

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

**1. AMY KNIERIEM V. BEAU MICHAEL LEMIRE**

**23FL0234**

On May 22, 2024, the parties appeared before the court for a long cause trial to determine whether Respondent had successfully rebutted the Family Code § 3044 presumption. The court found that he had not. The parties were referred to Child Custody Recommending Counseling (CCRC) and a review hearing was set for the present date.

The parties attended CCRC on July 8, 2024. They reached agreements only regarding individual therapy. A report containing the agreements, as well as recommendations from the CCRC counselor, was prepared on July 16<sup>th</sup>. It was mailed to the parties on July 17<sup>th</sup>.

A Supplemental Declaration of Respondent Beau Lemire was filed and served on August 1<sup>st</sup>. A declaration of Mike Lemire was filed and served concurrently therewith. Petitioner filed and served an Updating Declaration on August 12<sup>th</sup>.

According to Respondent, Petitioner has withheld the minor from him for several visits which she has refused to reschedule. Respondent requests specific make-up times for those visits. He also requests the court admonish Petitioner that she cannot unreasonably deny Respondent his visitation time, and she must provide the reason for any cancellation, which should be limited to the minor's severe illness. He asks for clarification on the court's order that "Father must not leave the designated place." Finally, he asks that all exchanges occur at Raley's located at 3935 Park Drive, El Dorado Hills, CA, at the entrance that is nearest the UPS store. Respondent's father to be present for the exchange while Respondent waits in his vehicle.

Petitioner is requesting there be no change to the frequency and schedule of visits. She does request the visitation supervisor be changed to her sister, Juli Knieriem. She is requesting an order precluding third parties or other family members from being present at any supervised visits. She asks that the court designate two or more different locations with addresses for the nonprofessionally supervised visits to occur. Finally, she asks that the court strike pg. 8:18-12:2 of the CCRC report, which is an analysis of the 3044 presumption, which the court found was not rebutted. She does not agree with the mediator's recommendations.

After reviewing the filings as outlined above, the court does not find the recommendations in the CCRC report to be in the best interests of the minor as the court has found that Respondent has not rebutted the Section 3044 presumption. Therefore, implementing the suggested step-up plan would be premature. Instead, the court is maintaining the current orders. This includes the current order for Mr. Lemire to act as the nonprofessional visitation supervisor.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

Regarding the location of visits, the court was clear in its prior order that visits may take place in public within the West Slope of El Dorado County. Brown's Ravine is a public location frequented by many people who are visiting the lake. The court's statement that it contemplates parks, a movie, a restaurant, "or similar setting" would encompass an area like Brown's Ravine that is open to the public, controlled by security guards, contains hiking and biking trails and has lake access. This is akin to a park and the court sees no reason why visits should not take place there.

The court is not setting a designated spot for exchanges. Petitioner shall provide all transportation to the minor. Respondent is not to drive the minor anywhere.

Finally, the court reiterates its prior order that Petitioner may not unreasonably deny the visitation. That said, the court is not inclined to make Respondent's requested order, that the only viable reason for a missed visit is the minor's severe illness. There may be any number of reasons for a missed visit. However, when a visit is missed, the parties are ordered to set a time to make up the missed visit.

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

**TENTATIVE RULING #1: ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. THE PARTIES ARE ORDERED TO ENSURE THAT ALL MISSED VISITS ARE MADE UP. 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.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

**2. APRIL ROBINSON V. GORDON ROBINSON**

**PFL20210147**

Respondent filed and served a Request for Order (RFO) on May 22, 2024, seeking custody orders, property control orders, and Family Code § 271 sanctions. Petitioner was electronically served on May 22<sup>nd</sup>. Minor's Counsel was not served with the RFO until August 12<sup>th</sup>. Petitioner filed and served her Responsive Declaration to Request for Order on August 9<sup>th</sup>. Respondent has not filed a Reply.

Respondent requests the parties practice a 2-2-5 parenting schedule for the minor Jack. At the time of filing the RFO there was a pending request for a Domestic Violence Restraining Order filed by Petitioner. That request has since been withdrawn by stipulation of the parties which was filed on June 20, 2024. Nonetheless, Respondent has completed a 12-hour co-parenting/divorce class, a 12-hour parenting without conflict class, a 16-hour anger management class, and a 52-week anger management course. He has also been participating in individual counseling.

Respondent also asks that marital residence be listed for sale immediately with Gilbert Fleitas to be appointed as the realtor. The parties reached an agreement which became the judgment of the court on May 23, 2024, wherein the parties agreed to list the marital residence for sale on April 1<sup>st</sup> with a mutually agreed upon realtor. Respondent is requesting \$5,000 as sanctions pursuant to Family Code § 271 due to Petitioner's failure to comply with the judgment.

According to Petitioner, the parties have since agreed to list the residence with Shannon and John Yoffie of the Yoffie Real Estate Group. She is informed and believes that Respondent is dropping his request for sanctions given the parties' agreement.

The parties attended Child Custody Recommending Counseling (CCRC) on June 28, 2024, and were able to reach agreements on the issues of custody and visitation. A report containing the agreements was prepared and mailed to Petitioner and Respondent on July 1, 2024. There is no Proof of Service showing a copy was mailed to Minor's Counsel.

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

Parties are ordered to appear on the custody and parenting plan requests, to determine if Minor's Counsel is willing to waive the defect in service.

While Petitioner maintains that the parties have reached an agreement regarding the appointment of the realtor and sanctions, the court does not have anything jointly submitted by the parties to that effect, therefore, the parties are ordered to appear regarding the issue of appointing a realtor for the marital residence and the issue of sanctions.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

**TENTATIVE RULING #2: PARTIES ARE ORDERED TO APPEAR ON THE CUSTODY AND PARENTING PLAN REQUESTS, TO DETERMINE IF MINOR'S COUNSEL IS WILLING TO WAIVE THE DEFECT IN SERVICE. THE PARTIES ARE ORDERED TO APPEAR REGARDING THE ISSUE OF APPOINTING A REALTOR FOR THE MARITAL RESIDENCE AND THE ISSUE OF SANCTIONS.**

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

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

**3. CANDACE RENEE GARCIA V. FRANK DANIEL GARCIA**

**24FL0172**

On May 21, 2024, Respondent filed a Request for Order (RFO) seeking to set aside the default judgment taken against him. There is no Proof of Service for this document therefore the matter is dropped from calendar.

**TENTATIVE RULING #3: THE 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 22, 2024

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

**4. CHANTEE SALAYPHONH V. AN T. HUYNH**

**22FL0846**

On May 21, 2024, Petitioner filed a Request for Order (RFO) seeking orders for a waiver of Respondent's preliminary and final declarations of disclosure. She is also asking the court to approve the Marital Settlement Agreement, as executed, and grant a judgment of dissolution of marriage or, in the alternative, grant a status only dissolution.

Regarding the request for a status-only dissolution, according to the court's records the status-only dissolution was granted and the marital status terminated effective April 25, 2024. Therefore, this request is moot.

Turning to the declarations of disclosure, Family Code sections 2104 and 2105 impose on each party the obligation of making preliminary and final disclosures of assets within the specified timeframes. Where a party fails to comply with their disclosure requirements, the complying party may, among other things, file a motion showing good cause for the court to grant the complying party's voluntary waiver of receipt of the noncomplying party's disclosures. Fam. Code § 2107(b)(1).

Family Code section 2107 (b)(3) allows the court to grant the complying party's voluntary waiver of the receipt of the noncomplying party's preliminary and final declarations of disclosure. In this context, "good cause" for granting the waiver is where a party is seeking entry of judgment and has fully complied with the declaration requirements. Here, Petitioner has complied with the disclosure requirements. Further, parties reached a marital settlement agreement which was executed on June 2, 2022. The court grants the request to waive Respondent's preliminary and final declarations of disclosure.

