

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 15, 2024

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

1. ASHLYN HARDIN V. ANTHONY POLLO

22FL1160

In case number 23FL0357, on April 25, 2024, the court maintained the December 29, 2023 orders and set a further review hearing. The parties were directed to continue to use Ms. Stilley for therapeutic visitation. The court set a further review hearing on August 15, 2024. Parties were directed to file and serve Supplemental Declarations at least 10 days prior to the hearing.

On August 1, 2024, by way of ex parte minute order, the court on its own motion, consolidated the Domestic Violence Restraining Order (DVRO) case (23FL0357) with the Petition to Establish a Parental Relationship (EPR) case (22FL1160). The EPR case was to be the lead case. Notice was provided to the parties.

Respondent filed a Supplemental Declaration on August 2, 2024, in 23FL0357. Proof of Service shows Petitioner was electronically served the same day. Respondent is requesting Cameron Park Counseling Center be excluded from conducting court ordered assessments for the minor Lillian. Respondent also requests he provide a list of three potential clinicians to conduct the assessment for counseling to Petitioner within two weeks. Petitioner then would have two weeks to select one from the list. Should Petitioner fail to select one, then Respondent would have the ability to select one from the list. Respondent also requests an order prohibiting any future mental health clinician from receiving documentation of Respondent's criminal history.

Petitioner filed a Supplemental Declaration on August 5, 2024. Proof of Service shows Respondent was mail served the same day. Petitioner requests the court make a no contact order between the minors and Respondent. Petitioner also requests the court set the matter for a hearing for a finding pursuant to Family Code section 3030.

As to Petitioner's request to set a hearing to determine whether Family Code section 3030 applies to the matter, that request is denied. A finding was made on September 14, 2023, that Family Code section 3030 applies.

The parties are ordered to appear to address Respondent's request for appointment of a new clinician and to update the court on the status of the therapeutic visits with Ms. Stilley.

TENTATIVE RULING #1: PETITIONER'S REQUEST FOR A FAMILY CODE § 3030 HEARING IS DENIED. THE PARTIES ARE ORDERED TO APPEAR TO ADDRESS RESPONDENT'S REQUEST FOR APPOINTMENT OF A NEW CLINICIAN AND TO UPDATE THE COURT ON THE STATUS OF THE THERAPEUTIC VISITS WITH MS. STILLEY.

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2. BASSEL KHADRA V. STEPHANIE WU

PFL20200697

Petitioner filed a Request for Order (RFO) on April 24, 2024, requesting a modification of child custody and parenting plan orders. On April 29th Petitioner filed an Amended RFO. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on May 23, 2024, and a review hearing on July 11th. Proof of Service shows Minor's Counsel was personally served with an FL-300 and an RA-100 on May 2, 2024. It is unclear if that was the originally filed RFO or the amended RFO. Respondent's counsel was personally served on May 3, 2024. It appears Respondent's counsel was served with the Amended RFO and all necessary documents. The court notes this is a post-judgment request for modification, and as such, service must comply with Family Code section 215. Service on counsel is not permissible.

It is unclear what orders Petitioner is seeking as he has not completed any of the sections in the FL-300 and his declaration does not set forth any specific requested orders, rather his grievances with the current orders.

Minor's Counsel filed a Responsive Declaration on May 8, 2024. All parties were served on May 6th. Minor's Counsel opposes Petitioner's requested modifications. Minor's Counsel also asserts there was a judgment with final custody orders pursuant to Montenegro v. Diaz 26 Cal.4th 249 (2001). As such, Petitioner is required to show a change in circumstances, which Minor's Counsel asserts he has failed to do. However, Minor's Counsel also asserts the parenting plan was subject to modification on a best interest standard, and it is Minor's Counsel's position that supervised visitation is in the minor's best interest.

On May 15th Minor's Counsel filed a Request to Reschedule the hearing due to her unavailability. The court granted the request and rescheduled the July 11th hearing to August 15th. Proof of Service shows the parties were served with the Order to Reschedule on May 23, 2024.

Both parties appeared for the CCRC appointment on May 23, 2024 and were unable to reach any agreements. A report with recommendations was filed with the court on June 26, 2024. Copies were mailed to the parties the same day.

Petitioner filed a Declaration on July 24, 2024. Parties were mail served on July 25th. Petitioner requests the court remove Minor's Counsel from the case. The court finds this request to be beyond the scope of the RFO and therefore, will not address it.

Respondent has not filed a Responsive Declaration.

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While the RFO was not properly served, the court does find good cause to reach the matter on its merits as Respondent appeared at the CCRC appointment and Minor's Counsel filed a Responsive Declaration. Therefore, the court finds both parties had actual knowledge of the pending RFO and the court can move forward despite the improper service.

Petitioner's moving papers fail to establish that the current orders are not in the best interests of the minor. Nonetheless, the court has reviewed the CCRC report and Minor's Counsel's Responsive Declaration and does find that the recommendations stated in the CCRC report are in the best interests of the minor. Therefore, the court hereby adopts the recommendations as stated in the June 26, 2024 CCRC report as the orders of the court.

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

TENTATIVE RULING #2: THE COURT HEREBY ADOPTS THE RECOMMENDATIONS AS STATED IN THE JUNE 26, 2024 CCRC REPORT AS THE ORDERS OF THE COURT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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3. CAMILLE WALTERS V. SAMUEL WALTERS

23FL0580

Petitioner filed a Request for Order (RFO) on May 14, 2024, requesting Family Code section 6344 attorney fees as the prevailing party in a Domestic Violence Restraining Order (DVRO) action. Petitioner concurrently filed an Income and Expense Declaration. Upon review of the court file, there is no Proof of Service showing Respondent was properly served with the RFO and other necessary documents.

Respondent filed a Responsive Declaration on July 26, 2024 along with an Income and Expense Declaration. Proof of Service shows Petitioner was served by mail the same day.

