

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
March 7, 2024
8:30 a.m./1:30 p.m.

1. DEBRA STANLEY V. ROBERT STANLEY

PFL20210202

The parties appeared before the court on December 7, 2023 to review custody orders and determine whether an increase in Respondent's parenting time was warranted. At that time the court found that due to Respondent's recent DUI arrest the overnight visits would be discontinued and visitation was reverted back to non-professionally supervised visits every other weekend from 10:00 am to 6:00 pm each day. Visits were ordered to be supervised by the paternal grandparents and Respondent was ordered not to transport the minors without a valid driver's license and the required insurance. Respondent was ordered to undergo random urinalysis testing three times per month. A review hearing was set for the present date.

Minor Counsel's Statement of Issues and Contentions and Request for Orders was filed on February 26, 2024

Petitioner's Supplemental Declaration Re: Child Custody and Visitation was filed on February 27th. It was served on February 26th.

The parties are ordered to appear for the hearing.

TENTATIVE RULING #1: THE PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.

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2. EL DORADO COUNTY DCSS V. APOLINAR PEREZ BALTAZAR

23FL0578

The parties appeared before the court on December 11, 2023 at which time they were referred to Child Custody Recommending Counseling (CCRC) with an appointment on January 18, 2024. A review hearing was set for the present date.

The parties attended CCRC as ordered and were able to reach a full agreement. A CCRC report codifying the agreements was prepared on February 22nd and sent to the parties on February 23rd.

The court has reviewed the agreements of the parties and finds them to be in the best interests of the minors. They are therefore adopted as the orders of the court. Respondent shall prepare and file the Findings and Orders After Hearing.

TENTATIVE RULING #2: THE AGREEMENTS CONTAINED IN THE FEBRUARY 22, 2024 CCRC REPORT ARE ADOPTED AS THE ORDERS OF THE COURT. 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. JENNIFER SOLO V. JUSTIN ORTEGA

PFL20210262

On December 1, 2023, Petitioner filed a Request for Order (RFO) seeking a modification of custody and visitation orders. This is a post judgment request for modification and as such it was personally served on Respondent in accordance with Family Code § 215. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on January 18, 2024, and a review hearing was set for the present date.

Only Petitioner appeared at CCRC and therefore a single parent report was prepared and CCRC was unable to provide the court with recommendations. Respondent has not filed a response to the RFO.

Petitioner filed her RFO requesting sole legal and sole physical custody of the minor child, Jadeyn. In the alternative, she requests more specific orders regarding the time and place for visitation. She states that Respondent has not exercised any visitation since his last supervised visit on July 29, 2021 and she has not had any contact with him since December of 2022. She is of the belief that Respondent has not complied with the court's orders for anger management or a parenting class.

After reviewing the filings of the parties as outlined above the court finds Petitioner's requests to be in the best interest of the minor. Petitioner shall have sole legal and sole physical custody of the minor. Petitioner shall prepare and file the Findings and Orders After Hearing.

TENTATIVE RULING #3: PETITIONER SHALL HAVE SOLE LEGAL AND SOLE PHYSICAL CUSTODY OF THE MINOR. 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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4. JOHN CRISAFULLI V. ANITA CRISAFULLI

22FL1192

Military Retirement Review Hearing

The parties appeared before the court on October 10, 2023 and presented a written Memorandum of Understanding (MOU) which was adopted by the court as its orders. The MOU directed Petitioner's counsel to prepare the Domestic Relations Order (DRO) for the division of the military retirement pay benefits. The court set a review hearing for the present date to address this issue.

The parties appeared before the court again on January 11, 2024, at which time the parties again presented the court with an agreement as to the release of the AAFMAA Mutual Fund. The court adopted the agreement and set a review hearing for the present date.

Order to Show Cause

On January 8, 2024, Respondent filed an Order to Show Cause and Affidavit for Contempt (OSC) alleging 67 counts of contempt on the part of Respondent. It was personally served on January 18th.

Petitioner's Objections to and Motion to Strike Respondent's Order to Show Cause and Affidavit for Contempt, or Alternatively, Request to Postpone the Order to Show Cause Re Contempt was filed and served on February 29th.

Request for Judicial Notice

Petitioner filed and served Petitioner's Request for Judicial Notice of Criminal Court Records on January 25, 2024. He filed an additional Request for Judicial Notice of Court Records on February 14th.

Objections and Motion to Strike

On January 17, 2024, Petitioner filed and served Petitioner's Objections to and Motion to Strike Respondent's December 19, 2023 Declaration in Support of Request for Order and Application for Order Shortening Time Regarding Custody and Visitation.

Petitioner's Objections to and Motion to Strike Respondent's February 13, 2024 Supplemental Declaration and Reply of Respondent Regarding Issues of Child Custody and Visitation was filed on February 28th.

Petitioner's Objections to and Motion to Strike Respondent's February 20, 2024 Responsive Declaration to Petitioner's Request for Order was filed on February 28th.

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Requests for Order

On December 13, 2023, Petitioner filed a Request for Order (RFO) seeking custody and visitation orders. On December 20, 2023 Respondent filed an RFO also seeking custody and visitation orders.

As stated above, Petitioner filed a Request for Judicial Notice on January 25th. Concurrently therewith he filed a Declaration of Christie Coffin Regarding March 7, 2024 Request for Order, and a Supplemental Declaration of Petitioner John Crisafulli in Support of Petitioner's Request for Order Regarding Visitation. On February 6th Petitioner filed and served his Second Supplemental Declaration of Petitioner John Crisafulli in in Support of Petitioner's Request for Order Regarding Visitation.

The Supplemental Declaration and Reply of Respondent Regarding Issues of Child Custody and Visitation was filed and served on February 14, 2024. The Proof of Service indicates that a document titled Objection and Motion to Strike All Attachments to Petitioner's Supplemental Declaration in Support of Request for Order Regarding Visitation was also served on the 14th though the court does not have this document in its file.

Respondent filed and served her Responsive Declaration to Request for Order on February 21st. Petitioner also filed and served a Responsive Declaration to Request for Order on February 21st.

The parties attended Child Custody Recommending Counseling (CCRC) on January 18th, and a report with agreements and recommendations was prepared on February 22nd.

Petitioner John Crisafulli's Reply Declaration to Respondent's Responsive Declaration to Petitioner's Request for Order Regarding Visitation, Sale of Marital Residence, Entry of Judgment, Confirmation of Debts and Sanctions, was filed on February 28th.

On February 29th Respondent filed and served her Reply Declaration to Child Custody Recommending Counselor's Report and her Reply Declaration of Respondent in Response to Petitioner's Responsive Declaration Re CC/CV. Also on February 29th, Petitioner filed Petitioner's Objections to and Motion to Strike Respondent's Reply Declaration to Child Custody Recommending Counselor's Report and Reply Declaration of Respondent in Response to Petitioner's Responsive Declaration re CC/CV.

The parties are ordered to appear on all issues.

TENTATIVE RULING #4: PARTIES ARE ORDERED TO APPEAR.

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5. KELLY DARLYNN GABEL V. DANIEL KARL GABEL

22FL1113

Petitioner filed and served a Request for Order (RFO) on December 12, 2023 seeking entry of default judgment. The RFO was originally filed ex parte and therefore she concurrently filed a Declaration of Kenneth Stanton in Support of Petitioner's Ex-Parte Request for Order.

According to Petitioner, a Request for Dissolution was filed on November 18, 2022 and an amended request was filed on August 23, 2023. Despite having been properly served, Respondent has not filed a response to either. Nonetheless, the parties did enter into a Marital Settlement Agreement (MSA) which Petitioner has attached to her request for a default judgment. The request has been denied on the basis that by entering into an MSA, Respondent has effectively responded to the petition and therefore disclosures are required. Petitioner's counsel states that the issue has been researched thoroughly and he can find no law to support this position. He therefore requests entry of the default judgment.

