

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 1, 2024

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

3. DYLAN HUMBIRD V. PAYTON PADILLA

23FL0847

On May 1, 2024, Respondent filed a Request for Order (RFO) seeking custody and visitation orders, child support, and a variety of other orders. The RFO and all other required documents were personally served on May 13th. Petitioner filed and served his Responsive Declaration to Request for Order and his Income and Expense Declaration on July 10th. They were electronically served and mail served on July 11th and personally served on July 15th. Respondent filed and served her Income and Expense Declaration on July 19th.

Respondent brings her RFO requesting the following orders: (1) Joint legal custody and primary physical custody of the minor child with Petitioner to have parenting time every other weekend from Friday at 6:00 pm to Sunday at 6:00 pm, as well as two additional 48 hour visits twice per month on dates and times as agreed upon by the parties; (2) Right of first refusal for overnight childcare; (3) Guideline child support; (4) The parties to alternate claiming the child as a dependent for tax purposes; (5) the parties to equally split any out-of-pocket medical, childcare, and extra-curricular expenses; (6) Each party to notify the other immediately if the minor is injured while in his or her care; and (7) The parties be ordered to give one another at least 48-hours advance notice prior to traveling outside of El Dorado, Placer, or Sacramento County with the minor.

Petitioner asks that the current custody orders remain in place. According to Petitioner, once he is able to obtain local employment, the parties are to implement a 2-2-3 parenting plan. He asks that exchanges occur at 200 Industrial Drive in Placerville. He agrees to a first right of refusal if either parent is not able to care for the child overnight and immediate notification of the other party if the minor becomes ill or injured. He also agrees to an order requiring the parties to notify one another prior to traveling outside of Sacramento, El Dorado, or Placer County with the minor. He asks that each party be allotted 14 vacation days per year to be taken not less than 3 days at a time and not more than 7 days at a time unless otherwise agreed by the parties. He asks that the parties be ordered to give one another 30 days' notice of the vacation. He also consents to guideline child support and alternating dependent tax status for the minor. He agrees to split extracurricular activities and uncovered medical costs for the minor but does not agree to splitting childcare costs.

The parties attended Child Custody Recommending Counseling (CCRC) on May 30th. They were unable to reach any agreements and therefore a report with recommendations was prepared on July 19th and mailed to the parties on July 22nd.

The court has reviewed the filings as outlined above and finds that the current parenting schedule remains in the best interests of the minor. Therefore, the current orders

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remain in full force and effect. When/if Petitioner obtains local employment, then the parties are to utilize a 2-2-3 parenting plan. The CCRC recommendations for legal custody, vacations, travel with the child, and all additional provisions are all hereby adopted as orders of the court. Custody exchanges shall take place at the El Dorado County Sheriff's Department located at 200 Industrial Drive in Placerville.

Regarding child support, the court finds that child support is \$536 per month. See attached DissoMaster report. The court adopts the attached DissoMaster report and orders Petitioner to pay Respondent \$536 per month as and for child support, payable on the 1st of the month until further order of the court or legal termination. This child support order is effective as of May 1, 2024.

The court finds the above order results in arrears in the amount of \$1,608 through and including July 1, 2024. The court orders Petitioner to pay Respondent \$268 on the 15th of each month commencing August 15, 2024 and continuing until paid in full (approximately 6 months). If any payment is late or missed the remaining balance is due in full with legal interest within five (5) days.

The court further finds Respondent 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.

The parties are ordered to alternate claiming the minor as a dependent for tax purposes. Respondent shall claim the minor on years ending in an even number, while Petitioner is to claim the dependent on odd numbered years.

Family Code § 4062 states, in pertinent part, "[t]he court *shall* order the following as additional child support (1) Childcare costs related to employment or to reasonably necessary education or training for employment skills," and reasonable uninsured health care costs. Fam. Code § 4062(a) (emphasis added). Given the mandatory directive of Section 4062, the court is required to order the parties to share equally in childcare costs related to employment. Therefore, the parties are ordered to equally split the cost of employment related childcare expenses. The parties are further ordered to equally share the costs of agreed upon extracurricular activities for the minor as well as any and all out-of-pocket healthcare costs. The parties shall follow the notice and reimbursement procedures set forth in the Health-Care Costs and Reimbursement Procedures Section of the attached FL-192.

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.

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TENTATIVE RULING #3: THE COURT HAS REVIEWED THE FILINGS AS OUTLINED ABOVE AND FINDS THAT THE CURRENT PARENTING SCHEDULE REMAINS IN THE BEST INTERESTS OF THE MINOR THEREFORE THE CURRENT ORDERS REMAIN IN FULL FORCE AND EFFECT. WHEN/IF PETITIONER OBTAINS LOCAL EMPLOYMENT THEN THE PARTIES ARE TO UTILIZE A 2-2-3 PARENTING PLAN. THE CCRC RECOMMENDATIONS FOR LEGAL CUSTODY, VACATIONS, TRAVEL WITH THE CHILD, AND ALL ADDITIONAL PROVISIONS ARE ALL HEREBY ADOPTED AS ORDERS OF THE COURT. CUSTODY EXCHANGES SHALL TAKE PLACE AT THE EL DORADO COUNTY SHERIFF'S DEPARTMENT LOCATED AT 200 INDUSTRIAL DRIVE IN PLACERVILLE.

REGARDING CHILD SUPPORT, THE COURT FINDS THAT CHILD SUPPORT IS \$536 PER MONTH. THE COURT ADOPTS THE ATTACHED DISSOMASTER REPORT AND ORDERS PETITIONER TO PAY RESPONDENT \$536 PER MONTH AS AND FOR CHILD SUPPORT, PAYABLE ON THE 1ST OF THE MONTH UNTIL FURTHER ORDER OF THE COURT OR LEGAL TERMINATION. THIS CHILD SUPPORT ORDER IS EFFECTIVE AS OF MAY 1, 2024.

THE COURT FINDS THE ABOVE ORDER RESULTS IN ARREARS IN THE AMOUNT OF \$1,608 THROUGH AND INCLUDING JULY 1, 2024. THE COURT ORDERS PETITIONER TO PAY RESPONDENT \$268 ON THE 15TH OF EACH MONTH COMMENCING AUGUST 15, 2024 AND CONTINUING UNTIL PAID IN FULL (APPROXIMATELY 6 MONTHS). IF ANY PAYMENT IS LATE OR MISSED THE REMAINING BALANCE IS DUE IN FULL WITH LEGAL INTEREST WITHIN FIVE (5) DAYS.

THE COURT FURTHER FINDS RESPONDENT 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.

THE PARTIES ARE ORDERED TO ALTERNATE CLAIMING THE MINOR AS A DEPENDENT FOR TAX PURPOSES. RESPONDENT SHALL CLAIM THE MINOR ON YEARS ENDING IN AN EVEN NUMBER, WHILE PETITIONER IS TO CLAIM THE DEPENDENT ON ODD NUMBERED YEARS.

THE PARTIES ARE ORDERED TO EQUALLY SPLIT THE COST OF EMPLOYMENT RELATED CHILDCARE EXPENSES. THE PARTIES ARE FURTHER ORDERED TO EQUALLY SHARE THE COSTS OF AGREED UPON EXTRACURRICULAR ACTIVITIES FOR THE MINOR AS WELL AS ANY AND ALL OUT-OF-POCKET HEALTHCARE COSTS. THE PARTIES SHALL FOLLOW THE NOTICE AND REIMBURSEMENT PROCEDURES SET FORTH IN THE

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HEALTH-CARE COSTS AND REIMBURSEMENT PROCEDURES SECTION OF THE ATTACHED FL-192.

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.