The court notes, that the parties stipulated to the issuance of the DVRO on March 14, 2024. Included in the DV-130, the court reserved jurisdiction on the request for attorney's fees. Further, although there is no Proof of Service, the court finds good cause to proceed on the merits of Petitioner's RFO as Respondent has filed a Responsive Declaration which addresses the issues raised by Petitioner.

Petitioner is seeking \$9,465.45 in attorney fees related to the request for the DVRO. Petitioner has included a Declaration from counsel including a spreadsheet of her billing related to this action. Petitioner further asserts that while Respondent's income may be somewhat limited, he does have other resources available to pay attorney's fees, namely real property located in Arizona, community property located in Cameron Park, which the parties own outright, though the entirety is not community, Respondent's settlement agreement, as well as a Harley-Davidson motorcycle.

Respondent asserts he is unable to pay due to the other obligations he currently has, including child support and other court associated fees.

Petitioner's request is made pursuant to Family Code § 6344 which is the mechanism by which a prevailing party on a DVRO request may recover their attorney's fees and costs. If the prevailing party was the party that filed for the DVRO then, "[a]fter notice and a hearing, a court, upon request *shall issue and order for the payment of attorney's fees and costs.*" Cal. Fam. Code § 6344 (a). However, "[b]efore a court awards attorney's fees and costs pursuant to this section, the court shall first determine pursuant to Section 270 that the party ordered to pay has, or is reasonably likely to have, the ability to pay." *Id.* at (c) (emphasis added).

The court finds that while Respondent does not have the ability to pay currently, he does have sufficient assets to pay for Petitioner's attorney's fees. Specifically, the court finds Respondent's community property interest in the Cameron Park home, the interest in

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the property in Arizona, as well as the Harley-Davidson, are indicative that Respondent is reasonably likely to have the ability to pay. The court, therefore, grants the request for Family Code section 6344 attorney's fees in the amount of \$9,465.45 to be paid from Respondent's community property share of the Cameron Park home.

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

TENTATIVE RULING #3: FOR THE REASONS SET FORTH ABOVE, THE COURT GRANTS THE REQUEST FOR FAMILY CODE SECTION 6344 ATTORNEY'S FEES IN THE AMOUNT OF \$9,465.45 TO BE PAID FROM RESPONDENT'S COMMUNITY PROPERTY SHARE OF THE CAMERON PARK HOME. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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5. JAMES PETERSON V. MOLLY PETERSON

PFL20110929

Petitioner filed an ex parte request for emergency custody orders on May 15, 2024. Respondent filed a Responsive Declaration on May 16, 2024. The court denied the ex parte request but adopted Respondent's agreement to allow the minor, Andrew (Drew) to continue to reside with Petitioner on a temporary basis. The court ordered the minor to continue counseling with Chris Taylor at a frequency and duration as recommended by the therapist. The court ordered Respondent to have a minimum of two evening/dinner visits per week, as arranged by the parties.

Petitioner filed a Request for Order (RFO) on May 17, 2024, making the same requests as set forth in the ex parte application. This is a post-judgment request for modification. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on June 17, 2024, and a review hearing on August 15th. Upon review of the court file, there is no Proof of Service showing Respondent was properly served with the RFO and other necessary documents in accordance with Family Code section 215.

Both parties and both minors participated in the June 17th CCRC appointment. The parties were unable to reach any agreements. A report with recommendations was filed with the court on July 24, 2024. Copies were mailed to the parties the same day.

Respondent filed a Reply to the CCRC report on August 6, 2024. Proof of Service shows Petitioner was served by overnight delivery on August 6, 2024. Respondent is requesting the court adopt the recommendations as set forth in the July 24th CCRC report, although it is with "a heavy heart."

Petitioner filed a Supplemental Declaration as well as a Declaration on August 8, 2024. Respondent was electronically served on August 8, 2024. The court notes any Supplemental Declarations are to be filed and served at least 10 days prior to the hearing. As such, the Declarations filed by Petitioner on August 8th are late filed and will not be considered.

Respondent filed an Objection and Request to Strike Petitioner's Supplemental and additional Declarations, on August 12, 2024. Respondent raises the timeliness of the declarations as well as Petitioner making additional requests that were not included in the original RFO filed on May 14th. As noted above, the court has not considered these filings.

The court has read and considered the filings as set forth above. The court finds good cause to proceed on the merits of the RFO, despite the failure of Petitioner to comply with the service requirements of Family Code section 215, as Respondent filed a

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Responsive Declaration and fully participated in the CCRC appointment. The court finds the recommendations as set forth in the July 24th CCRC report to be in the best interests of the minors. The court adopts the recommendations as set forth with the following addition. The minor Drew shall continue to have a minimum of two evening/dinner visits with Respondent as arranged by the parents.

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 #5: THE COURT FINDS GOOD CAUSE TO PROCEED ON THE MERITS OF THE RFO, DESPITE THE FAILURE OF PETITIONER TO COMPLY WITH THE SERVICE REQUIREMENTS OF FAMILY CODE SECTION 215, AS RESPONDENT FILED A RESPONSIVE DECLARATION AND FULLY PARTICIPATED IN THE CCRC APPOINTMENT. THE COURT FINDS THE RECOMMENDATIONS AS SET FORTH IN THE JULY 24TH CCRC REPORT TO BE IN THE BEST INTERESTS OF THE MINORS. THE COURT ADOPTS THE RECOMMENDATIONS AS SET FORTH WITH THE FOLLOWING ADDITION. THE MINOR DREW SHALL CONTINUE TO HAVE A MINIMUM OF TWO EVENING/DINNER VISITS WITH RESPONDENT AS ARRANGED BY THE PARENTS. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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6. JENNIFER CURTIS V. LEON CURTIS

22FL0526

On April 16, 2024, Petitioner filed a request for ex parte emergency orders for disbursement of \$65,970 of the net proceeds from the sale of the former marital residence upon close of escrow. Petitioner requested the remaining amount be placed in a trust account held by Respondent's attorney. Respondent filed a Responsive Declaration on April 15, 2024, and again on April 17, 2024. Respondent objected to any funds being distributed. On April 19th, the court denied the request on an ex parte basis.

