYA MARQUEZ**

**23FL0679**

On October 31, 2023, the parties reached a full stipulation which included a provision for a review hearing set for January 4, 2024, to assess overnight parenting time for the minor Zarayah, vacations, and whether the parties can continue to record communications which violate the court orders. Respondent shall have the burden to establish why Petitioner should not have overnight visits with Zarayah.

Petitioner filed a Supplemental Declaration on December 19, 2023. Respondent was served by mail on December 19, 2023. Petitioner requests the overnight visitation commence and the court maintain all current court orders.

Respondent has not filed a Supplemental Declaration.

The court finds the current orders remain in the minors' best interest. All prior orders remain in full force and effect. Respondent is reminded to abide by the Respect Guidelines.

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

**TENTATIVE RULING #8: THE COURT FINDS THE CURRENT ORDERS REMAIN IN THE MINORS' BEST INTEREST. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. RESPONDENT IS REMINDED TO ABIDE BY THE RESPECT GUIDELINES. 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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DEPARTMENT 5

January 4, 2024

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

**9. NICHOLE BURROUGHS V. JEFFREY BURROUGHS**

**PFL20110487**

Respondent filed a Request for Order (RFO) and Income and Expense Declaration on September 28, 2023, requesting a post-judgment modification of spousal support and attorney's fees. Petitioner was served by mail on October 3, 2023. This does not comply with Family Code section 215, which requires personal service.

Petitioner filed a Responsive Declaration and Income and Expense Declaration on December 20, 2023. Respondent was served electronically on December 19, 2023. The court finds this document 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" (emphasis added). Cal. Civ. Pro. § 12c. Section 1005(b) in conjunction with Section 12c would have made December 19, 2023, the last day for filing the Responsive Declaration to Request for Order. Therefore, the document is late filed and has not been considered by the court.

Respondent filed a Reply Declaration on December 27, 2023. Petitioner was served by mail and electronically on December 27, 2023.

Petitioner filed an amended Income and Expense Declaration on December 27, 2023. Respondent was served the same day. This document is also untimely and will not be considered.

The court finds Respondent's RFO was not served in accordance with Family Code section 215. Therefore, the matter is dropped from calendar.

All prior orders remain in full force and effect.

**TENTATIVE RULING #9: THE MATTER IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE.**

**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.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 4, 2024

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

**10. STACEY VALIENTE-KEATES V. SELAH VALIENTE-KEATES**

**22FL0868**

Respondent filed a Request for Order (RFO) on September 27, 2023 seeking to compel Petitioner's preliminary declaration of disclosure. The RFO was personally served on October 3<sup>rd</sup>, though Petitioner has not filed a responsive declaration.

Family Code section 2104 imposes on each party the obligation of making a preliminary disclosure of assets within the timeframe specified. Where a party fails to comply with Section 2104, the complying party may, among other things, file a motion to compel. Fam. Code § 2107(b)(1).

Here, Respondent has established his compliance with Section 2104 as well as Petitioner's failure to do the same. As such, the motion to compel is granted. Petitioner is ordered to serve her full and complete preliminary declaration of disclosure no later than January 18, 2024.

**TENTATIVE RULING #10: THE MOTION TO COMPEL IS GRANTED. PETITIONER IS ORDERED TO SERVE HER FULL AND COMPLETE PRELIMINARY DECLARATION OF DISCLOSURE NO LATER THAN JANUARY 18, 2024.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 4, 2024

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

**11. AARON HUTSON V. RACHEL HUTSON**

**PFL20210656**

Petitioner filed an ex parte request for emergency custody orders on October 5, 2023. On October 6, 2023, the request was denied as there were no exigent circumstances. The court reserved on the request to transfer venue to Sacramento County. The court did not find good cause to re-refer the parties to Child Custody Recommending Counseling (CCRC) as they had just attended in July and reached a full agreement. The court reiterated its no contact order between the minors and Brandon Davis Lewis. Petitioner filed a Request for Order (RFO) on October 6, 2023, making the same requests as set forth in the ex parte application. Respondent was personally served on October 6, 2023.

