

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 16, 2025

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

1. ANGELA HURLEY V. IVAN RIVERA

PFL20200615

On November 18, 2024, Respondent filed an Ex Parte Application and Declaration for Orders and Notice seeking full custody of the minor child and sanctions. The court made ex parte orders on November 20th and Respondent filed a Request for Order (RFO) reiterating his ex parte requests. The RFO was electronically served on November 18th.

Petitioner filed her Responsive Declaration to Request for Order on November 19th.

Minor's Counsel filed and served her Statement of Issues and Contentions and Request for Orders on January 3, 2025.

The parties attended Child Custody Recommending Counseling (CCRC) on October 31, 2024. Because they were unable to reach any agreements, a report with recommendations was prepared on January 3, 2025. It was mailed to the parties on January 6th.

Respondent brings his RFO requesting sole physical and sole legal custody of the minor child. He requested monetary sanctions in his ex parte papers but there is no such request in the RFO. Finally, he asks that Minor's Counsel be recused.

Petitioner is also asking for sole legal and sole physical custody pursuant to Family Code § 3044. She agrees with the request to recuse Minor's Counsel.

Minor's Counsel is requesting the following: (1) All current orders remain in full force and effect; (2) Neither party shall speak to the minor about anything related to this case; (3) Neither party shall use the minor to communicate. Any communications regarding parenting or other issues must be between the parties directly; (4) No changes to the parenting plan shall be made unless they are in writing and agreed upon by both parties; and (5) Both parties shall make the minor available to Minor's Counsel within a reasonable amount of time after a request for a meeting.

After reviewing the filings of the parties, the court finds the current orders remain in the best interests of the minor. Neither party shall discuss anything regarding the ongoing court proceedings or custody either to or around the minor. Parties are ordered to communicate with one another directly, utilizing a co-parenting application such as Talking Parents or Our Family Wizard. Parties are to sign up for the co-parenting application by noon on January 17, 2025. If the parties are unable to agree on which co-parenting application to use, the parties shall use Talking Parents. There shall be no using the minor

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to communicate. There shall be no changes to the parenting plan unless agreed upon by the parties in writing. Additionally, the court is adopting the recommendation for individual therapy as stated in the January 3, 2025 CCRC report.

For exchanges of the minor, there are to be no third parties present. All exchanges are to take place at the Rancho Cordova Police station located at 2897 Kilgore Road in Rancho Cordova, California. The Friday exchange shall take place at 4:30 PM. The Sunday drop-off time shall remain unchanged, but shall take place at the Rancho Cordova Police Department.

The request to remove Minor's Counsel is denied. The parties seem to misunderstand the role of Minor's Counsel. She is not an intermediary between the parties and shall not be used as such. The parties are ordered to make the minor available to Minor's Counsel within a reasonable amount of time after a request for a meeting is made.

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 #1: THE COURT FINDS THE CURRENT ORDERS REMAIN IN THE BEST INTERESTS OF THE MINOR. NEITHER PARTY SHALL DISCUSS ANYTHING REGARDING THE ONGOING COURT PROCEEDINGS OR CUSTODY EITHER TO OR AROUND THE MINOR. PARTIES ARE ORDERED TO COMMUNICATE WITH ONE ANOTHER DIRECTLY, UTILIZING A CO-PARENTING APPLICATION SUCH A TALKING PARENTS OR OUR FAMILY WIZARD. PARTIES ARE TO SIGN UP FOR THE CO-PARENTING APPLICATION BY NOON ON JANUARY 17, 2025. IF THE PARTIES ARE UNABLE TO AGREE ON WHICH CO-PARENTING APPLICATION TO USE, THE PARTIES SHALL USE TALKING PARENTS. THERE SHALL BE NO USING THE MINOR TO COMMUNICATE. THERE SHALL BE NO CHANGES TO THE PARENTING PLAN UNLESS AGREED UPON BY THE PARTIES IN WRITING. ADDITIONALLY, THE COURT IS ADOPTING THE RECOMMENDATION FOR INDIVIDUAL THERAPY AS STATED IN THE JANUARY 3, 2025 CCRC REPORT. FOR EXCHANGES OF THE MINOR, THERE ARE TO BE NO THIRD PARTIES PRESENT. ALL EXCHANGES ARE TO TAKE PLACE AT THE RANCHO CORDOVA POLICE STATION LOCATED AT 2897 KILGORE ROAD IN RANCHO CORDOVA, CALIFORNIA. THE FRIDAY EXCHANGE SHALL TAKE PLACE AT 4:30 PM. THE SUNDAY DROP-OFF TIME SHALL REMAIN UNCHANGED BUT SHALL TAKE PLACE AT THE RANCHO CORDOVA POLICE DEPARTMENT. THE REQUEST TO REMOVE MINOR'S COUNSEL IS DENIED. THE PARTIES SEEM TO MISUNDERSTAND THE ROLE OF MINOR'S COUNSEL. SHE IS NOT AN

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INTERMEDIARY BETWEEN THE PARTIES AND SHALL NOT BE USED AS SUCH. THE PARTIES ARE ORDERED TO MAKE THE MINOR AVAILABLE TO MINOR'S COUNSEL WITHIN A REASONABLE AMOUNT OF TIME AFTER A REQUEST FOR A MEETING IS MADE. 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 PHONE CALL 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 PHONE CALL 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. ANTHONY TATUM V. PETRINA TATUM

23FL1230

This matter came before the court for a review hearing on September 18, 2024. At that time, the court adopted the recommendations stated in the Child Custody Recommending Counseling (CCRC) report as temporary custody orders. The court also made orders regarding attorney's fees. A review hearing was set for the present date to address the status of visitation, therapy, and attorneys' fees.