Petitioner filed a Request for Order (RFO) on April 19, 2024, requesting spousal support, Family Code section 2030 attorney's fees, as well as a disbursement of the proceeds from the sale of the home. Petitioner filed an Income and Expense Declaration on April 16th. Upon review of the court file, there is no Proof of Service showing the April 19th RFO was served. The April 16th filed Income and Expense Declaration was electronically served on Respondent on April 16th.

Parties filed a Stipulation and Order, which the court signed on May 2, 2024, regarding the proceeds of the sale of the home and distribution of furniture and furnishings.

On May 15, 2024, Respondent filed a request to reschedule the July 11th hearing on Petitioner's RFO. The request was granted, and the hearing was rescheduled to August 15, 2024. Proof of Service shows Petitioner was served with the Order Rescheduling the hearing on May 23, 2024.

On July 12, 2024, Petitioner filed an amended RFO as well as an amended Supplemental Declaration and updated Income and Expense Declaration. Proof of Service shows Respondent was electronically served on July 12th.

Respondent filed a Responsive Declaration on August 5, 2024 along with an Income and Expense Declaration. Proof of Service shows Petitioner was served electronically and by mail on August 5th. The court finds this to be late filed pursuant to Civil Procedure section 1005(b) which states all opposition papers are to be filed at least nine court days before the hearing date. Section 12c states, "[w]here any law requires an act to be performed no later than a specified number of days before a hearing date, the last day to perform that act shall be determined by counting backward from the hearing date, excluding the day of the hearing as provided by Section 12." Cal. Civ. Pro. § 12c. Section 1005(b) in conjunction with Section 12c would have made August 2nd the last day for filing Respondent's Responsive Declaration to Request for Order. The court cannot consider this document.

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Petitioner filed a Reply Declaration on August 9, 2024. Respondent was electronically served on the same day. This is likewise untimely. Reply declarations are due at least five court days before the hearing. Cal. Civ. Pro. 1005(b). Therefore, the last day for filing was August 8th. The court cannot consider this document.

Petitioner brings her RFO requesting disbursement of \$65,970 from the net proceeds of the sale of the marital residence. This amount is sought to satisfy Respondent's support obligations from December 14, 2023 through April 30, 2024. She asks that the remaining proceeds be placed in a trust account held by Rebecca Esty-Burke until further written agreement of the parties or court order. In her amended RFO, Petitioner requests attorney's fees and costs in the amount of \$45,333.80 pursuant to Family Code § 2030 and an additional \$48,550 in Family Code § 271 sanctions for Respondent's failure to pay arrears and attorney's fees and costs. As of the date of her amended RFO, Petitioner had incurred a total of \$22,333.80 in attorney's fees and costs. She estimates an additional \$23,000 will be incurred in discovery and trial preparation.

Respondent opposes the request for early disbursement of the proceeds and instead asks the court to place all proceeds in a trust account with his attorney. He states that Petitioner will owe him a significant amount of *Jeffries* credits for her living in the marital residence since separation. Even if Petitioner is credited the amounts she is owed for support and attorney's fees, Respondent argues that she will still owe him over \$100,000, which is a majority of the sale proceeds.

Petitioner's request for attorney's fees and disbursement of the proceeds of the home are granted, in part. The public policy of Family Code section 2030 is to provide "at the outset of litigation, consistent with the financial circumstances of the parties, parity between spouses in their ability to obtain effective legal representation." *In Re Marriage of Keech*, 75 Cal. App. 4th 860, 866 (1999). In the face of a request for attorney's fees and costs, the court is to make findings on "whether there is a disparity in access to funds to retain counsel, and whether one party is able to pay for legal representation of both parties." Fam. Code § 2030(a)(2).

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

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Here, Petitioner has already been awarded spousal support and \$5,000 in attorney's fees. Had Respondent complied with the court's orders there would be parity between the spouses, or at least much closer than there is now, and Petitioner's ability to pay her attorney would likely not be before the court. That said, given Respondent's refusal to comply with the court's orders, and given the ongoing extreme disparity between each party's access to funds to retain counsel, Petitioner's request for attorney's fees pursuant to Family Code § 2030 is granted, in part.

As of the date of filing her amended RFO, Petitioner had incurred \$22,333.80 in attorney's fees. Her counsel estimates an additional \$23,000 will likely be incurred. The court does not find the future estimated costs to be reasonable at this time. Therefore, Petitioner is awarded \$30,000 as and for attorney's fees and costs pursuant to Family Code § 2030. This amount, plus the \$5,000 which was previously awarded, shall be paid out of Respondent's portion of the proceeds from the sale of the marital residence. The total, \$35,000, shall be paid to Petitioner no later than August 29, 2024.

The remaining proceeds from the sale of the marital residence shall remain in Respondent's counsel's trust account. The court reserves jurisdiction on the characterization of the proceeds from the sale of the marital residence. The court also reserves jurisdiction on Petitioner's request for Family Code § 271 sanctions.

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

TENTATIVE RULING #6: PETITIONER IS AWARDED \$30,000 AS AND FOR ATTORNEY'S FEES AND COSTS PURSUANT TO FAMILY CODE § 2030. THIS AMOUNT, PLUS THE \$5,000 WHICH WAS PREVIOUSLY AWARDED, SHALL BE PAID OUT OF RESPONDENT'S PORTION OF THE PROCEEDS FROM THE SALE OF THE MARITAL RESIDENCE. THE TOTAL, \$35,000, SHALL BE PAID TO PETITIONER NO LATER THAN AUGUST 29, 2024. THE REMAINING PROCEEDS FROM THE SALE OF THE MARITAL RESIDENCE SHALL REMAIN IN RESPONDENT'S COUNSEL'S TRUST ACCOUNT. THE COURT RESERVES JURISDICTION ON THE CHARACTERIZATION OF THE PROCEEDS FROM THE SALE OF THE MARITAL RESIDENCE. THE COURT ALSO RESERVES JURISDICTION ON PETITIONER'S REQUEST FOR FAMILY CODE § 271 SANCTIONS. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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7. 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.