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	1	Nets (adjusted)	Guideline		
% time with Second Parent	50%	0%	Father	4,757	Payment (cost)/benefit	(536) 536
Filing status	Single	Single	Mother	1,896	Net spendable income	4,220 2,433
# Federal exemptions	2*	2*	Total	6,653	% combined spendable	63.4% 36.6%
Wages + salary	6,967	1,528	Support		Total taxes	1,013 (369)
401(k) employee contrib	40	0	CS Payor	Father	Comb. net spendable	6,653
Self-employment income	0	0	Presumed	536	Proposed	
Other taxable income	0	0	Basic CS	536	Payment (cost)/benefit	(536) 536
Short-term cap. gains	0	0	Add-ons	0	Net spendable income	4,220 2,433
Long-term cap. gains	0	0	Presumed Per Kid		NSI change from gdl	0 0
Other gains (and losses)	0	0	Child 1	536	% combined spendable	63.4% 36.6%
Ordinary dividends	0	0	Spousal support	blocked	% of saving over gdl	0% 0%
Tax. interest received	0	0	Total	536	Total taxes	1,013 (369)
Social Security received	0	0	Proposed, tactic 9		Comb. net spendable	6,653
Unemployment compensation	0	0	CS Payor	Father	Percent change	0.0%
Operating losses	0	0	Presumed	536	Default Case Settings	
Ca. operating loss adj.	0	0	Basic CS	536		
Roy, partnerships, S corp, trusts	0	0	Add-ons	0		
Rental income	0	0	Presumed Per Kid			
Misc ordinary tax. inc.	0	0	Child 1	536		
Other nontaxable income	0	0	Spousal support	blocked		
New-spouse income	0	0	Total	536		
SS paid other marriage	0	0	Savings	0		
CS paid other relationship	0	0	No releases			
Adj. to income (ATI)	0	0				
Ptr Support Pd. other P'ships	0	0				
Health insurance	425	0				
Qual. Bus. Inc. Ded.	0	0				
Itemized deductions	2,464	0				
Other medical expenses	0	0				
Property tax expenses	724	0				
Ded. interest expense	1,740	0				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
State sales tax paid	0	0				
Required union dues	236	0				
Cr. for Pd. Sick and Fam. L.	0	0				
Mandatory retirement	0	0				
Hardship deduction	536*	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	536	0	536
100	8.51	9	0.00	0	545	0	545
200	8.20	16	0.00	0	553	0	553
300	8.08	24	0.00	0	561	0	561
400	8.00	32	0.00	0	568	0	568
500	7.95	40	0.00	0	576	0	576
600	7.90	47	0.00	0	584	0	584
700	7.86	55	0.00	0	591	0	591
800	7.83	63	0.00	0	599	0	599
900	7.79	70	0.00	0	606	0	606
1,000	7.74	77	0.00	0	614	0	614
1,100	7.70	85	0.00	0	621	0	621
1,200	7.66	92	0.00	0	628	0	628
1,300	7.63	99	0.00	0	635	0	635
1,400	7.60	106	0.00	0	643	0	643
1,500	7.56	113	0.00	0	650	0	650
1,600	7.53	121	0.00	0	657	0	657
1,700	7.49	127	0.00	0	664	0	664
1,800	7.45	134	0.00	0	670	0	670
1,900	7.41	141	0.00	0	677	0	677
2,000	7.38	148	0.00	0	684	0	684
2,100	7.34	154	0.00	0	690	0	690
2,200	7.31	161	0.00	0	697	0	697
2,300	7.27	167	0.00	0	704	0	704
2,400	7.24	174	0.00	0	710	0	710
2,500	7.20	180	0.00	0	716	0	716
2,600	7.17	186	0.00	0	723	0	723
2,700	7.14	193	0.00	0	729	0	729
2,800	7.11	199	0.00	0	735	0	735
2,900	7.08	205	0.00	0	742	0	742
3,000	7.05	212	0.00	0	748	0	748
3,100	7.02	218	0.00	0	754	0	754
3,200	7.00	224	0.00	0	760	0	760
3,300	6.97	230	0.00	0	766	0	766
3,400	6.95	236	0.00	0	773	0	773
3,500	6.93	242	0.00	0	779	0	779

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	6.90	249	0.00	0	785	0	785
3,700	6.88	255	0.00	0	791	0	791
3,800	6.86	261	0.00	0	797	0	797
3,900	6.84	267	0.00	0	803	0	803
4,000	6.82	273	0.00	0	809	0	809
4,100	6.80	279	0.00	0	815	0	815
4,200	6.78	285	0.00	0	821	0	821
4,300	6.76	291	0.00	0	827	0	827
4,400	6.73	296	0.00	0	833	0	833
4,500	6.71	302	0.00	0	838	0	838
4,600	6.69	308	0.00	0	844	0	844
4,700	6.67	313	0.00	0	850	0	850
4,800	6.65	319	0.00	0	855	0	855
4,900	6.63	325	0.00	0	861	0	861
5,000	6.61	330	0.00	0	867	0	867



NOTICE OF RIGHTS AND RESPONSIBILITIES

Health-Care Costs and Reimbursement Procedures

If you have a child support order that includes a provision for the reimbursement of a portion of the child's or children's health-care costs and those costs are not paid by insurance, the **law says**:

1. Notice. You must give the other parent an itemized statement of the charges that have been billed for any health-care costs not paid by insurance. You must give this statement to the other parent within a reasonable time, but no more than 30 days after those costs were given to you.

2. Proof of full payment. If you have already paid all of the uninsured costs, you must (1) give the other parent proof that you paid them and (2) ask for reimbursement for the other parent's court-ordered share of those costs.

3. Proof of partial payment. If you have paid only your share of the uninsured costs, you must (1) give the other parent proof that you paid your share, (2) ask that the other parent pay his or her share of the costs directly to the health-care provider, and (3) give the other parent the information necessary for that parent to be able to pay the bill.

4. Payment by notified parent. If you receive notice from a parent that an uninsured health-care cost has been incurred, you must pay your share of that cost within the time the court orders; or if the court has not specified a period of time, you must make payment (1) within 30 days from the time you were given notice of the amount due, (2) according to any payment schedule set by the health-care provider, (3) according to a schedule agreed to in writing by you and the other parent, or (4) according to a schedule adopted by the court.

5. Going to court. Sometimes parents get into disagreements about health-care costs. If you and the other parent cannot resolve the situation after talking about it, you can request that the court make a decision.

a. Disputed charges. If you dispute a charge made by the other parent, you may file a request for the court to resolve the dispute, but only if you pay that charge before filing your request.

b. Nonpayment. If you claim that the other parent has failed to pay you back for a payment, or they have failed to make a payment to the provider after proper notice, you may file a request for the court to resolve the dispute. The court will presume that if uninsured costs have been paid, those costs were reasonable.

c. Attorney's fees. If the court decides one parent has been unreasonable, it can order that parent to pay the other parent's attorney's fees and costs.

d. Court forms. Use forms [FL-300](#) and [FL-490](#) to get a court date. See form [FL-300-INFO](#) for information about completing, filing, and serving your court papers.

6. Court-ordered insurance coverage. If a parent provides health-care insurance as ordered by the court, that insurance must be used at all times to the extent that it is available for health-care costs.

a. Burden to prove. The parent claiming that the coverage is inadequate to meet the child's needs has the burden of proving that to the court.

b. Cost of additional coverage. If a parent purchases health-care insurance in addition to that ordered by the court, that parent must pay all the costs of the additional coverage. In addition, if a parent uses alternative coverage that costs more than the coverage provided by court order, that parent must pay the difference.

7. Preferred health providers. If the court-ordered coverage designates a preferred health-care provider, that provider must be used at all times consistent with the terms of the health insurance policy. When any parent uses a health-care provider other than the preferred provider, any health-care costs that would have been paid by the preferred health provider if that provider had been used must be the sole responsibility of the parent incurring those costs.

Information About Child Support for Incarcerated or Confined Parents

1. Child support. As of September 27, 2022, child support automatically stops if the parent who has to pay is confined against their will for more than 90 days in a row in jail, prison, juvenile detention, a mental health facility, or other institution.

Exception. Child support does not automatically stop if the parent who has to pay has money available to pay child support.

2. Past confinement. Child support also stops during past confinement if it was ordered from October 8, 2015, through December 31, 2019, or January 1, 2021, through September 26, 2022, and the parent who has to pay was confined for more than 90 days in a row during the same time frame.

Exceptions for past confinement. Child support does not automatically stop if the parent who has to pay was in jail or prison for failing to pay child support or for domestic violence against the other parent or the child, or if they had money available to pay support.

3. Timing. Child support automatically restarts the first day of the first full month after the parent is released. If you need to change your child support order, see page 2.

4. More info. For more information about child support and incarcerated parents, see [Family Code section 4007.5](#) or go to <https://selfhelp.courts.ca.gov/child-support/incarcerated-parent>.

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NOTICE OF RIGHTS AND RESPONSIBILITIES

Information Sheet on Changing a Child Support Order

General Info

The court has made a child support order in your case. This order will remain the same unless one of the parents requests that the support be changed (modified). An order for child support can be modified by filing a request to change child support and serving the other parent. If both parents agree on a new child support amount, they can complete, sign, and file with the court a *Stipulation to Establish or Modify Child Support and Order* (form FL-350). (**Note:** If the local child support agency is involved in your case, it must be served with any request to change child support and approve any agreement.)

Online Self-Help Guide

For more information about how child support works, visit: <https://selfhelp.courts.ca.gov/child-support>.

When a Child Support Order May Be Changed

The court considers several things when ordering the payment of child support.