The court also grants Petitioner's request to enter the Judgment including the marital settlement agreement, pursuant to Code of Civil Procedure 664.6. The marital settlement agreement was dually executed by the parties and notarized on June 2, 2022. The parties have complied with the terms of the agreement since it was executed. While the filing initially took place in Placer County, the court finds there has been no alternation to the terms of the marital settlement agreement, only a clerical correction.

Petitioner is directed to file the Judgment packet with the clerk's office for processing.

**TENTATIVE RULING #4: THE COURT GRANTS PETITIONER'S REQUEST TO WAIVE RESPONDENT'S PRELIMINARY AND FINAL DECLARATIONS OF DISCLOSURE. THE COURT GRANTS PETITIONER'S REQUEST TO ENTER JUDGMENT ALONG WITH THE MARITAL SETTLEMENT AGREEMENT PURSUANT TO CODE OF CIVIL PROCEDURE 664.6.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

**PETITIONER IS DIRECTED TO FILE THE JUDGMENT PACKET WITH THE CLERK'S OFFICE FOR PROCESSING.**

**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 22, 2024

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

**6. CLARA STEWART V. FRANCISCO MARIN**

**SFL20190229**

*Review Hearing*

This matter is before the court for receipt and review of the 3111 report. On August 12, 2024, Counsel for Petitioner filed and served an Updating Declaration of Attorney. Respondent has not filed an updating declaration.

As of the date of Petitioner's updating declaration, the 3111 evaluation had not yet commenced. The chosen evaluator is booked approximately 5-6 months out, therefore Petitioner is requesting the matter be continued to January, though she is unavailable on January 2<sup>nd</sup>.

The review hearing on the 3111 evaluation is continued to 01/09/2025 at 8:30am in Department 5.

*Child Support and Add-Ons*

Petitioner filed a Request for Order (RFO) on May 14, 2024. She filed her Income and Expense Declaration concurrently therewith. Both documents, and all other required documents, were mail served on July 9<sup>th</sup>. Respondent filed and served his Income and Expense Declaration on August 7, 2024. Respondent has not filed a Responsive Declaration to Request for Order.

Petitioner brings her RFO requesting child support as well as equal division of all uninsured medical costs, childcare costs related to employment or reasonably necessary job training, and all reimbursements to be paid pursuant to form FL-192 Notice of Rights and Responsibilities.

As stated above, Respondent has not filed a Responsive Declaration to Request for Order. Where a party fails to timely file opposition papers the court, in its discretion, may treat said failure "as an admission that the motion or other application is meritorious." El Dorado County, Local Rule 7.10.02(C). Here, it appears the RFO was timely and properly served on Respondent. As such, the court finds good cause to treat his failure to file a Responsive Declaration as an admission that the claims made in the RFO are meritorious.

Utilizing the same figures as outlined in the attached DissoMaster report, the court finds that child support is \$46 per month. The court adopts the attached DissoMaster report and orders Respondent to pay Petitioner \$46 per month as and for temporary spousal support, payable on the 15th of the month until further order of the court or legal termination. This order for child support is effective as of May 15, 2024.



LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

The court finds the above order results in arrears in the amount of \$184 through and including August 15, 2024. The court orders Respondent pay Petitioner \$31 on the 1<sup>st</sup> of each month commencing September 1<sup>st</sup> and continuing until paid in full (approximately 6 months). If a payment is late or missed the remaining balance is due in full with legal interest within five (5) days.

In addition to the support orders above, the parties are ordered to equally share in the reasonable uninsured healthcare costs for the child, and all childcare costs related to employment or reasonably necessary education/training for employment. The parties are to comply with the notice and reimbursement procedures as stated in the attached FL-192 Notice of Rights and Responsibilities.

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

**TENTATIVE RULING #6: THE REVIEW HEARING ON THE 3111 EVALUATION IS CONTINUED TO 01/09/2025 AT 8:30AM IN DEPARTMENT 5. THE COURT FINDS THAT CHILD SUPPORT IS \$46 PER MONTH. THE COURT ADOPTS THE ATTACHED DISSOMASTER REPORT AND ORDERS RESPONDENT TO PAY PETITIONER \$46 PER MONTH AS AND FOR TEMPORARY SPOUSAL SUPPORT, PAYABLE ON THE 15TH OF THE MONTH UNTIL FURTHER ORDER OF THE COURT OR LEGAL TERMINATION. THIS ORDER FOR CHILD SUPPORT IS EFFECTIVE AS OF MAY 15, 2024.**

**THE COURT FINDS THE ABOVE ORDER RESULTS IN ARREARS IN THE AMOUNT OF \$184 THROUGH AND INCLUDING AUGUST 15, 2024. THE COURT ORDERS RESPONDENT PAY PETITIONER \$31 ON THE 1<sup>ST</sup> OF EACH MONTH COMMENCING SEPTEMBER 1<sup>ST</sup> AND CONTINUING UNTIL PAID IN FULL (APPROXIMATELY 6 MONTHS). IF A PAYMENT IS LATE OR MISSED THE REMAINING BALANCE IS DUE IN FULL WITH LEGAL INTEREST WITHIN FIVE (5) DAYS.**

**IN ADDITION TO THE SUPPORT ORDERS ABOVE, THE PARTIES ARE ORDERED TO EQUALLY SHARE IN THE REASONABLE UNINSURED HEALTHCARE COSTS FOR THE CHILD, AND ALL CHILDCARE COSTS RELATED TO EMPLOYMENT OR REASONABLY NECESSARY EDUCATION/TRAINING FOR EMPLOYMENT. THE PARTIES ARE TO COMPLY WITH THE NOTICE AND REIMBURSEMENT PROCEDURES AS STATED IN THE ATTACHED FL-192 NOTICE OF RIGHTS AND RESPONSIBILITIES. 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***

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

**LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999). NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY PHONE CALL OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.**

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

Input Data	Father	Mother	Guideline (2024)	Cash Flow Analysis	Father	Mother
Number of children	0	1	<b>Nets (adjusted)</b>	<b>Guideline</b>		
% time with Second Parent	1%	0%	Father	232	Payment (cost)/benefit	(46)      46
Filing status	Single	HH/MLA	Mother	4,562	Net spendable income	185      4,609
# Federal exemptions	1*	2*	Total	4,794	% combined spendable	3.9%      96.1%
Wages + salary	0	5,193	<b>Support</b>		Total taxes	2      681
401(k) employee contrib	0	0	CS Payor	Father	Comb. net spendable	4,794
Self-employment income	234	0	Presumed	(46)	<b>Proposed</b>	
Other taxable income	0	50	Basic CS	(46)	Payment (cost)/benefit	(46)      46
Short-term cap. gains	0	0	Add-ons	0	Net spendable income	185      4,609
Long-term cap. gains	0	0	Presumed Per Kid		NSI change from gdl	0      0
Other gains (and losses)	0	0	Child 1	(46)	% combined spendable	3.9%      96.1%
Ordinary dividends	0	0	CA FAM 4055(b)(7) CS LIA range		% of saving over gdl	0%      0%
Tax. interest received	0	0		\$5 to \$46	Total taxes	2      681
Social Security received	0	0	Spousal support	blocked	Comb. net spendable	4,794
Unemployment compensation	0	0	Total	(46)	Percent change	0.0%
Operating losses	0	0	<b>Proposed, tactic 9</b>		<b>Default Case Settings</b>	
Ca. operating loss adj.	0	0	CS Payor	Father		
Roy, partnerships, S corp, trusts	0	0	Presumed	(46)		
Rental income	0	0	Basic CS	(46)		
Misc ordinary tax. inc.	0	50	Add-ons	0		
Other nontaxable income	0	0	Presumed Per Kid			
New-spouse income	0	0	Child 1	(46)		
SS paid other marriage	0	0	CA FAM 4055(b)(7) CS LIA range			
CS paid other relationship	0	0		\$5 to \$46		
Adj. to income (ATI)	0	0	Spousal support	blocked		
9.3% elective PTE payment	0	0	Total	(46)		
Ptr Support Pd. other P'ships	0	0	Savings	0		
Health insurance	0	0	Mother	0		
Qual. Bus. Inc. Ded.	0	0	Father	0		
Itemized deductions	0	0	No releases			
Other medical expenses	0	0				
Property tax expenses	0	0				
Ded. interest expense	0	0				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
State sales tax paid	0	0				
Required union dues	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: RESPONDENT:	CASE NUMBER:
----------------------------	--------------

TANF,SSI and CS received

0

0



## 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>.

Page 1 of 2

# 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](http://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.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

**7. DCSS V. ANSEL W. DUEY (JOINED PARTY: HEATHER MAE KEYES) PFS20120076**

On May 21, 2024, Joined Party filed a Request for Order (RFO) seeking custody and visitation orders. There is no Proof of Service for this document, though Respondent did file a Responsive Declaration to Request for Order on August 6<sup>th</sup> thereby effectively waiving any defect in service.

