

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 02/22/24 TIME: 9:00 A.M. DEPT: L CASE NO: FL1502143

PRESIDING: HON. MARK A. TALAMANTES

REPORTER:

CLERK: JORDENNE FERENCZI

PETITIONER: SCOTT DIENER

and

RESPONDENT: KAREN S. DIENER

NATURE OF PROCEEDINGS: REQUEST FOR ORDER – SPOUSAL SUPPORT

RULING

Parties must comply with Marin County Superior Court Local Rules, Rule 7.12(B), (C) to contest the tentative decision. In the event no party requests oral argument in accordance with Rule 7.12(C), the tentative ruling shall become the order of the court.

IT IS ORDERED that due to Covid-19, you are directed to the court's website, for information on how to access the court virtually. Video appearances are permitted unless a party is ordered to appear in court. In-person appearances are also permitted. Evidentiary hearings shall be in-person in Department L.

FURTHER ORDERED that the parties are responsible for ensuring that they have a good connection and that they are available for the hearing. If the connection is inadequate, the Court may proceed with the hearing in the party's absence.

Any party contesting the ruling and requesting oral argument shall appear in person or remotely through Zoom either by video or telephone. Please follow the guidelines set forth on the court website at www.marin.courts.ca.gov

Petitioner Scott Diener ("Husband") filed this Request for Order on June 15, 2023, following his retirement from Norcal Mutual Insurance Company. He is 68 years old. He seeks to reduce or terminate Spousal Support, with a reservation of jurisdiction over further spousal support. Respondent Karen S. Diener ("Wife") filed a responsive declaration on September 15, 2023. Wife also filed a request for hearing. Husband filed a Reply declaration and memorandum of points and authorities in support of his request on February 14, 2023. Husband also filed an updated income and expense declaration, and advised the court that Wife has failed to respond to meet and confer efforts. Wife did not update the court with current financial information prior to this hearing.

Husband seeks sanctions pursuant to Family Code §271. This matter has been continued approximately 7 months to provide the parties with time to attempt to resolve Husband's request. Husband reports that both parties engaged in discover. Wife has husband's 2020-2022 W-2s, income tax returns, current brokerage and bank statements and pension and retirement statements.

Husband argues that after his retirement, Wife has sufficient separate property to meet her needs according to the marital standard of living and that her spousal support should cease retroactive to his retirement on May 16, 2021. Wife cannot expect to receive the same high level of support, here \$23,000 per month, after the supporting spouse retires. *In re Marriage of Reynolds* (1998) 63 Cal.App.4th 1373, 1379. (68-year old payer could not be compelled to work after usual retirement age to maintain the level of spousal support paid while working.

A grant of Husband's request requires a full analysis and on the record consideration of the Family Code §4230 (a-n) factors. *Marriage of Diamond* (2021) 72 Cal.App.5th 595. Factor §4320(c) appears to be the most important for Husband to explain if he is to meet his burden for a grant of modification or termination to current support orders, regarding the supporting party's ability to pay, taking into account his earning capacity and standard of living.

However, without Wife's updated Income and Expense Declaration ("IED"), the court is unable to determine the extent to which her current income and asset profile will help her maintain the standard of living established during the marriage. Family Code §4320(a). Wife reports in her IED filed on September 17, 2023, that she maintains almost \$2,000,000 in stocks. California Rule of Court 5.92(b)(3)(A) and (B) and Marin County Rules, Family 7.13.A and D require the parties to submit a fully completed Income and Expense Declaration with all moving and responsive papers involving requests for child and spousal support. Wife's IED needs to be updated and filed.

The matter is continued to March 7, 2024 at 9 a.m. in this department.

Under current orders, litigants who require the assistance of an interpreter shall appear in person. Interpreter services via video technology are not available.

The Zoom appearance information is as follows:

February 2024, 09:00 AM

Join Zoom Meeting

<https://www.zoomgov.com/j/1610321093?pwd=YW5DaGY2ekZsSUFNbE51T1JsRTMvZz09>

Meeting ID: 161 032 1093

Passcode: 991058

If you are only able to appear by phone you may dial the phone number below, follow the prompts and enter the meeting ID and passcode.