- First, the number of children is considered, along with the percentage of time each parent has physical custody of the children.
- Next, the net disposable incomes of both parents are determined (which is how much money is left each month after taxes and certain other items like health insurance, union dues, or other child support ordered and paid are subtracted from a parent's paycheck). The court can also look at earning ability if a parent is not working.
- The court considers both parents' tax filing status and may consider hardships, such as the cost of raising a child of another relationship who lives with a parent.

A parent can request to change an existing order for child support when circumstances change significantly. For example if the net disposable income of one of the parents changes, parenting time changes, or a new child is born.

Examples

- You have been ordered to pay \$500 per month in child support. You lose your job. You will continue to owe \$500 per month, plus 10 percent interest on any unpaid support, unless you file a motion to modify your child support to a lower amount and the court orders a reduction.
- You are currently receiving \$300 per month in child support from the other parent, whose net income has just increased substantially. You will continue to receive \$300 per month unless you file a motion to modify your child support to a higher amount and the court orders an increase.
- You are paying child support based upon having physical custody of your children 30 percent of the time. After several months it turns out that you actually have physical custody of the children 50 percent of the time. You may file a motion to modify child support to a lower amount.

How to Change a Child Support Order

To change a child support order, you must file papers with the court. **Remember:** You must follow the order you have now.

What forms do I need?

If you are asking to change a child support order, you must fill out one of these forms:

- [Form FL-300, Request for Order](#) or
- [Form FL-390, Notice of Motion and Motion for Simplified Modification of Order for Child, Spousal, or Family Support](#)

You must also fill out one of these forms, and attach proof of income for the past two months (like your paycheck stubs):

- [Form FL-150, Income and Expense Declaration](#) or
- [Form FL-155, Financial Statement \(Simplified\)](#)

What if I am not sure which forms to fill out?

Contact the family law facilitator in your county. You can find them here: <https://www.courts.ca.gov/selfhelp-facilitators.htm>.

After you fill out the forms, file them with the court clerk and ask for a hearing date. Write the hearing date on the form.

The clerk may ask you to pay a filing fee. If you cannot afford the fee, fill out these forms, too:

- [Form FW-001, Request to Waive Court Fees](#) and
- [Form FW-003, Order on Court Fee Waiver \(Superior Court\)](#)

You must serve the other parent. If the local child support agency is involved, serve it too.

- This means someone 18 or over—not you—must deliver copies of your filed court forms to the other parent, at least **16 court days** before the hearing. Add **5 calendar days** if delivered by mail within California (see Code of Civil Procedure section 1005 for other situations).
- **Court days** are weekdays when the court is open for business (Monday through Friday except court holidays). **Calendar days** include all days of the month, including weekends and holidays. To find court holidays, go to www.courts.ca.gov/holidays.htm.

Blank copies of both of these forms must also be served:

- [Form FL-320, Responsive Declaration to Request for Order](#)
- [Form FL-150, Income and Expense Declaration](#)

Then the server fills out and signs a *Proof of Service*. Take this form, plus one copy, to the clerk and file it at least one week before your hearing.

Go to your hearing and ask the judge to change the support. Bring your tax returns from the last two years and your last two months' pay stubs. The judge will look at your information, listen to both parents, and make an order. After the hearing, fill out:

- [Form FL-340, Findings and Order After Hearing](#) and
- [Form FL-342, Child Support Information and Order](#)

Need help?

Contact the [family law facilitator](#) in your county or call your county's bar association and ask for an experienced family lawyer.

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August 1, 2024

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

4. JESSE BURT V. ALEXANDRA OTHOLT

23FL1061

Petitioner filed an ex parte request for emergency custody orders on October 27, 2023 requesting sole legal and physical custody of the minor. Respondent filed a Responsive Declaration on October 30, 2023. On November 3, 2023, the court denied Petitioner's request for ex parte orders. Petitioner filed a Request for Order (RFO) requesting the same orders as set forth in the ex parte request. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on December 21, 2023 and a review hearing on February 8, 2024. However, only Petitioner appeared for the CCRC appointment. Parties appeared at the hearing on February 8, 2024 at which time the parties were re-referred to CCRC.

Both parties attended the re-set CCRC appointment on February 22, 2024, however, they were unable to reach any agreements. A CCRC report with recommendations was filed with the court on April 18, 2024 and mailed to the parties the same day.

The parties once again appeared before the court for hearing on May 2nd. The court at that time adopted the step-up parenting plan recommended in the April 18, 2024 CCRC report with modified exchange times. The court ordered Petitioner to progress to step 2 only after completing a parenting class and filing proof of the same with the court. The court also ordered the parties to attend co-parenting classes. A review hearing was set for the present date. Supplemental declarations were ordered to be served not less than 10 days prior to the hearing date.

Petitioner filed and served his Updating Declaration on July 18, 2024. Respondent filed and served her Supplemental Declaration along with her Certificate of Completion of a co-parenting course on July 22nd.

As of June 10th, Petitioner completed a parenting course and has commenced Step 3 of the visitation schedule. He states that visits are going well and he now requests the following orders: (1) Equal parenting time on a 2-2-3 schedule; (2) re-referral to CCRC to discuss a holiday schedule; and (3) Admonishment of Respondent for her failure to comply with the respect guidelines which were ordered on May 2nd.

Respondent concedes that Petitioner completed a parenting course, however the course was online only. Respondent asks that Petitioner be ordered to complete an in-person parenting course. She also asks that custody revert to step 2, where Petitioner would have one overnight with an extended schedule. She proposes Monday from 7:30am to Tuesday at 5:30pm. She is asking for a right of first refusal for any overnights or when Petitioner is at work, and she requests the first and last name of anyone living with Petitioner so she can conduct a background check. Finally, she requests an order directing

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Petitioner to install a self-latching pool fence within 14 days of the court's order and provide the court and Respondent with proof thereof.

The court has reviewed the filings as outlined above and finds that all existing orders remain in the best interests of the minor. Both parties are admonished to comply with all prior orders, including the Respect Guidelines. The court notes that a right of first option for childcare has already been ordered so Respondent's requests for this order is moot. The parties are ordered to exchange the first and last names of anyone with whom they reside if visits will be taking place in their respective homes. Additionally, Petitioner is ordered to install a self-latching fence around the pool on his premises no later than August 15, 2024. Petitioner is ordered to file proof of compliance with the court and provide said proof to Respondent's counsel.

The request for a referral to CCRC for a holiday schedule is denied as it is outside the scope of the current review hearing. Respondent's request that Petitioner be ordered to attend an in-person parenting course is also denied. The court's order was for Petitioner to attend a parenting course and he did so, regardless of the fact that the course was online. Therefore, the court finds Petitioner to have complied with the court's prior order in this regard.

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 #4: THE COURT HAS REVIEWED THE FILINGS AS OUTLINED ABOVE AND FINDS THAT ALL EXISTING ORDERS REMAIN IN THE BEST INTERESTS OF THE MINOR. BOTH PARTIES ARE ADMONISHED TO COMPLY WITH ALL PRIOR ORDERS, INCLUDING THE RESPECT GUIDELINES. THE COURT NOTES THAT A RIGHT OF FIRST OPTION FOR CHILDCARE HAS ALREADY BEEN ORDERED SO RESPONDENT'S REQUESTS FOR THIS ORDER IS MOOT. THE PARTIES ARE ORDERED TO EXCHANGE THE FIRST AND LAST NAMES OF ANYONE WITH WHOM THEY RESIDE IF VISITS WILL BE TAKING PLACE IN THEIR RESPECTIVE HOMES. ADDITIONALLY, PETITIONER IS ORDERED TO INSTALL A SELF-LATCHING FENCE AROUND THE POOL ON HIS PREMISES NO LATER THAN AUGUST 15, 2024. PETITIONER IS ORDERED TO FILE PROOF OF COMPLIANCE WITH THE COURT AND PROVIDE SAID PROOF TO RESPONDENT'S COUNSEL. THE REQUEST FOR A REFERRAL TO CCRC FOR A HOLIDAY SCHEDULE IS DENIED AS IT IS OUTSIDE THE SCOPE OF THE CURRENT REVIEW HEARING. RESPONDENT'S REQUEST THAT PETITIONER BE ORDERED TO ATTEND AN IN-PERSON PARENTING COURSE IS ALSO DENIED.

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

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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 1, 2024

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

5. JING HAN V. LIEN HAN

PFL20160529

Petitioner filed an Order to Show Cause and Affidavit for Contempt (OSC) on May 3, 2024. There is no Proof of Service for this document therefore this matter is dropped from calendar due to lack of proper service.

TENTATIVE RULING #5: THIS MATTER IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE.

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 1, 2024

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

6. JONATHAN PEARCE V. ELIZABETH MONROE

24FL0151

On May 6, 2024, Respondent filed a Request for Order (RFO) seeking spousal support orders. She filed her Income and Expense Declaration concurrently therewith. The RFO and Income and Expense Declaration were served on May 6th though there is no indication that the Notice of Posting Tentative Ruling was served, as required.