Upon review of the file, there is no Proof of Service of the Summons and Petition that were filed and issued on February 29, 2024. As such, the court does not have jurisdiction to proceed in this matter. Further, there is no Proof of Service showing Respondent was properly served with the current RFO. The matter is dropped from calendar due to the lack of jurisdiction as well as the failure to properly serve Respondent.

TENTATIVE RULING #7: THE MATTER IS DROPPED FROM CALENDAR DUE TO THE LACK OF JURISDICTION AS WELL AS THE FAILURE TO PROPERLY SERVE RESPONDENT.

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8. ROBIN HALL V. CHRISTOPHER HALL

PFL20180811

On July 9, 2024, Petitioner filed an ex parte application for emergency custody orders. The court denied the request to modify custody on July 10th, however, the court did order Respondent to have unsupervised day visits only on alternating weekends. The court ordered Respondent to submit to urinalysis testing with a 72-hour ETG component, 24 hours prior to the visits and provide Petitioner with the results. The court further stated that if Respondent fails to test, or tests positive, the visit could be cancelled.

Petitioner filed a post-judgment request for modification on July 10, 2024, requesting the court modify the current child custody and parenting plan orders, as well as transfer the case to Sacramento County. The parties were referred to an emergency set Child Custody Recommending Counseling (CCRC) appointment on July 23, 2024, and a review hearing on August 15th.

As this is a post-judgment request for modification, service must comply with Family Code section 215. Proof of Service filed on July 29th by Petitioner shows Respondent's counsel was served by mail on July 24, 2024. This service does not comply with Family Code section 215, which requires personal service on the party or mail service on the party with address verification.

Both parties attended the CCRC appointment on July 23, 2024, and were able to reach some agreements. A report with the parties' agreements and further recommendations was filed with the court on July 31, 2024. Copies were mailed to the parties on August 1, 2024.

Respondent filed a Responsive Declaration on August 2, 2024. Proof of Service shows Petitioner was electronically served on August 2, 2024. Respondent objects to Petitioner's requested orders and requests the court reinstate the May 20, 2019 orders. Respondent does not object to the transfer of the matter to Sacramento County.

The court finds good cause to proceed with the merits of Petitioner's RFO despite the failure to comply with Family Code section 215 as Respondent attended CCRC and has filed a Responsive Declaration which addresses the requests made in the RFO. The court has read and considered the filings as set forth above and make the following findings and orders.

The court adopts the agreements of the parties as set forth in the July 31st CCRC report. The court adopts the recommendations with the following modifications. The court adopts the provisions for joint legal custody as set forth. The court is not adopting the parenting plan as set forth. The court is reinstating the prior parenting plan. The court finds

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the prior parenting plan is in the minor's best interest. The court adopts the provision for transportation. The court adopts the provisions for the holiday schedule. The court is adopting the provisions for alcohol or substance abuse, with the exception of provision #6. The court is not ordering Soberlink testing. The court is adopting the provisions for co-parenting counseling and the provisions for phone/video calls with the minor.

Code of Civil Procedure section 397.5 provides: "...where it appears that both petitioner and respondent have moved from the county rendering the order, the court may, when the ends of justice and the convenience of the parties would be promoted by the change, order that the proceedings be transferred to the county of residence of either party." Additionally, with the resolution of the current RFO there are no additional matters pending before the court. For the convenience of the parties and in the interest of justice, the case is transferred to Sacramento County. Petitioner is ordered to pay the fees or obtain a fee waiver to effectuate the transfer to Sacramento County.

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

TENTATIVE RULING #8: THE COURT FINDS GOOD CAUSE TO PROCEED WITH THE MERITS OF PETITIONER'S RFO DESPITE THE FAILURE TO COMPLY WITH FAMILY CODE SECTION 215 AS RESPONDENT ATTENDED CCRC AND HAS FILED A RESPONSIVE DECLARATION WHICH ADDRESS THE REQUESTS MADE IN THE RFO. THE COURT HAS READ AND CONSIDERED THE FILINGS AS SET FORTH ABOVE AND MAKE THE FOLLOWING FINDINGS AND ORDERS: THE COURT ADOPTS THE AGREEMENTS OF THE PARTIES AS SET FORTH IN THE JULY 31ST CCRC REPORT. THE COURT ADOPTS THE RECOMMENDATIONS WITH THE FOLLOWING MODIFICATIONS. THE COURT ADOPTS THE PROVISIONS FOR JOINT LEGAL CUSTODY AS SET FORTH. THE COURT IS NOT ADOPTING THE PARENTING PLAN AS SET FORTH. THE COURT IS REINSTATING THE PRIOR PARENTING PLAN. THE COURT FINDS THE PRIOR PARENTING PLAN IS IN THE MINOR'S BEST INTEREST. THE COURT ADOPTS THE PROVISION FOR TRANSPORTATION. THE COURT ADOPTS THE PROVISIONS FOR THE HOLIDAY SCHEDULE. THE COURT IS ADOPTING THE PROVISIONS FOR ALCOHOL OR SUBSTANCE ABUSE, WITH THE EXCEPTION OF PROVISION #6. THE COURT IS NOT ORDERING SOBERLINK TESTING. THE COURT IS ADOPTING THE PROVISIONS FOR CO-PARENTING COUNSELING. THE COURT IS ADOPTING THE PROVISIONS FOR PHONE/VIDEO CALLS WITH THE MINOR. FOR THE CONVENIENCE OF THE PARTIES AND IN THE INTEREST OF JUSTICE, THE CASE IS TRANSFERRED TO SACRAMENTO COUNTY. PETITIONER IS ORDERED TO PAY THE FEES OR OBTAIN A FEE WAIVER TO EFFECTUATE THE TRANSFER TO SACRAMENTO COUNTY. ALL PRIOR ORDERS NOT IN

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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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DEPARTMENT 5

August 15, 2024

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

9. ROGER HEMBD V. KRISTIN HEMBD

PFL20200316

On May 9, 2024, the court set a review hearing for August 15th to review the parenting plan. Parties were directed to file and serve Supplemental Declarations at least 10 days prior to the hearing.