The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on June 28, 2024. Only Joined Party participated in the appointment. Respondent appeared in-person for the appointment, though it was scheduled to be held telephonically. Given the confusion in scheduling, Respondent was unable to meaningfully participate in the appointment.

The parties are rereferred to CCRC with an appointment on 9/13/2024 at 1:00 PM with Rebecca Nelson. The parties are ordered to make the children available for the CCRC counselor to interview them. A review hearing is set for 11/07/2024 at 1:30 PM in Department 5. The parties are ordered to file Supplemental Declarations no later than 10 days prior to the hearing date.

**TENTATIVE RULING #7: THE PARTIES ARE REREFERRED TO CCRC WITH AN APPOINTMENT ON 9/12/2024 AT 1:00 PM WITH REBECCA NELSON. THE PARTIES ARE ORDERED TO MAKE THE CHILDREN AVAILABLE FOR THE CCRC COUNSELOR TO INTERVIEW THEM. A REVIEW HEARING IS SET FOR 11/07/2024 AT 1:30 PM IN DEPARTMENT 5. THE PARTIES ARE ORDERED TO FILE SUPPLEMENTAL DECLARATIONS 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.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

**8. ROGER HEMBD V. KRISTIN HEMBD**

**PFL20200316**

On May 9, 2024, the court set a review hearing for August 22<sup>nd</sup> 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. Petitioner filed and served a Declaration of Susan Stoeffler on August 15<sup>th</sup>. 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 medical 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. She is also asking that Petitioner be the primary parent during the school year, with Respondent to have the 1<sup>st</sup>, 2<sup>nd</sup>, 4<sup>th</sup>, and 5<sup>th</sup> weekends, as well as Wednesday and Thursday overnights on the 3<sup>rd</sup> 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. Lastly, Respondent is requesting the minor remain on Medi-Cal.

Respondent filed a Reply Declaration on August 8, 2024. It was personally served on August 8<sup>th</sup>. Respondent asserts she can spend weekday time with the minor, as she is able to drive to Carson City, Nevada and stay in a motel or her RV with the minor. Respondent acknowledges this is not ideal but argues it is a workable alternative. Respondent objects to Petitioner's proposed holiday schedule. She renews her request that the minor remain in therapy with the current therapist and 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.



LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

Petitioner filed a Declaration on August 15, 2024, with two attached exhibits, communication from the minor's therapist. Proof of Service shows Respondent and Minor's Counsel were served on August 15<sup>th</sup>.

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 #8: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

**9. KENDRA LAYTON V. WAYLON LAYTON**

**PFL20190585**

On May 21, 2024, Petitioner filed a Request for Order (RFO) along with an Application for an Order Shortening Time (OST). The RFO and OST were both served on May 20<sup>th</sup>, though the OST was denied and the RFO was set for hearing on the present date.

Respondent filed and served a Responsive Declaration to Request for Order on May 20<sup>th</sup>. Respondent filed an additional Declaration on June 14<sup>th</sup>. Petitioner filed and served a Declaration on June 18<sup>th</sup>.

Petitioner brings her RFO requesting custody and visitation orders for the parties' minor child as well as child support. Specifically, Petitioner asks the court to award her sole legal and sole physical custody of the minor.

Respondent requests the current orders remain in place. In the alternative, if the court is not inclined to uphold the current orders, Respondent asks for third party placement of the minor. He asks that support not be calculated until custody orders are made and he notes that Petitioner already filed for support in Sacramento County.

Petitioner's request for child support is denied as there is already a pending support case in Sacramento County. Additionally, it appears from the filings that Petitioner was granted a Domestic Violence Temporary Restraining Order (DVTRO) in Sacramento. There was a hearing on the requested DVRO on July 16<sup>th</sup> in Sacramento. The outcome of the hearing is unknown.

The parties attended Child Custody Recommending Counseling (CCRC) on June 27, 2024. A report with recommendations was prepared on August 9<sup>th</sup>. It was mailed to the parties on August 12<sup>th</sup>. While the CCRC report concedes that there is a pending DVRO, it recommends the parties maintain joint legal custody and the current visitation schedule. The court is not inclined to accept these recommendations as it is unclear if the Family Code § 3044 presumption applies in the present matter. The parties are ordered to appear for the hearing to update the court on the status of the July 16<sup>th</sup> DVRO hearing.

**TENTATIVE RULING #9: PETITIONER'S REQUEST FOR CHILD SUPPORT IS DENIED AS THERE IS ALREADY A PENDING SUPPORT CASE IN SACRAMENTO COUNTY. THE PARTIES ARE ORDERED TO APPEAR FOR THE HEARING ON THE ISSUES OF CUSTODY AND VISITATION AND TO UPDATE THE COURT ON THE STATUS OF THE JULY 16<sup>TH</sup> DVRO 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**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

**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 22, 2024

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

**10. RACHAEL OSBORN V. MATTHEW OSBORN**

**23FL0134**

Respondent filed a Request for Order (RFO) on March 12, 2024. It was personally served on April 24<sup>th</sup>, though the Proof of Service does not indicate that any of the other required documents were served. The RFO came before the court for hearing on May 23<sup>rd</sup>, at which time the parties presented the court with a stipulation as to many of the issues in the RFO. The parties were referred to Child Custody Recommending Counseling (CCRC) and a review hearing was set for the present date.

On June 27<sup>th</sup> Respondent filed a Declaration Regarding Custody and Visitation. There is no Proof of Service for this document therefore the court cannot consider it.

Petitioner filed and served a Declaration on August 8<sup>th</sup>.

The parties attended CCRC on July 5<sup>th</sup> and were able to reach agreements on all issues. A report containing their agreements was prepared and mailed to the parties on July 15, 2024.

According to Petitioner, she informed CCRC that she needed to sleep on the agreements and consider them prior to committing to them. She has provided the court with several additions and changes she would like added to the agreements.

The court has reviewed the agreements of the parties and finds them to be in the best interests of the children. They are therefore hereby adopted as the orders of the court. In addition, the court orders the following: (1) Neither party shall speak negatively about the other, or the other party's family members, either directly to the children or in their presence; (2) prior to moving to step 2 of the step-up plan, Respondent shall provide Petitioner with proof that the children will each have their own beds to sleep in; (3) Respondent's parenting time during step 2 and all subsequent steps, shall end at 5:00pm instead of 6:00pm; (4) In the event Respondent is unable to have visitation due to dangerous weather which prevents the children from being transported to the exchange, the parties shall work together to agree upon a time for Respondent to make-up the missed visit.