Pursuant to Family Code § 2101(b) a "[d]efault judgment' does not include a stipulated judgment or any judgment pursuant to a marital settlement agreement." Where the judgment is not being entered as a default judgment, "...judgment shall not be entered with respect to the parties' property rights without each party, or the attorney for that party in this matter, having executed and served a copy of the final declaration of disclosure and current income and expense declaration." Family Code § 2106.

Because the parties entered into an MSA the requested judgment is not a default judgment and as such, judgment cannot be entered without disclosures. Petitioner's request for entry of judgment is therefore denied.

TENTATIVE RULING #5: PETITIONER'S REQUEST FOR ENTRY OF JUDGMENT IS DENIED. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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6. LAURIE BYBEE V. AARON BYBEE

PFL20190366

On December 12, 2023, Petitioner filed a Request for Order (RFO) seeking various orders as stated therein. Concurrently therewith she filed an Income and Expense Declaration. Both were served on February 13th.

Respondent filed his Responsive Declaration to Request for Order and his Income and Expense Declaration on February 21, 2024.

Petitioner brings her RFO making the following requests: (1) Order entry of the judgment pursuant to Civil Procedure Section 664.6; (2) Order that the unpaid balance of the equalization payment of \$246,000, with interest at 5% annum, be paid within 30 days of the entry of judgment; (3) Order that the unpaid balance of the equalization payment of \$40,000, with interest at 5% annum, be paid within 30 days of entry of judgment; (4) Adopt the Stipulation and Order Re Health Insurance as the order of the court; (5) Order that Respondent remove Petitioner's name from the mortgage on the Camino residence awarded to Respondent, within 30 days of the entry of judgment or, the Camino residence to be listed for sale within 10 days with a mutually agreed upon realtor; and (6) for Sanctions in the amount of \$5,000 pursuant to Family Code § 271.

Respondent argues a motion is not required to submit a judgment pursuant to Civil Procedure § 664.6. He states that the parties worked together and reached an agreement as to the form of the judgment. Petitioner should have then submitted the Judgment for execution by the court. He also argues that the court already made orders regarding the \$246,000 and \$40,000 requested by Petitioner. He states that he does not agree to stipulate to obtaining private health and dental insurance and paying 50% of the premium for either of his children.

Petitioner's request to enter the judgment is denied as it appears the parties have not exchanged final Declarations of Disclosure and there has been no waiver thereof. The court cannot enter the judgment without either the declarations or a waiver. In re Marriage of Daly & Oyster, 228 Cal. App. 4th 505 (2014).

Petitioner's request to adopt the stipulation of the parties regarding health insurance is denied. The stipulation is, in fact, not a stipulation at all as it is not signed by the parties and Respondent has expressed that he is not in agreement with its terms.

Regarding the orders for the payment of \$267,000 and \$40,000 with legal interest, the court has already made orders in this regard and it appears Respondent has not complied with them. The court declines to extend the deadline for payment of either of these amounts. All prior orders remain in full force and effect.

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Likewise, the court has already ordered Respondent to remove Petitioner's name from the mortgage on the Camino residence. However, Petitioner is requesting the additional order that the home be sold should Respondent fail to remove Petitioner from the mortgage within the requested time period. Given the extensive amount of time between when Respondent was previously ordered to remove Petitioner from the mortgage the court does find it appropriate to supplement the order with additional orders moving forward. As such, once judgment has been entered Respondent will have 60 days from the date of entry of the judgment to refinance the home and remove Petitioner from the mortgage. Should Respondent fail to do so, the parties will have ten days to agree upon a realtor and list the home for sale.

Petitioner's request for sanctions is granted. 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..." Fam. Code § 271(a). Here, Respondent's repeated failure to comply with court orders was, at least in part, the driving factor in Petitioner's filing of the present motion. While Petitioner chose to file an RFO instead of an Order to Show Cause, and while the court is declining to extend the deadlines previously imposed, the court still finds that Respondent's actions have frustrated the policy of the law which is to promote settlement of litigation and encourage cooperation of the parties. That said, the court does not find \$5,000 to be a reasonable amount commensurate with the preparation and filing of the present motion. Therefore, Respondent is ordered to pay Petitioner \$2,500 as and for sanctions. This amount may be paid in one lump sum or in monthly increments of \$500 paid on the 1st of each month commencing April 1, 2024 and continuing until paid in full. If any payment is missed or late the entire amount shall become immediately due and payable with legal interest.

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

TENTATIVE RULING #6: PETITIONER'S REQUEST TO ENTER THE JUDGMENT IS DENIED AS IT APPEARS THE PARTIES HAVE NOT EXCHANGED FINAL DECLARATIONS OF DISCLOSURE AND THERE HAS BEEN NO WAIVER THEREOF. THE COURT CANNOT ENTER THE JUDGMENT WITHOUT EITHER THE DECLARATIONS OR A WAIVER. PETITIONER'S REQUEST TO ADOPT THE STIPULATION OF THE PARTIES REGARDING HEALTH INSURANCE IS DENIED. REGARDING THE ORDERS FOR THE PAYMENT OF \$267,000 AND \$40,000 WITH LEGAL INTEREST, THE COURT HAS ALREADY MADE ORDERS IN THIS REGARD. THE COURT DECLINES TO EXTEND THE DEADLINE FOR PAYMENT OF EITHER OF THESE AMOUNTS. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. ONCE JUDGMENT HAS BEEN ENTERED RESPONDENT WILL HAVE 60 DAYS FROM THE DATE OF ENTRY OF THE JUDGMENT TO REFINANCE THE HOME AND REMOVE PETITIONER FROM THE MORTGAGE. SHOULD RESPONDENT FAIL TO DO SO, THE PARTIES WILL HAVE TEN DAYS TO AGREE UPON A REALTOR AND LIST THE HOME FOR SALE.

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PETITIONER'S REQUEST FOR SANCTIONS IS GRANTED. RESPONDENT IS ORDERED TO PAY PETITIONER \$2,500 AS AND FOR SANCTIONS. THIS AMOUNT MAY BE PAID IN ONE LUMP SUM OR IN MONTHLY INCREMENTS OF \$500 PAID ON THE 1ST OF EACH MONTH COMMENCING APRIL 1, 2024 AND CONTINUING UNTIL PAID IN FULL. IF ANY PAYMENT IS MISSED OR LATE THE ENTIRE AMOUNT SHALL BECOME IMMEDIATELY DUE AND PAYABLE WITH LEGAL INTEREST. 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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7. LEA WATERS-CLEE V. CHRISTIAN CLEE

23FL1040

Respondent filed a Request for Order (RFO), on December 12, 2023, requesting the court make child custody and parenting time orders, as well as additional orders. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on January 18, 2024 and a review hearing on March 7, 2024. Petitioner was served electronically on December 18, 2023. Petitioner was served by mail on December 26, 2023. Respondent is requesting joint legal and physical custody of the minors.

Petitioner filed an RFO on December 21, 2023, requesting the court make orders as to child custody, child support, and reimbursements. The court confirmed the parties' CCRC appointment as previously set. Petitioner concurrently filed an Income and Expense Declaration. Respondent was served by mail on December 28, 2023. Petitioner is requesting sole legal and physical custody. Petitioner is requesting guideline child support. Petitioner is also requesting reimbursement for half the costs of the minors' bills paid by Petitioner.

Respondent filed a Responsive Declaration to Petitioner's RFO on January 17, 2024. Petitioner was served electronically on January 17, 2024. Respondent objects to Petitioner's requests for custody and parenting time. Respondent requests a downward deviation from guideline child support. Respondent objects to equal division of extracurricular activities and private school tuition.

Respondent filed a second RFO on January 17, 2024, requesting the court make orders as to spousal support and attorney's fees. Respondent did not concurrently file an Income and Expense Declaration, but rather filed it subsequently on February 23, 2024. The Proof of Service shows Petitioner was served with the RFO on January 19, 2024. Respondent is requesting guideline temporary spousal support and Family Code § 2030 attorney's fees. Petitioner was served with the Income and Expense Declaration on February 23, 2024.