+1-669-254-5252

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 02/22/24 TIME: 9:00 A.M. DEPT: L CASE NO: FL1703435

PRESIDING: HON. MARK A. TALAMANTES

REPORTER:

CLERK: JORDENNE FERENCZI

PETITIONER: JAIME GAGLIARDI

and

RESPONDENT: SEBASTIAN JOHN
MCINTYRE

NATURE OF PROCEEDINGS: REQUEST FOR ORDER – SET ASIDE/VACATE

RULING

Parties must comply with Marin County Superior Court Local Rules, Rule 7.12(B), (C) to contest the tentative decision. In the event no party requests oral argument in accordance with Rule 7.12(C), the tentative ruling shall become the order of the court.

IT IS ORDERED that due to Covid-19, you are directed to the court’s website, for information on how to access the court virtually. Video appearances are permitted unless a party is ordered to appear in court. In-person appearances are also permitted. Evidentiary hearings shall be in-person in Department L.

FURTHER ORDERED that the parties are responsible for ensuring that they have a good connection and that they are available for the hearing. If the connection is inadequate, the Court may proceed with the hearing in the party’s absence.

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The court called this matter as regularly scheduled on the family Request for Order calendar on February 15, 2024. Marin County Rule, Family 7.12 C .requires a party must contact the court and all opposing parties by 4:00 p.m. the court day preceding the scheduled hearing to give notice of argument. Notice may be by telephone or in person to all other parties that argument is being requested. The rule also provides that “(u)nless the Court and all parties have been notified of a request to present oral argument, no oral argument will be permitted except by order of the Court.” Here, Respondent Sebastian McIntyre (“Husband”) made an appearance in court, without providing adequate notice to Petitioner Jamie Gagliardi (“Wife”) and to the court. He

requested the opportunity to contest the court's tentative. Finding good cause, the court granted his request and continued to matter to February 22, 2024, at 9 a.m. in this department. Wife filed a Request for Order ("RFO") filed on May 16, 2023, seeking modification to child support orders, clarification of tax payments, and an award of reasonable attorney's fees and costs. Husband filed timely responsive declarations to Wife's RFO on both July 28, 2023, and June 15, 2023.

Although Wife was self-represented when she filed the RFO, she was represented by Chelsea Heaney, Esq. during the onset of the litigation.

The matter was called as regularly scheduled on June 15, 2023. The court issued child support orders. The court also ordered the parties to file a supplemental declaration to address both the complex tax dispute, and Wife's request for an award of reasonable attorney's fees, not later than June 23, 2023. The parties both filed timely responsive declarations on June 23, 2023, and Wife's former attorney, Ms. Heaney also filed a supplemental declaration, in support of Wife's request for an award of attorney's fees. The matter was taken under submission.

On July 28, 2023, the court issued a FOAH to address the tax issues raised by Wife, and also awarded her \$8,000 in reasonable attorney's fees, which was considerably less than the \$12,000 originally requested.

At the request of the parties on June 23, the court set a review hearing for September 7, 2023, and permitted additional briefing to be filed regarding the payment of taxes. The hearing was continued to September 14, 2023. Wife filed a supplemental declaration, providing updated tax information on September 8, 2023. Husband filed a supplemental declaration on September 12. The declarations were reviewed and considered by the court. At the hearing on September 14, the court's ruling issued on July 28, 2023, was not modified and adopted as the order of the court.

On January 23, 2024, Husband filed a Request for Order seeking to set-aside the court's July 28, 2023, FOAH due to an alleged error by the court. In his declaration, Husband alleges that the court's reference to Wife's attorney's declaration in the FOAH was in error because he claims Ms. Heaney never filed a declaration in support of Wife's claim. The record indicates that Ms. Heaney filed a declaration in support of Wife's request for fees on June 23, 2023.

California Rule of Court, rule 8.406 limits the period a party may appeal a court order to 60 days after entry of order. The court will not rule on the merits of Husband's request to set aside the September order adopting the court's ruling because it is not timely. His request is DENIED.

Under current orders, litigants who require the assistance of an interpreter shall appear in person. Interpreter services via video technology are not available.

As authorized by CRC 5.125, the court will prepare the Findings and Order After Hearing.

The Zoom appearance information is as follows:

February 2024, 09:00 AM

Join Zoom Meeting

FL1703435

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 02/22/24 TIME: 9:00 A.M. DEPT: L CASE NO: FL1704420

PRESIDING: HON. MARK A. TALAMANTES

REPORTER:

CLERK: JORDENNE FERENCZI

PETITIONER: JARRETT STREEBIN

and

RESPONDENT: MELANIE LOFTUS

- NATURE OF PROCEEDINGS: 1) REQUEST FOR ORDER – DISMISSAL OF RESPONDENT’S RFO FILED 8/3/2023 AND 12/20/2023 FOR FORUM NON CONVENIENS
- 2) REQUEST FOR ORDER – COMPEL
- 3) REQUEST FOR ORDER – ATTORNEY’S FEES – OTHER: ENFORCEMENT OF JUDGMENT
- 4) REQUEST FOR ORDER – QUASH

RULING

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FURTHER ORDERED that the parties are responsible for ensuring that they have a good connection and that they are available for the hearing. If the connection is inadequate, the Court may proceed with the hearing in the party’s absence.

