

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 1, 2024

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

**1. BEAU GRIFFIN V. HANNAH GRIFFIN**

**PFL20200103**

On March 30<sup>th</sup> the court adopted a step-up plan which was agreed to by the parties and codified in the March 9, 2023 CCRC report. After several Request for Orders (RFOs) the parties reached a stipulation on September 21, 2023 which included a review hearing regarding Respondent's progress with the step-up plan. The review hearing was set for December 21<sup>st</sup> however Respondent had not filed a Supplemental Declaration and Petitioner's Supplemental Declaration was late filed. The court continued the review hearing to the present date and agreed to consider Petitioner's prior declaration if no new declaration was filed.

Petitioner's Supplemental Declaration was filed and served on December 15, 2023. Respondent filed a Declaration on December 29<sup>th</sup> indicating that it was in response to Petitioner's Supplemental Declaration. Respondent's declaration was mail served on January 4, 2024. Petitioner then filed and served a Declaration written by the children's therapist on January 16<sup>th</sup> along with Petitioner's Reply to Respondent's Supplemental Declaration Filed 12/29/23.

According to Petitioner, Respondent has not been serious about her recovery efforts. He requests Respondent be ordered to participate in an in-patient drug treatment program for 90 to 120 days. In the interim, he asks that Respondent no longer send letters to the children. Respondent, on the other hand, asks that visitation proceed to the next step of the step-up plan. Respondent requests the parties be ordered to attend co-parenting classes. Petitioner asks that they attend co-parenting counseling along with Petitioner's fiancé Shila Grzeczka.

The court has reviewed the filings as outlined above and feels that co-parenting counseling between the parties and Petitioner's fiancé would be in the best interests of the children. The parties are therefore ordered to participate in co-parenting counseling at a frequency and duration as to be determined by the counselor. Petitioner's fiancé shall be allowed to participate in the co-parenting counseling.

Petitioner's request for an in-patient treatment program is denied. Based on the letter from Recovery in Action, Respondent "...meets the criteria for outpatient substance use treatment." That said, Respondent's positive test for alcohol and her missed nail test are concerning. This is especially in light of the fact that the letter from her counselor, Veronica Mayfield, clearly states that treatment goals include acquiring "the necessary skills to maintain long-term sobriety from *all mood-altering substances*." [emphasis added]. Additionally, as noted by the children's therapist, Paisley is going through changes at school that will also require some adjudgment on her part. For these reasons, the court is not convinced that progressing in the step-up plan would be in the best interests of the children at this time. As such, the current step of the step-up plan, and all prior orders, shall remain in place. A review hearing is set for

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05/02/2024 at 8:30am in Department 5. Parties are ordered to file and serve supplemental declarations no later than 10 days prior to the hearing date. Petitioner shall prepare and file the Findings and Orders After Hearing.

**TENTATIVE RULING #1: THE PARTIES SHALL PARTICIPATE IN CO-PARENTING COUNSELING AT A FREQUENCY AND DURATION AS TO BE DETERMINED BY THE COUNSELOR. PETITIONER'S FIANCÉ SHALL BE ALLOWED TO PARTICIPATE IN THE CO-PARENTING COUNSELING. THE CURRENT STEP OF THE STEP-UP PLAN, AND ALL PRIOR ORDERS, SHALL REMAIN IN PLACE. A REVIEW HEARING IS SET FOR 05/02/2024 AT 8:30AM IN DEPARTMENT 5. PARTIES ARE ORDERED TO FILE AND SERVE SUPPLEMENTAL DECLARATIONS NO LATER THAN 10 DAYS PRIOR TO THE HEARING DATE. 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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**2. CHRISTOPHER MICHAEL STARR V. LEILANI ALICE STARR**

**21FL0124**

On July 13, 2023, this matter came before the court for an evidentiary hearing on this issue of property division. At that time, the court heard testimony regarding, and made rulings on, the characterization of many of the community property items. However, the court set a further evidentiary hearing on the following issues: Respondent's Fidelity 401k, Respondent's State Farm Roth IRA, Respondent's Sutter Pension, and the home equity line of credit taken out on the residence located at 4271 Marble Ridge Road. These issues were set to begin trial on October 27, 2023 but an automatic stay was issued due to Respondent's bankruptcy filing. The October 27<sup>th</sup> date was vacated and the matter was set for hearing on the present date. The court reserved on sanctions for the motion to compel as well as all other issues pending before the court.

Neither party has filed a declaration updating the court on the status of the bankruptcy proceedings. This matter is therefore continued to join with the hearing currently scheduled for March 28, 2024 at 8:30am in Department 5. The court continues to reserve on the request for sanctions and all other issues pending before the court.

**TENTATIVE RULING #2: THIS MATTER IS CONTINUED TO JOIN WITH THE HEARING CURRENTLY SCHEDULED FOR MARCH 28, 2024 AT 8:30AM IN DEPARTMENT 5. THE COURT CONTINUES TO RESERVE ON THE REQUEST FOR SANCTIONS AND ALL OTHER ISSUES PENDING BEFORE THE COURT.**

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**3. DAVID LADD ANDERSON V. LAURA BRATT ANDERSON**

**23FL0694**

This matter is before the court for hearing on a Request for Order (RFO) filed by Respondent on October 24, 2023. Concurrently therewith she filed a Memorandum of Points and Authorities in Support of Special Appearance Request for Order to Quash Service and Proceeding. Both documents were electronically served on November 2, 2023.

Petitioner filed and served his Responsive Declaration to Request for Order and a Memorandum of Points and Authorities in Opposition to Respondent's Motion to Quash Service and Proceeding on January 19, 2024. Respondent's Reply Declaration was filed and served on January 25, 2024.