On August 7, 2024, Respondent filed a Request for Order (RFO) seeking an order for child support. She filed her Income and Expense Declaration concurrently with her RFO. Both documents, along with all other required documents, were served on August 8th.

Petitioner filed and served his Responsive Declaration to Request for Order and his Income and Expense Declaration on October 17th.

Respondent filed a Reply Declaration on November 13, 2024. It was served on November 12th. Petitioner filed an Objection to Respondent's Reply Declaration and Request to Strike as the declaration exceeds the five-page maximum as mandated by California Rules of Court Rule 5.111(a). In response to this, Respondent filed another Reply Declaration on November 14th.

Also on November 14, 2024, Petitioner filed an Ex Parte Application and Declaration for Orders and Notice seeking custody and visitation orders. Minor's Counsel and Respondent each filed a Responsive Declaration to Request for Order the same day.

On November 15th, the court made ex parte orders granting Petitioner sole legal and sole physical custody of the minor. Respondent was ordered to have therapeutically supervised visits once per week when recommended by the minor's therapist. Respondent was ordered to pay for these sessions. Additionally, the court ordered Respondent to undergo a professional 730 evaluation at her expense. Petitioner filed an RFO reiterating his ex parte requests on November 15, 2024.

On January 6, 2025, the parties filed a Judgment for Dissolution which included stipulations regarding child support, child custody, and attorney's fees. Regarding child support, the parties noted that the court would have continuing jurisdiction on the issue though the parties did not address whether the hearing on the RFO for child support was to be vacated or if the support agreement was to be effective temporarily until the hearing on the RFO. The parties are ordered to appear for the hearing to clarify for the court whether or

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not the RFO for child support is still pending or if the January 6th Judgment resolved the issue.

Unlike child support, the Judgment expressly stated that the custody agreements contained therein are subject to modification as there is currently a hearing pending on the issue. Likewise, the judgment reserved on the issue of the \$9,000 in attorney's fees which is set for the review hearing.

Petitioner's Supplemental Declaration was filed and served on January 6, 2025. Respondent's Supplemental Declaration was filed on January 9th. She filed what appears to be the same declaration again on January 13th, this time with handwritten notes on the caption indicating that the document is either intended to be a Responsive Declaration or a Reply Declaration. On January 13th, Petitioner filed and served an Objection to Respondent's Supplemental Declaration and Responsive Declaration for Noncompliance with CCP § 1005.

There is a Proof of Service filed on January 13th indicating that "Respondent Declaration" was served on January 10th. It is unclear which declaration was served. There is another Proof of Service filed the same day which indicates that Respondent's Supplemental Declaration was served on January 9th. A third Proof of Service was filed on January 13th which indicates that "Respondent Declaration – Title Correction" was served on January 12th.

Petitioner's objections to Respondent's January 9th and January 13th declarations are sustained. The court finds the declarations, whether they are Responsive Declarations or Reply Declarations, were not timely and therefore the court cannot, and has not, considered them.

Petitioner is requesting the current orders for sole legal and sole physical custody remain in place until Respondent has undergone the previously ordered 730 evaluation. Additionally, he asks that the court order Respondent's therapeutic visits to be held with a therapist other than the minor's individual therapist. He is requesting guideline child support in the amount of \$2,019 per month to be paid from Respondent to Petitioner. Finally, he asks that Respondent be ordered to pay an additional \$9,000 in attorney's fees. During the DVRO trial, Petitioner requested \$18,000 in attorney's fees. The court granted \$9,000 and reserved on the remaining \$9,000.

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The court has reviewed the filings as outlined above and finds that the current custody and visitation orders remain in the best interests of the minor pending the return of the 730 evaluation. All prior orders remain in full force and effect. Additionally, Respondent is ordered to utilize a third-party therapist for the therapeutic visits, not the minor's individual therapist. A review hearing is set for May 15, 2025 at 8:30 am for receipt and review of the 730 evaluation and to address whether the results of the evaluation warrant a change in the court's custody orders.

The parties are ordered to appear on the issue of child support. As stated above, it is unclear if the child support agreements contained in the January 6th judgment were intended to resolve the pending RFO for support.

Regarding the request for attorney's fees, the court notes that the most recent Income and Expense Declaration of Respondent was filed on August 7th and Petitioner's most recently filed Income and Expense Declaration was filed on October 17th, making it just one day shy of being out of date. The court would like to review current Income and Expense Declarations of the parties prior to ruling on the issue of attorney's fees. Therefore, the parties are ordered to appear for the hearing on the issue of attorney's fees. They are each ordered to bring a current, completed, Income and Expense Declaration with them or be prepared to address whether the information in their declaration on file remains current.