The remainder of the requests in Petitioner's declaration contain separate affirmative relief that was not previously requested and therefore, Respondent has not been given the opportunity to be heard on those issues. While "[t]he responding party may request relief related to the orders requested in the moving papers...unrelated relief must be sought by scheduling a separate hearing using *Request for Order* (form FL-300)..." Cal. Rule Ct. § 5.92(g)(2). This includes requests regarding who can attend exchanges, timing enforcement on exchanges, healthcare costs and the reimbursement of two specified

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

medical bills. These requests are outside the scope of the RFO and are therefore denied without prejudice.

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

**TENTATIVE RULING #10: THE AGREEMENTS CONTAINED IN THE JULY 15, 2024 CCRC REPORT ARE HEREBY ADOPTED AS THE ORDERS OF THE COURT. IN ADDITION, THE COURT ORDERS THE FOLLOWING: (1) NEITHER PARTY SHALL SPEAK NEGATIVELY ABOUT THE OTHER, OR THE OTHER PARTY'S FAMILY MEMBERS, EITHER DIRECTLY TO THE CHILDREN OR IN THEIR PRESENCE; (2) PRIOR TO MOVING TO STEP 2 OF THE STEP-UP PLAN, RESPONDENT SHALL PROVIDE PETITIONER WITH PROOF THAT THE CHILDREN WILL EACH HAVE THEIR OWN BEDS TO SLEEP IN; (3) RESPONDENT'S PARENTING TIME DURING STEP 2 AND ALL SUBSEQUENT STEPS, SHALL END AT 5:00PM INSTEAD OF 6:00PM; (4) IN THE EVENT RESPONDENT IS UNABLE TO HAVE VISITATION DUE TO DANGEROUS WEATHER WHICH PREVENTS THE CHILDREN FROM BEING TRANSPORTED TO THE EXCHANGE, THE PARTIES SHALL WORK TOGETHER TO AGREE UPON A TIME FOR RESPONDENT TO MAKE-UP THE MISSED VISIT. 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.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

**12. YESENIA RAMIREZ MACIAS V. JULIO RAMOS SOLORZANO**

**23FL0285**

On May 17, 2024, Petitioner filed a Request for Order (RFO) seeking discovery orders and sanctions. The RFO and all supporting documents were mail served on May 17<sup>th</sup>.

Respondent has not filed a Responsive Declaration to Request for Order. Where a party fails to timely file opposition papers the court, in its discretion, may treat said failure “as an admission that the motion or other application is meritorious.” El Dorado County, Local Rule 7.10.02(C). Here, it appears the RFO and all other documents were timely and properly served on Respondent. He had notice of the pending requests chose not to oppose them. As such, the court finds good cause to treat his failure to do so as an admission that the claims made in the RFO are meritorious.

Petitioner requests the court compel Respondent to provide further responses to Requests for Production of Documents, Set One. She is also requesting attorney’s fees and sanctions pursuant to Civil Procedure Section 2023.010 and Family Code § 2107 and an order directing Respondent to pay the previously awarded attorney’s fees of \$6,500 forthwith. She requests an additional \$3,000 in sanctions pursuant to Family Code § 271 due to Respondent’s refusal to comply with the court’s prior order.

The discovery at issue was served on December 7, 2023. Responses were served on February 16, 2024. Finding the responses to be incomplete, Petitioner’s counsel met and conferred with Respondent and the parties agreed to extend the cut-off date to file a motion to compel an additional 45 days thereby making May 17<sup>th</sup> the new cut-off date.

The Civil Discovery Act authorizes all parties to request documents from the opposing party by way of a Request for Production of Documents. “A party to whom a demand for inspection, copying, testing, or sampling has been directed *shall respond separately to each item or category of item* by any of the following:” (1) a statement that the party will comply, (2) a statement that the party lacks the ability to comply, or (3) an objection to the demand or request made. Cal. Civ. Pro. §2031.210 (emphasis added). On receipt of responses to requests for production of documents, the requesting party may move for an order compelling further responses where the initial production is not in compliance with the Civil Discovery Act. Cal. Civ. Pro. § 2031.310.

Petitioner has made the requisite showing that an order compelling further responses is warranted in this matter. Petitioner properly served the discovery, met and conferred on the deficient responses, and timely filed her motion to compel. A review of Petitioner’s Separate Statement Regarding Discovery Responses confirms that the requests made are relevant to the subject matter of the present action and the responses given are not compliant with the Civil Discovery Act. Therefore, Respondent is ordered to

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

serve full, complete, and verified responses to Requests for Production of Documents, Set One, no later than September 5, 2024.

Where a party engages in the misuse of the discovery process, the court “shall” impose monetary sanctions “unless it finds that one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.” Cal. Civ. Pro. 2023.030(a)(emphasis added) & 2023.020. Misuse of the discovery process includes, but is not limited to, failing to respond or submit to an authorized method of discovery, making an evasive response to discovery, or failing to confer in a reasonable, good faith attempt to informally resolve any discovery dispute. Cal. Civ. Pro. § 2023.010. A party requesting sanctions for reasonable expenses that were incurred as a result of discovery abuse must already be liable for those expenses before the court can award the costs as sanctions. See *Tucker v. Pacific Bell Mobile Servs.*, 186 Cal. App. 4<sup>th</sup> 1548 (2010) (anticipated costs for future deposition could not be included in award of sanctions). Notwithstanding the foregoing, “... in addition to any other sanctions imposed ...a court *shall* impose a one-thousand-dollar (\$1,000) sanction, payable to the requesting party...” if the court finds that the noncompliant party did not respond in good faith to a request for production of documents or failed to make a reasonable, good faith attempt to informally resolve a discovery dispute. Cal. Civ. Pro. § 2023.050(a).

Here, Respondent has engaged in a misuse of the discovery process by not only making evasive discovery responses, but also by failing to engage in a meaningful good faith attempt to resolve the discovery dispute. Respondent has not provided the court with any justification to support his actions therefore sanctions are warranted.

Petitioner has not provided the court with an amount of sanctions requested or documentation to support an amount that should be awarded. However, given that the motion is not a particularly difficult one to research or prepare, the court finds \$1,000 in sanctions to be reasonable. This is in addition to the \$1,000 in sanctions pursuant to Civil Procedure § 2023.050(a) for failure to comply with a request for production of documents. Therefore, Respondent is to pay Petitioner \$2,000 as and for discovery sanctions in accordance with the payment plan specified below.

Given that discovery sanctions are being awarded, the court denies Petitioner’s request for sanctions pursuant to Family Code § 2107.

Finally, regarding the outstanding attorney’s fees. Respondent is ordered to pay Petitioner \$6,500 on or before August 29, 2024, to comply with the court’s prior order. Petitioner has made an additional request for sanctions pursuant to Family Code Section 271 which states in pertinent part, “...the court may base an award of attorney’s fees and

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

costs on the extent to which the conduct of each party or attorney furthers or frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation by encouraging cooperation of the parties...” Fam. Code § 271(a). Respondent’s failure to comply with the court’s prior order for attorney’s fees quite clearly frustrates the policy of the law and therefore his actions are sanctionable. Respondent is ordered to pay Petitioner \$1,500 as and for Family Code § 271 sanctions.

The discovery sanctions, and Family Code sanctions (which collectively total \$3,500) may be paid in one lump sum or in monthly installments of \$500 with the first installment due no later than September 1<sup>st</sup> and each remaining installment due on the 1<sup>st</sup> of the month thereafter until paid in full (approximately 7 months). If any payment is missed or late the entire amount shall become immediately due and payable with legal interest.

