

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 21, 2021

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

18. ADRIAN BRAMBILE V. MISTY ARMSTRONG

PFL20210445

On August 2, 2021, Respondent filed a Request for Order (RFO) requesting that the court modify the custody and visitations orders. A CCRC session was scheduled on September 8, 2021 with a hearing on the RFO set for October 21, 2021.

Upon review of the file, the court finds that there is no proof of service indicating service of the RFO on Petitioner.

However, both parties participated in the CCRC session and reached several agreements, so the court finds that Petitioner has notice of the concerns raised in the RFO. A CCRC report was issued on September 14, 2021 with copies mailed to the parties that same day. The report mailed to Respondent was returned to the court by the post office with a note stating that Respondent had no mail receptable.

The CCRC report recommends joint legal and physical custody with an equal timeshare. The report also recommends that the child attend Camino School. While the court is concerned that Respondent did not receive the report, the court finds good cause to make orders now, consistent with the parties' agreements and to include the order for the child to attend Camino School, finding that delaying the child's return to Camino School would not be in his best interest.

Having reviewed the filings of the parties and the CCRC report, the court finds that the agreements and recommendations contained within the CCRC report are in the best interest of the minor and adopts them as the orders of the court with the modifications as noted below. Commencing on Wednesday, October 27, 2021 and every other Wednesday thereafter, Petitioner shall have parenting time on Wednesday pick-up from school (or from Respondent's home at 3 p.m. if school is not in session) to Monday drop-off at school (or 3 p.m. if school is not in session). Respondent then shall have parenting time from Monday pick-up from school (or from Petitioner's home at 3 p.m. if school is not in session) to Wednesday drop-off at school (or 3 p.m. if school is not in session). Commencing on Wednesday, November 3, 2021 and every other Wednesday thereafter, Petitioner shall have parenting time on Wednesday pick-up from school (or from Respondent's home at 3 p.m. if school is not in session) to Friday drop-off at school (or 3 p.m. if school is not in session). Respondent then shall have parenting time from Friday pick-up from school (or from Petitioner's home at 3 p.m. if school is not in session) to Wednesday drop-off at school (or 3 p.m. if school is not in session).

Respondent is ordered to prepare and file the Findings and Order After Hearing.

TENTATIVE RULING #18: THE AGREEMENTS AND RECOMMENDATIONS CONTAINED WITHIN THE CCRC REPORT ARE ADOPTED AS THE ORDERS OF THE COURT WITH THE MODIFICATIONS AS NOTED BELOW. COMMENCING ON WEDNESDAY, OCTOBER 27, 2021 AND EVERY OTHER

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 21, 2021

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

WEDNESDAY THEREAFTER, PETITIONER SHALL HAVE PARENTING TIME ON WEDNESDAY PICK-UP FROM SCHOOL (OR FROM RESPONDENT'S HOME AT 3 P.M. IF SCHOOL IS NOT IN SESSION) TO MONDAY DROP-OFF AT SCHOOL (OR 3 P.M. IF SCHOOL IS NOT IN SESSION). RESPONDENT THEN SHALL HAVE PARENTING TIME FROM MONDAY PICK-UP FROM SCHOOL (OR FROM PETITIONER'S HOME AT 3 P.M. IF SCHOOL IS NOT IN SESSION) TO WEDNESDAY DROP-OFF AT SCHOOL (OR 3 P.M. IF SCHOOL IS NOT IN SESSION). COMMENCING ON WEDNESDAY, NOVEMBER 3, 2021 AND EVERY OTHER WEDNESDAY THEREAFTER, PETITIONER SHALL HAVE PARENTING TIME ON WEDNESDAY PICK-UP FROM SCHOOL (OR FROM RESPONDENT'S HOME AT 3 P.M. IF SCHOOL IS NOT IN SESSION) TO FRIDAY DROP-OFF AT SCHOOL (OR 3 P.M. IF SCHOOL IS NOT IN SESSION). RESPONDENT THEN SHALL HAVE PARENTING TIME FROM FRIDAY PICK-UP FROM SCHOOL (OR FROM PETITIONER'S HOME AT 3 P.M. IF SCHOOL IS NOT IN SESSION) TO WEDNESDAY DROP-OFF AT SCHOOL (OR 3 P.M. IF SCHOOL IS NOT IN SESSION). RESPONDENT IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 21, 2021