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 #2: PARTIES ARE ORDERED TO APPEAR ON THE ISSUES OF CHILD SUPPORT AND ATTORNEY'S FEES. THEY ARE EACH ORDERED TO BRING A CURRENT, COMPLETED, INCOME AND EXPENSE DECLARATION WITH THEM OR BE PREPARED TO ADDRESS WHETHER THE INFORMATION IN THEIR DECLARATION ON FILE REMAINS CURRENT.

THE COURT HAS REVIEWED THE FILINGS AS OUTLINED ABOVE AND FINDS THAT THE CURRENT CUSTODY AND VISITATION ORDERS REMAIN IN THE BEST INTERESTS OF THE MINOR PENDING THE RETURN OF THE 730 EVALUATION. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. ADDITIONALLY, RESPONDENT IS ORDERED TO UTILIZE A THIRD-PARTY THERAPIST FOR THE THERAPEUTIC VISITS, NOT THE MINOR'S INDIVIDUAL THERAPIST. A REVIEW HEARING IS SET FOR MAY 15, 2025 AT 8:30 AM FOR RECEIPT AND REVIEW OF THE 730 EVALUATION AND TO ADDRESS WHETHER THE

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RESULTS OF THE EVALUATION WARRANT A CHANGE IN THE COURT'S CUSTODY ORDERS.

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

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY PHONE CALL 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 PHONE CALL 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. CASEY HECTOR V. DEVIN HECTOR

23FL0242

Petitioner filed a Request for Order (RFO) and Order Shortening Time (OST) on October 18, 2024. The OST was granted and the RFO was set for a hearing on November 14, 2024.

The parties attended the hearing as scheduled and presented the court with a stipulation. The stipulation was adopted by the court, and the parties were re-referred to Child Custody Recommending Counseling (CCRC) with a review hearing set for the present date.

The parties attended CCRC on November 25, 2024. They were able to reach agreements on some issues, though not all. As such, a report containing the agreements and recommendations from CCRC was prepared on November 26, 2024. It was mailed to the parties on December 2, 2024. Neither party has filed a declaration in response to the CCRC report. Petitioner did file and serve a Certificate of Completion: Parenting Class on January 14, 2025.

After reviewing the CCRC report the court finds the agreements and recommendations contained therein to be in the best interests of the minor. As such, they are hereby adopted as the orders of the court.

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

TENTATIVE RULING #3: THE AGREEMENTS AND RECOMMENDATIONS CONTAINED IN THE NOVEMBER 25, 2024 CCRC REPORT ARE FOUND TO BE IN THE BEST INTERESTS OF THE MINOR AND ARE HEREBY 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 PHONE CALL 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 PHONE CALL 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. MATTHEW HICKS V. TIFFINE CHRISTINE WOODSIDE

22FL0345

On September 23, 2024, Minor's Counsel filed a Request for Order (RFO) seeking to have a holiday schedule put in place. The RFO was served on September 26th, though neither party has filed a Responsive Declaration to Request for Order.

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 and timely served on Petitioner and Respondent. They both had notice of the pending request and chose not to oppose it. Therefore, the court finds good cause to treat this failure as an admission that the claims made in the RFO are meritorious. Minor's Counsel's request for a holiday schedule is granted. The court is adopting the holiday schedule set forth in the FL-341(c) attached to Minor's Counsel's RFO.

Minor's Counsel shall prepare and file the Findings and Orders After Hearing.

TENTATIVE RULING #8: MINOR'S COUNSEL'S REQUEST FOR A HOLIDAY SCHEDULE IS GRANTED. THE COURT IS ADOPTING THE HOLIDAY SCHEDULE SET FORTH IN THE FL-341(C) ATTACHED TO MINOR'S COUNSEL'S RFO. MINOR'S COUNSEL SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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9. NICOLE SMITH V. BRANDON CORNS

24FL0194

Petitioner filed a Request for Order (RFO) on June 6, 2024, requesting child custody and parenting plan orders, as well as child support, and an order for the minors to attend a wedding on June 22, 2024. Petitioner concurrently filed an Income and Expense Declaration. The matter was originally set to be heard on August 15th however, Petitioner requested a continuance to allow time to serve Respondent. The court granted the continuance, re-referred the parties to Child Custody Recommending Counseling (CCRC) and a review hearing was set for November 7th.

There is a Proof of Service indicating that the RFO was served, along with other documents, on September 19, 2024, though the Proof was not filed with the court until November 6, 2024 therefore, the matter was once again continued to the present date.

Petitioner filed and served Petitioner's Evidentiary Submission (Respondent's Paystubs) on December 16, 2024.

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

Petitioner brings her RFO requesting sole legal and sole physical custody of the minors. She asks that Respondent have visits on school holidays and that the parties rotate Thanksgiving and Christmas holidays each year such that when one has Thanksgiving, the other will have visitation on Christmas and vice versa for the following year. She also asks for guideline child support and for an order directing the parties to equally split uncovered healthcare expenses. Finally, she is seeking an order allowing the children to attend her brother's wedding on June 22, 2024.