On March 29, 2018, Respondent filed for divorce in Santa Clara County. Not long thereafter the parties apparently reconciled and held themselves out as husband and wife since that date until July 21, 2023 when Petitioner filed a Petition for Dissolution was filed in El Dorado County. However, the Santa Clara County matter had never been dismissed and Respondent was served with the El Dorado County papers while the Santa Clara County matter was still pending. While Respondent has since agreed to dismiss the Santa Clara County matter, she requests the court quash service of the summons that occurred in July and require Petitioner to effectuate service after the Santa Clara County case is dismissed.

Respondent further requests the El Dorado County case be dismissed for improper venue. She states that Petitioner resides in a memory care facility in Folsom. While Respondent concedes that Petitioner resided in El Dorado County earlier in 2023, he has been residing in Folsom since approximately June of 2023. Because Folsom is located in Sacramento County, Respondent argues that Petitioner does not meet the three-month residency requirement to file in El Dorado County.

Finally, Respondent is of the belief that Petitioner lacks capacity to file the present matter and the Petition for Dissolution should therefore be quashed.

Petitioner opposes all of the requests made by Respondent. He notes that the Santa Clara County matter was pending for a period of five years with no pleadings or orders being filed in that time. In early 2020 he moved from Santa Clara County to El Dorado County where he states he resided until August 1, 2023. He now lives in Ponte Palermo Assisted Living in Cameron Park. While he was admitted to Cogir Memory Care, his stay there lasted only two months. Further, he objects to the Motion to Quash as the parties had agreed to a 60-day extension for filing the motion, which made the deadline October 23<sup>rd</sup>. The motion was not filed until October 24<sup>th</sup>. Finally, while he argues he has sufficient capacity to bring the present matter, even if the court finds that he lacks capacity to sue for divorce, the proper remedy would be appointing a guardian ad litem, not quashing the proceedings.

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California Rule of Court 5.63 vests a responding party with the ability to move to quash the proceeding, in whole or in part, due to the petitioner's alleged lack of capacity to sue, another action pending between the same parties on the same issues, or improper venue due to failure to meet the residency requirements of Family Code § 2320. Cal. Rule of Ct., Rule 5.63(b). A motion to quash must be filed within the time limit in which Respondent is permitted to file his or her Response to the Petition. *Id.* This time limit may be extended for good cause or by the agreement of the parties. Cal. Civ. Pro. § 418.10. If a party fails to file its motion to quash within the statutorily prescribed time limit, the party is deemed to have waived the grounds to do so. Cal. Rule of Ct., Rule 5.63(e).

Respondent argues that because she was served with the Petition while the Santa Clara case was still pending, her time to file a motion to quash was tolled because service was improper. Respondent cites no law to support this argument. In fact, if the time to file a motion to quash only began when there was no other action pending that would render the language of Rule 5.63 (b)(2) wholly extraneous. "As in any case involving statutory interpretation, our fundamental task here is to determine the Legislature's intent so as to effectuate the law's purpose." [Citation]. The well-established rules for performing this task require us to begin by examining the statutory language, giving it a plain and commonsense meaning. [Citation]." Mora v. Webcor Construction, L.P., 20 Cal. App. 5<sup>th</sup> 211, 219 (2018) *citing* Los Angeles County Metropolitan Transportation Authority v. Alameda Produce Market, LLC, 52 Cal. 4<sup>th</sup> 1100, 1106-1107 (2011). "It is a maxim of statutory interpretation that courts should give meaning to every word of a statute and should avoid constructions that would render any word or provision surplusage." Tuolumne Jobs & Small Business Alliance v. Sup. Ct., 59 Cal. 4<sup>th</sup> 1029, 1038 (2014). Here, the legislature would not have expressly included the language that "[w]ithin the time permitted to file a response, the respondent may move to quash the proceeding, in whole or in part, for any of the following reasons" including "another action pending between the same parties for the same cause" if they had not intended the prescribed time limit to apply in situations where another matter is pending. Cal. Rule Ct., Rule 5.63(b)(2). Given the language of the rule of court and the provisions of statutory construction, the court cannot find that the time limit to file the motion to quash was tolled and therefore, the time to file was pursuant to the agreement of the parties which established October 23<sup>rd</sup> as the deadline. Respondent did not file her motion until October 24<sup>th</sup>. The motion was therefore untimely and grounds to file have been waived. Respondent's motion to quash is denied.

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

**TENTATIVE RULING #3: RESPONDENT'S MOTION TO QUASH IS DENIED. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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**5. JONATHON BISKNER V. KRISTEN BISKNER**

**21FL0132**

This matter is before the court on Respondent's request for bifurcation. Respondent filed and served her Request for Order (RFO) along with a Memorandum of Points and Authorities re Bifurcation of Status on August 8, 2023. Petitioner has not filed a Responsive Declaration to Request for Order.

The RFO came before the court for hearing on October 19<sup>th</sup> at which time the parties requested a continuance to allow time for joinder of the retirement plan. The request was granted and the matter was continued to the present date.

"The court may separately try one or more issues before the trial of the other issues if resolution of the bifurcated issue is likely to simplify the determination of the other issues." Cal. Rules of Ct. Rule 5.390(c). To do so, the moving party must ensure that "[a]ll pension plans that have not been divided by court order that require joinder ..." have been joined. Cal. Rule Ct. 5.390(d)(1). A party seeking bifurcation is to submit a completed FL-315 evidencing such. Cal. Rule Ct. 5.390(a).

The court has reviewed the file and is satisfied that all procedural requirements have been met. Therefore, the court finds good cause to bifurcate the case and grant a separate trial on the issue of marital status. The parties are ordered to appear to select hearing dates for a status-only judgment.