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

19. ANITRA CALLAHAN V. ARIELLA KIDD

PFL20210363

On September 21, 2021, Respondent filed a Request for Order (RFO) requesting that the Domestic Violence Restraining Order against Respondent granted on September 17, 2021 be terminated and that Respondent be granted a Domestic Violence Restraining Order Against Petitioner.

On October 5, 2021, Petitioner was served with the RFO by mail. Under Code of Civil Procedure 1005, the RFO must be served at least 16 court days in advance of the hearing. As such, the court continues the matter to December 9th, 2021 at 1:30 p.m. in Department 5 to afford Petitioner ample time to file a Responsive Declaration if she wishes to do so.

Regarding Respondent's request for a restraining order as noted in the RFO, the court finds that Respondent must file this request on the appropriate court forms for the court to properly consider it. Therefore, the court denies Respondent's request for a restraining order without prejudice. Respondent can obtain the correct forms from the clerk's office and also can seek the guidance from the Family Law Facilitator if she is in need of assistance and does not have her own attorney.

Respondent is ordered to prepare and file the Findings and Order After Hearing.

TENTATIVE RULING #19: THE COURT CONTINUES THE MATTER TO DECEMBER 9TH, 2021 AT 1:30 P.M. IN DEPARTMENT 5 TO AFFORD PETITIONER AMPLE TIME TO FILE A RESPONSIVE DECLARATION IF SHE WISHES TO DO SO. THE COURT DENIES RESPONDENT'S REQUEST FOR A RESTRAINING ORDER WITHOUT PREJUDICE AS THE REQUEST WAS NOT FILED ON THE CORRECT FORMS. RESPONDENT IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 21, 2021

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

20. GERALD RALSTON V. AMANDA RALSTON

PFL20150790

On October 4, 2021, Petitioner filed a Request for Order (RFO) requesting the court change venue to Butte County, claiming that neither party lives in El Dorado County anymore and that the minor lives primarily in Butte County. On September 28, 2021, Respondent was served by mail with the RFO.

Under Code of Civil Procedure 1005, the RFO must be served at least 16 court days in advance of the hearing, plus 5 calendar days if service is by mail. As such, the court finds that the service of the RFO was not timely.

However, on October 18, 2021, Respondent filed a Responsive Declaration and did not raise the service defect as an issue. Upon review of the file, the court finds that there is no proof of service indicating service of this filing on Petitioner. As such, the court cannot review nor consider it.

The court further notes that the Responsive Declaration was filed late, which the court reasonably infers was in part due to Petitioner not timely serving Respondent with the RFO.

The court continues the matter to December 9th, 2021 at 1:30 p.m. in Department 5 to afford Respondent ample time to have the Responsive Declaration properly served on Petitioner so the court can consider both parties' positions and rule on Petitioner's request on its merits.

Petitioner is ordered to prepare and file the Findings and Order After Hearing.

TENTATIVE RULING #20: THE COURT CONTINUES THE MATTER TO DECEMBER 9TH, 2021 AT 1:30 P.M. IN DEPARTMENT 5 TO AFFORD RESPONDENT AMPLE TIME TO HAVE THE RESPONSIVE DECLARATION PROPERLY SERVED ON PETITIONER SO THE COURT CAN CONSIDER BOTH PARTIES' POSITIONS AND RULE ON PETITIONER'S REQUEST ON ITS MERITS. PETITIONER IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
October 21, 2021
8:30 a.m./1:30 p.m.