Petitioner filed his Responsive Declaration to Request for Order and his Income and Expense Declaration on July 12, 2024. There is a Proof of Service indicating service of the Income and Expense Declaration both documents were served on July 11th.

Respondent brings her RFO seeking orders for spousal support.

Petitioner does not oppose an order of support but he does ask that Respondent be imputed with full-time minimum wage. If the court is not inclined to impute full-time minimum wage, then he requests she at least be imputed with part-time minimum wage. He also asks that Respondent be ordered to pay all bills associated with the marital residence subject to credits and reimbursements. Finally, he asks that support be terminated after one year.

An award of temporary spousal support lies solely within the trial court's discretion regarding each party's respective need and ability to pay. See *Marriage of Tong & Samson*, 197 Cal. App. 4th 23, 29 (2011). As such, it is not an abuse of discretion for the court to decrease an award for support, or deny it altogether, based on the requesting spouse's unreasonable delay or refusal to seek employment consistent with *existing* marketable skills and ability. *In re Marriage of Dennis*, 35 Cal. App. 3d 279, 283 (1973); See also *Marriage of Mason*, 93 Cal. App. 3d 215, 221 (1979).

Support may be reduced based on the imputation of income to the lower earning spouse. The amount of income imputed is to be based on that spouse's measurable earning capacity which is determined by (1) the ability of the spouse to earn consistent with the spouse's health, age, education, marketable skills, and employment history; and (2) the opportunity available for employment. *In re Marriage of Simpson*, 4 Cal. 4th 225 (1992).

Here, Petitioner has shown that Respondent does have not only the ability, but also the opportunity to work. While Respondent points to the fact that she is on disability, it is clear her health condition is not precluding her from working from 7:00 am to 4:00 pm five days a week. Respondent has not provided any evidence why she could not be gainfully employed working these hours. Therefore, the court does find it to be warranted to impute full-time minimum wage to Respondent. Utilizing a minimum wage of \$16.00 per hour, this amounts to a monthly income of \$2,773.33.

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

Utilizing Petitioner's July 12th filed Income and Expense Declaration as well as Respondent's May 6th filed Income and Expense Declaration with a married filed jointly tax filing status, and with the imputation of full time minimum, wage income to Respondent, the court finds that spousal support per the Alameda formula is \$174 per month. The court adopts the attached DissoMaster report and orders Petitioner to pay Respondent \$174 per month as and for temporary spousal support, payable on the 1st of the month until further order of the court or legal termination. The court orders the temporary spousal support order effective May 1, 2022.

The court finds the above order results in arrears in the amount of \$522 through and including July 1, 2022. The court orders Petitioner pay Respondent \$261 on August 15, 2024, and on the 15th of each month until paid in full (approximately 2 months). If a payment is late or missed the remaining balance is due in full with legal interest within five (5) days.

Given that Respondent appears to be residing the marital residence, commencing August 1st Respondent is ordered to timely and fully pay all bills associated with the marital residence, including the mortgage, homeowner's insurance, property taxes, propane, internet, and any and all other utilities, including her phone bill. The court reserves jurisdiction over the issues of credits and reimbursements for these payments pending a final resolution on the issue of property division.

TENTATIVE RULING #6: THE COURT GRANTS PETITIONER'S REQUEST TO IMPUTE FULL-TIME MINIMUM WAGE TO RESPONDENT. UTILIZING A MINIMUM WAGE OF \$16.00 PER HOUR, THIS AMOUNTS TO A MONTHLY INCOME OF \$2,773.33. THE COURT FINDS THAT SPOUSAL SUPPORT PER THE ALAMEDA FORMULA IS \$174 PER MONTH. THE COURT ADOPTS THE ATTACHED DISSOMASTER REPORT AND ORDERS PETITIONER TO PAY RESPONDENT \$174 PER MONTH AS AND FOR TEMPORARY SPOUSAL SUPPORT, PAYABLE ON THE 1ST OF THE MONTH UNTIL FURTHER ORDER OF THE COURT OR LEGAL TERMINATION. THE COURT ORDERS THE TEMPORARY SPOUSAL SUPPORT ORDER EFFECTIVE MAY 1, 2022.

THE COURT FINDS THE ABOVE ORDER RESULTS IN ARREARS IN THE AMOUNT OF \$522 THROUGH AND INCLUDING JULY 1, 2022. THE COURT ORDERS PETITIONER PAY RESPONDENT \$261 ON AUGUST 15, 2024, AND ON THE 15TH OF EACH MONTH UNTIL PAID IN FULL (APPROXIMATELY 2 MONTHS). IF A PAYMENT IS LATE OR MISSED THE REMAINING BALANCE IS DUE IN FULL WITH LEGAL INTEREST WITHIN FIVE (5) DAYS.

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DEPARTMENT 5

August 1, 2024

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

GIVEN THAT RESPONDENT APPEARS TO BE RESIDING THE MARITAL RESIDENCE, COMMENCING AUGUST 1ST RESPONDENT IS ORDERED TO TIMELY AND FULLY PAY ALL BILLS ASSOCIATED WITH THE MARITAL RESIDENCE, INCLUDING THE MORTGAGE, HOMEOWNER'S INSURANCE, PROPERTY TAXES, PROPANE, INTERNET, AND ANY AND ALL OTHER UTILITIES, INCLUDING HER PHONE BILL. THE COURT RESERVES JURISDICTION OVER THE ISSUES OF CREDITS AND REIMBURSEMENTS FOR THESE PAYMENTS PENDING A FINAL RESOLUTION ON THE ISSUE OF PROPERTY DIVISION.

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.

ATTORNEY (NAME AND ADDRESS): California ATTORNEY FOR: Petitioner	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	Petitioner Responden		Guideline (2024)	Cash Flow Analysis		Petitioner Responden	
Number of children	0	0	Nets (adjusted)		Guideline		
% time with Second Parent	0%	0%	Petitioner	4,311	Payment (cost)/benefit	(174)	174
Filing status	MFJ->	<-MFJ	Respondent	3,101	Net spendable income	4,137	3,275
# Federal exemptions	1*	1*	Total	7,412	% combined spendable	55.8%	44.2%
Wages + salary	5,290	2,773	Support (Nondeductible)		Total taxes	973	509
401(k) employee contrib	0	0	SS Payor	Petitioner	Comb. net spendable	7,413	
Self-employment income	0	0	El Dorado	174	Proposed		
Other taxable income	311	0	Total	174	Payment (cost)/benefit	(174)	174
Short-term cap. gains	0	0	Proposed, tactic 9		Net spendable income	4,137	3,275
Long-term cap. gains	0	0	SS Payor	Petitioner	NSI change from gdl	0	0
Other gains (and losses)	0	0	El Dorado	174	% combined spendable	55.8%	44.2%
Ordinary dividends	0	0	Total	174	% of saving over gdl	0%	0%
Tax. interest received	0	0	Savings	0	Total taxes	973	509
Social Security received	0	0	Mother	0	Comb. net spendable	7,413	
Unemployment compensation	0	0	Father	0	Percent change	0.0%	
Operating losses	0	0	No releases		Default Case Settings		
Ca. operating loss adj.	0	0					
Roy, partnerships, S corp, trusts	0	0					
Rental income	0	0					
Misc ordinary tax. inc.	311	0					
Other nontaxable income	0	837					
New-spouse income	0	0					
SS paid other marriage	0	0					
CS paid other relationship	0	0					
Adj. to income (ATI)	0	0					
9.3% elective PTE payment	0	0					
Ptr Support Pd. other P'ships	0	0					
Health insurance	316	0					
Qual. Bus. Inc. Ded.	0	0					
Itemized deductions	408	0					
Other medical expenses	0	0					
Property tax expenses	408	0					
Ded. interest expense	0	0					
Charitable contribution	0	0					
Miscellaneous itemized	0	0					
State sales tax paid	0	0					
Required union dues	0	0					
Cr. for Pd. Sick and Fam. L.	0	0					
Mandatory retirement	0	0					
Hardship deduction	0*	0*					
Other gdl. adjustments	0	0					
AMT info (IRS Form 6251)	0	0					
Child support add-ons	0	0					

PETITIONER:	Petitioner	CASE NUMBER:
RESPONDENT:	Respondent	

TANF,SSI and CS received 0 0

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 1, 2024

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

7. MICHAEL JOHNSON V. KIMBERLY JOHNSON

PFL20210500

On April 18, 2024, Petitioner filed a Request for Order (RFO) and an Income and Expense Declaration. Both documents, along with all other required documents, were served by mail on April 23, 2024. Respondent filed and served her Responsive Declaration to Request for Order on June 26th. Petitioner filed and served his Updating Declaration on July 22nd.