**TENTATIVE RULING #5: THE PARTIES ARE ORDERED TO APPEAR TO SELECT HEARING DATES FOR A STATUS-ONLY JUDGMENT.**

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**6. JUSTIN SIMARRO V. YAJAIRA SIMARRO**

**PFL20200099**

On August 11, 2023, Respondent filed an Order to Show Cause and Affidavit for Contempt (OSC), alleging Petitioner failed to make 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. At the November 9<sup>th</sup> hearing the OSC was once again continued. In addition to continuing the OSC, the parties were referred to Child Custody Recommending Counseling (CCRC). A review of CCRC and the OSC were both set for the present date.

On October 23, 2023, Petitioner filed a Request for Order (RFO) seeking custody and child support orders. The RFO was mail served on November 17<sup>th</sup>.

Respondent filed her Income and Expense Declaration on October 30<sup>th</sup>, however there is no Proof of Service indicating this document was served on Petitioner. She also filed a Declaration on January 17, 2024, but again, there is no Proof of Service. Without Proofs of Service the court cannot consider either of these documents.

Petitioner filed his RFO requesting increased visitation with the minor. He states that he is of the opinion that it is in the best interests of the minor to split equal time between the parties. He further requests that child support be set to \$0.

“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).

Here, Petitioner failed to file an Income and Expense Declaration with his RFO as he is required to do. The most recent Income and Expense Declaration the court has on file for Petitioner is dated October 11, 2023, and the most recent for Respondent is dated October 30<sup>th</sup>. Given that neither party has a current Income and Expense Declaration on file with the court, the court cannot rule on the issue of child support. The issue of child support is therefore continued to 04/25/2024 at 8:30 am in Department 5. The court reserves jurisdiction to modify support back to the date of filing the RFO. Both parties are ordered to file and serve updated Income and Expense Declarations no later than 10 days prior to the hearing date. Both parties are ordered to file Proofs of Service with the court as well. Petitioner is admonished that his failure to file an updated Income and Expense Declaration may result in his request for support orders being dropped from calendar.



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The parties attended CCRC on December 29, 2023 and a CCRC report with recommendations was prepared on January 10, 2024. The court has reviewed the filings of the parties as outlined above as well as the CCRC report and finds the recommendations of the CCRC counselor to be in the best interests of the minor. Therefore, the court adopts the recommendations as stated in the January 10, 2024 CCRC report as the orders of the court. Petitioner shall prepare and file the Findings and Orders After Hearing.

The parties are ordered to appear for arraignment on the OSC.

**TENTATIVE RULING #6: THE COURT ADOPTS THE RECOMMENDATIONS AS STATED IN THE JANUARY 10, 2024 CCRC REPORT AS THE ORDERS OF THE COURT. THE ISSUE OF CHILD SUPPORT IS THEREFORE CONTINUED TO 04/25/2024 AT 8:30 AM IN DEPARTMENT 5. THE COURT RESERVES JURISDICTION TO MODIFY SUPPORT BACK TO THE DATE OF FILING THE RFO. BOTH PARTIES ARE ORDERED TO FILE AND SERVE UPDATED INCOME AND EXPENSE DECLARATIONS NO LATER THAN 10 DAYS PRIOR TO THE HEARING DATE. BOTH PARTIES ARE ORDERED TO FILE PROOFS OF SERVICE WITH THE COURT AS WELL. PETITIONER IS ADMONISHED THAT HIS FAILURE TO FILE AN UPDATED INCOME AND EXPENSE DECLARATION MAY RESULT IN HIS REQUEST FOR SUPPORT ORDERS BEING DROPPED FROM CALENDAR. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING. THE PARTIES ARE ORDERED TO APPEAR FOR ARRAIGNMENT ON THE OSC.**

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**7. MALIA GREEN V. BRYCE DANIELS JR.**

**22FL0712**

This matter is before the court for hearing on a Request for Order (RFO) filed by Petitioner on October 30, 2023. It was mail served on November 1, 2023. Respondent has not filed a Responsive Declaration to Request for Order.

By filing her RFO, Petitioner seeks the following orders: (1) The court to grant Petitioner's voluntary waiver of receipt of Respondent's Preliminary and Financial Declarations of Disclosure; (2) Set the matter for a 1-hour evidentiary hearing to prove-up all issues related to the dissolution of marriage; and (3) Bifurcate and terminate marital status. Petitioner has included a proposed judgment with her RFO. She also includes the requisite FL-315 which indicates that the community has no interest in any pension or retirement plans.

A party may request bifurcation of the issue of marital status, however prior to doing so the party must ensure that "[a]ll pension plans that have not been divided by court order that require joinder ..." have been joined. Cal. Rule Ct. 5.390(d)(1). A party seeking bifurcation is to submit a completed FL-315. Cal. Rule Ct. 5.390(a). Where these procedural requirements have been met, it is the public policy of the state to favor bifurcation where the dissolution of marriage would otherwise be postponed due to issues of property, support, custody, or attorney's fees. In re Marriage of Fink, 54 Cal. App. 3d 357 (1976).

As indicated above, Petitioner has complied with filing the FL-315 and she has indicated that there are no pension plans in existence that would require joinder. As such, the court finds good cause to bifurcate the case and grant a separate trial on the issue of marital status only. Parties are ordered to appear to select hearing dates for a status-only judgment.