Petitioner filed another ex parte request for emergency custody orders on October 10, 2023. Respondent filed a Responsive Declaration on October 12, 2023. On October 13, 2023, once again the court denied the ex parte request and reiterated its October 6, 2023 orders.

Respondent filed an Order to Show Cause and Affidavit for Contempt (OSC) on October 12, 2023. Upon review of the court file, there is no Proof of Service showing Petitioner was properly served with the OSC, therefore, it is dropped from calendar.

Respondent filed an RFO for child custody and parenting plan orders on October 12, 2023. There is no Proof of Service showing Petitioner was properly served. Therefore, the matter is dropped from calendar.

On November 2, 2023, Respondent filed an ex parte request for emergency custody orders. On November 3, 2023, Petitioner filed a responsive declaration. On November 6, 2023, the court once again denied the ex parte request finding there were no emergency circumstances. On November 6, 2023, Respondent filed an RFO making the same requests as set forth in her ex parte application. There is no Proof of Service showing Petitioner was properly served with the RFO, therefore, it is dropped from calendar.

Petitioner filed yet another ex parte application on November 14, 2023. Respondent filed a Responsive Declaration on November 16, 2023. The court denied the ex parte request however, referred the parties to an emergency set CCRC appointment for December 12, 2023 and a review hearing January 4, 2023. On November 17, 2023, Petitioner filed an RFO making the same requests as set forth in the ex parte application. Upon review of the court file, there is no Proof of Service showing Respondent was properly served with the RFO or referral to CCRC. Therefore, the court drops this RFO from calendar.

Petitioner has filed multiple declarations including on December 5 and 11, 2023. A further Declaration on December 18, 2023. And three additional declarations on December 27, 2023. Proof of Service shows Respondent was served with the December 5, 11, and 18<sup>th</sup>

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 4, 2024

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

declarations only. The court has read and considered only the December 5, 11, and 18<sup>th</sup> declarations.

Respondent filed a Reply to Opposition on January 3, 2024. There is no proof of service for this document and therefore, the court will not consider it. Further, the document is late filed and the court would not consider it on those grounds as well.

Both parties attended CCRC on December 12, 2023 and were able to reach a full agreement. A CCRC report was filed and served on December 13, 2023.

The court has read and considered the filings as outlined above. The court finds good cause to proceed with adopting the parties' agreement, as both parties appeared for the CCRC appointment and reached a full agreement. The court adopts the parties' agreement as its order.

The court finds neither party nor the minors currently reside in 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 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 Sacramento County. The court, therefore, grants the request to transfer venue to Sacramento County. Petitioner is ordered to pay the fees or obtain a fee waiver to effectuate the transfer to Sacramento County.

Further, the parties are admonished regarding the voluminous filings in this matter. The number of ex parte applications to this court have been unnecessary and excessive. Parties are cautioned to refrain from this type of filing in the future.

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 #11: THE OCTOBER 12, 2023 FILED ORDER TO SHOW CAUSE AND AFFIDAVIT FOR CONTEMPT IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE.**

**RESPONDENT'S OCTOBER 12, 2023 FILED RFO IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE.**

**RESPONDENT'S NOVEMBER 6, 2023 FILED RFO IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 4, 2024

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

**PETITIONER'S NOVEMBER 17, 2023 FILED RFO IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE.**

**THE COURT FINDS GOOD CAUSE TO PROCEED WITH ADOPTING THE PARTIES' AGREEMENT, AS BOTH PARTIES APPEARED FOR THE CCRC APPOINTMENT AND REACHED A FULL AGREEMENT. THE COURT ADOPTS THE PARTIES' AGREEMENT AS ITS ORDER.**

**THE COURT GRANTS THE REQUEST TO TRANSFER VENUE TO SACRAMENTO COUNTY. PETITIONER IS ORDERED TO PAY THE FEES OR OBTAIN A FEE WAIVER TO EFFECTUATE THE TRANSFER TO SACRAMENTO 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.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 4, 2024

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

**12. ADAM MINOR V. MELINA SCHIFF**

**23FL0434**

Respondent filed a Request for Order (RFO) on October 2, 2023, requesting child support orders. Respondent concurrently filed an Income and Expense Declaration. Petitioner was served on October 3, 2023. Respondent is requesting guideline child support. Respondent has included a proposed DissoMaster.