Both Petitioner and Respondent filed and served Supplemental Declarations on August 5, 2024. Upon review of the court file, there is no Statement of Issues and Contentions from Minor's Counsel.

Petitioner requests the court maintain the current orders. Petitioner also requests the court modify the exchange location to Strawberry, rather than Kyburz. Petitioner objects to the court considering the minor's statements in her declaration as hearsay. Petitioner requests Respondent not schedule any medication appointment or seek non-emergency care without Petitioner's consent. Petitioner requests Respondent follow the minor's doctor's orders regarding all treatment, including dietary needs and supplements. Last, Petitioner requests the court adopt his proposed holiday schedule.

Respondent is requesting the court adopt her proposed holiday schedule. Petitioner to be the primary parent during the school year, with Respondent to have the 1st, 2nd, 4th, and 5th weekends, as well as Wednesday and Thursday overnights on the 3rd weeks. Respondent is also requesting the parenting time when Petitioner is out of town on mid-weeknights. Respondent is requesting the minor continue therapy services with his current counselor. Respondent requests there be no changes in the exchange location. Respondent requests the minor continue to participate in two extracurricular activities. Respondent is requesting Petitioner provide the name of the church and youth group the minor will be attending. Respondent is requesting daily FaceTime calls for the non-custodial parent. Last Respondent is requesting the minor remain on Medi-Cal.

Respondent filed a Reply Declaration on August 8, 2024. It was personally served on August 8th. Respondent asserts she can spend weekday time with the minor, as she is able to drive to Carson City, Nevada and with stay in a motel or her RV with the minor. Respondent acknowledges this is not ideal but is a workable alternative. Respondent objects to Petitioner's proposed holiday schedule. Respondent renews her request that the minor remain in therapy with the current therapist. Respondent raises concerns about the minor's services through the regional center and Medi-Cal, that were not transferred to Nevada, and still have not been put into place. Respondent also states the parties have agreed through co-parenting counseling to modify the exchange location to the Strawberry General Store, rather than the Kyburz Lodge.

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

The court finds it needs input from Minor's Counsel regarding the continuation of counseling services as well as the parenting plan, including the holiday schedule and summer schedule. As such, the parties are ordered to appear for the hearing.

TENTATIVE RULING #9: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 15, 2024

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

10. TIMOTHY NEILL V. CASSANDRA NEILL

PFL20200033

On May 15, 2024, Respondent filed a Request for Order (RFO) requesting a post-judgment modification of parenting time, Petitioner to participate in a substance abuse treatment assessment with Colleen Moore, Petitioner's residence located at 2041 Brook Mar Drive in El Dorado Hills, California to be immediately listed for sale due to Petitioner's failure to comply with the judgment, for Respondent to be reimbursed from the proceeds of the sale of the home, and for attorney's fees pursuant to the judgment for having to bring this motion. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on June 14, 2024, and a review hearing on August 15th. Proof of Service shows Petitioner was personally served in accordance with Family Code section 215 on May 21, 2024.

Respondent is requesting a modification of parenting time due to issues with Respondent's substance use. Respondent further asserts that due to Petitioner's substance abuse, he has been unable to adequately provide food for the minors and to ensure their attendance at school and extracurricular activities. Respondent also seeks to enforce the parties' judgment, the sale of the home due to Petitioner's failure to refinance and remove Respondent from title. Petitioner acknowledges that the parties orally agreed to extend the deadline but does not state the new deadline.

Only Respondent appeared at the CCRC appointment on June 14th. As such, a single parent report with no agreements or recommendations was filed with the court on June 14, 2024, and mailed to the parties the same day.

Petitioner filed a Responsive Declaration on August 2, 2024. Proof of Service shows Respondent was personally served on August 2, 2024. Petitioner asserts the parties reached a verbal agreement and confirmation in email that extended the deadline to refinance was October 2024. Petitioner has not included a copy of the email. Petitioner disputes Respondent's concerns about his substance use. Petitioner offers explanations for the issues surrounding his parenting time. Petitioner has included a variety of other attached declarations, which are also either unsigned, or if signed, not signed under penalty of perjury. There also appears to be duplicative attachments. As such, the court cannot consider them.

The court finds it needs additional information regarding the parties' agreement to extend the deadline for the refinance as well as information from Respondent as to why he failed to appear and participate in the CCRC appointment. The court orders parties to appear for the hearing.

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

LAW & MOTION TENTATIVE RULINGS

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August 15, 2024

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

11. VADIM ZANKO V. KRISTINA ZANKO

23FL0706

This matter is before the court for a return hearing on a Request for Order (RFO) filed by Petitioner on August 2, 2023 and an ex parte request filed by Respondent on October 9, 2023. A hearing on these matters was held on November 30th at which time the court made temporary custody orders, granted Respondent's request for a 3111 evaluation, and made orders regarding the evaluation. The court set a review hearing for February 1, 2024 to review the progress of the 3111 evaluation and to discuss the possibility of instituting a 2-2-3 schedule. Parties subsequently stipulated to move forward with the 3111 evaluation with Deborah Barnes. A letter was sent to Ms. Barnes to begin the process on March 26, 2024. A further review hearing was set for the present date.

Upon review of the court file, there have been no further filings from either party, nor a 3111 report filed by Ms. Barnes. As such, the court finds good cause to continue the matter for a further review hearing.

This matter is continued to 11/07/2024 at 8:30 am in Department 5. Any supplemental declarations are to be filed and served no later than 10 days prior to the hearing date.