Family Code sections 2104 and 2105 collectively impose on each party the obligation of making preliminary and final disclosures of assets within the timeframes specified. For the party responding to a Petition for Dissolution, the preliminary disclosure is due either concurrently with the response or within 60 days of filing the same. Where a party fails to comply with Section 2104 or 2105, "...the complying party may do one or more of the following: (1) File a motion to compel a further response. (2) File a motion for an order preventing the noncomplying party from presenting evidence on issues that should have been covered in the declaration of disclosure. [or] (3) File a motion showing good cause for the court to grant the complying party's voluntary waiver of receipt of the noncomplying party's..." preliminary or final declaration of disclosure. Fam. Code § 2107(b).

While the moving party may move for any one or more remedies stated in Section 2107, the court is weary of granting the voluntary waiver without Petitioner having first obtained an order compelling the disclosures. This is especially in light of the fact that Respondent has had some involvement with the matter at hand. Therefore, Petitioner's requests for a voluntary

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waiver of the preliminary and final declarations of disclosure and a prove-up hearing are denied without prejudice.

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

**TENTATIVE RULING #7: THE COURT FINDS GOOD CAUSE TO BIFURCATE THE CASE AND GRANT A SEPARATE TRIAL ON THE ISSUE OF MARITAL STATUS ONLY. PARTIES ARE ORDERED TO APPEAR TO SELECT HEARING DATES FOR A STATUS-ONLY JUDGMENT. PETITIONER'S REQUESTS FOR A VOLUNTARY WAIVER OF THE PRELIMINARY AND FINAL DECLARATIONS OF DISCLOSURE AND A PROVE-UP HEARING ARE DENIED WITHOUT PREJUDICE. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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**8. SCOTT RONNINGEN V. ANGELINA RONNIGEN**

**22FL0127**

On October 27, 2023, the parties appeared before the court for a hearing on Respondent's request for a Domestic Violence Restraining Order (DVRO). The request was granted and a DVRO was issued for one year. Respondent requested attorney's fees for the DVRO and the court set the matter for hearing on the present date. The parties were ordered to file Income and Expense Declarations and any supplemental declarations no later than 10 days prior to the hearing date.

In keeping with the court's order Respondent filed and served her Income and Expense Declaration and a Declaration of Attorney Layla Cordero Re: Fees and Costs on November 21<sup>st</sup>. Petitioner filed his Income and Expense Declaration on December 5<sup>th</sup>.

According to Respondent's counsel, Respondent has incurred a total of \$3,419.50 in attorney's fees and costs solely associated with the DVRO. This is the amount she is now requesting from Petitioner. Respondent was previously awarded attorney's fees in the amount of \$2,500 pursuant to Family Code section 2030. Additionally, there are support orders in place in the amount of \$829 for child support and \$1,340 in spousal support.

Petitioner filed an Income and Expense Declaration on December 5, 2023. Upon review of the court file, there is no Proof of Service showing Respondent was served with the Income and Expense Declaration.

Family Code section 6344 is the mechanism by which a prevailing party on a DVRO request may recover their attorney's fees and costs. If the prevailing party was the party that filed for the DVRO then, "[a]fter notice and a hearing, a court, upon request *shall issue and order for the payment of attorney's fees and costs.*" Cal. Fam. Code § 6344. Prior to awarding attorney's fees pursuant to Family Code section 6344 (a), the court must also take into consideration that "the party ordered to pay has, or is reasonably like to have, the ability to pay." Cal. Fam. Code § 6344 (c).

It is unequivocal that Respondent is the party who petitioned the court for a DVRO and it was Respondent who prevailed at the hearing on her request. The court finds good cause to consider Petitioner's December 5, 2023 filed Income and Expense Declaration, despite the lack of a Proof of Service. The court finds Petitioner has, or is reasonably likely to have the ability to pay. Therefore, Petitioner is ordered to pay \$3,419.50 directly to Respondent's counsel. This amount may be paid in one lump sum or in monthly increments of \$284.96 due and payable on the 15<sup>th</sup> of each month commencing February 15<sup>th</sup> and continuing until paid in full (approximately 12 months). Should any payment be missed or late, the entire amount shall become immediately due and payable with legal interest.

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**TENTATIVE RULING #8: RESPONDENT'S REQUEST FOR ATTORNEY'S FEES AND COSTS IS GRANTED. PETITIONER IS ORDERED TO PAY \$3,419.50 DIRECTLY TO RESPONDENT'S COUNSEL. THIS AMOUNT MAY BE PAID IN ONE LUMP SUM OR IN MONTHLY INCREMENTS OF \$284.96 DUE AND PAYABLE ON THE 15<sup>TH</sup> OF EACH MONTH COMMENCING FEBRUARY 15<sup>TH</sup> AND CONTINUING UNTIL PAID IN FULL (\$284.96). SHOULD ANY PAYMENT BE MISSED OR LATE, THE ENTIRE AMOUNT SHALL BECOME IMMEDIATELY DUE AND PAYABLE WITH LEGAL INTEREST.**

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**9. SEAN CLARK V. BRANDY CLARK**

**PFL20160816**

On October 18, 2023, Petitioner filed a Request for Order (RFO) seeking orders for custody and visitation. It was personally served on October 21<sup>st</sup>.

The parties attended Child Custody Recommending Counseling on December 11<sup>th</sup> and while they were unable to reach any agreements, CCRC prepared a report recommending all orders remain in full force and effect. The report was prepared on January 18, 2024, and mailed to the parties on January 19<sup>th</sup>.

Petitioner's counsel filed a note with the court requesting to withdrawal the RFO and vacate the hearing. However, the letter was not signed by both parties and the request was therefore, denied by the court.

After reviewing the filings as outlined above the court finds the recommendations contained in the CCRC report to be in the best interests of the minor and therefore adopts them as the orders of the court.