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

**TENTATIVE RULING #12: RESPONDENT IS ORDERED TO SERVE FULL, COMPLETE, AND VERIFIED RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS, SET ONE, NO LATER THAN SEPTEMBER 5, 2024. RESPONDENT IS TO PAY PETITIONER \$2,000 AS AND FOR DISCOVERY SANCTIONS IN ACCORDANCE WITH THE PAYMENT PLAN SPECIFIED BELOW. GIVEN THAT DISCOVERY SANCTIONS ARE BEING AWARDED, THE COURT DENIES PETITIONER’S REQUEST FOR SANCTIONS PURSUANT TO FAMILY CODE § 2107. REGARDING THE OUTSTANDING ATTORNEY’S FEES. RESPONDENT IS ORDERED TO PAY PETITIONER \$6,500 ON OR BEFORE AUGUST 29, 2024, TO COMPLY WITH THE COURT’S PRIOR ORDER. RESPONDENT IS ORDERED TO PAY PETITIONER \$1,500 AS AND FOR FAMILY CODE § 271 SANCTIONS. THE DISCOVERY SANCTIONS, AND FAMILY CODE SANCTIONS (WHICH TOTAL \$3,500) MAY BE PAID IN ONE LUMP SUM OR IN MONTHLY INSTALLMENTS OF \$500 WITH THE FIRST INSTALLMENT DUE NO LATER THAN SEPTEMBER 1<sup>ST</sup> AND EACH REMAINING INSTALLMENT DUE ON THE 1<sup>ST</sup> OF THE MONTH THEREAFTER UNTIL PAID IN FULL (APPROXIMATELY 7 MONTHS). IF ANY PAYMENT IS MISSED OR LATE THE ENTIRE AMOUNT SHALL BECOME IMMEDIATELY DUE AND PAYABLE WITH LEGAL INTEREST. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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



LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

**THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE  
8.05.07.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

**13. BROCK VULGAMORE-HOSTETLER V. ANGEL FARIAS**

**22FL0670**

Respondent filed a Request for Order (RFO), on May 22, 2024, requesting child custody and parenting time orders. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on July 1, 2024, and a review hearing on August 22, 2024.

Upon review of the court file, there is no Proof of Service showing Petitioner was properly served.

Neither party appeared for the CCRC appointment.

The court drops the matter from calendar due to the lack of proper service and due to Respondent's failure to appear at the CCRC appointment.

**TENTATIVE RULING #13: THE COURT DROPS THE MATTER FROM CALENDAR DUE TO THE LACK OF PROPER SERVICE AND DUE TO RESPONDENT'S FAILURE TO APPEAR AT THE CCRC APPOINTMENT.**

**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 22, 2024

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

**14. EMMA CROWLEY V. MICHAEL CROWLEY**

**PFL20200062**

Petitioner filed an Order to Show Cause and Affidavit for Contempt (OSC) on May 10, 2024, alleging one count of contempt. Respondent was personally served on June 10, 2024. Parties appeared for a hearing on the contempt citation on August 8, 2024. The court found good cause to continue the matter to join with the pending hearing on Respondent's Request for Order (RFO) set for August 22, 2024. Father is seeking joint legal and physical custody with primary physical custody.

Parties are ordered to appear for arraignment on the OSC.

Respondent filed an RFO requesting modification of the child custody and parenting plan orders on May 21, 2024. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on June 27, 2024, and a review hearing on August 22, 2024. Proof of Service shows Petitioner was personally served in accordance with Family Code section 215, on May 21, 2024.

Both parties attended CCRC on June 27<sup>th</sup> and reached a full agreement. A report memorializing the parties' agreement was filed with the court on June 27, 2024. Copies were mailed to the parties the same day.

Petitioner filed a Responsive Declaration on August 12, 2024. Proof of Service shows it was served on Respondent by mail on August 9, 2024, and electronically on August 11, 2024. 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 9<sup>th</sup> the last day for filing Petitioner's Responsive Declaration to Request for Order. The court cannot consider this document.

The court has read and considered the filings as outlined above. The court finds the agreements reached by the parties to be in the best interest of the minor. The court adopts the agreements as set forth in the June 27<sup>th</sup> CCRC report as its orders.

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

**TENTATIVE RULING #14: PARTIES ARE ORDERED TO APPEAR FOR ARRAIGNMENT ON THE OSC.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

**THE COURT FINDS THE AGREEMENTS REACHED BY THE PARTIES TO BE IN THE BEST INTEREST OF THE MINOR. THE COURT ADOPTS THE AGREEMENTS AS SET FORTH IN THE JUNE 27<sup>TH</sup> CCRC REPORT AS ITS ORDERS. 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.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

**15. JAMES WHITE V. KIMBERLY WHITE**

**PFL20180249**

Petitioner filed a Request for Order (RFO) on May 2, 2024, requesting a post-judgment modification of permanent spousal support. Petitioner concurrently filed an Income and Expense Declaration. Respondent was personally served on July 25, 2024. Petitioner asserts there is a change in circumstances, namely that Respondent is self-supporting, and that he is permanently disabled. As such, Petitioner is requesting the prior spousal support orders be modified.

Petitioner filed a Supplemental Declaration on July 8<sup>th</sup> along with an updated Income and Expense Declaration. Respondent was mail served on July 8<sup>th</sup>. Petitioner sets forth in the declaration the reasons that the life insurance policy, required by the parties' Marital Settlement Agreement, is no longer in place.

Respondent filed a Responsive Declaration, Declaration, and Income and Expense Declaration on July 10, 2024. Proof of Service shows all documents were electronically served on July 10, 2024. Respondent objects to Petitioner's requests, as she states there has been no material change in circumstances. Respondent also requests the court modify spousal support by increasing spousal support paid to Respondent.

Petitioner filed an Objection and Reply on August 5, 2024. Proof of Service shows the documents were mail served on August 2, 2024. Petitioner asserts Respondent's Declaration in support violates the page restrictions of California Rules of Court, Rule 5.111(a). The court sustains this objection and has not considered Respondent's Declaration beyond page 10.

Petitioner also objects to Respondent's assertion that there has been no material change in circumstances since the court's last order on April 18, 2024, or January 4, 2024, as argument, opinion, and conclusion. The court overrules those objections, however, the court notes, there were no orders made regarding modification of permanent spousal support at either the January 4<sup>th</sup> or April 18<sup>th</sup> hearings. Both RFOs set on those dates were dropped from the court's calendar due to failures to comply with California Rules of Court, the Code of Civil Procedure, or the Family Code. At each hearing the court maintained all prior orders in full force and effect.

Petitioner raises numerous other objections to Respondent's various arguments set forth in the Responsive Declaration. The court notes the objections and declines to rule on them. The court takes Respondent's arguments as just that, argument.

The court notes this is a post-judgment request for modification of permanent spousal support. As such, the court is required to take testimony on the Family Code

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

section 4320 factors. Parties are ordered to appear to select Mandatory Settlement Conference (MSC) and trial dates.

**TENTATIVE RULING #15: PARTIES ARE ORDERED TO APPEAR TO SELECT MANDATORY SETTLEMENT CONFERENCE (MSC) AND TRIAL DATES.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

**16. KYRA MCAFFE V. MAXWELL MCAFFE (CLAIMANT: BRIAN AND CORINNE BUNCH)**

**PFL20210499**

Claimants filed a Motion for Joinder and Request for Order (RFO) requesting grandparent visitation on March 13, 2024. Petitioner and Respondent were personally served on March 15, 2024. Claimants assert they have a preexisting relationship with the minors which has engendered a bond such that visitation is in the best interest of the minors. Claimants are seeking visitation from Sunday evening until Monday evening weekly. Claimants assert they are entitled to this visitation, as there is a right of first refusal in the underlying custody orders which applies to Petitioner and Respondent's need for caretaking for more than eight hours which is not work related.

Respondent filed a Responsive Declaration to the Motion for Joinder and to the RFO on March 18, 2024. There is no Proof of Service for these documents, and therefore, the court cannot consider them.

Petitioner filed a Responsive Declaration to the Motion for Joinder and to the RFO on March 28, 2024. Respondent and Claimants were personally served on April 30, 2024. Petitioner objects to the Claimants being joined as parties to this action. Petitioner objects to the Claimants having court ordered visitation. Petitioner refutes Claimant's assertions about the time spent parenting the minors.