The court finds Petitioner's request for an order allowing the minors to attend her brother's wedding on June 22, 2024 is now moot therefore the court declines to rule on that request.

Regarding custody, given that Respondent has not opposed the RFO, Petitioner's requests for sole legal and sole physical custody are granted. Respondent shall have

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visitation with the children on school holidays and on the rotating holiday schedule as follows. On odd numbered years, Respondent shall have the children for Thanksgiving and Petitioner shall have the children for Christmas. On even numbered years, Petitioner shall have the children for Thanksgiving and Respondent shall have the children on Christmas.

Finally, on the issue of child support, while Petitioner submitted evidence of Respondent's income with her December declaration, she did not file an updated Income and Expense Declaration of her own. "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). Given that the Income and Expense Declaration that the court has on file for Petitioner is from June of last year the court cannot make support orders at this time. Petitioner's request is denied for failure to file the proper documentation.

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

TENTATIVE RULING #9: THE REQUEST TO ALLOW THE MINORS TO ATTEND PETITIONER'S BROTHER'S WEDDING ON JUNE 22, 2024 IS MOOT AND THE COURT DECLINES TO RULE ON IT. REGARDING CUSTODY, GIVEN THAT RESPONDENT HAS NOT OPPOSED THE RFO, PETITIONER'S REQUESTS FOR SOLE LEGAL AND SOLE PHYSICAL CUSTODY ARE GRANTED. RESPONDENT SHALL HAVE VISITATION WITH THE CHILDREN ON SCHOOL HOLIDAYS AND ON THE ROTATING HOLIDAY SCHEDULE AS FOLLOWS. ON ODD NUMBERED YEARS, RESPONDENT SHALL HAVE THE CHILDREN FOR THANKSGIVING AND PETITIONER SHALL HAVE THE CHILDREN FOR CHRISTMAS. ON EVEN NUMBERED YEARS, PETITIONER SHALL HAVE THE CHILDREN FOR THANKSGIVING AND RESPONDENT SHALL HAVE THE CHILDREN ON CHRISTMAS. PETITIONER'S REQUEST FOR CHILD SUPPORT IS DENIED FOR FAILURE TO FILE A CURRENT INCOME AND EXPENSE DECLARATION. 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 PHONE CALL 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

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BEING REQUESTED MUST BE MADE BY PHONE CALL 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. COUNTY OF SACRAMENTO V. MICHAEL BURNS (OTHER PARENT: ASHLEY MAYER)

PFS20150203

Respondent filed an ex parte application for emergency custody orders on September 23, 2024. Other Parent filed a Responsive Declaration on September 24, 2024. The court denied the request for emergency orders on September 25, 2024. This is the third ex parte application filed by Respondent in 2024, all have failed to meet the criteria for emergency orders. Respondent is admonished that continued use of ex parte filings, when the grounds for ex parte orders are not met, may result in sanctions.

Respondent filed a Request for Order (RFO) on September 25, 2024, seeking the same orders as requested in the ex parte application. Proof of Service shows Other Parent was personally served on September 25, 2024. Petitioner was personally served on October 1, 2024. Respondent asserts Other Parent's parenting time should be professionally supervised due to picking the minors up in an unregistered vehicle. Respondent also is concerned that Other Parent fails to abide by the Respect Guidelines.

Respondent filed additional Declarations on November 27, 2024, which were served on November 28, 2024.

Respondent filed an additional Declaration on December 4, 2024. It was served on December 15, 2024.

Other Parent requested the hearing originally set for December 19, 2024 be continued as she was unable to file her Responsive Declaration as her paralegal was hospitalized. The court granted the request to continue and set the review hearing for January 16, 2025.

Petitioner has not filed a Responsive Declaration.

Other Parent has not filed any additional Responsive Declaration or Supplemental Declaration.

The court has read and considered the filings as outlined above. The court denies Respondent's requested modification. The court finds the current orders, which were made on July 11, 2024, just over 60 days prior to the most recent ex parte application, remain in the minors' best interest. There has not been any change in circumstance since the prior orders which would warrant a modification. Further, Respondent's allegations regarding Other Parent's failure to abide by the Respect Guidelines is based on hearsay. Other Parent

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is admonished that anyone who transports the minors shall be a licensed and insured driver, driving in a currently registered vehicle. Other Parent is further admonished that failure to abide by the Respect Guidelines, may result in sanctions, modification of custody orders, and/or contempt.