Respondent filed an Updating Declaration on February 23, 2024. Petitioner was served on February 23, 2024.

Petitioner has not filed any Responsive Declaration to Respondent's RFOs.

Petitioner filed a request for a Domestic Violence Restraining Order (DVRO) on February 20, 2024. The court partially granted Petitioner's request for a temporary DVRO. The court did not make any custody or parenting plan orders. That matter is currently set to be heard on March 14, 2024 in Department 8.

The court, on its own motion, continues this matter to join with the matter currently set in Department 8. The court must resolve the DVRO request prior to adjudicating the request for

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custody and visitation as well as the requests for support. The court reserves jurisdiction to retroactively modify the requests for support to the date of the filing of the RFOs.

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

TENTATIVE RULING #7: THE COURT, ON ITS OWN MOTION, CONTINUES THIS MATTER TO JOIN WITH THE MATTER CURRENTLY SET IN DEPARTMENT 8. THE COURT RESERVES JURISDICTION TO RETROACTIVELY MODIFY THE REQUESTS FOR SUPPORT TO THE DATE OF THE FILING OF THE RFOs. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT.

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

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8. LISA THOMASON V. LOUIS MOLAKIDES

PFL20210494

The parties appeared before the court on a short set law and motion matter on November 27, 2023. At that time the court made orders as to custody and visitation, among other things. A review hearing was set for the present date to assess the parties' compliance with those orders.

The Supplemental Declaration of Petitioner was filed on February 23, 2024. It was followed by the filing of a Declaration of William Schneder which was filed and served on February 26, 2024. On February 28th, Respondent filed his Status Declaration of Louis Molakides in Support of Continuing the Existing Parenting Schedule and Change of School for Jessie.

Petitioner states that the supervised visits have been going well except for the fact that she is of the belief that Respondent coached Jesse such that Jesse's behavior toward Mr. Whitaker changed drastically. She notes that Respondent has not complied with his joint legal custody obligations and Jesse's education is suffering. She also states that she has been attending Positive Solutions Changing Abusive Behaviors. In addition, she has been attending counseling and completed a 12-hour parenting class. Mr. Whitaker has also been attending counseling and has started a 52-week batterer's intervention program. She argues that the current orders are not in the best interests of the minors.

Respondent requests the court maintain the current orders pending Petitioner's completion of coursework and services with the exception that the court remove the provision allowing Mr. Whittaker to attend the supervised visits. He also asks that the minor, Jesse's, school be changed from William Brooke Elementary School in El Dorado Hills to Indian Creek School in Placerville. Respondent states that he has completed the court ordered parenting course and he is in substantial completion of his substance abuse evaluation. He believes the drug evaluation will be ready to present to the court as of the hearing date.

The parties are ordered to appear for the hearing. Respondent is to bring a copy of the completed drug evaluation if it is ready.

**TENTATIVE RULING #8: THE PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.
RESPONDENT IS TO BRING A COPY OF THE COMPLETED DRUG EVALUATION IF IT IS READY.**

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9. RACHEL OSBORN V. MATTHEW OSBORN

23FL0134

On December 11, 2024 Respondent filed a Request for Order (RFO) seeking custody and visitation orders as well as child support, spousal support, and set aside of the judgment entered on November 2, 2023. He filed his Income and Expense Declaration concurrently therewith. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on January 18th and a hearing was set for the present date. The RFO, the Income and Expense Declaration, and the CCRC referral were all served on Petitioner on January 9, 2024. The Department of Child Support Services (DCSS) is a party to the case though they were not served with any of the aforementioned.

Neither party appeared at the CCRC appointment.

This matter is dropped from calendar due to Respondent's failure to serve DCSS.

TENTATIVE RULING #9: THIS MATTER IS DROPPED FROM CALENDAR.

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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10. SCOTT DAVID RUSSELL V. OLIVIA ELENA RUSSELL

23FL0133

Respondent filed a Request for Order (RFO) on August 18, 2023, requesting the court make orders as to child custody, parenting time, child and spousal support, property control, and Family Code section 2032 attorney's fees. Petitioner filed an RFO on September 25, 2023, requesting the former marital residence be listed for sale. Both RFOs came before the court for hearing on November 9, 2023 at which time the court made rulings regarding custody and visitation as well as the sale of the marital residence but reserved jurisdiction on the issues of support as well as *Watts*, *Epstein*, and *Jeffrey's* Credits. The court denied Respondent's request for attorney's fees. A review hearing was set for the present date.

On January 24, 2024, Petitioner filed an Ex Parte Application and Declaration for Orders and Notice seeking orders for each party to receive \$15,000 from the house sale proceeds and all remaining funds from the sale to be held by Petitioner's attorney. The court ordered the hearing on the ex parte to join with the previously set review hearing. He followed his ex parte with the filing of an RFO on January 29, 2024. Respondent also filed her Responsive Declaration to Request for Order on January 29th.

On February 23rd Respondent filed and served Points and Authorities in Support of Declaration of Olivia Russell, on February 26th she filed an MC-030 Declaration and her Income and Expense Declaration. The Supplemental Declaration of Scott Russell and Petitioner's Income and Expense Declaration were also filed on February 26th.

Petitioner is requesting that the proceeds from the sale of the home located on Thunder Lane in Shingle Springs be held in trust by his attorney. He states he is agreeable to a disbursement of \$15,000 to each party. He states that he is also agreeable to paying guideline child support using a 50/50 timeshare but asks that the orders be effective March 1, 2024 as he paid the mortgage on the residence in February. He calculates child support to be \$676 per month and spousal support to be \$461 per month and he is agreeable to an overtime/bonus table. He also asks that each party be allowed to claim one child as a tax deduction.

Respondent is requesting \$2,500 in sanctions for Petitioner's filing of his ex parte request. She further requests support based on an X-Spouse calculation she submitted with her declaration. Additionally, she asks for an equal distribution of the proceeds from the sale of the residence which would result in a net payment to each party in the amount of \$264,000.

While the court is sympathetic to Respondent's position that she is in need of money from the sale of the residence, given Petitioner's pending request for reimbursement of numerous expenses, the court is concerned with ordering the disbursement of the funds prior to a final determination on the issue of property division and any equalization payments that may be required. As such, the funds from the sale of the Thunder Lane residence shall be held

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in an interest-bearing trust account by Petitioner's attorney. Nevertheless, the court does see grounds to disburse at least some of the proceeds now to cover each party's immediate financial needs. Respondent states that she has been quoted \$15,000 for a retainer for legal counsel. Therefore, the court does not find a disbursement of \$15,000 alone to be sufficient. Instead, each party shall receive an immediate payment of \$30,000 to be paid from each party's community property portion of the proceeds of the sale of the residence.

The court reserves on Respondent's request for sanctions until trial on the issue of property division.

Regarding support, utilizing the figures as outlined in the attached DissoMaster report, the court finds that spousal support per the Alameda formula is \$486 per month and child support is \$710 per month. The court adopts the attached DissoMaster report and orders Petitioner to pay Respondent \$1,196 per month as and for child support and temporary spousal support, payable on the 1st of the month until further order of the court or legal termination. These support orders are effective as of September 1, 2023.

The court finds the above order results in arrears in the amount of \$8,372 through and including March 1, 2024. The court orders Petitioner to pay Respondent \$697.67 on the 15th of each month commencing March 15, 2024 and continuing until paid in full (approximately 12 months). If a payment is late or missed the remaining balance is due in full with legal interest within five (5) days.

The court further finds Petitioner routinely earns overtime pay and therefore, has included an overtime table with the DissoMaster. Petitioner is to pay Respondent a true up of any overtime earned no later than fourteen days from the date the overtime payment is received.

Each party shall claim one child for purposes of a tax deduction.

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

TENTATIVE RULING #10: EACH PARTY SHALL RECEIVE AN IMMEDIATE PAYMENT OF \$30,000 TO BE PAID FROM EACH PARTY'S COMMUNITY PROPERTY PORTION OF THE PROCEEDS OF THE SALE OF THE THUNDER LANE RESIDENCE. THE REMAINING PROCEEDS FROM THE SALE SHALL BE HELD BY PETITIONER'S COUNSEL IN AN INTEREST-BEARING TRUST ACCOUNT.