TENTATIVE RULING #11: THIS MATTER IS CONTINUED TO 11/07/2024 AT 8:30 AM IN DEPARTMENT 5. ANY SUPPLEMENTAL DECLARATIONS ARE TO BE FILED AND SERVED NO LATER THAN 10 DAYS PRIOR TO THE HEARING DATE.

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

12. ALISHA RAINS V. JAIRO LORIO

PFL20120428

Petitioner filed an ex parte application for emergency custody orders on July 9, 2024. On July 10, 2024, the court granted Petitioner temporary sole physical custody and maintained joint legal custody. The court ordered Respondent to have professionally supervised parenting time, up to three times per week, at Respondent's costs. The court set an emergency Child Custody Recommending Counseling (CCRC) appointment for July 23, 2024, and a review hearing for August 15th. Proof of Service shows Respondent was personally served on July 10, 2024.

Both parties attended the CCRC appointment on July 23rd. They were unable to reach any agreements. A report with recommendations was filed with the court and mailed to the parties on August 2, 2024.

Respondent has not filed a Responsive Declaration.

The court has read and considered the filings as outlined above. The court finds the recommendations as set forth in the August 2nd CCRC report are in the best interest of the minor. Therefore, they are adopted as the orders of the court.

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 #12: THE COURT FINDS THE RECOMMENDATIONS AS SET FORTH IN THE AUGUST 2ND CCRC REPORT ARE IN THE BEST INTEREST OF THE MINOR. THE COURT ADOPTS THE RECOMMENDATIONS AS ITS ORDERS. 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.

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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13. AMBER MILLER V. ZACK DOBBS

PFL20140872

Respondent filed a Request for Order (RFO) on January 16, 2024, requesting modification of parenting time and child support. The matter came before the court for hearing on April 4, 2024, at which time the parties presented the court with a stipulation as follows: Respondent shall have parenting time on the first, second, fourth, and fifth weekends from Saturday at 6:00 pm to Monday drop off at school or 11:00 am. Petitioner shall have the third weekends from Saturday through Sunday at 6:00 pm. On the following fourth weekend, Respondent shall have parenting time from Saturday at 9:00 am until Monday drop off at school or 4:00 pm if there is no school. Commencing May 3, 2024, Respondent's weekends shall extend to Tuesdays at 11:00 am or drop off at school. His fourth weekends shall extend to Tuesdays at 4:00 pm if there is no school. The parties were further ordered to confer and agree upon a co-parenting counselor and schedule an intake. A review hearing was set for June 27th.

On June 27th, parties appeared for the hearing and reached several agreements, including adding the minor to Petitioner's insurance policy, the minor to begin individual counseling, an agreed upon schedule for selecting the therapist, as well as agreements for Respondent to take the minor to a funeral. The court modified the parenting plan, reverting back to Step-1 with the modification that the exchange would be at 8:00 pm on Monday evenings. The court set a further review hearing for August 15, 2024, to assess the minor's adjustments to the modified parenting plan. Parties were directed to file and serve supplemental declarations at least 10 days prior to the hearing.

Petitioner filed her Supplemental Declaration on July 31, 2024. Respondent was served on July 30, 2024. Petitioner asserts she has been unable to locate a therapist willing and able to take on the minor as a new client. The parties have engaged in at least one co-parenting counseling session, with another scheduled for mid-August. Petitioner also states that the minor's behaviors have significantly improved since returning to the Monday 8:00 pm drop off. Petitioner requests the court maintain the current parenting plan.

Respondent filed a Supplemental Declaration on August 5, 2024. Petitioner was served electronically the same day. Respondent is requesting the court reinstate the prior parenting plan. Respondent asserts Petitioner has routinely sought to reduce his parenting time, without substantial justification.

The court has read and considered the filings as set forth above. The court is concerned with Petitioner's assertions that the minor was acting out when spending the increased parenting time with Respondent and immediately improved when the time was

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reduced. The court is also concerned with Petitioner's failure to abide by the current orders as asserted by Respondent in his declaration.

The court adopts the agreement reached by the parties at CCRC as set forth in the March 14th CCRC report. Respondent shall have parenting time Every Saturday at 6:00 pm until Tuesday drop off at school. If there is no school, the drop off will be to Petitioner at 8:00 am. Petitioner shall have the minor the remainder of the time. Each party shall have a two-day vacation every 90 days. The vacationing parent shall provide the other parent with 30 days advance notice.

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

TENTATIVE RULING #13: THE COURT ADOPTS THE AGREEMENT REACHED BY THE PARTIES AT CCRC AS SET FORTH IN THE MARCH 14TH CCRC REPORT. RESPONDENT SHALL HAVE PARENTING TIME EVERY SATURDAY AT 6:00 PM UNTIL TUESDAY DROP OFF AT SCHOOL. IF THERE IS NO SCHOOL, THE DROP OFF WILL BE TO PETITIONER AT 8:00 AM. PETITIONER SHALL HAVE THE MINOR THE REMAINDER OF THE TIME. EACH PARTY SHALL HAVE A TWO-DAY VACATION EVERY 90 DAYS. THE VACATIONING PARENT SHALL PROVIDE THE OTHER PARENT WITH 30 DAYS ADVANCE NOTICE. 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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8:30 a.m./1:30 p.m.

14. CARLY TYLER V. ZACHARY ALLEN

23FL0824

Petitioner filed a Request for Order (RFO) on December 5, 2023, requesting the court make child custody, and parenting time orders. The parties were not referred to Child Custody Recommending Counseling, as they had been referred in the prior six months. Respondent was served by mail on December 5, 2023.

Parties appeared for the hearing on February 15, 2024. At the hearing the parties stipulated to the parentage of the minor, joint legal custody with Petitioner having sole physical custody. The parties stipulated to a parenting plan and requested the court set a review hearing in six months. The court accepted the parties' stipulation as its order and set a review hearing for August 15, 2024. Parties were directed to file and served Supplemental Declarations at least 10 days prior to the hearing.

Neither party has filed a Supplemental Declaration. As such, the court finds the current orders remain in the minor's best interest.

All prior orders remain in full force and effect. The court drops the matter from calendar.