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

TENTATIVE RULING #10: THE COURT FINDS THE CURRENT ORDERS REMAIN IN THE MINORS' BEST INTEREST. THERE HAS NOT BEEN ANY CHANGE IN CIRCUMSTANCE SINCE THE PRIOR ORDERS WHICH WOULD WARRANT A MODIFICATION. OTHER PARENT IS ADMONISHED THAT ANYONE WHO TRANSPORTS THE MINORS SHALL BE A LICENSED AND INSURED DRIVER, DRIVING IN A CURRENTLY REGISTERED VEHICLE. OTHER PARENT IS FURTHER ADMONISHED THAT FAILURE TO ABIDE BY THE RESPECT GUIDELINES, MAY RESULT IN SANCTIONS, MODIFICATION OF CUSTODY ORDERS, AND/OR CONTEMPT. THE COURT DENIES RESPONDENT'S REQUESTED MODIFICATION. 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 PHONE CALL 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 PHONE CALL 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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11. JOSEPHINE CONNELLY V. DAVID KRELL

24FL0134

Order to Show Cause Re: Contempt

Respondent filed an Order to Show Cause and Affidavit for Contempt on September 17, 2024, alleging nine counts of contempt. Proof of Service shows Petitioner was personally served on October 2, 2024.

Parties are ordered to appear for arraignment.

Request for Order

Respondent filed a Request for Order (RFO) on October 18, 2024, requesting modification of the current child custody and parenting plan orders as well as to enforce the current orders and a referral to Child Custody Recommending Counseling (CCRC). Petitioner was personally served on October 20, 2024. Respondent is seeking joint legal and physical custody of the minors.

Petitioner filed a Responsive Declaration on January 2, 2025. There is no Proof of Service show this document, and therefore, the court cannot consider it.

Respondent filed a Reply Declaration on January 8, 2025. There is no Proof of Service for this document, and therefore, the court cannot consider it.

The court has read and considered the filings as outlined above. The court finds there has been a finding of domestic violence perpetrated by Respondent against Petitioner within the prior five years. As such, Family Code section 3044 applies. Section 3044 gives rise to a rebuttable presumption that an award of sole or joint physical or legal custody to an individual who has perpetrated domestic violence is not in the best interest of the child. *Id.* “This presumption may only be rebutted by a preponderance of the evidence.” *Id.* To overcome the presumption, the perpetrator bears the burden of proving (1) giving sole or joint legal or physical custody to the perpetrator is in the best interest of the child; and (2) a balancing of the factors listed in Section 3044(b)(2) supports the legislative findings in Section 3020. Fam. Code § 3044(b). Among the factors to be considered are the following: Completion alcohol or drug abuse counseling, completion of a batterer’s treatment program, completion of a parenting class, compliance with terms and conditions of probation, parole or a restraining order, if any, and whether or not further acts of domestic violence have occurred. *Id.* The court finds Respondent has failed to set forth sufficient evidence to rebut the presumptions. As such, the court finds the current orders

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remain in the minors' best interests. Petitioner is admonished, that failure to abide by court orders may result in sanctions, a modification of custody orders, and/or contempt.

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

TENTATIVE RULING #11: PARTIES ARE ORDERED TO APPEAR ON THE CONTEMPT CITATION.

THE COURT FINDS THERE HAS BEEN A FINDING OF DOMESTIC VIOLENCE PERPETRATED BY RESPONDENT AGAINST PETITIONER WITHIN THE PRIOR FIVE YEARS. AS SUCH, FAMILY CODE SECTION 3044 APPLIES. SECTION 3044 GIVES RISE TO A REBUTTABLE PRESUMPTION THAT AN AWARD OF SOLE OR JOINT PHYSICAL OR LEGAL CUSTODY TO AN INDIVIDUAL WHO HAS PERPETRATED DOMESTIC VIOLENCE IS NOT IN THE BEST INTEREST OF THE CHILD. *ID.* "THIS PRESUMPTION MAY ONLY BE REBUTTED BY A PREPONDERANCE OF THE EVIDENCE." *ID.* TO OVERCOME THE PRESUMPTION, THE PERPETRATOR BEARS THE BURDEN OF PROVING (1) GIVING SOLE OR JOINT LEGAL OR PHYSICAL CUSTODY TO THE PERPETRATOR IS IN THE BEST INTEREST OF THE CHILD; AND (2) A BALANCING OF THE FACTORS LISTED IN SECTION 3044(B)(2) SUPPORTS THE LEGISLATIVE FINDINGS IN SECTION 3020. FAM. CODE § 3044(B). AMONG THE FACTORS TO BE CONSIDERED ARE THE FOLLOWING: COMPLETION ALCOHOL OR DRUG ABUSE COUNSELING, COMPLETION OF A BATTERER'S TREATMENT PROGRAM, COMPLETION OF A PARENTING CLASS, COMPLIANCE WITH TERMS AND CONDITIONS OF PROBATION, PAROLE OR A RESTRAINING ORDER, IF ANY, AND WHETHER OR NOT FURTHER ACTS OF DOMESTIC VIOLENCE HAVE OCCURRED. *ID.* THE COURT FINDS RESPONDENT HAS FAILED TO SET FORTH SUFFICIENT EVIDENCE TO REBUT THE PRESUMPTIONS. AS SUCH, THE COURT FINDS THE CURRENT ORDERS REMAIN IN THE MINORS' BEST INTERESTS. PETITIONER IS ADMONISHED, THAT FAILURE TO ABIDE BY COURT ORDERS MAY RESULT IN SANCTIONS, A MODIFICATION OF CUSTODY ORDERS, AND/OR CONTEMPT. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE THE FINDINGS AND ORDERS AFTER HEARING.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY PHONE CALL 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*

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 16, 2025

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

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 PHONE CALL OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

January 16, 2025

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

12. KEITH HELLESVIG V. DANA HELLESVIG

PFL20040142

Petitioner filed a Request for Order (RFO) on October 11, 2024, requesting the court make orders as to Petitioner's retirement account. Upon review of the court file, there is no Proof of Service.