The court finds that, while the parties have a judgment which address the issues of child custody and parenting time, it is not a final custody order. Therefore, custody proceedings remain before the court between Petitioner and Respondent. As such, Family Code section 3103 is applicable, and the court considers Claimant's request pursuant to that code section. Under Family Code section 3103, the court may grant a grandparent reasonable visitation provided the court finds that it is in the minor's best interest. (Family Code § 3103, subd. (a).) The statutory limitations under Family Code section 3103 are not applicable in this matter.

Turning to the merits of the request for joinder. The court must give special weight to a fit parent's objection to visitation. *Ian J. v. Peter M.* (2013) 213 Cal.App.4<sup>th</sup> 189, 205-206. In this matter, the court finds that Petitioner is a fit parent, and no evidence has been presented to the contrary. Petitioner is objecting to court-ordered visitation with Claimants and provides several examples of Claimants inability to abide by Petitioner's rules and boundaries as well as the impact of Claimants' behaviors on the minors. Additionally, the court is concerned about Claimants' mistaken belief that they are entitled to visitation through the right of first refusal.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

Although it is very clear to the court that Claimants love the minors, the information set forth in their moving papers is historical in nature, and there is no information as to the current bond between the minors and Claimants.

On May 23, 2024, the court adopted its tentative ruling referring the parties to Child Custody Recommending Counseling (CCRC) with an appointment on July 5, 2024, and a review hearing on August 22<sup>nd</sup>.

All parties, and the minors, attended the CCRC appointment. The parties were unable to reach any agreements. Therefore, a report with recommendations was filed with the court on July 25<sup>th</sup>. Copies were mailed to the parties the same day.

Claimants filed a Supplemental Declaration on June 20, 2024. Proof of Service shows it was mail served on June 20<sup>th</sup>.

Petitioner filed a Declaration on August 9, 2024. Proof of Service shows parties were served on August 12<sup>th</sup>. Petitioner states she did not agree to Sunday night visits with the Claimants. Petitioner does agree with the Claimants providing daycare for the minors or the minors spending two nights per month with the Claimants. Petitioner states she is opposed to those overnights being Sundays.

The court has read and considered the filings as set forth above. The court grants Claimants' motion for joinder. The court grants Joined Parties request for reasonable visitation with the minors. The court adopts the recommendations as set forth in the July 25<sup>th</sup> CCRC report with the following modification. Joined Parties shall have visitation with the minors Friday from after school, or 4:00 PM if there is no school until Saturday at 7:00 PM the 1<sup>st</sup>, 3<sup>rd</sup>, and 5<sup>th</sup> weekends of the month. Joined Parties may provide daycare for the minors while Petitioner is at work. If Joined Parties provide daycare for the minors during the 1<sup>st</sup>, 3<sup>rd</sup>, or 5<sup>th</sup> week of the month, there will not be an overnight visit that week. The court admonishes all parties, there are to be no disparaging remarks about each other to the minors or within earshot of the minors.

All prior orders not in conflict with this order remain in full force and effect. Joined Parties are to prepare and file the Findings and Orders After Hearing.

**TENTATIVE RULING #16: THE COURT GRANTS CLAIMANTS MOTION FOR JOINDER. THE COURT GRANTS JOINED PARTIES REQUEST FOR REASONABLE VISITATION WITH THE MINORS. THE COURT ADOPTS THE RECOMMENDATIONS AS SET FORTH IN THE JULY 25<sup>TH</sup> CCRC REPORT WITH THE FOLLOWING MODIFICATION. JOINED PARTIES SHALL HAVE VISITATION WITH THE MINORS FRIDAY FROM AFTER SCHOOL, OR 4:00 PM IF THERE IS NO SCHOOL UNTIL SATURDAY AT 7:00 PM THE 1<sup>ST</sup>, 3<sup>RD</sup>, AND 5<sup>TH</sup> WEEKENDS**



LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

**OF THE MONTH. JOINED PARTIES MAY PROVIDE DAYCARE FOR THE MINORS WHILE PETITIONER IS AT WORK. IF JOINED PARTIES PROVIDE DAYCARE FOR THE MINORS DURING THE 1<sup>ST</sup>, 3<sup>RD</sup>, OR 5<sup>TH</sup> WEEK OF THE MONTH, THERE WILL NOT BE AN OVERNIGHT VISIT THAT WEEK. THE COURT ADMONISHES ALL PARTIES, THERE ARE TO BE NO DISPARAGING REMARKS ABOUT EACH OTHER TO THE MINORS OR WITHIN EARSHOT OF THE MINORS. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. JOINED PARTIES ARE TO 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 22, 2024

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

**17. MADISON VIERBOOM V. MATHEUS VIERBOOM**

**PFL20190688**

Petitioner filed a Request for Order (RFO) on March 7, 2024, requesting the court modify the current child custody and parenting plan orders. The parties were referred to Child Custody Recommending Counseling (CCRC) with an appointment on April 4, 2024. Upon review of the court file, there is no Proof of Service showing Respondent was properly served with the RFO and referral to CCRC.

Neither party appeared for the CCRC appointment on April 4, 2024.

Respondent filed a Responsive Declaration on May 6, 2024. Petitioner was served on May 13, 2024, personally and on May 6<sup>th</sup> by mail. Respondent asserts in his declaration that he was not served with the RFO and CCRC referral until May 3, 2024, which is less than 16 court days prior to the hearing. Respondent was unable to attend CCRC as he was unaware of the appointment. Respondent requests the parties attend CCRC to come to agreements or receive recommendations as to custody and parenting time.

On May 23, 2024, the court adopted its tentative ruling, rereferring the parties to CCRC and continuing the review hearing to August 22<sup>nd</sup>. The court directed that any Supplemental Declarations were to be filed and served at least 10 days prior to the next hearing.

On June 28, 2024, Respondent filed a Supplemental Declaration providing the court further information as to the minors. Petitioner was served by mail on June 28<sup>th</sup>. Respondent is requesting the primary physical custody of the minors with reasonable visitation to Petitioner. Respondent proposes Petitioner have parenting time every other weekend. Respondent is also requesting reimbursement for the mileage to transport the minors, as Petitioner does not currently have a valid license and cannot transport the minors.

Both parties appeared for the rescheduled CCRC appointment. The parties were unable to reach any agreements. A report with recommendations was filed with the court on August 12, 2024, and mailed to the parties the same day.

Petitioner has not filed a Supplemental Declaration.

The court has read and considered the filings as set forth above. The court denies Petitioner's request for sole legal and physical custody of the minors. The court is not adopting the recommendations of the August 12<sup>th</sup> CCRC report. The recommendations are not in the best interest of the minors.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

The court is ordering the parties to continue to share joint legal custody. However, if the parties cannot reach an agreement on the joint legal custody issues, after a good faith effort to do so, through co-parenting counseling, Respondent shall have final decision-making authority. The court is adopting the legal custody provisions as set forth on page 7 and 8 of the August 12<sup>th</sup> CCRC report.

Respondent shall have primary physical custody. Petitioner shall have parenting time the 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> weekends of the month, from Friday after school until Monday drop off at school. Respondent shall have the 1<sup>st</sup> and 5<sup>th</sup> weekends of the month. Petitioner shall not transport the minors unless and until she has a valid California Driver's License, proof of insurance, and a vehicle with all necessary restraints to transport the minors. The court is authorizing 3<sup>rd</sup> parties to transport the minors, so long as they possess a valid California Driver's License, proof of insurance, and a vehicle with all necessary restraints to transport the minors.