THE COURT FINDS THAT SPOUSAL SUPPORT PER THE ALAMEDA FORMULA IS \$486 PER MONTH AND CHILD SUPPORT IS \$710 PER MONTH. THE COURT ADOPTS THE ATTACHED DISSOMASTER REPORT AND ORDERS PETITIONER TO PAY RESPONDENT \$1,196 PER MONTH AS AND FOR CHILD SUPPORT AND TEMPORARY SPOUSAL SUPPORT, PAYABLE ON THE 1ST OF

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
March 7, 2024
8:30 a.m./1:30 p.m.

THE MONTH UNTIL FURTHER ORDER OF THE COURT OR LEGAL TERMINATION. THESE SUPPORT ORDERS ARE EFFECTIVE AS OF SEPTEMBER 1, 2023.

THE COURT FINDS THE ABOVE ORDER RESULTS IN ARREARS IN THE AMOUNT OF \$8,372 THROUGH AND INCLUDING MARCH 1, 2024. THE COURT ORDERS PETITIONER TO PAY RESPONDENT \$697.67 ON THE 15TH OF EACH MONTH COMMENCING MARCH 15, 2024 AND CONTINUING UNTIL PAID IN FULL (APPROXIMATELY 12 MONTHS). IF A PAYMENT IS LATE OR MISSED THE REMAINING BALANCE IS DUE IN FULL WITH LEGAL INTEREST WITHIN FIVE (5) DAYS.

THE COURT FURTHER FINDS PETITIONER ROUTINELY EARNS OVERTIME PAY AND THEREFORE, HAS INCLUDED AN OVERTIME TABLE WITH THE DISSOMASTER. PETITIONER IS TO PAY RESPONDENT A TRUE UP OF ANY OVERTIME EARNED NO LATER THAN FOURTEEN DAYS FROM THE DATE THE OVERTIME PAYMENT IS RECEIVED.

EACH PARTY SHALL CLAIM ONE CHILD FOR PURPOSES OF A TAX DEDUCTION.

THE COURT RESERVES JURISDICTION ON RESPONDENT'S REQUEST FOR SANCTIONS UNTIL THE TIME OF TRIAL ON THE ISSUE OF PROPERTY DIVISION.

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.

ATTORNEY (NAME AND ADDRESS): California ATTORNEY FOR: Father	TELEPHONE NO:	Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
DISSOMASTER REPORT 2024, Monthly		CASE NUMBER:

Input Data	Father	Mother	Guideline (2024)	Cash Flow Analysis	Father	Mother
Number of children	0	2	Nets (adjusted)	Guideline		
% time with Second Parent	50%	0%	Father	6,385 Payment (cost)/benefit	(819)	849
Filing status	Single	HH/MLA	Mother	4,111 Net spendable income	5,536	4,960
# Federal exemptions	1*	3*	Total	10,496 % combined spendable	52.7%	47.3%
Wages + salary	11,785	4,312	Support (Nondeductible)	Total taxes	3,094	201
401(k) employee contrib	0	0	CS Payor	Father Comb. net spendable	10,496	
Self-employment income	0	0	Presumed	529 Proposed		
Other taxable income	0	0	Basic CS	529 Payment (cost)/benefit	(1,150)	1,186
Short-term cap. gains	0	0	Add-ons	0 Net spendable income	5,625	4,942
Long-term cap. gains	0	0	Presumed Per Kid	NSI change from gdl	89	(18)
Other gains (and losses)	0	0	Child 1	156 % combined spendable	53.2%	46.8%
Ordinary dividends	0	0	Child 2	373 % of saving over gdl	124.9%	-24.9%
Tax. interest received	0	0	SS Payor	Father Total taxes	2,658	566
Social Security received	0	0	Alameda	320 Comb. net spendable	10,567	
Unemployment compensation	0	0	Total	849 Percent change	0.7%	
Operating losses	0	0	Proposed, tactic 9	Default Case Settings		
Ca. operating loss adj.	0	0	CS Payor	Father		
Roy, partnerships, S corp, trusts	0	0	Presumed	710		
Rental income	0	0	Basic CS	710		
Misc ordinary tax. inc.	0	0	Add-ons	0		
Other nontaxable income	0	0	Presumed Per Kid			
New-spouse income	0	0	Child 1	278		
SS paid other marriage	0	0	Child 2	432		
CS paid other relationship	0	0	SS Payor	Father		
Adj. to income (ATI)	0	0	Alameda	486		
Ptr Support Pd. other P'ships	0	0	Total	1,196		
Health insurance	785	0	Savings	71		
Qual. Bus. Inc. Ded.	0	0	Total releases to Father	2		
Itemized deductions	0	0				
Other medical expenses	0	0				
Property tax expenses	0	0				
Ded. interest expense	0	0				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
State sales tax paid	0	0				
Required union dues	109	0				
Cr. for Pd. Sick and Fam. L.	0	0				
Mandatory retirement	1,412	0				
Hardship deduction	0*	0*				
Other gdl. adjustments	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	0				

ATTORNEY (NAME AND ADDRESS): California	TELEPHONE NO:	Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
ATTORNEY FOR: Father	Father Monthly Overtime Wages Report 2024 Monthly	
		CASE NUMBER:

"R" denotes that Father is a recipient for the corresponding support
"CS%" is the percentage of Overtime paid as additional Child Support
"SS%" is the percentage of Overtime paid as additional Spousal Support

Father's Gross Overtime	Basic CS%	Basic CS	Alameda SS%	Alameda SS	Total Basic CS	Total SS	Total Support CS+SS
0	0.00	0	0.00	0	529	320	849
100	12.54	13	11.84	12	542	332	874
200	12.52	25	11.86	24	554	344	898
300	12.49	37	11.88	36	567	356	922
400	12.47	50	11.89	48	579	368	947
500	12.45	62	11.91	60	591	380	971
600	12.43	75	11.93	72	604	392	995
700	12.41	87	11.94	84	616	404	1,020
800	12.38	99	11.96	96	628	416	1,044
900	12.36	111	11.98	108	640	428	1,068
1,000	12.34	123	11.99	120	653	440	1,092
1,100	12.32	136	12.01	132	665	452	1,117
1,200	12.30	148	12.02	144	677	464	1,141
1,300	12.28	160	12.04	157	689	476	1,165
1,400	12.26	172	12.05	169	701	489	1,190
1,500	12.24	184	12.07	181	713	501	1,214
1,600	12.22	196	12.08	193	725	513	1,238
1,700	12.20	207	12.10	206	737	526	1,262
1,800	12.18	219	12.11	218	748	538	1,286
1,900	12.16	231	12.13	230	760	550	1,311
2,000	12.14	243	12.14	243	772	563	1,335
2,100	12.13	255	12.16	255	784	575	1,359
2,200	12.11	266	12.17	268	796	588	1,383
2,300	12.09	278	12.19	280	807	600	1,408
2,400	12.08	290	12.21	293	819	613	1,432
2,500	12.07	302	12.23	306	831	626	1,457
2,600	12.06	314	12.25	319	843	639	1,481
2,700	12.06	326	12.28	332	855	652	1,506
2,800	12.09	338	12.35	346	868	666	1,533
2,900	12.12	351	12.41	360	881	680	1,561
3,000	12.14	364	12.47	374	893	694	1,588
3,100	12.16	377	12.53	388	906	708	1,615
3,200	12.18	390	12.59	403	919	723	1,642
3,300	12.20	403	12.64	417	932	737	1,669
3,400	12.21	415	12.69	431	944	751	1,696
3,500	12.23	428	12.73	446	957	766	1,723

PETITIONER:	CASE NUMBER:
RESPONDENT:	