The court finds good cause to dispense with service, as Respondent is deceased, and her heirs have executed a waiver of all rights as to Petitioner's Cal Pers retirement account. However, the waivers have not been notarized.

The court on its own motion continues the matter. The court directs Petitioner to obtain notarized waivers from the interested parties. The court continues the matter to April 3, 2024 at 8:30 AM in Department 5.

TENTATIVE RULING #12: THE COURT ON ITS OWN MOTION CONTINUES THE MATTER. THE COURT DIRECTS PETITIONER TO OBTAIN NOTARIZED WAIVERS FROM THE INTERESTED PARTIES. THE COURT CONTINUES THE MATTER TO APRIL 3, 2024 AT 8:30 AM IN DEPARTMENT 5.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY PHONE CALL 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 PHONE CALL 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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January 16, 2025

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

13. KENNETH CROMPTON V. DAYNA CROMPTON

23FL0077

Petitioner filed an ex parte application for emergency custody orders on November 25, 2024. On November 26, 2024, the court denied the request, however, referred the parties to an emergency set Child Custody Recommending Counseling (CCRC) appointment on December 10, 2024, and set a review hearing for January 16, 2025. Petitioner filed a Request for Order (RFO) on November 26, 2024, making the same requests as set forth in the ex parte application. Proof of Service shows Respondent was personally served on November 26, 2024.

Only Respondent appeared at the CCRC appointment on December 10, 2024. As such a single parent report was filed on December 16, 2024. Copies were mailed to the parties the same day.

Petitioner filed two Declarations on January 6, 2024. Proof of Service shows they were mailed to Respondent on January 3, 2025. Petitioner asserts he missed the CCRC appearance because he was too emotionally distraught to attend due to being served with a restraining order. Petitioner states he was served on December 4, 2024. In his Supplemental Declaration, Petitioner requests the court appoint minors' counsel, order Respondent to have supervised parenting time and to be responsible for the entire costs, as well as various other orders.

Respondent has not filed a Responsive Declaration.

The court is troubled by Petitioner's Declaration and the excuse given for not attending CCRC. The court is further troubled by Petitioner's Declaration about CCRC as he states he missed CCRC on December 11th, when the CCRC appointment was on December 10th. The court, however, is concerned about the minors' safety and well-being based on Petitioner's Supplemental Declaration. Therefore, the court finds good cause to rerefer the parties to CCRC.

The court appoints Minors Counsel, Kelly Bentley to represent the minors. Parties are to share the costs of Minors Counsel equally, subject to reallocation.

Respondent's parenting time shall be professionally supervised one time per week for two hours. There is to be no other individuals present during Respondent's parenting time. Respondent shall be solely responsible for the costs of professionally supervised visitation. Respondent shall bring no gifts, under any circumstances, including holidays

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

and birthdays for the minors. If Respondent appears to be under the influence of any intoxicating substance, the visit shall be cancelled.

The court rerefers the parties to CCRC for an appointment on January 24, 2025 at 1 pm with Rebecca Nelson. The minors are to be made available to the CCRC Counselor for interview upon the Counselor's request. The court sets a further review hearing on April 13th 2025 at 1:30 PM in Department 5. Any Supplemental Declarations are to be filed and served at least 10 days prior to the hearing.

Petitioner is to pay sanctions in the amount of \$50 for the failure to attend CCRC on December 10th. Petitioner shall make the payment to the court on or before January 30, 2025. If either party fails to attend the future CCRC appointment the court may impose sanctions.

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

TENTATIVE RULING #13: THE COURT APPOINTS MINORS COUNSEL, KELLY BENTLRY TO REPRESENT THE MINORS. PARTIES ARE TO SHARE THE COSTS OF MINORS COUNSEL EQUALLY, SUBJECT TO REALLOCATION. RESPONDENT'S PARENTING TIME SHALL BE PROFESSIONALLY SUPERVISED ONE TIME PER WEEK FOR TWO HOURS. THERE IS TO BE NO OTHER INDIVIDUALS PRESENT DURING RESPONDENT'S PARENTING TIME. RESPONDENT SHALL BE SOLELY RESPONSIBLE FOR THE COSTS OF PROFESSIONALLY SUPERVISED VISITATION. RESPONDENT SHALL BRING NO GIFTS, UNDER ANY CIRCUMSTANCES, INCLUDING HOLIDAYS AND BIRTHDAYS FOR THE MINORS. IF RESPONDENT APPEARS TO BE UNDER THE INFLUENCE OF ANY INTOXICATING SUBSTANCE, THE VISIT SHALL BE CANCELLED. THE COURT REREFERS THE PARTIES TO CCRC FOR AN APPOINTMENT ON JANUARY 24, 2025 AT 1:00 PM WITH REBECCA NELSON THE MINORS ARE TO BE MADE AVAILABLE TO THE CCRC COUNSELOR FOR INTERVIEW UPON THE COUNSELOR'S REQUEST. THE COURT SETS A FURTHER REVIEW HEARING ON APRIL 13TH 2025 AT 1:30 PM IN DEPARTMENT 5. ANY SUPPLEMENTAL DECLARATIONS ARE TO BE FILED AND SERVED AT LEAST 10 DAYS PRIOR TO THE HEARING. PETITIONER IS TO PAY SANCTIONS IN THE AMOUNT OF \$50 FOR THE FAILURE TO ATTEND CCRC ON DECEMBER 10TH. PETITIONER SHALL MAKE THE PAYMENT TO THE COURT ON OR BEFORE JANUARY 30, 2025. IF EITHER PARTY FAILS TO ATTEND THE FUTURE CCRC APPOINTMENT THE COURT MAY IMPOSE SANCTIONS. ALL PRIOR ORDERS NOT IN CONFLICT WITH THESE ORDERS REMAIN IN FULL FORCE AND