22. MEGAN CLARK V. SPENCER WALDRON

PFL20150698

On August 10, 2021, Respondent filed an ex parte application to modify the visitation and child support orders. An Income and Expense Declaration was filed concurrently with the application. That same day, Petitioner filed a Responsive Declaration, objected to this relief.

On August 11, 2021, the court denied the request and set a CCRC session on September 9, 2021 and a CCRC review hearing on October 21, 2021.

Upon review of the file, the court finds that there is no proof of service indicating service of the underlying Request for Order (RFO) on Petitioner.

However, both parties participated in the CCRC session and came to a full agreement, which provides for a joint legal and physical custody order and an order for the child to remain in her current school. A CCRC report was issued on September 22, 2021 with copies of the report mailed to the parties that same day.

Having reviewed the filings of the parties and the CCRC report, the court finds that the agreements contained within the CCRC report are in the best interest of the child and adopts them as the orders of the court. The court finds good cause to adopt the parties' agreement despite the lack of service as noted above.

Regarding Respondent's request to modify child support, the court finds that while Petitioner was not served with the filed RFO she was personally served with the unfilled RFO on August 10, 2021 per the Proof of Service filed that same day. Given the court has notice of the hearing on the RFO by virtue of her participation in CCRC, the court finds good cause to address the child support issue despite the lack of service of the filed RFO.

On September 22, 2021, Petitioner filed an Income and Expense Declaration, served by mail on Respondent that same day.

Using the parties' respective Income and Expense Declarations, the court finds that Petitioner makes \$21.09 per hour working full-time which amounts to about \$3656 per month. Petitioner also pays about \$250 per month for pre-tax health insurance premiums. The court finds that Respondent makes \$25 per hour working full-time which amounts to about \$4,333 per month. Respondent also pays \$37 in pre-tax health insurance premiums per his attached pay stubs. The court additionally finds that Respondent should be entitled a full hardship, equal to one half hardship each for his two children from his current relationship, including his child set to be born in August of 2021. Similarly, the court finds that Petitioner is entitled to a half hardship for her child from another relationship.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 21, 2021

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

The court uses a head of household status for both parties and alternates the parties right to claim the minor as a dependent on their taxes with any applicable tax credits. In odd years, starting with tax year 2021 for the tax returns filed in 2022, Respondent shall have the right to claim the minor. In even years, starting with tax year 2022 for the tax returns filed in 2023, Petitioner shall have the right to claim the minor.

With the figures above findings, the court finds that in odd years guideline child support is \$194 and in even years guideline child support is \$112. See attached DissoMaster Reports. To avoid confusion with the order, the court finds good cause to use the average of the amounts for the odd and even years and orders Respondent to pay Petitioner \$153 as and for child support, payable on the 1st of the month, commencing on September 1, 2021, until further order of the court or termination by operation of law. Petitioner may collect the child support through a wage garnishment by filing an Income Withholding Order with the court.

The parties are ordered to meet and confer to resolve any support arrears or overpayments.

Respondent is ordered to prepare and file the Findings and Order After Hearing.

TENTATIVE RULING #22: THE AGREEMENTS CONTAINED WITHIN THE CCRC REPORT ARE ADOPTED AS THE ORDERS OF THE COURT. IN ODD YEARS, STARTING WITH TAX YEAR 2021 FOR THE TAX RETURNS FILED IN 2022, RESPONDENT SHALL HAVE THE RIGHT TO CLAIM THE MINOR. IN EVEN YEARS, STARTING WITH TAX YEAR 2022 FOR THE TAX RETURNS FILED IN 2023, PETITIONER SHALL HAVE THE RIGHT TO CLAIM THE MINOR. THE COURT FINDS THAT IN ODD YEARS GUIDELINE CHILD SUPPORT IS \$194 AND IN EVEN YEARS GUIDELINE CHILD SUPPORT IS \$112. TO AVOID CONFUSION WITH THE ORDER, THE COURT FINDS GOOD CAUSE TO USE THE AVERAGE OF THE AMOUNTS FOR THE ODD AND EVEN YEARS AND ORDERS RESPONDENT TO PAY PETITIONER \$153 AS AND FOR CHILD SUPPORT, PAYABLE ON THE 1ST OF THE MONTH, COMMENCING ON SEPTEMBER 1, 2021, UNTIL FURTHER ORDER OF THE COURT OR TERMINATION BY OPERATION OF LAW. PETITIONER MAY COLLECT THE CHILD SUPPORT THROUGH A WAGE GARNISHMENT BY FILING AN INCOME WITHHOLDING ORDER WITH THE COURT. THE PARTIES ARE ORDERED TO MEET AND CONFER TO RESOLVE ANY SUPPORT ARREARS OR OVERPAYMENTS. RESPONDENT IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