Petitioner filed his RFO requesting the court to enter judgment pursuant to the terms of the Stipulation and Order to Sell Real Property and Other filed on January 22, 2024. He also requests immediate bifurcation and termination of the marital status and sanctions pursuant to Family Code §271 in the amount of \$4,021 (if a hearing is held) or \$3,802.50 (if no hearing is held). Also, if Respondent has not complied with the provision of the stipulation which requires her to refinance and pay off the Idaho home, then he requests a court order for the home to be immediately listed for sale and for the remaining loan balance on Respondent's car to be paid off from the sale of the proceeds before the division and distribution of the remaining amount. He further requests that sanctions be ordered to be paid from the proceeds of the home sale.

The matter came before the court for hearing on July 11th. At that time the court granted the bifurcation but stayed its ruling on the remaining issues as it had not yet reviewed Respondent's Responsive Declaration. The matter was continued to the present date.

Respondent opposes the requests for sanctions and to enforce the settlement agreement. She argues that the settlement agreement was reached by mistake or fraud, contains terms the parties did not negotiate, and it fails to address tax consequences and the allocation of proceeds from the sale of one of the properties. She argues that while the parties did reach a settlement agreement, the proposed MSA does not accurately reflect that agreement which is why she has refused to sign it. She has attempted to negotiate the issue with Petitioner prior to law and motion but Petitioner has apparently refused.

According to Respondent, the agreement for her to take the Idaho property was reached by fraud or mistake as Petitioner claimed \$63,000 was owed on the property when in fact it was over \$70,000. Respondent also states that the MSA adds additional, non-negotiated terms to the spousal support agreement, namely that any cohabitation, including non-romantic, constitutes a change in circumstances which would allow for a modification of support. Finally, the parties agreed to transfer the Colfax home to their son and he was to refinance the home prior to the end of 2024 or the home would be sold. Respondent argues that the MSA fails to account for the tax consequences of this

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

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agreement. She requests the court defer the sale through 2025 to allow the parties to address the tax consequences. Respondent is also opposing the requested sanctions as she states she has been working in good faith to resolve these issues.

According to Petitioner's updating declaration, as of July 16th the Idaho home has been paid off though Petitioner had not yet received a deed transferring title. He requests Respondent be ordered to prepare a deed transferring title to her name exclusively. In the interim, he asks for an order directing Respondent to be exclusively responsible for any fees and costs related to the ownership of the home. Petitioner argues that there is no Civil Procedure 473 request to set aside pending before the court and such a request cannot properly be made in a Responsive Declaration. As of the date of the updating declaration, Petitioner states he is going to attempt revisions to the MSA. If the revisions are not approved then he requests the court re-issue its prior tentative ruling. He also renews his request for sanctions.

The parties are ordered to appear to update the court on the status of the MSA negotiations.

TENTATIVE RULING #7: THE PARTIES ARE ORDERED TO APPEAR TO UPDATE THE COURT ON THE STATUS OF THE MSA NEGOTIATIONS.

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

10. SARAH ZAMBRUNO V. NICK ZAMBRUNO

PFL20210341

Bifurcation

On June 12, 2024, Respondent filed a Request for Order (RFO) seeking to bifurcate the issue of marital status. The RFO was mail served on June 13th. Petitioner filed her Responsive Declaration to Request for Order on July 15th. It was mail served on July 12th.

Respondent is requesting the court bifurcate and terminate marital status at a hearing to be held at the time of the hearing on the RFO. Respondent states that there is a JP Morgan Individual Retirement Plan in existence that does not need to be joined.

Petitioner does not consent to the bifurcation however, if granted, she asks that all Family Code protections are ordered and she be held harmless from any adverse effects. She also requests sanctions in the amount of \$1,187.50 for Respondent's failure to meet and confer.

"The court may separately try one or more issues before the trial of the other issues if resolution of the bifurcated issue is likely to simplify the determination of the other issues." Cal. Rules of Ct. Rule 5.390(c). In dissolution proceedings, the court may bifurcate the issue of the dissolution of the marriage and enter a status only judgment. *Id.* at (c)(7); Fam. Code § 2337. In fact, it is the public policy of the state to favor bifurcation where the dissolution of marriage would otherwise be postponed due to issues of property, support, custody or attorney's fees. In re Marriage of Fink, 54 Cal. App. 3d 357 (1976). Despite the general policy in favor of bifurcation, the moving party must ensure that "[a]ll pension plans that have not been divided by court order that require joinder ..." have been joined. Cal. Rule Ct. 5.390(d)(1). A party seeking bifurcation is to submit a completed FL-315 evidencing such. Cal. Rule Ct. 5.390(a).

After reviewing the filings of the parties, the court does find good cause to grant the bifurcation. The parties are ordered to appear on the issue of bifurcation and termination of the marital status only.

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 and attorneys. An award of attorney's fees and costs pursuant to this section is in the nature of a sanction." Fam. Code § 271(a).

Prior to filing an RFO, the parties are to make good faith efforts to meet and confer on the issues that would otherwise be before the court. Failure to do so clearly frustrates

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 1, 2024

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

the policy of the law which is to promote settlement and reduce the cost of litigation. As such, Section 271 sanctions are warranted. Respondent is ordered to pay Petitioner \$1,187.50 as and for sanctions. Payment may be made in one lump sum or in monthly increments of \$296.88 commencing on August 15th and continuing until paid in full (approximately 4 months).

Review Hearing

This matter is also before the court on a custody and visitation review hearing. The review hearing was originally set for April 25, 2024, at which time the parties presented the court with a stipulation to continue the hearing to the present date. Supplemental declarations were ordered to be filed no later than 10 days prior to the hearing date.

On July 22nd, Petitioner filed and served her Supplemental Declaration. Also on July 22nd, Respondent filed and served the Supplemental Declaration of Respondent Nicholas Zambruno. Petitioner's Reply Declaration to Respondent's Supplemental Declaration was filed and served on July 25th.

In November of 2023, Respondent was granted non-professionally supervised visits every Sunday for six hours. In April of 2024, the parties stipulated that visits would be held in El Dorado Hills and that they would not be held on Sunday mornings.

Petitioner now requests the following orders: (1) Visits to be non-professionally supervised by a mutually agreed upon party in El Dorado Hills/County, for six hours per week, not on Sundays; (2) Respondent to complete a parenting skills course and counseling; (3) Respondent to complete an anger management course; (4) Respondent to submit to an Evidence Code section 730 custody evaluation; and (5) Respondent not to introduce his girlfriend to the kids and that he not have his girlfriend care for the children.

According to Petitioner, Respondent has not complied with the court's previously ordered anger management classes. Nor has he complied with the court's order to remove all weapons from his parents' home, namely a 3 foot long metal sword hanging on the wall of the kids' play area. And he has not complied with the court's prior order to enclose both pools on the premises where he resides.

Respondent maintains that it is Petitioner who has refused to comply with court orders including numerous times she has refused to allow Respondent to have his visits with the children. As such, Respondent is requesting joint legal custody and unsupervised parenting time to occur in Hughson, as well as a custody evaluation pursuant to either Family Code section 3111 or 730.

LAW & MOTION TENTATIVE RULINGS

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August 1, 2024

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

The court has reviewed the filings as outlined above and it does appear a custody evaluation is warranted under the circumstances. The parties are to undergo a custody evaluation pursuant to both Family Code section 3111 and Evidence Code section 730. The parties are to meet and confer to choose an evaluator no later than August 15th. The parties are to equally share in the cost of the evaluation, subject to reallocation. A hearing is set for 12/05/2024 at 8:30am in Department 5 for receipt and review of the custody evaluation report.

The parties are both admonished to comply with all court orders. Failure to do so may result in an Order to Show Cause and contempt charges. The court reserves jurisdiction on Petitioner's request to order Respondent to take a parenting skills course and counseling until receipt of the custody evaluation. Petitioner's request that the children not be allowed to meet Respondent's girlfriend is denied as Petitioner has failed to show that such an order is in the best interests of the children. That said, all prior orders remain in full force and effect therefore Respondent's parenting time shall not be unsupervised nor shall it take place in Modesto. Additionally, Respondent is ordered to ensure that he and the visit supervisor are present for when the children are with Respondent's girlfriend. She is not to provide childcare for the children.