Father Monthly Overtime Wages Report, cont'd

Father's Gross Overtime	Basic CS%	Basic CS	Alameda SS%	Alameda SS	Total Basic CS	Total SS	Total Support CS+SS
3,600	12.24	441	12.78	460	970	780	1,750
3,700	12.25	453	12.82	474	982	794	1,777
3,800	12.26	466	12.87	489	995	809	1,804
3,900	12.27	478	12.91	503	1,007	823	1,831
4,000	12.27	491	12.95	518	1,020	838	1,858
4,100	12.28	503	12.98	532	1,032	852	1,885
4,200	12.28	516	13.02	547	1,045	867	1,912
4,300	12.28	528	13.06	561	1,057	881	1,939
4,400	12.29	541	13.09	576	1,070	896	1,966
4,500	12.29	553	13.12	591	1,082	910	1,993
4,600	12.29	565	13.16	605	1,094	925	2,020
4,700	12.29	578	13.19	620	1,107	940	2,046
4,800	12.29	590	13.22	634	1,119	954	2,073
4,900	12.29	602	13.25	649	1,131	969	2,100
5,000	12.28	614	13.27	664	1,143	984	2,127
5,100	12.28	626	13.30	678	1,155	998	2,153
5,200	12.27	638	13.32	693	1,167	1,013	2,180
5,300	12.27	650	13.34	707	1,179	1,027	2,206
5,400	12.26	662	13.36	722	1,191	1,042	2,233
5,500	12.25	674	13.39	736	1,203	1,056	2,259
5,600	12.25	686	13.41	751	1,215	1,071	2,286
5,700	12.24	698	13.43	766	1,227	1,085	2,312
5,800	12.23	710	13.45	780	1,239	1,100	2,339
5,900	12.23	721	13.47	795	1,251	1,115	2,365
6,000	12.22	733	13.49	809	1,262	1,129	2,392
6,100	12.21	745	13.51	824	1,274	1,144	2,418
6,200	12.21	757	13.53	839	1,286	1,159	2,445
6,300	12.20	768	13.55	854	1,298	1,174	2,471
6,400	12.19	780	13.57	868	1,309	1,188	2,498
6,500	12.18	792	13.59	883	1,321	1,203	2,524
6,600	12.18	804	13.60	898	1,333	1,218	2,551
6,700	12.17	815	13.62	913	1,344	1,233	2,577
6,800	12.16	827	13.64	927	1,356	1,247	2,603
6,900	12.15	838	13.66	942	1,368	1,262	2,630
7,000	12.14	850	13.67	957	1,379	1,277	2,656
7,100	12.14	862	13.69	972	1,391	1,292	2,683
7,200	12.13	873	13.71	987	1,402	1,307	2,709
7,300	12.12	885	13.72	1,002	1,414	1,322	2,736
7,400	12.09	895	13.72	1,015	1,424	1,335	2,759
7,500	12.07	905	13.71	1,028	1,434	1,348	2,782
7,600	12.04	915	13.70	1,041	1,444	1,361	2,805
7,700	12.01	925	13.69	1,054	1,454	1,374	2,829
7,800	11.99	935	13.68	1,067	1,464	1,387	2,852
7,900	11.96	945	13.68	1,080	1,474	1,400	2,875
8,000	11.94	955	13.67	1,094	1,484	1,414	2,898
8,100	11.91	965	13.66	1,107	1,494	1,427	2,921
8,200	11.89	975	13.66	1,120	1,504	1,440	2,944

PETITIONER:	CASE NUMBER:
RESPONDENT:	

Father Monthly Overtime Wages Report, cont'd

Father's Gross Overtime	Basic CS%	Basic CS	Alameda SS%	Alameda SS	Total Basic CS	Total SS	Total Support CS+SS
8,300	11.87	985	13.65	1,133	1,514	1,453	2,967
8,400	11.84	995	13.64	1,146	1,524	1,466	2,990
8,500	11.82	1,005	13.64	1,159	1,534	1,479	3,013
8,600	11.80	1,015	13.63	1,172	1,544	1,492	3,036
8,700	11.78	1,025	13.63	1,186	1,554	1,506	3,059
8,800	11.76	1,035	13.62	1,199	1,564	1,519	3,083
8,900	11.74	1,044	13.62	1,212	1,574	1,532	3,106
9,000	11.71	1,054	13.61	1,225	1,583	1,545	3,129
9,100	11.69	1,064	13.61	1,238	1,593	1,558	3,152
9,200	11.67	1,074	13.61	1,252	1,603	1,572	3,175
9,300	11.65	1,084	13.60	1,265	1,613	1,585	3,198
9,400	11.63	1,094	13.60	1,278	1,623	1,598	3,221
9,500	11.62	1,103	13.59	1,291	1,633	1,611	3,244
9,600	11.60	1,113	13.59	1,305	1,642	1,625	3,267
9,700	11.58	1,123	13.59	1,318	1,652	1,638	3,290
9,800	11.56	1,133	13.58	1,331	1,662	1,651	3,313
9,900	11.54	1,143	13.58	1,345	1,672	1,664	3,336
10,000	11.52	1,152	13.58	1,358	1,681	1,678	3,359



LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 7, 2024

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

12. AARON LUKIANOW V. CINDY LUKIANOW

23FL0373

Petitioner filed a Request for Order (RFO), on December 15, 2023, requesting leave to amend the Petition for Dissolution and an order for Respondent to return Petitioner's gemstones. A Proof of Service was filed by Petitioner on January 8, 2024, showing service to Respondent via mail. However, the Proof of Service does not state what documents were served and it is signed by Petitioner, which is not permissible.

Respondent filed a Responsive Declaration on February 8, 2024. Proof of Service shows Petitioner was served by mail on February 9, 2024.

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

On January 11, 2024, the court made temporary guideline spousal support orders and set a further review hearing for March 7, 2024. The court reserved jurisdiction to retroactively modify support to January 15, 2024.

Upon review of the court file, neither party has filed a supplemental declaration regarding temporary guideline spousal support or any further Income and Expense Declaration. The court, therefore, finds that all current orders remain in full force and effect.

TENTATIVE RULING #12: PETITIONER'S DECEMBER 15, 2023 FILED RFO IS DROPPED FROM CALENDAR DUE TO THE LACK OF PROPER SERVICE. AS TO TEMPORARY GUIDELINE SPOUSAL SUPPORT, ALL CURRENT 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

March 7, 2024

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

13. COUNTY OF SACRAMENTO V. JOSE HERNANDEZ, JR (OTHER PARENT: DEONNA HERNADEZ-WOOD) PFS20180187

Respondent filed a Request for Order (RFO) and an Order Shortening Time (OST) on January 31, 2024, requesting modifications to the child custody and parenting plan orders, as well as for one of the minors to be enrolled in therapy. The court granted the OST, set the matter for a hearing on March 7, 2024, and directed that service be effectuated on or before February 1, 2024. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on February 6, 2024.

Upon review of the court file, there is no Proof of Service showing Petitioner or Other Parent were properly served.

Nevertheless, both parties and the minors appeared for the CCRC appointment. The parties were able to reach several agreements and a report with those agreements and further recommendations was filed with the court on February 16, 2024. Copies were mailed to the parties the same day.

Neither Other Parent nor Petitioner have filed a Responsive Declaration.

The court finds good cause to proceed with Respondent's RFO, despite the failure to properly serve Petitioner and Other Parent. The court finds Other Parent fully participated in the CCRC appointment and is aware of Respondent's requests. Further, there is no pending request to modify child support, therefore, the court finds good cause to proceed without notice to the Department of Child Support Services.

The court has read and considered the CCRC report filed February 16, 2024. The court finds the parties' agreements and the recommendations as set forth to be in the best interest of the minors. The court adopts the agreements and recommendations as its order.

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 #13: THE COURT FINDS THE PARTIES' AGREEMENTS AND THE RECOMMENDATIONS AS SET FORTH IN THE FEBRUARY 16, 2024 CCRC REPORT TO BE IN THE BEST INTEREST OF THE MINORS. THE COURT ADOPTS THE AGREEMENTS AND RECOMMENDATIONS AS ITS ORDER. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 7, 2024

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

March 7, 2024

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

14. DANIELLA BROUGHER V. ROBERT BROUGHER

PFL20210176

Respondent filed a Request for Order (RFO) on December 5, 2023, requesting the court modify child support orders and modify the exchange location. Respondent concurrently filed an Income and Expense Declaration. Petitioner was served by mail with address verification on December 18, 2023.