On November 14, 2023, the court adopted the parties' stipulation and order to continue the hearing set for December 7, 2023, to January 4, 2024.

On November 28, 2023, Respondent filed a Declaration with both parties' Substance Evaluation Reports as ordered on September 28, 2023. Petitioner was served by mail on November 28, 2023.

Petitioner filed a Responsive Declaration along with an Income and Expense Declaration on November 30, 2023. Respondent was served on December 4, 2023.

Respondent filed a Reply Declaration and updated Income and Expense Declaration on December 20, 2023.

Petitioner filed a Reply Declaration on December 27, 2023. Respondent was served electronically on December 27, 2023.

Respondent filed an Objection to Petitioner's Reply Declaration on December 27, 2023. Respondent was served electronically on December 27, 2023.

Petitioner filed a Declaration in Response to Respondent's Objection on December 28, 2023. Respondent was served electronically on December 28, 2023.

Parties are ordered to appear for the hearing.

**TENTATIVE RULING #12: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 4, 2024

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

**13. ASHLEY ST. GEORGE V. JOSHUA ST. GEORGE**

**22FL0412**

Petitioner filed an ex parte request for emergency custody orders on November 17, 2023. On November 20, 2023, the court granted the ex parte request, granting Petitioner temporary sole legal and physical custody of the minors. The court referred the parties to an emergency set Child Custody Recommending Counseling (CCRC) appointment on December 12, 2023 and a review hearing on January 4, 2024. Petitioner filed a Request for Order (RFO) on November 20, 2023, making the same requests as set forth in the ex parte application. Upon review of the court file, there is no Proof of Service showing Respondent was served with the RFO or referral to CCRC.

Respondent filed a Declaration on December 7, 2023. There is no Proof of Service for this document, and therefore, the court cannot consider it.

Both parties attended CCRC on December 12, 2023. The parties were able to reach many agreements. A report with the parties' agreements and further recommendations was filed with the court on December 18, 2023. Copies were mailed to the parties on the same date.

The court finds good cause to proceed with the RFO, despite the lack of Proof of Service. Both parties appeared for CCRC, and it is clear Respondent is aware of the requested orders. The court has read and considered the CCRC report and finds the agreements and recommendations to be in the minors' best interests. The court adopts the agreements and recommendations as its orders.

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 #13: THE COURT FINDS GOOD CAUSE TO PROCEED WITH THE RFO, DESPITE THE LACK OF PROOF OF SERVICE. BOTH PARTIES APPEARED FOR CCRC, AND IT IS CLEAR RESPONDENT IS AWARE OF THE REQUESTED ORDERS. THE COURT HAS READ AND CONSIDERED THE CCRC REPORT AND FINDS THE AGREEMENTS AND RECOMMENDATIONS TO BE IN THE MINORS' BEST INTERESTS. THE COURT ADOPTS THE AGREEMENTS AND RECOMMENDATIONS AS ITS ORDERS. 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**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 4, 2024

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

**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

January 4, 2024

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

**14. CATHERINE SAMPLE V. BRYAN SAMPLE**

**23FL0997**

Petitioner filed a Request for Order (RFO) on October 6, 2023, requesting spousal support in the amount of \$3,500 per month. Petitioner concurrently filed an Income and Expense Declaration. Proof of Service shows Respondent was personally served on October 7, 2023. Petitioner asserts Respondent has closed the joint account that all living expense had been paid out of for the prior 30 years.