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

**TENTATIVE RULING #9: THE RECOMMENDATIONS CONTAINED IN THE JANUARY 18, 2024 CCRC REPORT ARE ADOPTED AS THE ORDERS OF THE COURT. 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

February 1, 2024

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

**10. VADIM ZANKO V. KRISTINA ZANKO**

**23FL0706**

The parties are before the court for a return hearing on a Request for Order (RFO) filed by Petitioner on August 2, 2023 and an ex parte request filed by Respondent on October 9, 2023. A hearing on these matters was held on November 30<sup>th</sup> at which time the court made temporary custody orders, granted Respondent's request for a 3111 evaluation, and made orders regarding the evaluation. The court set a review hearing for the present date to review the progress of the 3111 evaluation and to discuss the possibility of instituting a 2-2-3 schedule. Parties were ordered to file any supplemental declaration no later than 10 days prior to the hearing date.

On January 23, 2024, Petitioner filed an Updating Declaration. It was mail served the same day. Respondent has not filed a supplemental declaration.

According to Petitioner he has complied with the court's prior orders and has exercised all of his visitation time. He states visits are going well and he requests the court order a 2-2-3 schedule. Should this request be granted, he feels a 3111 evaluation will no longer be necessary. In the alternative, if the court does not vacate the order for a 3111 evaluation, Petitioner states that the parties have selected a 3111 evaluator and a return hearing set in approximately 120 days would be needed to review the evaluator's report and recommendations.

The parties are ordered to appear for hearing. The court would like information from Respondent regarding her thoughts on the status of the current visitation schedule and the potential imposition of a 2-2-3 schedule.

**TENTATIVE RULING #10: THE PARTIES ARE ORDERED TO APPEAR FOR HEARING.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 1, 2024

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

**11. ATHENA SOLNOK V. DANIEL SOLNOK**

**23FL0839**

Respondent filed a Request for Order (RFO) along with an Application for an Order Shortening Time (OST) on January 19, 2024. The court granted the OST and set the matter for a hearing on February 1, 2024 and directed Respondent to serve Petitioner on or before January 19, 2024. Proof of Service shows Petitioner was electronically served on January 19, 2024.

Respondent is requesting authorization to enter the former marital residence prior to the close of escrow to retrieve his personal property items. The court had previously authorized a civil standby for Respondent to retrieve the items as there is a currently a temporary domestic violence restraining order in place. Respondent asserts Petitioner blocked his attempts to retrieve his personal property and refused to cooperate with law enforcement to allow Respondent to remove his belongings. Respondent has requested joint legal custody. Respondent is also requesting the court order Talking parents video calls between Respondent and the minor on Tuesdays and Thursdays at 6:00 PM.

Petitioner filed a Responsive Declaration on January 26, 2024. Respondent was served electronically on January 24, 2024. Petitioner has no objection to Respondent retrieving his personal property items but does request 24 hours' notice. Petitioner objects to the request for joint legal custody. Petitioner objects to the Facetime Calls on Tuesday and Thursday evenings, as Petitioner asserts her schedule is unpredictable on Tuesday and Thursday evenings.

Respondent filed a Supplemental Declaration on January 29, 2024. Petitioner was served the same day. Because this matter was set on a shortened time basis, the court finds good cause to consider the filing. Respondent reiterates his requests as set forth in the RFO. Respondent also requests to further visitation orders.

The court has read and considered the filings as outlined above. The court grants Respondent's request to retrieve his personal property. If the parties are unable to mutually agree to a date and time for Respondent to retrieve his personal property, Respondent shall retrieve the items on February 10, 2024 between 10:00 AM and 5:00 PM. Petitioner shall not impede Respondent's access to his items and shall provide the necessary door code to Respondent's counsel at least 24 hours in advance of the scheduled pick up. A civil standby is once again authorized from Respondent to retrieve the items. The court denies the request for joint legal custody. The parties are currently pending trial on the mutual requests for Domestic Violence Restraining Orders. All current orders as a part of the Temporary Domestic Violence Restraining Orders as to custody remain in full force and effect. Petitioner shall continue to have sole legal custody. The court grants Respondent's request for Talking Parent's Video calls. The calls shall be twice a week on Tuesday and Thursday evenings at 6:00 PM. Respondent must contact Petitioner a minimum of 24 hours in advance via the Talking Parents application to



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arrange in person visitation. Petitioner is to cooperate with visitation requests if made within 24 hours. Petitioner shall not inhibit visitation between the minor and Respondent. The court maintains the current Non-Professional supervisors. Petitioner shall not unilaterally change the terms of visitation.

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 #11: THE COURT GRANTS RESPONDENT'S REQUEST TO RETRIEVE HIS PERSONAL PROPERTY. RESPONDENT SHALL RETRIEVE THE ITEMS ON FEBRUARY 10, 2024 BETWEEN 10:00 AM AND 5:00 PM. THE COURT DENIED THE REQUEST FOR JOINT LEGAL CUSTODY. THE PARTIES ARE CURRENTLY PENDING TRIAL ON THE MUTUAL REQUESTS FOR DOMESTIC VIOLENCE RESTRAINING ORDERS. ALL CURRENT ORDERS AS A PART OF THE TEMPORARY DOMESTIC VIOLENCE RESTRAINING ORDERS AS TO CUSTODY REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL CONTINUE TO HAVE SOLE LEGAL CUSTODY. THE COURT GRANTS RESPONDENT'S REQUEST FOR TALKING PARENT'S VIDEO CALLS. THE CALLS SHALL BE TWICE A WEEK ON TUESDAY AND THURSDAY EVENINGS AT 6:00 PM. RESPONDENT MUST CONTACT PETITIONER A MINIMUM OF 24 HOURS IN ADVANCE VIA THE TALKING PARENTS APPLICATION TO ARRANGE IN PERSON VISITATION. PETITIONER IS TO COOPERATE WITH VISITATION REQUESTS IF MADE WITHIN 24 HOURS. PETITIONER SHALL NOT INHIBIT VISITATION BETWEEN THE MINOR AND RESPONDENT. THE COURT MAINTAINS THE CURRENT NON-PROFESSIONAL SUPERVISORS. PETITIONER SHALL NOT UNILATERALLY CHANGE THE TERMS OF VISITATION. 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.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 1, 2024