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

TENTATIVE RULING #10: THE COURT DOES FIND GOOD CAUSE TO GRANT THE BIFURCATION. THE PARTIES ARE ORDERED TO APPEAR ON THE ISSUE OF BIFURCATION AND TERMINATION OF THE MARITAL STATUS ONLY. PETITIONER'S REQUEST FOR SANCTIONS IS GRANTED. RESPONDENT IS ORDERED TO PAY PETITIONER \$1,187.50 AS AND FOR SANCTIONS. PAYMENT MAY BE MADE IN ONE LUMP SUM OR IN MONTHLY INCREMENTS OF \$98.96 COMMENCING ON AUGUST 15TH AND CONTINUING UNTIL PAID IN FULL (APPROXIMATELY 12 MONTHS).

THE PARTIES ARE TO UNDERGO A CUSTODY EVALUATION PURSUANT TO BOTH FAMILY CODE SECTION 3111 AND EVIDENCE CODE SECTION 730. THE PARTIES ARE TO MEET AND CONFER TO CHOOSE AN EVALUATOR NO LATER THAN AUGUST 15TH. THE PARTIES ARE TO EQUALLY SHARE IN THE COST OF THE EVALUATION, SUBJECT TO REALLOCATION. A HEARING IS SET FOR 12/05/2024 AT 8:30AM IN DEPARTMENT 5 FOR RECEIPT AND REVIEW OF THE CUSTODY EVALUATION REPORT.

THE PARTIES ARE BOTH ADMONISHED TO COMPLY WITH ALL COURT ORDERS. FAILURE TO DO SO MAY RESULT IN AN ORDER TO SHOW CAUSE AND CONTEMPT CHARGES. THE COURT RESERVES JURISDICTION ON PETITIONER'S REQUEST TO ORDER RESPONDENT TO TAKE A PARENTING SKILLS COURSE AND COUNSELING

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 1, 2024

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

UNTIL RECEIPT OF THE CUSTODY EVALUATION. PETITIONER'S REQUEST THAT THE CHILDREN NOT BE ALLOWED TO MEET RESPONDENT'S GIRLFRIEND IS DENIED AS PETITIONER HAS FAILED TO SHOW THAT SUCH AN ORDER IS IN THE BEST INTERESTS OF THE CHILDREN. THAT SAID, ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT THEREFORE RESPONDENT'S PARENTING TIME SHALL NOT BE UNSUPERVISED NOR SHALL IT TAKE PLACE IN MODESTO. ADDITIONALLY, RESPONDENT IS ORDERED TO ENSURE THAT HE AND THE VISIT SUPERVISOR ARE PRESENT FOR WHEN THE CHILDREN ARE WITH RESPONDENT'S GIRLFRIEND. SHE IS NOT TO PROVIDE CHILDCARE FOR THE CHILDREN.

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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DEPARTMENT 5

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

11. ANGELES SOBREPENA V. ORBEN SOBREPENA

22FL1101

Petitioner filed a Request for Order (RFO) on June 8, 2023, requesting temporary guideline spousal support as well as for Respondent to be responsible for the mortgage payments. Petitioner concurrently filed an Income and Expense Declaration. Proof of Service shows Respondent was served on June 14, 2023.

Respondent filed a Responsive Declaration and an Income and Expense Declaration on August 7, 2023. Petitioner was served by mail on August 4, 2023. Respondent does not object to temporary guideline spousal support, but requests Petitioner be imputed with full time income. Respondent further requests that Petitioner be provided a *Gavron* warning. Respondent also requests the court offset any mortgage or utility payments from his support obligation. Last, Respondent requests he be reimbursed for any *Epstein* credits for payments he has made as well as *Watts* charges for Petitioner's exclusive possession of the former family residence.

Respondent states in his declaration "[o]nce I vacate the house I am requesting that Petitioner be 100 percent responsible for all the expenses and/or that I be reimbursed for any contributions I make on her behalf." Based on this statement, the court finds it is unclear whether Petitioner and Respondent continue to reside together in the home.

Parties were ordered to appear for the August 24, 2023 hearing. At the hearing the parties stipulated to continue the matter to October 19, 2023.

On October 19, 2023, the parties once again reached an agreement to continue the matter along with an agreement to exchange documents, no later than December 1, 2023. The parties further agreed to select a real estate agent or broker for the sale of the property. Parties agreed to mediation to take place in December and a review hearing in January. The court reserved jurisdiction on the request for temporary guideline spousal support retroactive to the date of the filing of the RFO and reserved jurisdiction on all remaining issues to the January hearing.

Parties stipulated to continue the January 11, 2024 hearing to April 4, 2024.

Parties again stipulated to continue the April 4, 2024 hearing to August 1, 2024.

Respondent filed a Declaration and an Income and Expense Declaration on July 23, 2024. Petitioner was served by mail on July 23, 2024. The court finds both documents to be late filed, as they were filed less than 10 days prior to the hearing. Therefore, the court will not consider them

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 1, 2024

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

Petitioner has failed to file an updated Income and Expense Declaration, or a supplemental Declaration.

“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). The party requesting support shall file and serve their Income and Expense Declaration with the initial moving papers. El Dorado Sup. Ct. Rule 8.03.01. Here, while Petitioner initially filed an Income and Expense Declaration, Petitioner has failed to file an updated FL-150 since June 8, 2023 which puts it outside the three month window and as such it is not considered current. Therefore, due to Petitioner's failure to timely file and serve an updated Income and Expense Declaration, Petitioner's request for temporary guideline spousal support is denied.

Petitioner has also requested the court order the parties to split the mortgage payment equally. That request is granted. The parties are to share in the cost of the mortgage on marital property equally, with each paying one half.

Motion to be Relieved

Counsel for Petitioner, Jason Hoper, filed his Notice of Motion and Motion to be Relieved as Counsel and her supporting declaration on June 24, 2024. The motion was mail served on Petitioner and Respondent on June 27th. Counsel has shown good cause for withdrawal as the attorney of record for Petitioner due to the irreparable breakdown of the attorney-client relationship. The motion is granted.

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

TENTATIVE RULING #11: THE COURT DENIES PETITIONER'S REQUEST FOR TEMPORARY GUIDELINE SPOUSAL SUPPORT FOR THE REASONS SET FORTH ABOVE. PETITIONER'S REQUEST AS TO THE MORTGAGE PAYMENTS IS GRANTED. THE PARTIES ARE TO SHARE IN THE COST OF THE MORTGAGE ON MARITAL PROPERTY EQUALLY, WITH EACH PAYING ONE HALF.

THE MOTION TO BE RELIEVED AS COUNSEL IS GRANTED. WITHDRAWAL WILL BE EFFECTIVE AS OF THE DATE OF FILING PROOF OF SERVICE OF THE FORMAL, SIGNED ORDER, UPON THE CLIENT.

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 1, 2024

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

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
August 1, 2024
8:30 a.m./1:30 p.m.

12. ANTONIO OLAEZ V. TANYA SARAIVIA

PFL20150664

Respondent filed a Request for Order (RFO) on April 19, 2024, requesting a modification of the current child custody and parenting plan orders. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on May 17, 2024, and a review hearing on July 11, 2024. Upon review of the court file, Petitioner was served by mail on April 19, 2024. There is no Proof of Service showing Minors' Counsel was properly served.

Both parties appeared at the CCRC appointment and were able to reach some agreements. A report with the parties' agreements and further recommendations was filed with the court on May 24, 2024. Copies were mailed to the parties, as well as Minors' Counsel on May 28, 2024.

Petitioner filed a Responsive Declaration on May 6, 2024. Proof of Service shows both Respondent and Minors' Counsel were properly served on May 8, 2024.

The court has read and considered the filings as set forth above. The court finds that Minors' Counsel was not properly served with the RFO. However, it does appear that Minors' Counsel was served with the CCRC report and Responsive Declaration. As such, the court finds that Minors' Counsel is at least aware of the hearing. Therefore, the court orders parties to appear for the hearing to determine Minors' Counsel's position.

Respondent filed a Proof of Service on July 12, 2024, showing service of the RFO, tentative ruling, and minute order on Minor's Counsel by mail on July 11, 2024.

Neither party has filed a Supplemental Declarations.

Minors' Counsel has not filed a Statement of Issues and Contentions.

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 1, 2024

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

13. BRIANNA FORTIER V. NICKOLAS TATARKIS

23FL0545

Petitioner filed a Request for Order (RFO) on May 13, 2024, requesting the court modify the current child custody and visitation orders. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on June 10, 2024 and a review hearing on August 1, 2024. Respondent was personally served on May 14, 2024.

Respondent has not filed a Responsive Declaration.

Both parties appeared at the CCRC appointment on June 10th. They were unable to reach any agreements. A report with recommendations was filed with the court on July 19, 2024. Copies were mailed to the parties on July 22nd.