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

In Petitioner's Income and Expense Declaration, she states Respondent still currently resides in the same home. As such, an award of spousal support at this time is premature. Therefore, the court denies Petitioner's request for temporary spousal support.

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

**TENTATIVE RULING #14: PETITIONER'S REQUEST FOR TEMPORARY SPOUSAL SUPPORT IS DENIED AS THE PARTIES CONTINUE TO COHABITATE. 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.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 4, 2024

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

**15. DCSS V. JOSEPH SENTER (OTHER PARENT: KERIANNE PRUETT)**

**PFS20130105**

Other Parent filed an RFO on November 9, 2023, requesting the court change venue from El Dorado County to Alameda County. Other Parent concurrently filed an FL-105. Upon review of the court file, there is no Proof of Service showing Petitioner or Respondent were properly served. Therefore, the matter is dropped from calendar.

**TENTATIVE RULING #15: OTHER PARENT'S RFO IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE.**

**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.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 4, 2024

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

**16. DEREK BYRNE V. CHRISTINA BYRNE**

**22FL0036**

Respondent filed an ex parte request for emergency child custody orders as well as child support orders on November 22, 2023. On November 28, 2023, the court granted Respondent's request in part, ordering Respondent to have temporary sole physical custody of the minor. The court referred the parties to an emergency set Child Custody Recommending Counseling appointment for December 19, 2023 and a review hearing on January 4, 2024. Respondent filed a Request for Order (RFO) on November 28, 2023, requesting the same orders as set forth in the ex parte application. Upon review of the court file, there is no Proof of Service, showing Petitioner was properly served with the ex parte orders after hearing, the RFO, or the referral to CCRC.

Neither party appeared for CCRC on December 19, 2023.

The court vacates the ex parte orders. The court reinstates the prior orders for custody and parenting time. The child support orders remain in full force and effect. The court drops Respondent's RFO from calendar due to lack of proper service.

**TENTATIVE RULING #16: THE COURT VACATES THE EX PARTE ORDERS. THE COURT REINSTATES THE PRIOR ORDERS FOR CUSTODY AND PARENTING TIME. THE CHILD SUPPORT ORDERS REMAIN IN FULL FORCE AND EFFECT. THE COURT DROPS RESPONDENT'S RFO FROM CALENDAR DUE TO LACK OF PROPER SERVICE.**

**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.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 4, 2024

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

**17. DCSS V. KEVIN BAIRD (OTHER PARENT: THERESA-JEAN WILLIAMS)**

**22FL0933**

Other Parent filed a Request for Order (RFO) on June 13, 2023, requesting modification of the current child custody and parenting plan orders. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on August 10, 2023 and a review hearing on September 28, 2023. Proof of Service with Address Verification shows Respondent was served by mail on June 13, 2023. El Dorado County Department of Child Support Services (DCSS) was not served.

Other Parent is requesting sole legal and physical custody of the minor. Other Parent asserts Respondent has a substance abuse problem which places the minors at substantial risk of abuse and/or neglect while in his care.

Only Other Parent appeared for the CCRC appointment on August 10, 2023. Therefore, a single parent report with no agreements or recommendations was filed with the court on September 13, 2023. Copies were mailed to the parties on the same date.

Both parties appeared for the hearing on September 28, 2023. The parties requested to be rereferred to CCRC. The court granted the request and set a further CCRC appointment for November 20, 2023 and a review hearing for January 4, 2024. The court directed Other Parent to serve both Petitioner and Respondent with the RFO.

Other Parent filed a Declaration regarding Address Verification on November 21, 2023. There is no corresponding Proof of Service showing when Respondent was served with the RFO. There is no Proof of Service showing Petitioner has been properly served.

Only Other Parent appeared for the CCRC appointment, despite Respondent being present in court and verifying the date selected was available. As such a single parent report was filed with the court. A copy was mailed to the parties on December 13, 2023.