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

**12. 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.

LAW & MOTION TENTATIVE RULINGS

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February 1, 2024

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

On November 9, 2023, the court adopted its tentative ruling continuing the matter to February 1, 2024 and appointing new Minors' Counsel, Rebecca Esty-Burke. The court was also concerned about which state was the proper jurisdiction of this matter to be heard, as neither the parties nor the minors are residents of the state of California. All parties currently reside in the state of Idaho.

Upon review of the court file, it does not appear Minors' Counsel was provided with notice of the appointment and the continued hearing date. Therefore, the court must continue the matter.

The matter is continued to 04/25/2024 at 1:30 PM in Department 5. The clerk of the court is directed to serve Ms. Esty-Burke with a copy of the minute order forthwith.

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

**TENTATIVE RULING #12: THE COURT FINDS GOOD CAUSE TO THE CONTINUE THE MATTER DUE TO MINORS' COUNSEL NOT BEING PROPERLY NOTICED OF THE APPOINTMENT AND HEARING. THE MATTER IS CONTINUED TO 04/25/2024 AT 1:30 PM IN DEPARTMENT 5. THE CLERK OF THE COURT IS DIRECTED TO SERVE MS. ESTY-BURKE WITH A COPY OF THE MINUTE ORDER FORTHWITH. 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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DEPARTMENT 5

February 1, 2024

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

**13. BRYAN O'FARRELL V. JOY MITCHELL**

**PFL20140329**

Petitioner filed a Request for Order (RFO) on October 26, 2023, requesting a modification of child custody and parenting plan orders as well as enforcement of current court orders. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on December 15, 2023. There is no Proof of Service showing Respondent was served with the RFO or referral to CCRC.

Neither party appeared for the CCRC appointment on December 15, 2023.

The matter is dropped from calendar due to the lack of proper service.

All prior orders remain in full force and effect.

**TENTATIVE RULING #13: THE MATTER IS DROPPED FROM THE COURT'S CALENDAR DUE TO THE LACK OF PROPER SERVICE. 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.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 1, 2024

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

**16. DELIA CHUMLEY V. DONALD CHUMLEY**

**21FL0101**

Petitioner filed a Request for Order (RFO) and application for an Order Shortening Time (OST) on November 14, 2023. On November 14, 2023, the court granted the OST and set the hearing on the RFO for December 14, 2023. The court directed Petitioner to serve Respondent on or before November 20, 2023. Petitioner concurrently filed an Income and Expense Declaration.

Proof of Service shows Respondent was personally served on November 21, 2023.

Petitioner's Counsel appeared on December 14, 2023 and requested the matter be continued to allow service of the RFO to be completed. The court granted the request and continued the matter to February 1, 2024.

Petitioner filed a Proof of Service showing Respondent was personally served with the RFO on December 22, 2023.

Petitioner requests the court award Petitioner the residence located in Texas as her sole and separate property so that it may be sold, with no offset to Respondent. Petitioner is also requesting the 2017 Volkswagen be awarded to her as her sole and separate property with no offset to Respondent. Petitioner is no longer capable of driving and wishes to sell the vehicle, however, unless the title is in her name alone, she will be unable to do so. Finally, Petitioner is requesting \$10,000 in attorney's fees, as a Family Code section 271 sanction.

Respondent has not filed a Responsive Declaration.

The court finds it will need to take additional evidence on this matter. The parties are ordered to appear to select Mandatory Settlement Conference and trial dates.

**TENTATIVE RULING #16: THE PARTIES ARE ORDERED TO APPEAR TO SELECT MANDATORY SETTLEMENT CONFERENCE AND TRIAL DATES.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 1, 2024

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

**17. JAYMIE CEDENO V. RAFAEL CEDENO**

**22FL0623**

On November 1, 2023, both parties and their counsel appeared for trial. The parties submitted a written stipulation to the court. The court conducted a *voire dire* of the parties and adopted the stipulation as its order. The court referred the parties to Child Custody Recommending Counseling (CCRC) for an appointment on December 21, 2023 at 1:00 and a further review hearing on February 1, 2023 at 1:30 PM.

Despite both parties being present in court and confirming they were available for the specific date and time for CCRC, and being provided a copy of the referral, both parties failed to appear on time for the appointment. Petitioner appeared a half hour late, stating she believed the appointment to be at 1:30. Respondent did not appear until 2:45 as he believed the appointment to be the following day. As such, the CCRC report filed with the court on December 21, 2023, contains no agreements or recommendations as there was no meaningful appointment.

The court finds good cause to rerefer the parties to CCRC for a further appointment. The parties are admonished, if they fail to appear, or fail to appear on time the court may impose sanctions against the party who did not appear. Parties are to attend CCRC on 02/29/2024 at 1:00 PM with Rebecca Nelson and return for a review hearing on 04/18/2024 at 1:30 PM in Department 5. Any supplemental declarations are to be filed and served at least 10 days prior to the next hearing.