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

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 PHONE CALL 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 PHONE CALL 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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January 16, 2025

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

14. KEVIN YOUNG V. JASMINE GIBSON

24FL1136

Petitioner filed a Petition to Establish a Parental Relationship on November 1, 2024. A Summons was issued the same day. Petitioner concurrently filed a Request for Order (RFO) requesting the court make child custody and parenting plan orders. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on November 22, 2024 and a review hearing on January 16, 2025. Proof of Service shows Respondent was personally served all the necessary documents on November 5, 2024.

Respondent filed a Response on November 15, 2024. Respondent confirms Petitioner is the parent of the minor, there was a Voluntary Declaration of Paternity, and Petitioner appears on the minor's birth certificate.

Both parties appeared for the CCRC appointment and reached many agreements. A report containing the parties' agreements as well as additional recommendations was filed with the court on December 2, 2024. Copies were mailed to the parties the same day.

Respondent filed a Responsive Declaration on December 16, 2024. Petitioner was personally served on December 17, 2024. Respondent states in her declaration she agrees with the recommendations as set forth in the December 2nd CCRC report.

The court has read and considered the filings as outlined above. The court finds Petitioner to be the parent of the minor, Bennett Dale Young. Petitioner shall prepare and file the judgment. The court adopts the agreements and recommendations as set forth in the December 2nd CCRC report, as the court finds they are in the best interest of the minor.

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

TENTATIVE RULING #14: THE COURT FINDS PETITIONER TO BE THE PARENT OF THE MINOR, BENNETT DALE YOUNG. PETITIONER SHALL PREPARE AND FILE THE JUDGMENT. THE COURT ADOPTS THE AGREEMENTS AND RECOMMENDATIONS AS SET FORTH IN THE DECEMBER 2ND CCRC REPORT, AS THE COURT FINDS THEY ARE IN THE BEST INTEREST 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 PHONE CALL 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*

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January 16, 2025

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

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 PHONE CALL 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.

15. LAURA PARKES V. DANIEL PARKES

PFL20210112

Petitioner filed a Request for Order (RFO) and Order Shortening Time (OST) on December 23, 2024. Respondent filed a Responsive Declaration on December 23, 2024. On December 24, 2024, the court granted the OST and set the RFO for a hearing on January 16, 2025, at 1:30 PM. The court directed Petitioner to serve the RFO no later than December 24, 2024, and Respondent to file a Responsive Declaration no later than January 9, 2025. Proof of Service shows Respondent was served by overnight delivery and electronically on December 24, 2024.

Petitioner seeks a directive from the court to Respondent's counsel to destroy a draft letter from Petitioner's counsel that was emailed to Petitioner's son, who in turn, forwarded the email and letter to Respondent and his counsel. Petitioner asserts the letter is attorney work product and therefore, subject to attorney client privilege. Petitioner states she believed, mistakenly, the letter had been sent to Respondent's counsel, and that she was unaware it was a draft version. Petitioner's counsel asserts he contacted Respondent's counsel and requested she destroy the letter, as it was protected as attorney work product. Respondent's counsel requested legal authority supporting Petitioner's counsel's position. Petitioner then brought the instant motion. Petitioner seeks sanctions under both Family Code section 271 and Code of Civil Procedure 128.5.

Respondent filed a Responsive Declaration on January 9, 2025. It was served the same day. Respondent asserts there is no authority requiring the letter be destroyed, as Petitioner has waived attorney client privilege by disseminating the letter to a third party. Respondent asserts this distribution was intentional, and not inadvertent. As such, Respondent asserts he and his counsel are under no obligation to destroy the letter. Respondent seeks sanctions under Family Code section 271.

Petitioner filed a Memorandum of Points and Authorities on January 13, 2025. It was served the same day. The court finds good cause to consider the Memorandum of Points and Authorities as a Reply Declaration as this matter was set on a shortened time basis and it was filed two court days after Respondent's Responsive Declaration.