The court finds the requests as set forth in Other Parent's RFO are in the best interest of the minor. Other Parent shall have sole legal and physical custody of the minor. Respondent's parenting time shall be supervised by the paternal grandmother every Sunday from 10:00 am to 3:00 pm. Respondent shall not consume alcoholic beverages, narcotics, or restricted dangerous drugs (except by prescription) within 24 hours before or during his parenting time. Respondent shall participate in random substance abuse testing for 90 days and provide all test results to Other Parent. Respondent shall enroll and complete a parenting education class and provide the court and Other Parent with proof of completion within 30 days.

The court sets a further review hearing on April 4, 2024 at 1:30 pm in Department 5 to review Respondent's progress and determine if there should be a step-up in parenting time.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 4, 2024

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

Supplemental Declarations are due at least 10 days prior to the hearing. Failure to file a Supplemental Declaration may result in the matter being dropped from calendar.

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 #18: THE COURT FINDS THE REQUESTS AS SET FORTH IN OTHER PARENT'S RFO ARE IN THE BEST INTEREST OF THE MINOR. OTHER PARENT SHALL HAVE SOLE LEGAL AND PHYSICAL CUSTODY OF THE MINOR. RESPONDENT'S PARENTING TIME SHALL BE SUPERVISED BY THE PATERNAL GRANDMOTHER EVERY SUNDAY FROM 10:00 AM TO 3:00 PM. RESPONDENT SHALL NOT CONSUME ALCOHOLIC BEVERAGES, NARCOTICS, OR RESTRICTED DANGEROUS DRUGS (EXCEPT BY PRESCRIPTION) WITHIN 24 HOURS BEFORE OR DURING HIS PARENTING TIME. RESPONDENT SHALL PARTICIPATE IN RANDOM SUBSTANCE ABUSE TESTING FOR 90 DAYS AND PROVIDE ALL TEST RESULTS TO OTHER PARENT. RESPONDENT SHALL ENROLL AND COMPLETE A PARENTING EDUCATION CLASS AND PROVIDE THE COURT AND OTHER PARENT WITH PROOF OF COMPLETION WITHIN 30 DAYS. THE COURT SETS A FURTHER REVIEW HEARING ON APRIL 4, 2024 AT 1:30 PM IN DEPARTMENT 5 TO REVIEW RESPONDENT'S PROGRESS AND DETERMINE IF THERE SHOULD BE A STEP-UP IN PARENTING TIME. SUPPLEMENTAL DECLARATIONS ARE DUE AT LEAST 10 DAYS PRIOR TO THE HEARING. FAILURE TO FILE A SUPPLEMENTAL DECLARATION MAY RESULT IN THE MATTER BEING DROPPED FROM CALENDAR. 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.**

**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.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 4, 2024

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

**18. JAMES SMITH V. STEPHANIE SMITH**

**PFL20210219**

Petitioner filed a Request for Order (RFO) on October 4, 2023, requesting modification of permanent spousal support. Petitioner asserts there has been a change in circumstances which warrants a modification of permanent support. Petitioner concurrently filed an Income and Expense Declaration. Respondent was personally served on October 13, 2023.

Respondent filed a Responsive Declaration and Income and Expense Declaration on December 19, 2023.

Petitioner filed a Reply and Supplemental Declaration on December 27, 2023. Respondent was served by mail on December 27, 2023.

The court finds this to be a post-judgment request for modification of support. As such, the court must take testimony on the Family Code section 4320 factors. Therefore, the parties are ordered to appear to select Mandatory Settlement Conference and trial dates.

**TENTATIVE RULING #18: THE PARTIES ARE ORDERED TO APPEAR TO SELECT MANDATORY SETTLEMENT CONFERENCE AND TRIAL DATES.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 4, 2024

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

**20. MATTHEW SANGSTER V. MIRANDA SOTA**

**23FL0991**

Petitioner filed a Petition for Child Custody and Support on October 5, 2023. Petitioner concurrently filed a Request for Order (RFO) requesting child custody and parenting time orders. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on November 30, 2023 and a review hearing on January 4, 2024. Upon review of the court file, there is no Proof of Service of the Summons or RFO.