TENTATIVE RULING #14: ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. THE COURT DROPS THE MATTER FROM CALENDAR.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY 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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16. CYNTHIA JACKS V. TODD JACKS

23FL0881

Petitioner filed an ex parte application for emergency orders on May 24, 2024. On May 28th, the court granted the request in part, ordering a distribution of \$15,000 to Petitioner as an advance on her share of community property funds for attorney's fees. The remaining proceeds from the sales of various properties was to be deposited into Respondent's counsel's trust account pending further written agreement of the parties or further order of the court. Petitioner filed a Request for Order (RFO) on May 28, 2024, making the same requests as set forth in the ex parte application. Respondent was personally served on May 28, 2024.

Petitioner filed a Supplemental Declaration on July 24, 2024. Proof of Service shows it was personally served on July 24, 2024.

Respondent filed a Responsive Declaration on July 29, 2024. Petitioner was served on the same day. Respondent objects to Petitioner's requests for distribution. Respondent also objects to a request for temporary spousal support. Respondent requests the matter be set for trial, as the community has significant assets and debts, and there are reimbursement claims. As such the issues require an evidentiary hearing.

The court notes there is currently no request for spousal support pending.

The finds the issues presented in Petitioner's RFO do require an evidentiary hearing. As such, the parties are ordered to appear to select Mandatory Settlement Conference (MSC) and trial dates.

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

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

17. DAVID KNIGHT V. AUBREY KNIGHT

23FL0645

Respondent filed a Request for Order (RFO) on May 20, 2024, requesting the court make orders as to child custody, parenting time, child and spousal support, as well as property control orders. Respondent did not concurrently file an Income and Expense Declaration. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on June 27, 2024, and a review hearing on August 15th. Proof of Service shows Petitioner was personally served on May 20, 2024. However, the Proof of Service does not show Petitioner was served with all the necessary documents.

Petitioner filed a Responsive Declaration on May 24, 2024. Proof of Service shows Respondent was served by mail on June 6, 2024. Respondent did not file an Income and Expense Declaration.

Both parties appeared for the CCRC appointment on June 27th and reached a full agreement. A report memorializing the parties' agreement was filed with the court on June 27, 2024, and mailed to the parties the same day.

The court has read and considered the filings as set forth above. The court adopts the parties' agreement as set forth in the June 27th CCRC report as the court orders. The court finds the agreement to be in the best interests of the minors.

As to Respondent's request for child and temporary guideline spousal support, the court finds Respondent has failed to comply with the California Rules of Court as well as the El Dorado County Local Rules. "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. Respondent failed to file and served an Income and Expense Declaration at the time of filing of the RFO. Therefore, the court denies the requests for child and temporary guideline spousal support.

Respondent has also requested exclusive use and control of the former family residence located at 1354 Hamblem Way in Cool, California. Respondent asserts Petitioner initiates arguments when he is at the home and comes over unannounced. It does not appear from his Responsive Declaration that Petitioner opposes the exclusive use and control request, but rather, requests Respondent be responsible for the mortgage and all other costs associated with the home upon the order for spousal support.

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

Respondent's request for exclusive use and control of the former family residence is granted on temporary basis. Petitioner must provide 24-hour written notice prior to going to the residence and provide the reasons for going to the residence. As the court denied Respondent's request for support orders, Petitioner shall continue to maintain payments of the mortgage and Verizon phone account. The court grants this request subject to any potential *Watts/Epstein* claims.

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 #17: THE COURT ADOPTS THE PARTIES' AGREEMENT AS SET FORTH IN THE JUNE 27TH CCRC REPORT AS THE COURT ORDERS. THE COURT FINDS THE AGREEMENT TO BE IN THE BEST INTERESTS OF THE MINORS. THE COURT DENIES THE REQUESTS FOR CHILD AND TEMPORARY GUIDELINE SPOUSAL SUPPORT FOR THE REASONS SET FORTH ABOVE. RESPONDENT'S REQUEST FOR EXCLUSIVE USE AND CONTROL OF THE FORMER FAMILY RESIDENCE GRANTED ON TEMPORARY BASIS. PETITIONER MUST PROVIDE 24-HOUR WRITTEN NOTICE PRIOR TO GOING TO THE RESIDENCE AND PROVIDE THE REASONS FOR GOING TO THE RESIDENCE. AS THE COURT DENIED RESPONDENT'S REQUEST FOR SUPPORT ORDERS, PETITIONER SHALL CONTINUE TO MAINTAIN PAYMENTS OF THE MORTGAGE AND VERIZON PHONE ACCOUNT. THE COURT GRANTS THIS REQUEST SUBJECT TO *WATTS/EPSTEIN* CLAIMS. 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.

18. JEFFERY JONES V. LACEY MARR-JONES

PFL20200249

Petitioner filed an Order to Show Cause and Affidavit for Contempt (OSC) on April 18, 2024. Respondent was personally served on July 1, 2024.

Parties are ordered to appear on Petitioner's April 18, 2024 filed OSC.

Parties are ordered to appear on Respondent's August 7, 2023 filed OSC.

TENTATIVE RULING #18: PARTIES ARE ORDERED TO APPEAR.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 15, 2024

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

19. JODI GRAHAM V. NICHOLAS GRAHAM

22FL1083

Respondent filed a Request for Order (RFO) on June 5, 2024, requesting modification of the current orders for child custody and the parenting plan. The parties were not referred to Child Custody Recommending Counseling (CCRC) as they had been previously referred within the prior six months. Petitioner was personally served on June 5th.

Respondent asserts the prior orders of April 24, 2024 were in error as he was not provided proper notice and was unable to participate due to his incarceration.

Petitioner has not filed a Responsive Declaration.

The court has reviewed the prior filings in this matter. Respondent's assertion that he was not provided with proper notice is inaccurate. He was properly mail served with Petitioner's RFO at his place of incarceration. Further, Respondent could have participated in the CCRC appointment by telephone. Additionally, Respondent could have participated in the hearing, by requesting oral argument and appearing remotely from the jail. Respondent chose not to do so.