ATTORNEY (NAME AND ADDRESS): California		TELEPHONE NO:	Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
ATTORNEY FOR: Father		CASE NUMBER: <i>PCL 2015 06 78 odd years</i>	
DISSOMASTER REPORT 2021, Monthly			

Input Data	Father	Mother	Guideline (2021)	Cash Flow Analysis	Father	Mother
Number of children	1	0	Nets (adjusted)	Guideline		
% time with NCP	0%	49.99%	Father	4,168	Payment (cost)/benefit	(194) 194
Filing status	HH/MLA	HH/MLA	Mother	3,077	Net spendable income	3,973 3,272
# Federal exemptions	4	2	Total	7,245	% combined spendable	54.8% 45.2%
Wages + salary	4,333	3,656	Support	Total taxes	(66)	231
401(k) employee contrib	0	0	CS Payor	Father # WHA	11	9
Self-employment income	0	0	Presumed	194	Net wage paycheck/mo	3,927 3,351
Other taxable income	0	0	Basic CS	194	Comb. net spendable	7,245
Other nontaxable income	0	0	Add-ons	0	Proposed	
New-spouse income	0	0	Presumed Per Kid	Payment (cost)/benefit	(194)	194
Wages + salary	0	0	Child 2	194	Net spendable income	3,973 3,272
Self-employment income	0	0	Spousal support	blocked	NSI change from gdl	0 0
Misc ordinary tax. inc.	0	0	Total	194	% combined spendable	54.8% 45.2%
SS paid other marriage	0	0	Proposed, tactic 9	% of saving over gdl	0%	0%
Retirement contrib if ATI	0	0	CS Payor	Father	Total taxes	(66) 231
Required union dues	0	0	Presumed	194	# WHA	11 9
Nec job-related exp.	0	0	Basic CS	194	Net wage paycheck/mo	3,927 3,351
Adj. to income (ATI)	0	0	Add-ons	0	Comb. net spendable	7,245
SS paid other marriage	0	0	Presumed Per Kid	Percent change	0.0%	
CS paid other relationship	0	0	Child 2	194	Default Case Settings	
Qual. Bus. Inc. Ded.	0	0	Spousal support	blocked		
Health insurance	37	250	Total	194		
Itemized deductions	0	0	Savings	0		
Other medical expenses	0	0	No releases			
Property tax expenses	0	0				
Ded. interest expense	0	0				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
Required union dues	0	0				
Mandatory retirement	0	0				
Hardship deduction	194*	97*				
Other gdl. deductions	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	0				



ATTORNEY (NAME AND ADDRESS): California	TELEPHONE NO:	Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
ATTORNEY FOR: Father	DISSOMASTER REPORT 2021, Monthly	
		CASE NUMBER: <i>PFL 20150698 Even years</i>