Neither party appeared for the CCRC appointment.

The court drops the matter from calendar due to the lack of proper service.

**TENTATIVE RULING #20: THE MATTER IS DROPPED FROM CALENDAR DUE TO THE LACK OF PROPER SERVICE.**

**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.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 4, 2024

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

**21. RONI SCHULTZ V. RONSON CROWDER**

**23FL0948**

Petitioner filed a Petition to Establish a Parental Relationship and Request for Order (RFO) on September 26, 2023. Petitioner requests the court make child custody and parenting time orders. Although Petitioner checked the box on the FL-300 indicating a request for attorney's fees, she did not complete that section of the FL-300, nor did she file an Income and Expense Declaration. Therefore, the court finds there is no request for attorney's fees currently before the court. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on November 13, 2023 and a review hearing on January 4, 2024.

The Proof of Service of the Summons shows Respondent was personally served on September 28, 2023, with the Summons and RFO. However, there is no Proof of Service showing Respondent was properly served with the CCRC referral.

Only Petitioner appeared for the CCRC appointment on November 13, 2023. As such, a single parent report with no agreements or recommendations was filed with the court on November 13, 2023. Copies were mailed to the parties on November 15, 2023.

The court orders parties to appear for the hearing.

**TENTATIVE RULING #21: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.**



LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 4, 2024

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

**22. RONNIE WEIDT V. CHRISTINA VONESSACOS**

**PFL20200637**

Respondent filed a Request for Order (RFO) on June 5, 2023, requesting a modification of child custody and parenting plan orders. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on July 31, 2023 and a review hearing on September 21, 2023. Upon review of the court file, there is no Proof of Service showing Petitioner was properly served with the RFO and referral to CCRC.

Neither party appeared at the CCRC appointment.

On September 21, 2023, Respondent appeared for the hearing. Respondent requested the matter be continued and that the court rerefer the parties to CCRC. The court granted the request and imposed a sanction on Respondent for her failure to appear at the first CCRC appointment. The court directed Respondent to properly serve Petitioner with the RFO and new referral to CCRC.

Petitioner was served by mail on September 26, 2023, with the RFO and referral to CCRC. Respondent filed a Notice of Address Verification on September 26, 2023.

Both parties appeared for CCRC on November 15, 2023. The parties were unable to reach any agreements. A report with recommendations was filed on December 21, 2023. Copies were mailed to the parties on December 22, 2023.

The court has reviewed and considered the December 21, 2023 CCRC report. The court finds the recommendations to be in the best interest of the minor. The court adopts the recommendations as set forth 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 #22: THE COURT FINDS THE RECOMMENDATIONS SET FORTH IN THE DECEMBER 21, 2023 CCRC REPORT TO BE IN THE BEST INTEREST OF THE MINOR. 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 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**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 4, 2024

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

**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

January 4, 2024

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

**23. TIMOTHY ADKINS V. AMEY ADKINS**

**PFL20170402**

Petitioner filed an Order to Show Cause and Affidavit for Contempt (OSC) on October 6, 2023, alleging six counts of contempt against Respondent. Respondent was personally served on November 16, 2023.

Parties are ordered to appear for arraignment.

On October 10, 2023, parties appeared for trial on a previous contempt charge brought by Petitioner. The court continued the trial to January 4, 2024 for further trial setting due to the subsequent charges brought on October 6, 2023.

Parties are ordered to appear for further trial setting.

Petitioner filed a Request for Order (RFO) on October 6, 2023, seeking reimbursement for counseling sessions from Respondent. Respondent was served by mail on September 22, 2023. Petitioner has not served the Department of Child Support Services who are a party to the case. Therefore, the court drops the matter from calendar.

**TENTATIVE RULING #23: THE PARTIES ARE ORDERED TO APPEAR FOR ARRAIGNMENT ON THE OCTOBER 6, 2023 OSC AND TRIAL SETTING.**

**PETITIONER'S OCTOBER 6, 2023 RFO IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE.**

**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.**