The court has read and considered the filings as set forth above. The court finds the recommendations as set forth in the July 19th CCRC report to be in the best interest of minors. All prior orders regarding custody and parenting time not in conflict with the current orders remain in full force and effect. That includes the order for parties to communicate via a co-parenting application such as talkingparents.com. Failure to abide by court orders may result in sanctions and/or contempt. Failure to ensure the minors' attendance in school, on time, may result in a change in custody.

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

TENTATIVE RULING #13: THE COURT FINDS THE RECOMMENDATIONS AS SET FORTH IN THE JULY 19TH CCRC REPORT ARE IN THE BEST INTEREST OF MINORS. ALL PRIOR ORDERS REGARDING CUSTODY AND PARENTING TIME NOT IN CONFLICT WITH THE CURRENT ORDERS REMAIN IN FULL FORCE AND EFFECT. THAT INCLUDES THE ORDER FOR PARTIES TO COMMUNICATE VIA A CO-PARENTING APPLICATION SUCH AS TALKINGPARENTS.COM. FAILURE TO ABIDE BY COURT ORDERS MAY RESULT IN SANCTIONS AND/OR CONTEMPT. FAILURE TO ENSURE THE MINORS' ATTENDANCE IN SCHOOL, ON TIME, MAY RESULT IN A CHANGE IN CUSTODY. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

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DEPARTMENT 5

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

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

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August 1, 2024

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

14. CANDACE GARCIA V. FRANK GARCIA

24FL0172

Petitioner filed a Request for Order (RFO) on April 29, 2024, requesting the court makes orders as to child custody, parenting plan, child support, spousal support, property control, and attorney's fees. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on May 30, 2024, and a review hearing on July 18, 2024. Petitioner concurrently filed an Income and Expense Declaration as required. Proof of Service shows Respondent was served by mail on May 1, 2024.

Respondent filed a Responsive Declaration on May 21, 2024. Upon review of the court file, there is no Proof of Service for this document, and therefore, the court cannot consider it. Respondent did not file an Income and Expense Declaration.

Both parties attended the CCRC appointment on May 30, 2024 and reached a full agreement. The parties submitted a stipulation and order, which the court signed on June 4, 2024. The court affirms the prior orders regarding custody and parenting time.

On July 18, 2024, the parties appeared for the hearing. The court dropped Petitioner's request for child support orders, as there is a child support case through the Department of Child Support Services with current orders in effect.

Respondent did not bring a completed FL-150 with him but did have one paystub. With Petitioner's consent, the court utilized the figures from Respondent's paystub to run a DissoMaster calculation for temporary guideline spousal support. Based on the calculation, the court found temporary guideline spousal support to be \$2,124 per month. The court made the order effective May 1, 2024, with the first payment due on August 1, 2024. The court reserved jurisdiction to retroactively modify support to May 1, 2024. The court reserved on the issue of arrears and set a further hearing on temporary guideline support for August 1, 2024. Both parties were directed to file and serve updated Income and expense Declarations prior to the hearing.

The court reserved on Petitioner's request for Family Code section 2030 attorney's fees as it did not have Respondent's FL-150.

The court granted Petitioner's request for exclusive use and control of the former marital home, with Petitioner to be responsible for the mortgage and subject to Watts and Epstein claims.

Petitioner filed an Updated Income and Expense Declaration on July 22, 2024. There is no Proof of Service for this document, and therefore, the court cannot consider it.

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

Parties are ordered to appear on the requests for child and spousal support, attorney's fees, and property control. Respondent is directed to bring a completed FL-150, Income and Expense Declaration with him to the hearing.

TENTATIVE RULING #14: PARTIES ARE ORDERED TO APPEAR ON THE REQUESTS FOR CHILD AND SPOUSAL SUPPORT, ATTORNEY'S FEES, AND PROPERTY CONTROL. RESPONDENT IS DIRECTED TO BRING A COMPLETED FL-150, INCOME AND EXPENSE DECLARATION WITH HIM TO THE HEARING.

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August 1, 2024
8:30 a.m./1:30 p.m.

15. DUSTY SIMMONS V. ERIN SIMMONS

23FL0201

Petitioner filed an Order to Show Cause and Affidavit for Contempt (OSC) on November 16, 2023, alleging three counts of contempt for Respondent's failure to pay support. Respondent was personally served on November 28, 2023.

The matter was set to be heard on January 18, 2024 but the parties stipulated to continue it to February 14th. At the February hearing the court appointed Respondent a Public Defender and the matter was once again continued.

Parties appeared on May 16th and Respondent was arraigned. The Public Defender requested the matter be continued prior to setting the matter for a contested hearing. The court granted the continuance request and set the matter for a further hearing on August 1st.

There have been no new filings related to this matter.

The parties are ordered to appear for the hearing.

TENTATIVE RULING #15: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.

LAW & MOTION TENTATIVE RULINGS

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August 1, 2024

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

**16. EL DORADO COUNTY DCSS V. SHANE VANEKKARSTENS (OTHER PARENT:
KIMBERLY KING)**

23FL0559

Respondent filed a Request for Order (RFO) on May 14, 2024, requesting the court make child custody orders. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on June 13th and a review hearing on August 1, 2024.

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

Other Parent filed a Responsive Declaration on June 7, 2024. Proof of Service shows Respondent was personally served on June 7th.

Both parties appeared at the June 13th CCRC appointment. The parties were able to reach several agreements. A report containing the parties' agreements, as well as further recommendations was filed with the court on June 17th. Copies were mailed to the parties on June 18, 2024.

The court finds good cause to proceed with Respondent's RFO, despite the failure to properly serve Petitioner and Other Parent. The court finds that Other Parent filed a Responsive Declaration and fully participated in the CCRC appointment. The RFO does not request a modification of child support, and as such, the court finds good cause to proceed.

Petitioner is requesting parenting time with the minor in Kentucky including summers and other time off from school.

Other Parent asserts in her declaration that Respondent has failed to utilize the parenting time currently afforded to him. Despite having a 50% timeshare, per Other Parent, Respondent currently only uses 28% of his allowed time. Other Parent requests Respondent's parenting time remain in California, despite Respondent's relocation to Kentucky.

The court has read and considered the filings as set forth above. The court finds the parties' agreements and the recommendations as contained in the June 17th CCRC report are in the minor's best interest. The court adopts the agreements and recommendations as set forth.

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.

LAW & MOTION TENTATIVE RULINGS

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August 1, 2024

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

TENTATIVE RULING #16: THE COURT FINDS GOOD CAUSE TO PROCEED WITH RESPONDENT'S RFO, DESPITE THE FAILURE TO PROPERLY SERVE PETITIONER AND OTHER PARENT. THE COURT FINDS THAT OTHER PARENT FILED A RESPONSIVE DECLARATION AND FULLY PARTICIPATED IN THE CCRC APPOINTMENT. THE RFO DOES NOT REQUEST A MODIFICATION OF CHILD SUPPORT, AND AS SUCH, THE COURT FINDS GOOD CAUSE TO PROCEED. THE COURT HAS READ AND CONSIDERED THE FILINGS AS SET FORTH ABOVE. THE COURT FINDS THE PARTIES' AGREEMENTS AND THE RECOMMENDATIONS AS CONTAINED IN THE JUNE 17TH CCRC REPORT ARE IN THE MINOR'S BEST INTEREST. THE COURT ADOPTS THE AGREEMENTS AND RECOMMENDATIONS AS SET FORTH. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

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

17. HEATHER LOCKWOOD V. DAVID LOCKWOOD

PFL20200005

Petitioner filed a Request for Order (RFO) on May 13, 2024, requesting the court appoint Minors' Counsel to the minors. Proof of Service shows Respondent was personally served on June 28, 2024, in compliance with Family Code section 215.

Petitioner filed a Supplemental Declaration on June 20, 2024. Proof of Service shows it was personally served on June 28th.

Petitioner believes that Minors' Counsel is necessary, due to the ongoing issues of co-parenting between the parties. Petitioner asserts that the minors are suffering from mental health issues due to the stress they are experiencing.

Respondent filed a Responsive Declaration on July 17, 2024. Proof of Service shows Petitioner was served electronically on July 17th. Respondent opposes the request for Minors' Counsel. Respondent goes on to request affirmative relief, which far exceeds the scope of Petitioner's RFO. As those requests exceed the scope of Petitioner's RFO, the court will not consider them.

Petitioner filed a Reply Declaration on July 18, 2024. Proof of Service shows Respondent was served electronically on July 18th. Petitioner asserts Respondent's affirmative requests are not properly before the court and requests the court not consider them.

Respondent filed a Sur-Reply Declaration on July 22, 2024. Petitioner was served on July 22nd. The court finds this to not be a permissible filing, without leave from the court to file. The court has granted no such order, and therefore, will not consider the Sur-Reply.