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

**TENTATIVE RULING #17: THE COURT FINDS GOOD CAUSE TO REREFER THE PARTIES TO CCRC FOR A FURTHER APPOINTMENT. THE PARTIES ARE ADMONISHED, IF THEY FAIL TO APPEAR, OR FAIL TO APPEAR ON TIME THE COURT MAY IMPOSE SANCTIONS AGAINST THE PARTY WHO DID NOT APPEAR. PARTIES ARE TO ATTEND CCRC ON 02/29/2024 AT 1:00 PM WITH REBECCA NELSON AND RETURN FOR A REVIEW HEARING ON 04/18/2024 AT 1:30 PM IN DEPARTMENT 5. ANY SUPPLEMENTAL DECLARATIONS ARE TO BE FILED AND SERVED AT LEAST 10 DAYS PRIOR TO THE NEXT HEARING. 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**

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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

February 1, 2024

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

**18. JENNA GIBSON V. JEREMY EASTMAN**

**23FL0521**

On August 11, 2023, the court granted Petitioner's request for a Domestic Violence Restraining Order (DVRO). Petitioner was also granted sole physical custody, with the parties sharing legal custody. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on October 27, 2023 and a review hearing on December 7, 2023.

Both parties appeared for the CCRC appointment and reached a full agreement. The report with the parties' agreement was filed with the court on October 31, 2023. A copy has not been mailed to the parties.

On December 7, 2023, the court on its own motion, continued the matter due to the CCRC report not being provided to the parties.

A copy of the CCRC report was mailed to the parties on December 5, 2023.

The court has read and considered the CCRC report filed on October 26, 2023. The court finds the agreement of the parties to be in the minors' best interest. The court adopts the parties' agreement as its temporary order.

On January 26, 2024, this court participated in a UCCJEA conference with Commissioner Wilson of the First District Courts, Utah, to determine whether the State of California or the State of Utah would have ongoing jurisdiction of the dissolution and child custody and parenting plan orders. The judicial officers determined Utah was the home state of the minors at the time the petition for dissolution was filed and therefore, Utah should remain the home state. Therefore, the current orders will remain in place pending further hearings in the state of Utah.

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 #18: THE COURT HAS READ AND CONSIDERED THE CCRC REPORT FILED ON OCTOBER 26, 2023. THE COURT FINDS THE AGREEMENT OF THE PARTIES TO BE IN THE MINORS' BEST INTEREST. THE COURT ADOPTS THE PARTIES' AGREEMENT AS ITS TEMPORARY ORDER. UTAH IS THE HOME STATE OF THE MINORS AND SHALL HAVE ONGOING JURISDICTION OF THE CHILD CUSTODY AND PARENTING PLAN ORDERS. THIS ORDER SHALL REMAIN IN FULL FORCE AND EFFECT UNLESS AND UNTIL IT IS MODIFIED BY THE STATE OF UTAH. 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**



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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

February 1, 2024

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

**19. LAUREN HINCH V. MARK HINCH**

**23FL0521**

Petitioner filed a Request for Order (RFO) on November 22, 2023, requesting the court order Respondent to serve his Final Declarations of Disclosure. Respondent was served by mail on December 6, 2023.

The parties submitted a Stipulation to Waive Final Disclosure on December 18, 2023. The court further notes a judgment was entered on December 21, 2023. The court, therefore, finds the RFO to be moot. As such, the matter is dropped from calendar.

All prior orders remain in full force and effect.

**TENTATIVE RULING #19: THE MATTER IS DROPPED FROM CALENDAR AS MOOT. THE PARTIES SUBMITTED A STIPULATION TO WAIVE FINAL DISCLOSURE ON DECEMBER 18, 2023. THE COURT FURTHER NOTES A JUDGMENT WAS ENTERED ON DECEMBER 21, 2023. 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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February 1, 2024

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

**21. SEEMA NAVEEN V. ASHEESH NAVEEN**

**PFL20170667**

On December 13, 2023, the court issued a ruling on the support arrears and the sale of the former family residence. The court set a further hearing on February 1, 2024 to address the issue of the status only judgement, Family Code section 2030 and 271 attorney's fees, and for the parties to provide an update on the sale of the former family home.

Respondent filed a Declaration on January 19, 2024. It was served on Petitioner on January 19, 2024 and again on January 26, 2024. The court notes the Declaration has not been signed by Respondent and therefore, the court cannot consider it.

Petitioner and her counsel filed Declarations on January 22, 2024. Respondent was served the same day. Petitioner is requesting \$7,000 in additional attorney's fees by way of a sanction for the late Responsive Brief filed by Respondent and for the filings for the current hearing. Petitioner is requesting a total of \$12,000 in attorney's fees. Petitioner asserts Respondent has continued to frustrate settlement and increase the cost of litigation.

Petitioner filed an Income and Expense Declaration on January 25, 2024. Respondent was served the same day.

Respondent filed an Income and Expense Declaration on January 26, 2024. There is no Proof of Service for this document, therefore, the court cannot consider it.

Parties are ordered to appear for the status only judgment.

Family Code section 271 states, in pertinent part, "...the court may base an award of attorney's fees and costs on the extent to which the conduct of each party or attorney furthers or frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation by encouraging cooperation of the parties and attorneys. An award of attorney's fees and costs pursuant to this section is in the nature of a sanction." Fam. Code § 271(a). While the purpose of Section 271 is to impose a punitive sanction, the court is not to impose a sanction that would create an "unreasonable financial burden on the party against whom the sanction is imposed." *Id.*

Here, it is undeniable that Respondent's failure to pay support arrears and equalization payment, as well as other actions taken by Respondent including his failure to cooperate with disclosure of bonus has frustrated the policy of the law to promote settlement and reduce the cost of litigation. His actions have directly caused Petitioner to incur the requested costs and fees. The court finds Respondent has frustrated the policy for settlement and has increased the cost of litigation. Respondent filed his Responsive brief three days after the deadline set by the court. This was a court-imposed deadline, not a deadline that was negotiated by the parties. Petitioner did not have the option to file her Reply late. Further, Respondent's brief was an

LAW & MOTION TENTATIVE RULINGS

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attempt to relitigate issues that the court had already ruled on. As the court stated in its ruling, Respondent essentially filed an untimely and procedurally improper motion for reconsideration.