The court, however, does find that there has been a change in circumstances, in that it appears that Respondent is no longer incarcerated. As such, the court finds good cause to refer the parties to CCRC with an appointment on 09/13/2024 at 1:00 PM with Michaela Murphy. The review hearing is continued to 10/31/2024 at 1:30 PM in Department 5. Any Supplemental Declarations are to be filed and served at least 10 days prior to the hearing.

Pending the next hearing, all prior orders remain in full force and effect. Respondent shall prepare and file the Findings and Orders After Hearing.

TENTATIVE RULING #19: THE COURT FINDS THERE HAS BEEN A CHANGE IN CIRCUMSTANCES, IN THAT IT APPEARS THAT RESPONDENT IS NO LONGER INCARCERATED. THE COURT FINDS GOOD CAUSE TO REFER THE PARTIES TO CCRC WITH AN APPOINTMENT ON 9/13/2024 AT 1:00 AM WITH MICHAELA MURPHY. THE REVIEW HEARING IS CONTINUED TO 10/31/2024 AT 1:30 PM IN DEPARTMENT 5. ANY SUPPLEMENTAL DECLARATIONS ARE TO BE FILED AND SERVED AT LEAST 10 DAYS PRIOR TO THE HEARING. PENDING THE NEXT HEARING, ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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

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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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20. MELISSA RASCON V. JEROME FIMBRES

PFL20190242

Petitioner filed a Request for Order (RFO) on March 1, 2024, requesting a modification to the current child custody and parenting time orders. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on March 28, 2024, and a review hearing on May 16, 2024. Upon review of the court file, there is no Proof of Service showing Respondent was properly served with the RFO or the referral to CCRC.

Only Petitioner appeared for the CCRC appointment on March 28th. As such, a single parent report was filed with the court on March 28, 2024, and mailed to the parties on the same day.

Respondent filed a Responsive Declaration on May 2, 2024. There is no Proof of Service for this document, therefore, the court cannot consider it.

Petitioner filed a Declaration on May 6, 2024. There is no Proof of Service for this document, therefore, the court cannot consider it.

The parties appeared for the hearing on May 16, 2024, and agreed to be rereferred to CCRC. The parties agreed to waive defects in notice and acknowledged receipt of the documents described in the tentative ruling. The court accepted the parties' agreements and rereferred the parties to CCRC with an appointment on July 1st and a further review hearing on August 15th. The court admonished the parties that any Supplemental Declarations needed to be filed and served at least 10 days prior to the hearing and that the Proof of Service needed to be filed in accordance with the rules of court.

Both parties attended CCRC on July 1, 2024, and were unable to reach any agreements. A report with recommendations was filed with the court on August 2, 2024. Copies were mailed to the parties the same day.

Petitioner filed a Declaration on August 5, 2024. There is no Proof of Service for this document, therefore, the court cannot consider it.

The court has read and considered the filings as outlined above. The court finds the recommendations as set forth in the August 2nd CCRC report are in the best interest of the minor. The court adopts the recommendations as set forth.

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 #20: THE COURT FINDS THE RECOMMENDATIONS AS SET FORTH IN THE AUGUST 2ND CCRC REPORT ARE IN THE BEST INTEREST OF THE MINOR. THE

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 15, 2024

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

COURT ADOPTS THE RECOMMENDATIONS AS SET FORTH. 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 15, 2024

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

21. SAMANTHA HERNANDEZ V. JACOB HERNANDEZ

PFL20160451

Petitioner filed a Request for Order (RFO) on June 4, 2024, requesting the court modify the current orders as to child and spousal support, as well as requesting Family Code section 2030 attorney's fees. Petitioner concurrently filed an Income and Expense Declaration. Respondent was personally served in compliance with Family Code section 215 as this is a post-judgment request for modification.

Petitioner is requesting guideline child support, as the prior order reserved on the issue of child support. Petitioner is also requesting guideline spousal support. Finally, Petitioner is requesting Family Code section 2030 attorney's fees in the amount of \$8,000.

Parties submitted a stipulation to continue the original hearing on the RFO from July 18, 2024, to August 15, 2024.

Petitioner filed a Memorandum of Points and Authorities on July 22, 2024. Petitioner filed a Declaration with an Amended Memorandum of Points and Authorities on July 23, 2024. Both were personally served on July 23, 2024.

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

Parties are ordered to appear for the hearing.

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 15, 2024

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

22. SHANNON MARLETT V. JOHN MARLETT

PFL20170741

Respondent filed a Request for Order (RFO) on May 28, 2024, requesting a post-judgment modification of permanent spousal support. Respondent concurrently filed an Income and Expense Declaration. Upon review of the court file, there is no Proof of Service showing Petitioner was served in accordance with Family Code section 215.

Petitioner filed a Responsive Declaration and an Income and Expense Declaration on August 2, 2024. Proof of Service shows Respondent was personally served on August 1, 2024.

Respondent filed a Reply on August 5, 2024. Proof of Service shows it was served on Petitioner electronically on August 5th.

The court finds good cause to proceed despite the lack of Proof of Service showing Petitioner was served in accordance with Family Code section 215, as Petitioner has filed a Responsive Declaration which addresses the issues raised by Respondent's RFO.

As this is a post-judgment request to modify permanent spousal support, the court must take testimony on the Family Code section 4320 factors. As such, the parties are ordered to appear to select Mandatory Settlement Conference (MSC) and trial dates.

TENTATIVE RULING #22: THIS IS A POST-JUDGMENT REQUEST TO MODIFY PERMANENT SPOUSAL SUPPORT, AND THEREFORE, THE COURT MUST TAKE TESTIMONY ON THE FAMILY CODE SECTION 4320 FACTORS. AS SUCH, THE PARTIES ARE ORDERED TO APPEAR TO SELECT MANDATORY SETTLEMENT CONFERENCE (MSC) AND TRIAL DATES.