Family Code section 3150, subdivision (a) provides that "[i]f the court determines that it would be in the best interest of the minor child, the court may appoint private counsel to represent the interests of the child in a custody or visitation proceeding, provided that the court and counsel comply with the requirements set forth in Rules 5.240, 5.241, and 5.242 of the California Rules of Court."

California Rules of Court, rule 5.240 (hereafter all rule references are to these rules) sets forth specific factors the court should take into account in determining whether to appoint minor's counsel, including whether (1) the issue of child custody is highly contested or protracted, (2) the minor's counsel would be likely to provide the court with relevant information not otherwise readily available, (3) knowledgeable counsel is available for appointment, and (4) the best interest of the child appears to require independent representation. CRC Rule 5.241 addresses the proper payment of the minor's counsel, and

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

CRC Rule 5.242 addresses the qualifications, rights and responsibilities of the minor's counsel.

Family Code section 3151, subdivision (a) provides that “[t]he child's counsel appointed under this chapter is charged with the representation of the child's best interests. The role of the child's counsel is to gather evidence that bears on the best interests of the child, and present that admissible evidence to the court.... The counsel's duties ... include interviewing the child, reviewing the court files and all accessible relevant records available to both parties, and making any further investigations as the counsel considers necessary to ascertain evidence relevant to the custody or visitation hearings.”

The court notes there have been no filings in this matter since 2022. Further, there is no current pending request to modify child custody or parenting plan orders. There are no future pending hearing dates. As such, the court finds it unnecessary to appoint Minors' Counsel. Petitioner's request is denied, without prejudice.

Respondent is admonished to ensure that he abides by the respect guidelines.

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

TENTATIVE RULING 17: THE COURT FINDS THERE IS NO CURRENT NEED TO APPOINT MINORS' COUNSEL ARE THERE IS NO PENDING LITIGATION AND NO REQUEST TO MODIFY THE CURRENT ORDERS. PETITIONER'S REQUEST IS DENIED. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

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August 1, 2024

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

18. MATTHEW HICKS V. TIFFINE WOODSIDE

22FL0345

Respondent filed a Request for Order (RFO) requesting the court modify child custody and parenting plan orders on November 6, 2023. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on December 27, 2023 and a review hearing on February 15, 2024. Proof of Service shows Petitioner was personally served on November 9, 2023.

Petitioner filed an RFO on November 28, 2023, requesting the court lift the restrictions for the minor's contact with Chanish Meza. Respondent was personally served on November 29, 2023.

Petitioner filed a Responsive Declaration to Respondent's RFO on January 29, 2024. Respondent was personally served on January 31, 2024.

Both parties appeared for CCRC on December 27, 2023. The parties were unable to reach any agreements. A report with recommendations was filed with the court on February 2, 2024. Copies of the report were mailed to the parties the same day.

The matter came before the court for hearing on February 15, 2024 at which time the court adopted the recommendations of the CCRC report and appointed Rebecca Esty-Burke as minor's counsel. The parties were ordered to complete a co-parenting class and file letters with the court stating what they learned along with a certificate of completion. A review hearing was set for the present date.

On March 8th, Petitioner filed another RFO seeking custody and visitation orders. It was served on March 6th. Petitioner also filed a Declaration on April 17th, however there is no Proof of Service for this document and therefore the court cannot consider it.

Minor's Counsel's Statement of Issues and Contentions and Request for Orders was filed on April 17th. It was mail served on the 16th.

Respondent filed a Responsive Declaration to Request for Order on April 24th. There is no Proof of Service for this document, and therefore, the court has not considered it.

All parties appeared for the hearing on May 2, 2024. The court maintained the current orders and directed Respondent to provide Petitioner and Minor's Counsel with documentation of her ability to remain in her current housing. The court also ordered Respondent to complete a co-parenting class and provide proof of completion, as well as file a Declaration with the court about what benefits she gleaned from the class. The court made additional orders and set a review hearing for August 1, 2024, to review Respondent's housing situation.

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

Minor's Counsel filed a Statement of Issues and Contentions on July 17, 2024. Proof of Service shows the parties were served on July 15th. Minor's Counsel received proof of completion of the co-parenting class by Respondent on July 11, 2024. Minor's Counsel has also received updates on Respondent's housing situation, which she finds not be adequate for the time being. Minor's Counsel requests the court order that the current orders remain in full force and effect, with a slight modification to the parenting plan. Minor's Counsel requests the parties transition from a Wednesday exchange of the minor to a Friday exchange. Minor's Counsel proposes that Petitioner have the minor from July 31st to August 8th at 3:00 PM. Respondent would have the minor from August 8th to August 16th at 3:00 PM. Thereafter, the parties to have a week-on/week-off schedule with the exchanges on Friday at school pickup or 3:00 PM when school is not in session.

Neither Petitioner nor Respondent has filed a Supplemental Declaration.

The court has read and considered the recommendations as set forth in Minor's Counsel's Statement of Issues and Contentions. The court finds the recommendations to be in the best interest of the minor and adopts them as set forth. All current orders remain in full force and effect. The parties shall continue to have a week on/week-off schedule with the following modification. The exchange day shall transition from Wednesday to Friday pursuant to the following schedule: Petitioner shall have the minor from July 31st to August 8th at 3:00 PM. Respondent shall have the minor from August 8th to August 16th at 3:00 PM. Thereafter, the parties to have a week-on/week-off schedule with the exchanges on Friday at school pickup or 3:00 PM when school is not in session.

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

TENTATIVE RULING #18: THE COURT FINDS THE RECOMMENDATIONS TO BE IN THE BEST INTEREST OF THE MINOR AND ADOPTS THEM AS SET FORTH. ALL CURRENT ORDERS REMAIN IN FULL FORCE AND EFFECT. THE PARTIES SHALL CONTINUE TO HAVE A WEEK ON/WEEK-OFF SCHEDULE WITH THE FOLLOWING MODIFICATION. THE EXCHANGE DAY SHALL TRANSITION FROM WEDNESDAY TO FRIDAY PURSUANT TO THE FOLLOWING SCHEDULE: PETITIONER SHALL HAVE THE MINOR FROM JULY 31ST TO AUGUST 8TH AT 3:00 PM. RESPONDENT SHALL HAVE THE MINOR FROM AUGUST 8TH TO AUGUST 16TH AT 3:00 PM. THEREAFTER, THE PARTIES TO HAVE A WEEK-ON/WEEK-OFF SCHEDULE WITH THE EXCHANGES ON FRIDAY AT SCHOOL PICKUP OR 3:00 PM WHEN SCHOOL IS NOT IN SESSION. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. MINOR'S COUNSEL SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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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. MICHAEL NIELSEN V. LORENE NIELSEN

PFL20140434

On May 9, 2024, parties appeared for the hearing based on Petitioner's request for oral argument. The court considered the arguments presented and adopted its tentative ruling, finding the recommendations as set forth in the April 25th CCRC report to be in the best interest of the minor. The court maintained the current custody and parenting plan orders. Any telephone contact was ordered to be professionally monitored at Petitioner's expense. The court set a review hearing for August 1, 2024, to review Petitioner's compliance with the current orders and determine if a step-up in parenting time would be appropriate. Parties were directed to file and serve any Supplemental Declarations at least 10 days prior to the hearing.

Respondent filed a Supplemental Declaration on July 12, 2024. Proof of Service shows Petitioner was served on July 17, 2024. Respondent continues to reiterate the same concerns about Petitioner that have prevailed throughout the case. Respondent requests the current orders remain in full force and effect.

Petitioner filed a Supplemental Declaration on July 16, 2024. Proof of Service shows Respondent was served on July 16th. In the Declaration, Petitioner laments the path this case as taken, and requests an increase in parenting time.

The court notes that Minor's Counsel was previously appointed to this matter. The court notes that Ms. Newman retired and was relieved due to her retirement. The court finds there is still a need for Minor's Counsel to represent Bryce in this matter. Therefore, the court appoints Kelly Bentley and continues the hearing to September 5, 2024, at 1:30 PM in Department 5. If parties wish to file Supplemental Declarations, they are to be filed and served at least 10 days prior to the hearing.

All prior orders remain in full force and effect.

TENTATIVE RULING #20: THE COURT FINDS THERE IS STILL A NEED FOR MINOR'S COUNSEL TO REPRESENT BRYCE IN THIS MATTER. THEREFORE, THE COURT APPOINTS KELLY BENTLEY AND CONTINUES THE HEARING TO SEPTEMBER 5, 2024, AT 1:30 PM IN DEPARTMENT 5. IF PARTIES WISH TO FILE SUPPLEMENTAL DECLARATIONS, THEY ARE TO BE FILED AND SERVED AT LEAST 10 DAYS PRIOR TO THE HEARING. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6725 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO

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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 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.