Respondent requests the guideline child support be updated as Petitioner is now gainfully employed. Respondent requests the court modify the exchange location for the parties, as Petitioner has relocated from Lone to Folsom. Respondent proposes that the receiving parent picks up from the other parent.

On January 30, 2024, The Department of Child Support Services (DCSS) in Sacramento County filed a Notice Regarding Payment of Support. Sacramento County DCSS is not providing services for child support, support arrears, and medical support. Parties were served with the Notice by mail on January 23, 2024.

Respondent filed a Declaration on February 27, 2024. Petitioner was served on February 23, 2024.

Petitioner has not filed a Responsive Declaration, nor has Petitioner filed an Income and Expense Declaration.

The court has read and considered the filings as set forth above. Where a party fails to timely file opposition papers the court, in its discretion, may treat said failure "as an admission that the motion or other application is meritorious." El Dorado County, Local Rule 7.10.02(C). Here, it appears the RFO and Income and Expense Declaration were timely served on Petitioner. As such, the court finds good cause to treat Petitioner's failure to respond so as an admission that the claims made in the RFO are meritorious. Respondent's RFO is granted in part. The exchange location will be each party's home, with the receiving party to pick up.

As to the request to modify child support and calculate any possible overpayment, the court finds that Sacramento County DCSS is now a party to the matter and as such, should be provided notice. Further, Petitioner has failed to file an Income and Expense Declaration, and therefore, the court does not have the requisite information before it to adjudicate Respondent's request. The court on its own motion continues the request for modification of support to join with the matters that are currently set for April 18, 2024 at 1:30 PM in Department 5. Respondent is directed to serve Sacramento County DCSS with a copy of the RFO and other necessary documents along with a copy of the tentative ruling and minutes from this hearing. Petitioner is ordered to file and serve her Income and Expense Declaration no later than 10 days prior to the next hearing. The court reserves jurisdiction to retroactively modify child support to the date of the filing of the RFO.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 7, 2024

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

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 #14: RESPONDENT'S RFO IS GRANTED IN PART FOR THE REASONS AS SET FORTH ABOVE. THE EXCHANGE LOCATION WILL BE EACH PARTY'S HOME, WITH THE RECEIVING PARTY TO PICK UP. AS TO THE REQUEST TO MODIFY CHILD SUPPORT AND CALCULATE ANY POSSIBLE OVERPAYMENT, THE COURT FINDS THAT SACRAMENTO COUNTY DCSS IS NOW A PARTY TO THE MATTER AND AS SUCH, SHOULD BE PROVIDED NOTICE. FURTHER, PETITIONER HAS FAILED TO FILE AN INCOME AND EXPENSE DECLARATION, AND THEREFORE, THE COURT DOES NOT HAVE THE REQUISITE INFORMATION BEFORE IT TO ADJUDICATE RESPONDENT'S REQUEST. THE COURT ON ITS OWN MOTION CONTINUES THE REQUEST FOR MODIFICATION OF SUPPORT TO JOIN WITH THE MATTERS THAT ARE CURRENTLY SET FOR APRIL 18, 2024 AT 1:30 PM IN DEPARTMENT 5. RESPONDENT IS DIRECTED TO SERVE SACRAMENTO COUNTY DCSS WITH A COPY OF THE RFO AND OTHER NECESSARY DOCUMENTS ALONG WITH A COPY OF THE TENTATIVE RULING AND MINUTES FROM THIS HEARING. PETITIONER IS ORDERED TO FILE AND SERVE HER INCOME AND EXPENSE DECLARATION NO LATER THAN 10 DAYS PRIOR TO THE NEXT HEARING. THE COURT RESERVES JURISDICTION TO RETROACTIVELY MODIFY CHILD SUPPORT TO THE DATE OF THE FILING OF THE RFO. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. 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

March 7, 2024

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

15. DCSS V. JAMES RHOADES (OTHER PARENT: BRIANNA SNYDER)

PFS20200140

Other Parent filed an ex parte request for emergency orders on August 8, 2023, requesting temporary sole physical custody of the minor. Respondent agreed with the requested orders. On August 11, 2023, the court granted the request and ordered Respondent to have reasonable visitation pending the hearing, which was to be a minimum of two times per week for two hours each visit, unsupervised. The court referred the parties to an emergency set Child Custody Recommending Counseling (CCRC) appointment on September 19, 2023 and a review hearing was set for October 12, 2023. Other Parent filed a Request for Order on August 11, 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 of the ex parte orders, referral to CCRC, or RFO.

Only Other Parent appeared for the CCRC appointment on September 19, 2023. As such, a single parent report with no agreements or recommendations was filed on September 19, 2023. A copy of the report was mailed to the parties on September 20, 2023.

Other Parent filed a Declaration on October 6, 2023. There is no Proof of Service, therefore, the court cannot consider this document.

Only Other Parent appeared for the hearing on October 12, 2023, despite the court ordering parties to appear. Other Parent requested the matter be continued to make further attempts to serve Respondent. The court granted the request to continue and set the matter for a further hearing on December 21, 2023.

The court received a Proof of Unsuccessful Service filed by the Sheriff's Department on December 11, 2023. Several attempts have been made to serve Respondent; however, all have been unsuccessful.

Parties appeared on December 21, 2023. The court referred the parties to CCRC with an appointment on January 23, 2024 and set a further review hearing for March 7, 2024.

Only Other Parent appeared for CCRC on time at the correct location despite Respondent being provided with a copy of the referral with the correct date, time, and location for the appointment. As such a single parent report was filed with the court on January 23, 2024. Copies were mailed to the parties on the same date.

The court finds that rereferring the parties to CCRC again would be fruitless. The parties have had five CCRC appointments since 2022. Rarely do both parties appear.

The court has read and considered the filings as set forth above. The court finds the current orders remain in the minor's best interest. The court modifies Respondent's parenting time from 3:30 PM to 6:30 PM on Tuesdays and Fridays. Respondent shall also have parenting time on Christmas Eve from 9:00 AM to 7:00 PM. Respondent shall have parenting time on

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DEPARTMENT 5

March 7, 2024

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

Easter from 1:00 PM to 7:00 PM. Respondent shall have parenting time on Thanksgiving from 9:00 AM to 2:00 PM. Other holidays shall be agreed upon by the parties. Respondent shall have the proper safety restraints for the minor to be transported in a vehicle. The exchanges are to be brief and peaceful. No third parties shall exit the vehicles at the time of the exchanges.

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

TENTATIVE RULING #15: THE COURT FINDS THE CURRENT ORDERS REMAIN IN THE MINOR'S BEST INTEREST. THE COURT MODIFIES RESPONDENT'S PARENTING TIME FROM 3:30 PM TO 6:30 PM ON TUESDAYS AND FRIDAYS. RESPONDENT SHALL ALSO HAVE PARENTING TIME ON CHRISTMAS EVE FROM 9:00 AM TO 7:00 PM. RESPONDENT SHALL HAVE PARENTING TIME ON EASTER FROM 1:00 PM TO 7:00 PM. RESPONDENT SHALL HAVE PARENTING TIME ON THANKSGIVING FROM 9:00 AM TO 2:00 PM. OTHER HOLIDAYS SHALL BE AGREED UPON BY THE PARTIES. RESPONDENT SHALL HAVE THE PROPER SAFETY RESTRAINTS FOR THE MINOR TO BE TRANSPORTED IN A VEHICLE. THE EXCHANGES ARE TO BE BRIEF AND PEACEFUL. NO THIRD PARTIES SHALL EXIT THE VEHICLES AT THE TIME OF THE EXCHANGES. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER SHALL 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.