Input Data	Father	Mother	Guideline (2021)	Cash Flow Analysis	Father	Mother
Number of children	0	1	Nets (adjusted)	Guideline		
% time with NCP	49.99%	0%	Father	4,000	Payment (cost)/benefit	(112) 112
Filing status	HH/MLA	HH/MLA	Mother	3,369	Net spendable income	3,888 3,481
# Federal exemptions	3	3	Total	7,369	% combined spendable	52.8% 47.2%
Wages + salary	4,333	3,656	Support	Total taxes	184	(19)
401(k) employee contrib	0	0	CS Payor	Father # WHA	11	9
Self-employment income	0	0	Presumed	112	Net wage paycheck/mo	3,927 3,351
Other taxable income	0	0	Basic CS	112	Comb. net spendable	7,369
Other nontaxable income	0	0	Add-ons	0	Proposed	
New-spouse income	0	0	Presumed Per Kid		Payment (cost)/benefit	(112) 112
Wages + salary	0	0	Child 1	112	Net spendable income	3,888 3,481
Self-employment income	0	0	Santa Clara	0	NSI change from gdl	0 0
Misc ordinary tax. inc.	0	0	Total	112	% combined spendable	52.8% 47.2%
SS paid other marriage	0	0	Proposed, tactic 9		% of saving over gdl	0% 0%
Retirement contrib if ATI	0	0	CS Payor	Father	Total taxes	184 (19)
Required union dues	0	0	Presumed	112	# WHA	11 9
Nec job-related exp.	0	0	Basic CS	112	Net wage paycheck/mo	3,927 3,351
Adj. to income (ATI)	0	0	Add-ons	0	Comb. net spendable	7,369
SS paid other marriage	0	0	Presumed Per Kid		Percent change	0.0%
CS paid other relationship	0	0	Child 1	112	Default Case Settings	
Qual. Bus. Inc. Ded.	0	0	Santa Clara	0		
Health insurance	37	250	Total	112		
Itemized deductions	0	0	Savings	0		
Other medical expenses	0	0	No releases			
Property tax expenses	0	0				
Ded. interest expense	0	0				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
Required union dues	0	0				
Mandatory retirement	0	0				
Hardship deduction	112*	56*				
Other gdl. deductions	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	0				



LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
October 21, 2021
8:30 a.m./1:30 p.m.

23. MISTY HARROD V. JOHNOTHAN HARROD

PFL20170126

On August 16, 2021, Respondent filed a Request for Order (RFO) requesting the court to modify the custody and visitation orders. As a CCRC session was scheduled in the matter within the past 6 months, the parties were not referred to a CCRC session.

On September 1, 2021, Respondent filed a request to continue the hearing to allow more time for service of the RFO, which the court granted that same day, continuing the hearing to October 21, 2021.

Upon review of the file, the court finds that there is no proof of service indicating service of the RFO on Petitioner. As such, the court drops the matter from its calendar.

TENTATIVE RULING # 23: MATTER DROPPED FROM THE COURT'S CALENDAR

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
October 21, 2021
8:30 a.m./1:30 p.m.

24. MONICA SMITHCAMP V. GAVIN SMITHCAMP

PFL20180819

On August 31, 2021 Petitioner filed a Request for Order (RFO) requesting the court change venue to Sacramento County. On September 20, 2021 Petitioner filed a Proof of Personal Service showing service upon Respondent on September 10, 2021.

On September 17, 2021 Respondent filed a Responsive Declaration to the RFO, served on Petitioner by mail that same day.

In the RFO, Petitioner contends that as Respondent is stationed by his employer at the El Dorado Superior Court, his association with court staff and judicial officers makes it impossible for her to have a fair hearing in the county, despite the court's best intentions. Petitioner adds that she has moved to Sacramento County and many of the kids' activities and potentially their school in the near future are in Sacramento County.

Respondent counters that he is prohibited from working in the family court and that his interactions with staff at the Main Street Courthouse where this case is located are significantly limited. He disputes Petitioner's contention that the kids are likely to attend school in Sacramento County in the near future, claiming that the parties' daughter has indicated her desire to attend a high school in El Dorado County.

At the initial hearing on the RFO on September 30, 2021, the judicial officer presiding noted that there was a conflict with him hearing the matter, and therefore the matter was continued to October 21, 2021.

Upon review of the file, the court finds that neither party has filed any additional documents since the last hearing. As such, the court's analysis in the prior tentative ruling remains unchanged.