The parties may take vacations with the minors for up to seven consecutive days. The vacationing parent shall notify the other parent in writing of the vacation plans a minimum of 30 days in advance and provide the other parent with a full itinerary that included the travel dates, destinations, flight information, and telephone numbers. For any out of country vacations, the vacationing parent must have written permission from the other parent. Each parent must notify the other parent of any travel during their parenting time out of the state of California or Nevada. Any changes to vacation plans must be mutually agreed upon in writing.

Parties shall notify the other parent within seven days of any changes in his or her address of residence, mailing, work, or email addresses. Each party shall notify the other of any changes in telephone/message number at home, cell phone, work, or the children's schools. Neither party may use such information for the purposes of harassing, annoying, or disturbing the peace of the other or invading the other's privacy. No residence or work address is needed if a party has an address with the State of California's Safe at Home confidential address program.

Each party must notify the other, 30 days before any planned change in residence of the minors. The notification must state, to the extent known, the planned address of the minors, including the county and state of the new residence. The notification must be sent by certified mail, return receipt requested.

The minors shall not be left without age-appropriate supervision. The parties must inform each other of the name, address, and phone number of the minors' regular childcare providers.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

The minors may have telephone access to each party and the parties may have telephone access to the minors at a reasonable time for a reasonable duration. Neither party, nor may any third party listen to, monitor, or interfere with the calls.

The parties shall use a co-parenting application, such as talkingparents.com, for all communication about the minors' education, health, and general welfare.

The court is adopting the Respect Guidelines as set forth on page 11-12 of the August 12<sup>th</sup> CCRC report.

The parties shall ensure all three minors are assessed for individual therapy. If it is determined mental health services are appropriate for any of the minors, the parties shall adhere to all recommendations made by the mental health provider. Services are to be provided and continue at a frequency and duration as recommended by the therapist.

The parties shall enroll in co-parenting counseling and provide the court with proof of enrollment and completion of an intake appointment by no later than October 18, 2024. Parties are to attend and participate in co-parenting counseling at frequency and duration as recommended by the counselor. Petitioner shall propose the names of three potential co-parenting counselors to Respondent by no later than September 5, 2024. Respondent shall select one of the three and inform Petitioner of the selection by no later than September 12<sup>th</sup>. When selecting the three proposed counselors, Petitioner shall ensure that the counselors are available and taking on new clients.

The court denies Respondent's request for mileage reimbursement for transportation of the minors.

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 #17: THE COURT DENIES PETITIONER'S REQUEST FOR SOLE LEGAL AND PHYSICAL CUSTODY OF THE MINORS. THE COURT IS NOT ADOPTING THE RECOMMENDATIONS OF THE AUGUST 12<sup>TH</sup> CCRC REPORT. THE RECOMMENDATIONS ARE NOT IN THE BEST INTEREST OF THE MINORS.**

**THE COURT IS ORDERING THE PARTIES SHALL CONTINUE TO HAVE JOINT LEGAL CUSTODY. HOWEVER, IF THE PARTIES CANNOT REACH AN AGREEMENT ON THE JOINT LEGAL CUSTODY ISSUES, AFTER A GOOD FAITH EFFORT TO DO SO, THROUGH CO-PARENTING COUNSELING, RESPONDENT SHALL HAVE FINAL DECISION-MAKING AUTHORITY. THE COURT IS ADOPTING THE LEGAL CUSTODY PROVISIONS AS SET FORTH ON PAGE 7 AND 8 OF THE AUGUST 12<sup>TH</sup> CCRC REPORT.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

**RESPONDENT SHALL HAVE PRIMARY PHYSICAL CUSTODY. PETITIONER SHALL HAVE PARENTING TIME THE 2<sup>ND</sup>, 3<sup>RD</sup>, AND 4<sup>TH</sup> WEEKENDS OF THE MONTH, FROM FRIDAY AFTER SCHOOL UNTIL MONDAY DROP OFF AT SCHOOL. RESPONDENT SHALL HAVE THE 1<sup>ST</sup> AND 5<sup>TH</sup> WEEKENDS OF THE MONTH. PETITIONER SHALL NOT TRANSPORT THE MINORS UNLESS AND UNTIL SHE HAS A VALID CALIFORNIA DRIVER'S LICENSE, PROOF OF INSURANCE, AND A VEHICLE WILL ALL NECESSARY RESTRAINTS TO TRANSPORT THE MINORS. THE COURT IS AUTHORIZING 3<sup>RD</sup> PARTIES TO TRANSPORT THE MINORS, SO LONG AS THEY POSSESS A VALID CALIFORNIA DRIVER'S LICENSE, PROOF OF INSURANCE, AND A VEHICLE WILL ALL NECESSARY RESTRAINTS TO TRANSPORT THE MINORS.**

**THE PARTIES MAY TAKE VACATIONS WITH THE MINORS FOR UP TO SEVEN CONSECUTIVE DAYS. THE VACATIONING PARENT SHALL NOTIFY THE OTHER PARENT IN WRITING OF THE VACATIONS PLANS A MINIMUM OF 30 DAYS IN ADVANCE AND PROVIDE THE OTHER PARENT WITH A FULL ITINERARY THAT INCLUDED THE TRAVEL DATES, DESTINATIONS, FLIGHT INFORMATION, AND TELEPHONE NUMBERS. FOR ANY OUT OF COUNTRY VACATIONS, THE VACATIONING PARENT MUST HAVE WRITTEN PERMISSION FROM THE OTHER PARENT. EACH PARENT MUST NOTIFY THE OTHER PARENT OF ANY TRAVEL DURING THEIR PARENTING TIME OUT OF THE STATE OF CALIFORNIA OR NEVADA. ANY CHANGES TO VACATION PLANS MUST BE MUTUALLY AGREED UPON IN WRITING.**

**PARTIES SHALL NOTIFY THE OTHER PARENT WITHIN SEVEN DAYS OF ANY CHANGES IN HIS OR HER ADDRESS OF RESIDENCE, MAILING, WORK, OR EMAIL ADDRESSES. EACH PARTY SHALL NOTIFY THE OTHER OF ANY CHANGES IN TELEPHONE/MESSAGE NUMBER AT HOME, CELL PHONE, WORK, OR THE CHILDREN'S SCHOOLS. NEITHER PARTY MAY USE SUCH INFORMATION FOR THE PURPOSES OF HARASSING, ANNOYING, OR DISTURBING THE PEACE OF THE OTHER OR INVADING THE OTHER'S PRIVACY. NO RESIDE OR WORK ADDRESS IS NEEDED IF A PARTY HAS AN ADDRESS WITH THE STATE OF CALIFORNIA'S SAFE AT HOME CONFIDENTIAL ADDRESS PROGRAM.**

**EACH PARTY MUST NOTIFY THE OTHER, 30 DAYS BEFORE ANY PLANNED CHANGE IN RESIDENCE OF THE MINORS. THE NOTIFICATION MUST STATE, TO THE EXTENT KNOWN, THE PLANNED ADDRESS OF THE MINORS, INCLUDING THE COUNTY AND STATE OF THE NEW RESIDENCE. THE NOTIFICATION MUST BE SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

**THE MINORS SHALL NOT BE LEFT WITHOUT AGE-APPROPRIATE SUPERVISION. THE PARTIES MUST INFORM EACH OTHER OF THE NAME, ADDRESS, AND PHONE NUMBER OF THE MINORS' REGULAR CHILDCARE PROVIDERS.**

**THE MINORS MAY HAVE TELEPHONE ACCESS TO EACH PARTY AND THE PARTIES MAY HAVE TELEPHONE ACCESS TO THE MINORS AT A REASONABLE TIME FOR A REASONABLE DURATION. NEITHER PARTY, NOT MAY ANY THIRD PARTY LISTEN TO, MONITOR, OR INTERFERE WITH THE CALLS.**

**THE PARTIES SHALL USE A CO-PARENTING APPLICATION, SUCH AS TALKINGPARENTS.COM, FOR ALL COMMUNICATION ABOUT THE MINORS' EDUCATION, HEALTH, AND GENERAL WELFARE.**