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DEPARTMENT 5

March 7, 2024

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

16. DIONNE UZES V. KURT CLICKENER

23FL1186

Petitioner filed a Petition for Custody and Support on December 4, 2023. A Summons was issued the same day. Petitioner concurrently filed a Request for Order (RFO) requesting child custody and support orders. Petitioner filed an Income and Expense Declaration on December 5, 2023. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on January 17, 2024 and a review hearing on March 7, 2024.

Proof of Service shows Respondent was served by certified mail with return receipt on December 12, 2023. However, there are several deficiencies with the Proof of Service. It does not show the Respondent was served with a copy of the Income and Expense Declaration. It does not show that Respondent was served with the CCRC referral. It also does not show Respondent was served with the notice of tentative ruling procedure.

Only Petitioner appeared for the CCRC appointment on January 17, 2024. As such, a single parent report was filed with the court on February 22, 2024. Copies were mailed to the parties on February 22, 2024.

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

Parties are ordered to appear for the hearing.

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

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

17. ELISABETH POWELL V. NICHOLAS POWELL

23FL0555

Respondent filed an ex parte motion for emergency custody orders on January 26, 2024. On January 29, 2024, the court granted the ex parte motion, granting Respondent temporary sole legal and physical custody of the minors, with Petitioner to have non-professional supervision twice a week. Respondent filed a Request for Order (RFO) on January 29, 2024, requesting the same orders as requested in the ex parte motion. The parties were referred to an emergency set Child Custody Recommending Counseling (CCRC) appointment on February 13, 2024 and a review hearing on March 7, 2024.

The Proof of Service shows Petitioner was personally served on January 30, 2024.

Only Respondent appeared at the CCRC appointment. A single parent report was filed with the court on February 14, 2024 and mailed to the parties the same day.

Petitioner has not filed a Responsive Declaration.

Parties are ordered to appear for the hearing.

TENTATIVE RULING #17: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.

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March 7, 2024
8:30 a.m./1:30 p.m.

18. EMILY TRAVE V. RICHARD MULLOCK, III

23FL1046

Respondent filed a Request for Order (RFO) on December 21, 2023, requesting the court modify the parties' Stipulation which was adopted as the court's order on December 13, 2023. Petitioner was served with the RFO on February 5, 2024. Respondent asserts in his declaration that the stipulation and agreements reached at Child Custody Recommending Counseling (CCRC) on December 13, 2023 were signed under duress. Respondent asserts that he had not seen the minor in a month as Petitioner was withholding her. Respondent additionally states that he believed that if he did not agree to what Petitioner was proposing, that she would continue to withhold the minor from his care.

Respondent filed a Supplemental declaration on February 26, 2024. The court finds this declaration to be late filed, as it was filed less than 10 days prior to the hearing.

Petitioner has not filed a Responsive Declaration.

Pursuant to Civil Code section 1567, "an apparent consent is not real or free when obtained through 1. Duress 2. Menace 3. Fraud 4. Undue influence or 5. Mistake." Here Respondent asserts he was under duress when he signed the stipulation for custody and parenting time orders. Duress is defined by Civil Code section 1569 as "any of the following:

- (a) Unlawful confinement of the person of the party, or of the spouse of such party, or of an ancestor, descendant, or adopted child of such party or spouse.
- (b) Unlawful detention of the property of any such person.
- (c) Confinement of such person, lawful in form, but fraudulently obtained, or fraudulently made unjustly harassing or oppressive."

The strict definition of duress contained in Civil Code section 1569.7 codifying the early common law rule, has been relaxed. In re Marriage of Gonzalez 57 Cal.App.3d 736, 743–744 (1976); Rich & Whillock, Inc. v. Ashton Development, Inc. 157 Cal.App.3d 1154, 1158–1159 (1984) [economic compulsion]. Under the modern rule, "[d]uress, which includes whatever destroys one's free agency and constrains him to do what is against his will, may be exercised by threats, importunity or any species of mental coercion [citation]...." Gonzalez, supra 57 Cal.App.3d at p. 744. It is shown where a party "intentionally used threats or pressure to induce action or nonaction to the other party's detriment. [Citing Gonzalez.]" In re Marriage of Stevenot, 154 Cal.App.3d 1051, 1073, fn. 6, (1984); see also Rest.2d Contracts (1981) §§ 175, 176. The coercion must induce the assent of the coerced party, who has no reasonable alternative to succumbing. Rich & Whillock, Inc. v. Ashton Development, Inc., supra, 157 Cal.App.3d at pp. 1158–1159.

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To determine whether a contract (or a stipulation) was the product of duress, the courts look not so much to the nature of the threats, but to their effect on the state of the threatened person's mind. In re Marriage of Gonzalez, supra, 57 Cal.App.3d at p. 744; Rest.2d Contracts, § 175, com. c.

The Restatement Second of Contracts, section 175 (When Duress by Threat Makes a Contract Voidable), provides in part: “(1) If a party's manifestation of assent is induced by an improper threat by the other party that leaves the victim no reasonable alternative, the contract is voidable by the victim....”

The Restatement Second of Contracts, section 176, states: “(1) A threat is improper if [¶] (a) what is threatened is a crime or a tort, or the threat itself would be a crime or a tort if it resulted in obtaining property, [¶] (b) what is threatened is a criminal prosecution, [¶] (c) what is threatened is the use of civil process and the threat is made in bad faith, or [¶] (d) the threat is a breach of the duty of good faith and fair dealing under a contract with the recipient. [¶] (2) A threat is improper if the resulting exchange is not on fair terms, and [¶] (a) the threatened act would harm the recipient and would not significantly benefit the party making the threat, [¶] (b) the effectiveness of the threat in inducing the manifestation of assent is significantly increased by prior unfair dealing by the party making the threat, or [¶] (c) what is threatened is otherwise a use of power for illegitimate ends.”

The court finds it will need to take testimony to determine whether Respondent was subject to duress and the stipulation should, therefore, be set aside or modified. 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.

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March 7, 2024

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

19. JOEL TATUM V. JENNIFER TATUM

PFL20210473

Petitioner filed a Request for Order (RFO) on December 18, 2023. It is unclear to the court what is being requested in the RFO. On page one of four, in the caption, Petitioner has checked the "Other Box" and stated, "Dissolution of Marriage." Petitioner has included the FL-316 attachment, however, has only checked boxes #1 and c. Petitioner has not attached the FL-141 as required.

Upon review of the court file, there is no Proof of Service showing Respondent was properly served. Therefore, the court drops the matter from calendar.

TENTATIVE RULING #19: THE MATTER IS DROPPED FROM CALENDAR FOR FAILURE TO PROPERLY SERVED RESPONDENT.

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

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

20. JOURDEN ZEMA V. CHRISTOPHER ZEMA

23FL1070

On December 22, 2023, the parties appeared before the court on Petitioner's request for a Domestic Violence Restraining Order (DVRO). Petitioner had been granted a temporary DVRO on December 6, 2023. The minors were included as protected parties. The parties requested they be referred to Child Custody Recommending Counseling (CCRC). The court granted the request and ordered the parties to appear at CCRC on January 9, 2024 and set a review hearing for March 7, 2024 in Department 5. The court continued the temporary DVRO on the same terms and conditions on which it was previously issued on to March 7, 2023.

On January 10, 2024, Petitioner filed a request to vacate the DVRO. Parties appeared for a hearing on the request to vacate on February 2, 2024. At the hearing, Petitioner requested the minors no longer be included in the temporary DVRO and that it be changed to a "peaceful contact" order. After conducting a voir dire of Petitioner, the court granted the requested changes and modified the temporary DVRO to remove the minors as protected parties as well as strike the No Contact and Stay Away orders. The court affirmed the March 7, 2024 hearing date.

Both parties attended CCRC on January 9, 2024. The parties were unable to reach any agreements. A report with recommendations was filed with the court on February 22, 2024. Copies were mailed to the parties the same day.

The court finds it must address the issue of the DVRO as well as the custody orders. Therefore, parties are ordered to appear for the hearing.