The court has considered Petitioner's filing and finds that, although there are no legal grounds provided, Petitioner's motion appears to be made pursuant to Code of Civil Procedure ("CCP") sections 397, subdivision (b) or 397.5. Petitioner's assertions are general and without support. The court finds Petitioner has not met her burden of proof per Code of Civil Procedure sections 397, subdivision (b) or 397.5 and the motion is denied without prejudice.

TENTATIVE RULING #24: PETITIONER'S MOTION IS DENIED WITHOUT PREJUDICE.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 21, 2021

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

26. SAMANTHA POLLOTTA-WRIGHT V. CHRIS FLEMING

PFL20140324

On August 12, 2021, Respondent filed an ex parte application to modify the custody and child support orders. On August 13, 2021, the court denied the request, finding insufficient information to support his request. The court set a CCRC session on September 10, 2021 and a CCRC review hearing on October 21, 2021.

Upon review of the file, the court finds that there is no proof of service indicating service of the underlying Request for Order (RFO) or other papers on Petitioner.

However, both parties participated in the CCRC session and came to a full agreement, which provides for a joint legal custody order and a week-on/week-off schedule. A CCRC report was issued on September 10, 2021 with copies of the report mailed to the parties on September 14, 2021.

Having reviewed the filings of the parties and the CCRC report, the court finds that the agreements contained within the CCRC report are in the best interest of the child and adopts them as the orders of the court. The court finds good cause to adopt the parties' agreement despite the lack of service as noted above.

Regarding Respondent's request to modify child support, the court finds that the Department of Child Support Services (DCSS) is enforcing the current child support obligation. As such, any requests to modify child support should be heard by the Child Support Commissioner under Family Code 4251.

The issue of child support is continued to November 22, 2021 at 8:30 a.m. in Department 5. Respondent is ordered to serve the RFO on Petitioner and DCSS at least 16 court days in advance of the next hearing, as required by law. Both parties are ordered to file and serve on one another and DCSS an updated Income and Expense Declaration at least 10 days in advance of the next hearing.

Respondent is ordered to prepare and file the Findings and Order After Hearing.

TENTATIVE RULING # 26: THE AGREEMENTS CONTAINED WITHIN THE CCRC REPORT ARE ADOPTED AS THE ORDERS OF THE COURT. THE ISSUE OF CHILD SUPPORT IS CONTINUED TO NOVEMBER 22, 2021 AT 8:30 A.M. IN DEPARTMENT 5. RESPONDENT IS ORDERED TO SERVE THE RFO ON PETITIONER AND DCSS AT LEAST 16 COURT DAYS IN ADVANCE OF THE NEXT HEARING, AS REQUIRED BY LAW. BOTH PARTIES ARE ORDERED TO FILE AND SERVE ON ONE ANOTHER AND DCSS AN UPDATED INCOME AND EXPENSE DECLARATION AT LEAST 10 DAYS IN ADVANCE OF THE NEXT HEARING. RESPONDENT IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 21, 2021

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

27. TRINA HUGHES V. DONAGHY LEE HUGHES SR.

PFL20210030

On July 16, 2021, Petitioner filed a Request for Order (RFO) requesting the court make a temporary spousal support order, order Respondent to pay Petitioner \$2,000 for the stimulus payment he received in 2021 on her behalf, and order Respondent to pay Petitioner for any future stimulus payments received on her behalf. On July 13, 2021, Petitioner filed an Income and Expense Declaration, which was personally served on Respondent along with the RFO on July 26, 2021.

Respondent has not filed a Responsive Declaration to the RFO nor an Income and Expense Declaration.

In the RFO, Petitioner alleged that, per communications with the IRS, Respondent received the \$600 and \$1,400 stimulus payments in 2021 for Petitioner.