The court has read and considered the filings as outlined above. The court has also considered the case law and other authorities presented in the parties' Points and Authorities. The court finds Rule 4.4 of the Rules of Professional Conduct applies in the instant matter. While Petitioner had the "intent" to send the email and include the letter, this was under the mistaken belief the letter had been sent. Therefore, the court finds the

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distribution to be inadvertent. Respondent's counsel was alerted by Petitioner's counsel that the letter was subject to the work product doctrine and that it was distributed inadvertently by Petitioner under the mistaken belief it has previously been sent. The court notes that attorney work product should be protected as much as possible, and it is a high bar to find that the privilege has been waived. Respondent should have returned the letter or destroyed it at Petitioner's counsel's request. Therefore, the court directs Respondent's counsel to delete or otherwise destroy the letter.

As to sanctions, both parties are seeking sanctions. Petitioner seeks sanctions under both Family Code section 271 as well as against Respondent's counsel under Code of Civil Procedure section 128.5. Respondent seeks sanctions under Family Code section 271. The court finds both sides could have and should have worked together more cooperatively and collaboratively to reach a resolution of this matter that did not necessitate court involvement. Parties and counsel are reminded of the public policy behind Family Code section 271, that is to promote settlement of litigation, to reduce the cost of litigation and to encourage cooperation between the parties and attorneys. Family Code section 271, see also In re Marriage of Tharp, 188 Cal.App. 4th 1295, 1316 (2010). If the court were to award sanctions, the court finds they would be offsetting, therefore, the court declines to grant either party's request for sanctions presently. However, the court reserves on the requests to the time of trial, and should this pattern of conduct continue, sanctions may be awarded.

Regarding Petitioner's request for 128.5 sanctions against Respondent's counsel, the court finds Respondent's counsel has made a showing of a good faith belief that the distribution was intentional, and therefore, not subject to Rule 4.4. As such, the court denies Petitioner's request for 128.5 sanctions.

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

TENTATIVE RULING #15: THE COURT FINDS RULE 4.4 OF THE RULES OF PROFESSIONAL CONDUCT APPLIES IN THE INSTANT MATTER. WHILE PETITIONER HAD THE "INTENT" TO SEND THE EMAIL AND INCLUDE THE LETTER, THIS WAS UNDER THE MISTAKEN BELIEF THE LETTER HAD BEEN SENT. THEREFORE, THE COURT FINDS THE DISTRIBUTION TO BE INADVERTENT. RESPONDENT'S COUNSEL WAS ALERTED BY PETITIONER'S COUNSEL THAT THE LETTER WAS SUBJECT TO THE WORK PRODUCT DOCTRINE AND THAT IT WAS DISTRIBUTED INADVERTENTLY BY PETITIONER UNDER

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

THE MISTAKEN BELIEF IT HAS PREVIOUSLY BEEN SENT. THE COURT NOTES THAT ATTORNEY WORK PRODUCT SHOULD BE PROTECTED AS MUCH AS POSSIBLE, AND IT IS A HIGH BAR TO FIND THAT THE PRIVILEGE HAS BEEN WAIVED. RESPONDENT SHOULD HAVE RETURNED THE LETTER OR DESTROYED IT AT PETITIONER'S COUNSEL'S REQUEST. THEREFORE, THE COURT DIRECTS RESPONDENT'S COUNSEL TO DELETE OR OTHERWISE DESTROY THE LETTER. THE COURT DECLINES TO GRANT EITHER PARTY'S REQUEST FOR SANCTIONS PRESENTLY. HOWEVER, THE COURT RESERVES ON THE REQUESTS TO THE TIME OF TRIAL, AND SHOULD THIS PATTERN OF CONDUCT CONTINUE, SANCTIONS MAY BE AWARDED. THE COURT DENIES PETITIONER'S REQUEST FOR 128.5 SANCTIONS.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY PHONE CALL 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 PHONE CALL 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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January 16, 2025

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

16. OMAR ATEBAR V. MINA ATEBAR

PFL20140638

Respondent filed a Motion to Modify Child Support on October 15, 2024. Respondent concurrently filed a Financial Statement Simplified. Petitioner was mail served the same day. This is a post judgment request for modification, which requires compliance with Family Code section 215. No Address Verification has been filed by Respondent.

Petitioner filed a Responsive Declaration and Income and Expense Declaration on January 9, 2025. There is no Proof of Service for these documents. Additionally, Civil Procedure section 1005(b) which states all opposition papers are to be filed at least nine court days before the hearing date. Section 12c states, “[w]here any law requires an act to be performed no later than a specified number of days before a hearing date, the last day to perform that act shall be determined by counting backward from the hearing date, *excluding the day of the hearing* as provided by Section 12.” Cal. Civ. Pro. § 12c. Section 1005(b) in conjunction with Section 12c would have made January 3rd the last day for filing a response to the RFO. Therefore, the declaration is late filed and has not been considered by the court.

Petitioner’s Income and Expense Declaration, however, is timely. The party responding to a request for support must file an Income and Expense Declaration with his or her responsive documents or, if the responsive papers are not filed, no less than 5 days prior to the hearing date. El Dorado Sup. Ct. Rule 8.03.01. The court cannot consider this document, as there is no Proof of Service.

The court orders parties to appear for the hearing.

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