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

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March 7, 2024

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

21. KEVIN VANDELINDER V. BRIANA THORNTON

PFL20180810

Petitioner filed a Request for Order (RFO) on October 31, 2022 seeking changes in custody, as well as an award of attorney's fees. The RFO and all other required documents were served on Respondent on December 26, 2022. Respondent did not file a Responsive Declaration.

The parties appeared for hearing on February 9, 2023, at which time the court awarded Petitioner sole legal and sole physical custody. Respondent was granted professionally supervised visits once per month for one hour with the following terms: (1) Respondent to choose a facility for the visits no later than February 28, 2023; (2) Petitioner to schedule visits; (3) Respondent to pay for all visits; (4) Respondent to participate in the visits alone without bringing any family or other individuals with her; (5) If Respondent appears under the influence the visit will be cancelled and no other visits will be scheduled; (6) Visits are terminated if Respondent misses a visit without prior notification. Pending Respondent's compliance with all of the court's terms, visitation was to step up from once per month to twice per month beginning in June of 2023. The court instituted additional orders directing Respondent to submit to a hair follicle test no later than March 9, 2023, as well as random drug testing on a regular basis. She was also ordered to participate in Narcotics Anonymous and provide Petitioner with proof thereof. Petitioner's request for attorney's fees was denied. The court set a review hearing to assess the status of the visits.

The parties attended the review hearing on June 22nd and the court maintained its prior orders. A further review hearing was set for the present date. Parties were ordered to file supplemental declarations no later than 10 days prior to the review hearing however, Respondent was admonished that failure to file a supplemental declaration would result in the matter being dropped from calendar.

Respondent filed and served her Declaration on December 7th. Petitioner filed his Declaration on December 8th, however, there is no Proof of Service for this document therefore the court cannot consider it.

Respondent is requesting separate visits with each child to further the individual bonds with them. She also requests scheduled phone calls and an order allowing the children to meet their 2-year-old brother. She states that she has complied with all court orders regarding testing.

On December 21, 2023, the parties appeared for the review hearing. The court made several orders including appointment of Minors' Counsel, for the minors to participate in individual therapy, the court temporarily suspended Respondent's visits until the minors were actively participating in therapy, and once the minors had at least one therapy session, visitation with Respondent was to resume, with the visits to coincide with the therapy sessions. The court

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March 7, 2024

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

set a further review hearing for March 7, 2024 to review an update on therapy services as well as input from Minors' Counsel.

Minors' Counsel filed a Statement of Issues and Contentions on February 7, 2024. The parties were served on February 7, 2024. Minors' Counsel was able to meet with all parties including the minors. Minors' Counsel makes the following recommendations: 1. For the minors to begin individual counseling 2. The minors and Respondent to attend reunification counseling 3. Reunification counseling to begin when the counselor has input from the individual counselors for the minors and believes the minors are ready, which may be different times and 4. A review hearing in four months to review the status of counseling and/or reunification therapy and to possibly restart supervised visitation.

Petitioner filed a Declaration regarding the minors' participation in therapy services on February 23, 2024. Parties were served on February 26, 2024.

The court finds it needs additional information from the parties, therefore, the parties are ordered to appear for the hearing.

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

March 7, 2024

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

22. MISTI SMITH V. VINCENT LOFRANCO

23FL0510

On December 21, 2023, Petitioner filed a Request for Order (RFO) requesting control of the property located at 3771 Starbust Lane in Placerville, CA. Respondent was served by mail and electronically on February 5, 2024.

Upon review of the file, Respondent has not filed a responsive declaration.

Petitioner claims that there is tension between the parties, and that allowing Respondent to return to the residence would create an unsafe and dangerous environment. Petitioner asserts the home is Petitioner's separate property, acquired before the marriage without a mortgage. Petitioner further alleges that Respondent has other places at which he could live and that he is currently not employed.

The court notes Petitioner was granted a Domestic Violence Restraining Order on January 25, 2024, which prevents Respondent from within 100 yards of Petitioner's home. That order expires on January 25, 2029.

Where a party fails to timely file opposition papers the court, in its discretion, may treat said failure "as an admission that the motion or other application is meritorious." El Dorado County, Local Rule 7.10.02(C). Here, it appears the RFO was properly served on Respondent. He had notice of the pending request and has chosen not to file an opposition to the RFO. As such, the court finds good cause to treat his failure to do so as an admission that the claims made in the RFO are meritorious. The court finds Petitioner purchased the residence prior to the parties' marriage, thereby making it presumptively her separate property. The court grants Petitioner's request for exclusive use and control of the residence at 3771 Starburst Lane Placerville, CA.

On January 17, 2024, Petitioner filed an RFO, requesting the court issue an order compelling Respondent to serve his preliminary declarations of disclosure. Petitioner has included the FL-316 and FL-141 as attachments to her filing. Petitioner also requests leave from the court to remove Respondent from the parties' joint cellular service plan, and to drop a non-registered vehicle from the insurance policy Petitioner maintains. Respondent was served by mail and electronically on February 5, 2024.

Respondent has not filed a Responsive Declaration.

Where a party fails to timely file opposition papers the court, in its discretion, may treat said failure "as an admission that the motion or other application is meritorious." El Dorado County, Local Rule 7.10.02(C). Here, it appears the RFO was properly served on Respondent. He had notice of the pending request and has chosen not to file an opposition to the RFO. As such, the court finds good cause to treat his failure to do so as an admission that the claims made in the RFO are meritorious.

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

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, Petitioner has established her compliance with Section 2104 as well as Respondent's failure to do the same. As such, the motion to compel is granted. Respondent is ordered to serve his full and complete preliminary declaration of disclosure no later than March 21, 2024.

As to Petitioner's request to no longer maintain Respondent on the cellular service plan, the court finds Petitioner is not required to do so pursuant to the ATROS. Therefore, that request is granted.

Regarding Petitioner's request to discontinue insurance for the unregistered vehicle, the court finds that is a requirement pursuant to the ATROS. In taking into consideration whether Petitioner should be permitted to discontinue the automobile insurance coverage, the court has considered that Petitioner is the protected party in a Domestic Violence Restraining Order and Respondent is the restrained party. Further, the vehicle is unregistered and has been unregistered for over a year and is owned in Respondent's name alone. The court grants Petitioner's request to remove the 2001 VW Beetle from the insurance policy.

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 #22: THE COURT GRANTS PETITIONER'S REQUEST FOR EXCLUSIVE USE AND CONTROL OF THE RESIDENCE AT 3771 STARBURST LANE PLACERVILLE, CA FOR THE REASONS SET FORTH ABOVE.

THE MOTION TO COMPEL IS GRANTED. RESPONDENT IS ORDERED TO SERVE HIS FULL AND COMPLETE PRELIMINARY DECLARATION OF DISCLOSURE NO LATER THAN MARCH 21, 2024.

THE COURT FINDS PETITIONER IS NOT REQUIRED TO MAINTAIN RESPONDENT ON THE SHARED CELLULAR PLAN PURSUANT TO THE ATROS. THEREFORE, PETITIONER'S REQUEST TO REMOVE RESPONDENT FROM THE SHARED CELLULAR PLAN IS GRANTED.

THE COURT GRANTS PETITIONER'S REQUEST TO REMOVE THE 2001 VW BEETLE FROM THE INSURANCE POLICY FOR THE REASONS SET FORTH ABOVE.

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

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

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
March 7, 2024
8:30 a.m./1:30 p.m.

23. ROB GRONEWOLD V. KATHERINE GRONEWOLD

PFL20190313

Petitioner filed a Request for Order (RFO) on December 18, 2023, requesting the sale of the former family residence at 5957 Pony Express Trail in Pollock Pines, CA. This is a post-judgment RFO and as such service must comply with Family Code § 215. Proof of Service shows Respondent was served by mail on December 29, 2023. The court finds this does not comply with Family Code § 215, which requires personal service. As such, the court drops the matter from calendar.

TENTATIVE RULING #23: THE COURT DROPS THE MATTER 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.