At the initial hearing on the RFO on September 2, 2021, the court found that any stimulus payments received by Respondent on behalf of Petitioner after the parties' separation in September of 2020 should be given to Petitioner. The court ordered Respondent to pay Petitioner \$2,000 for the stimulus payments Respondent received on Petitioner's behalf in 2021. If Respondent could not pay Petitioner the full \$2,000 forthwith, Respondent was ordered to pay Petitioner \$250 per month, payable on the 1st of the month, commencing on October 1, 2021, until the full \$2,000 is paid in full. The court ordered that any future stimulus payments received by Respondent on behalf of Petitioner to be paid to Petitioner within 7 days of receipt.

Regarding spousal support, the court found that temporary spousal support under the Alameda formula is \$1,022. Respondent was ordered to pay Petitioner as and for temporary spousal support \$1,022 per month, payable on the 1st of the month, commencing on August 1, 2021, until further order of the court or termination by operation of law.

However, on September 21, 2021, the court issued an ex parte minute order in which it found that the parties dissolution judgment was entered the day prior to the hearing on September 1, 2021. In that judgment, which was a default judgment submitted to the court by Petitioner, jurisdiction to award spousal support as to both parties was terminated. Therefore, the court found that it lacked jurisdiction to make its September 2, 2021 spousal support order. The court stayed its September 2, 2021 order and set a hearing on October 21, 2021 to review its stayed orders.

On October 6, 2021, Petitioner filed a declaration. Upon review of the file, the court finds that there is no proof of service indicating service of this declaration on Respondent. As such, the court cannot review nor consider this filing.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 21, 2021

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

The court finds that it continues to lack jurisdiction to make spousal support orders and therefore Petitioner's request for spousal support is denied.

Regarding the request for return of the stimulus payments, the court finds based on Petitioner's RFO that Respondent received funds that should have been properly allocated to Petitioner. As such, the court reaffirms its orders in the September 1, 2021 tentative ruling, as set forth above.

Petitioner is ordered to prepare and file the Findings and Order After Hearing.

TENTATIVE RULING #27: RESPONDENT IS ORDERED TO PAY PETITIONER \$2,000 FOR THE STIMULUS PAYMENTS RESPONDENT RECEIVED ON PETITIONER'S BEHALF IN 2021. IF RESPONDENT CANNOT PAY PETITIONER THE FULL \$2,000 FORTHWITH, RESPONDENT SHALL PAY PETITIONER \$250 PER MONTH, PAYABLE ON THE 1ST OF THE MONTH, COMMENCING ON OCTOBER 1, 2021, UNTIL THE FULL \$2,000 IS PAID IN FULL. THE COURT ORDERS ANY FUTURE STIMULUS PAYMENTS RECEIVED BY RESPONDENT ON BEHALF OF PETITIONER TO BE PAID TO PETITIONER WITHIN 7 DAYS OF RECEIPT. THE COURT FINDS IT HAS NO JURISDICTION TO MAKE ANY SPOUSAL SUPPORT ORDERS AND THEREFORE DENIES RESPONDENT'S REQUEST FOR SPOUSAL SUPPORT. PETITIONER IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 21, 2021

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

28. ZANE DAVIS V. NICHOLE JORDAN DAVIS

PFL20190077

On August 11, 2021, Respondent filed a Request for Order (RFO) requesting the court modify the custody and parenting time orders. A CCRC session was scheduled for September 9, 2021 with a hearing on the RFO set for October 21, 2021.

On August 13, 2021, Respondent filed a Declaration Regarding Address Verification. However, upon review of the file, the court finds that there is no proof of service indicating service of the RFO on Petitioner.

Nonetheless, on September 7, 2021, Petitioner filed a Responsive Declaration, served by mail on Respondent that same day.

Both parties participated in the CCRC session and came to a full agreement, which provides for joint legal and physical custody and with a 2-2-5-5 parenting plan as well as additional provisions to improve the co-parenting relationship of the parties.

On October 14, 2021, Petitioner filed a Declaration, served on Respondent by mail that same day. Petitioner claims that Respondent is delaying the process of getting the minor in therapy and requests that the court set a deadline of December 1, 2021 to select a therapist. Petitioner further requests that the child see the school counselor at Sutter's Mill Elementary in the interim.