**THE COURT IS ADOPTING THE RESPECT GUIDELINES AS SET FORTH ON PAGE 11-12 OF THE AUGUST 12<sup>TH</sup> CCRC REPORT.**

**THE PARTIES SHALL ENSURE ALL THREE MINORS ARE ASSESS FOR INDIVIDUAL THERAPY. IF IT IS DETERMINED MENTAL HEALTH SERVICES ARE APPROPRIATE FOR ANY OF THE MINORS, THE PARTIES SHALL ADHERE TO ALL RECOMMENDATIONS MADE BY THE MENTAL HEALTH PROVIDER. SERVICE ARE TO BE PROVIDED AND CONTINUE AT A FREQUENCY AND DURATION AS RECOMMENDED BY THE THERAPIST.**

**THE PARTIES SHALL ENROLL IN CO-PARENTING COUNSELING AND PROVIDE THE COURT WITH PROOF OF ENROLLMENT AND COMPLETION OF AN INTAKE APPOINTMENT BY NO LATER THAN OCTOBER 18, 2024. PARTIES ARE TO ATTEND AND PARTICIPATE IN CO-PARENTING COUNSELING AT FREQUENCY AND DURATION AS RECOMMENDED BY THE COUNSELOR. PETITIONER SHALL PROPOSE THE NAMES OF THREE POTENTIAL CO-PARENTING COUNSELORS TO RESPONDENT BY NO LATER THAN SEPTEMBER 5, 2024. RESPONDENT SHALL SELECT ONE OF THE THREE AND INFORM PETITIONER OF THE SELECTION BY NO LATER THAN SEPTEMBER 12<sup>TH</sup>. WHEN SELECTING THE THREE PROPOSED COUNSELORS, PETITIONER SHALL ENSURE THAT THE COUNSELORS ARE AVAILABLE AND TAKING ON NEW CLIENTS.**

**THE COURT DENIES RESPONDENT'S REQUEST FOR MILAGE REIMBURSEMENT FOR TRANSPORTATION OF THE MINORS**

**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**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

**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 22, 2024

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

**18. MATTHEW MYERS V. CHASITY CARNEY**

**24FL0360**

Petitioner filed a Petition for Custody and Support on April 18, 2024. A Summons was issued the same day. Additionally, Petitioner filed a Request for Order (RFO) on April 18, 2024, requesting the court make child custody and parenting time orders. The parties were not referred to Child Custody Recommending Counseling (CCRC), as parentage had not yet been established.

Petitioner filed a Proof of Service on April 25, 2024, which shows Respondent was served with the Petition for Custody and Support. The Proof of Service also shows that Respondent was served with the RFO, however, it does not show Respondent was served with the Notice of Tentative Ruling.

Petitioner filed a Declaration with the minor's birth certificate attached on April 19, 2024. The birth certificate shows Petitioner was the parent of the minor. There is no Proof of Service showing this document was served on Respondent.

Respondent filed a Response as well as a Responsive Declaration on June 28, 2024. There is no Proof of Service for these documents, therefore, the court cannot consider them.

Parties appeared for the hearing on July 11, 2024. Respondent stated there is current an open custody case in Sacramento County where Petitioner had been properly served. Additionally, Respondent stated she had been granted a Temporary Domestic Violence Restraining Order in Sacramento County with Petitioner as the restrained party and it included custody orders. Given the information that another county may have already acquired jurisdiction over the parties, the court continued the matter and set a further review hearing. The court scheduled a conference between the bench officer in Sacramento County hearing the case and this court.

On August 6, 2024, Commissioner Clark from Sacramento County and Judge Bowers conducted an informal case conference to determine which county was the proper venue. The conference was not recorded. The case in Sacramento County was opened on October 12, 2023. Father, Petitioner in the present matter, was served on October 20, 2023. Sacramento County made custody orders on August 2, 2024, granting Petitioner (Father) custody and Respondent (Mother) to have supervised visits. Because the Sacramento County Petition for Custody and Support was filed and served prior to the action in El Dorado County, the bench officers agreed, Sacramento County was the proper venue and would have ongoing jurisdiction. The Petition in El Dorado County would be dismissed.



LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

For the reasons set forth above, the court dismisses the Petition for Custody and Support filed on April 18, 2024. The matter shall proceed in Sacramento County.

**TENTATIVE RULING #18: THE COURT DISMISSES THE PETITION FOR CUSTODY AND SUPPORT FILED ON APRIL 18, 2024. THE MATTER SHALL PROCEED IN SACRAMENTO COUNTY.**

**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 22, 2024

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

**19. NICOLE GARDEA V. PHILLIP DUNKIN**

**PFL20180623**

Petitioner filed an ex parte request for emergency custody orders on July 11, 2024. On July 12, 2024, the court granted the request granting Petitioner sole legal custody of the minor. The court ordered Respondent to have professionally supervised visitation a minimum of one time per week for two hours. Respondent shall pay the cost of supervision. The court referred the parties to an emergency set Child Custody Recommending Counseling (CCRC) appointment on July 23<sup>rd</sup> and a review hearing was set for August 22, 2024. Petitioner filed a Request for Order (RFO) on July 12, 2024, making the same requests as set forth in the ex parte application. Proof of Service shows Respondent was personally served with the RFO, referral to CCRC, ex parte orders, and all other necessary documents on July 16, 2024.

Only Petitioner appeared for the CCRC appointment on July 23, 2024. As such a single parent report with no agreements or recommendations was filed with the court on July 23<sup>rd</sup>. Copies were mailed to the parties on July 24, 2024.

Respondent has not filed a Responsive Declaration.

Parties are ordered to appear for the hearing.

**TENTATIVE RULING #19: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING.**

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

August 22, 2024

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

**20. THERESA NEUSTADTER V. BRANDON NEUSTADTER**

**24FL0106**

Respondent filed a Request for Order (RFO) on March 7, 2024, requesting the court make child custody and parenting plan orders. The court referred the parties to Child Custody Recommending Counseling (CCRC) with an appointment on April 5, 2024, and a review hearing on May 23, 2024. Petitioner was served on March 7, 2024. Respondent is requesting joint physical and legal custody of the minor.

Petitioner requested and was granted a Temporary Domestic Violence Restraining Order (TRO) on February 27, 2024. That matter is currently pending trial on June 10, 2024, in Department 5.

Both parties attended CCRC on April 5, 2024, and were unable to reach any agreements. A report with recommendations was filed with the court on April 10, 2024, and mailed to the parties the same day.

On May 23, 2024, the parties presented the court with a Stipulation to modify the current TRO, vacate the trial date in June, set a further review hearing on the RFO and trial setting conference in August. The court signed and adopted the parties' stipulation as its order, vacated the trial date, and set a further hearing for August 22<sup>nd</sup>.

Petitioner filed a Declaration on August 12, 2024. Proof of Service shows Respondent was served electronically on August 12<sup>th</sup>. Petitioner objects to Respondent's request for exchanges to occur at the delivering parent's home. Petitioner requests the exchanges take place at school following the custody schedule or at Town Center In El Dorado Hills, near the Cold Stone Creamery courtyard. Petitioner objects to Respondent's request for the paternal grandmother to have right of second refusal. Petitioner disputes Respondent's claim regarding taking the minor to and from school, as well as Respondent's claim she hid passports or intends to obtain a Thai passport for the minor.

Respondent has not filed a Supplemental Declaration.

Parties are ordered to appear for the hearing to select Mandatory Settlement Conference (MSC) and trial dates.

**TENTATIVE RULING #20: PARTIES ARE ORDERED TO APPEAR FOR THE HEARING TO SELECT MANDATORY SETTLEMENT CONFERENCE (MSC) AND TRIAL DATES.**