While Section 271 does prohibit a sanction that would create an unreasonable financial burden, there is no evidence before the court that such a burden exists. As such, Petitioner's request for sanctions in the amount of \$5,000.

Regarding Petitioner's request for attorney's fees and costs pursuant to Family Code Section 3023, the public policy of Section 2030 is to provide "at the outset of litigation, consistent with the financial circumstances of the parties, parity between spouses in their ability to obtain effective legal representation." In Re Marriage of Keech, 75 Cal. App. 4<sup>th</sup> 860, 866 (1999). This assures each party has access to legal representation to preserve each party's rights. It "is not the redistribution of money from the greater income party to the lesser income party," but rather "parity." Alan S. v. Sup. Ct., 172 Cal. App. 4<sup>th</sup> 238, 251(2009). In the face of a request for attorney's fees and costs, the court is to make findings on "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 § 2030(a)(2).

Family Code section 2032 works in tandem with Section 2030 to ensure that any award of costs and fees is just and reasonable. Fam. Code § 2032. "In determining what is just and reasonable under the relative circumstances, the court shall take into consideration the need for the award to enable each party, to the extent practical, to have sufficient financial resources to present the party's case adequately." Id. at (b). Financial resources are only one factor to be considered though. Id. In addition to the parties' financial resources, the court may consider the parties' trial tactics. In Re Marriage of Falcone & Fyke, 203 Cal. App. 4<sup>th</sup> 964; 975 (2012).

Here, it is inarguable that a disparity in income exists between the parties and therefore a disparity in each party's relative access to counsel. This disparity has been further increased by Respondent's failure to make the equalization payments and failure to pay the arrears owed. To ensure that there is parity between the parties an award for costs and fees is necessary, and the court finds \$7,000 to be a reasonable amount.

The court finds the total amount of attorney's fees to be \$12,000. Respondent may pay this amount in one lump sum or in monthly increments of \$2,000 due and payable on the 15th of each month commencing February 15th and continuing until paid in full (approximately 6 months). The payment shall be made directly to Ms. Newman.

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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 1, 2024

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

**TENTATIVE RULING #21: PARTIES ARE ORDERED TO APPEAR FOR THE STATUS ONLY JUDGEMENT.**

**PETITIONER'S REQUEST FOR ATTORNEY'S FEES AND SANCTIONS IS GRANTED AS SET FORTH ABOVE. THE COURT FINDS THE TOTAL AMOUNT OF ATTORNEY'S FEES TO BE \$12,000. RESPONDENT MAY PAY THIS AMOUNT IN ONE LUMP SUM OR IN MONTHLY INCREMENTS OF \$2,000 DUE AND PAYABLE ON THE 15TH OF EACH MONTH COMMENCING FEBRUARY 15TH AND CONTINUING UNTIL PAID IN FULL (APPROXIMATELY 6 MONTHS). THE PAYMENT SHALL BE MADE DIRECTLY TO MS. NEWMAN. 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

February 1, 2024

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

**22. STEPHANIE VOLK V. WILLIAM MORALES II**

**PFL20090195**

On May 4, 2023, Petitioner filed a Request for Order (RFO) requesting a modification of the custody and visitation orders. A Child Custody Recommending Counseling (CCRC) session was scheduled on June 16, 2023 with a hearing set on August 3, 2023. Upon review of the file, there is no proof of service indicating service of the RFO and referral to CCRC on Petitioner.

However, on May 25, 2023, Respondent filed a Responsive Declaration, served by mail on Petitioner on May 23, 2023, which makes no objection as to defective service. As such, the court considers Petitioner's RFO on its merits.

Both parties participated in CCRC and informed the mediator that they reached a full agreement. They were referred to the Family Law Facilitator to draft an agreement, which was approved by the court on June 22, 2023.

On June 30, 2023, Petitioner filed a declaration. However, upon review of the file, there is no proof of service indicating service of this declaration on Respondent. As such, the court has not reviewed nor considered it.

On July 10, 2023, Petitioner filed an ex parte application to modify custody, to grant Petitioner authority to enroll the child in El Dorado High, and to order the mediator to speak to the minor. On July 13, 2023, Respondent filed a Responsive Declaration, objecting to Petitioner's requests. On July 14, 2023, the court granted Petitioner temporary physical custody pending the August 3, 2023 hearing. These temporary orders and the RFO were served personally on Respondent.

On August 3, 2023, the court adopted its tentative ruling, and referred the parties back to a CCRC session on October 12, 2023 and ordered the mediator to arrange a time to speak to the minor. The court continued the CCRC review November 30, 2023 at 1:30 p.m. in Department 5.

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

Respondent late filed an updating Declaration on November 27, 2023. Petitioner was served electronically and by mail on November 27, 2023. The Declaration includes an unsigned Stipulation from the parties.

Respondent and his counsel appeared on November 30, 2023. Petitioner did not appear. Respondent requested the matter be continued due to Petitioner's absence and to allow additional time for the parties to execute the Stipulation. The court granted the request to continue and set a further review hearing for February 1, 2024.

There have been no new filings since the last court date.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

February 1, 2024

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

Parties are ordered to appear for the hearing.

**TENTATIVE RULING #22: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.**