Upon review of the CCRC report, the court reasonably infers that the report assumes that the minor is already in individual therapy. However, per Petitioner's Declaration, the court finds that the minor is not currently in therapy, despite the agreement of the parties as contained in the CCRC report that the minor "continue to participate in individual therapy."

Having reviewed the filing of the parties and the CCRC report, the court finds that the agreements contained within the CCRC report are in the best interest of the minor and adopts them as the orders of the court with the additions as noted below. The parties shall select a therapist for the minor's individual therapy by no later than December 1, 2021. In the interim, the child may seek support from the school counselor at Sutter's Mill Elementary.

Respondent is ordered to prepare and file the Findings and Order After Hearing.

TENTATIVE RULING #28: THE AGREEMENTS CONTAINED WITHIN THE CCRC REPORT ARE ADOPTED AS THE ORDERS OF THE COURT WITH THE ADDITIONS AS NOTED BELOW. THE PARTIES SHALL SELECT A THERAPIST FOR THE MINOR'S INDIVIDUAL THERAPY BY NO LATER THAN DECEMBER 1, 2021. IN THE INTERIM, THE CHILD MAY SEEK SUPPORT FROM THE SCHOOL COUNSELOR AT SUTTER'S MILL ELEMENTARY. RESPONDENT IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
October 21, 2021
8:30 a.m./1:30 p.m.

29. CAROL CARLISLE V. WILLIAM CARLISLE

PFL20150037

On August 27, 2021, Respondent filed a Request for Order (RFO) to strike and/or tax costs.

On September 13, 2021, Petitioner filed an RFO requesting the court sanction Respondent under Family Code 271 and award costs under Code of Civil Procedure 685.040, 685.050, and 699.080.

Also, on September 13, 2021, Respondent filed a request to continue his RFO to a later date. This request was served on Petitioner by mail the day prior.

On September 24, 2021, Respondent was served by mail with this RFO. On that same date, Petitioner filed an Opposition to Respondent's RFO, served on Respondent by mail that same day.

On September 27, 2021, Petitioner filed a Declaration in support of her RFO, Memorandum of Points and Authorities, and another RFO and Motion for sanctions.

On September 28, 2021, the parties agreed and the court approved a continuance of Respondent's RFO to October 28, 2021, when Petitioner's RFO was set to be heard.

On October 8, 2021, Respondent filed an Opposition to Petitioner's September 13, 2021 RFO, which included his own request for sanctions against Petitioner under Family Code 271. This filing was served by mail on Petitioner on October 7, 2021.

On October 13, 2021, Respondent filed a Reply to Petitioner's Opposition to his RFO, served by mail on Petitioner that same day.

On October 14, 2021, Petitioner filed a Reply to Respondent's Opposition to her RFO, served on Respondent by mail that same date.

Upon review of the file, the court finds that the only filings for which proof of service forms or pleadings were filed are those as noted above. The court can only consider and review those filings for which there is a valid proof of service.

The court further finds that Petitioner filed an additional RFO and motion for sanctions, which is set to be heard on December 2, 2021. The court finds that there is no proof of service indicating service of this RFO on Respondent yet.

In the interests of resolving these issues on their merits and in the interests of judicial efficiency, the court continues the issues set for the October 21, 2021 hearing date to December 2, 2021 at 1:30 p.m. in Department 5. This continuance also will give the parties an

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

October 21, 2021

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

opportunity to serve and file a proof of service for any filings noted above for which the court currently cannot consider in its decision.

Petitioner is ordered to prepare and file the Findings and Order After Hearing.

TENTATIVE RULING #29: THE COURT CONTINUES THE ISSUES SET FOR THE OCTOBER 21, 2021 HEARING DATE TO DECEMBER 2, 2021 AT 1:30 P.M. IN DEPARTMENT 5. PETITIONER IS ORDERED TO PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.