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Appearances required.

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February 2024, 09:00 AM

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 02/22/24 TIME: 9:00 A.M. DEPT: L CASE NO: FL2201098

PRESIDING: HON. MARK A. TALAMANTES

REPORTER:

CLERK: JORDENNE FERENCZI

PETITIONER: MARIANA MONTERO

and

RESPONDENT: RAFAEL ARELLANO
FLORES

NATURE OF PROCEEDINGS: REQUEST FOR ORDER – VISITATION

RULING

Parties must comply with Marin County Superior Court Local Rules, Rule 7.12(B), (C) to contest the tentative decision. In the event no party requests oral argument in accordance with Rule 7.12(C), the tentative ruling shall become the order of the court.

IT IS ORDERED that due to Covid-19, you are directed to the court's website, for information on how to access the court virtually. Video appearances are permitted unless a party is ordered to appear in court. In-person appearances are also permitted. Evidentiary hearings shall be in-person in Department L.

FURTHER ORDERED that the parties are responsible for ensuring that they have a good connection and that they are available for the hearing. If the connection is inadequate, the Court may proceed with the hearing in the party's absence.

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Respondent Rafael Arellano ("Father") filed a Request for Order ("RFO") seeking modification to existing custody and visitation orders. He was the restrained party and subject to an 18-month Domestic Violence Restraining Order ("DVRO") issued on May 23, 2022. The DVRO expired in December 2023. Petitioner Mariana Montero ("Mother") filed a request to continue the hearing on January 23, 2024. She also filed a responsive declaration on January 26, 2024. The matter was continued at her request to February 22. Father filed a Reply declaration on February 7.

Unfortunately, the parents did not meet with Marin is a recommending County (“FCS”) to attempt to mediate the issues raised by Father. Marin is a recommending county. (Family Code §3183; Marin County Rules, Family 6.17.A.)

Together, these parents have three children, Fatima (17 years), Leonardo (14 years) and Zaira (10 years.)

CUSTODY AND VISITATION ORDERS

The court needs additional information from both parents before it is capable of issuing comprehensive custody and visitation orders.

The parents are re-referred to be interviewed by FCS. The matter is continued to March 28, 2024, at 9 am in this department.

The Zoom appearance information is as follows:

February 2024, 09:00 AM

Join Zoom Meeting

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 02/22/24 TIME: 9:00 A.M. DEPT: L CASE NO: FL0000486

PRESIDING: HON. MARK A. TALAMANTES

REPORTER:

CLERK: JORDENNE FERENCZI

PETITIONER: HENRY ESCOBAR

and

RESPONDENT: MELISSA CANAS

NATURE OF PROCEEDINGS: REQUEST FOR ORDER – CUSTODY/CHILD
SUPPORT/VISITATION – OTHER: CHILDREN TO BE INTERVIEWED BY FAMILY
COURT SERVICES

RULING

Parties must comply with Marin County Superior Court Local Rules, Rule 7.12(B), (C) to contest the tentative decision. In the event no party requests oral argument in accordance with Rule 7.12(C), the tentative ruling shall become the order of the court.

IT IS ORDERED that due to Covid-19, you are directed to the court’s website, for information on how to access the court virtually. Video appearances are permitted unless a party is ordered to appear in court. In-person appearances are also permitted. Evidentiary hearings shall be in-person in Department L.

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Petitioner Henry Escobar (“Father”) filed a Request for Order (“RFO”) on December 7, 2023, to establish custody and visitation orders. Proof of service of summons indicates that Melissa Canas (“Mother”) was personally served with Father’s petition and RFO on December 23. She did not file an opposition.

The parents were referred to meet with Marin Family Court Services (“FCS”) to attempt to mediate the issues raised by Father. Marin is a recommending county. (Family Code §3183; Marin County Rules, Family 7.17.A.) Both parents met with FCS on or about January 23, 2024.

Together, these parents have two children. Mikayla is 14. David is 11. Both children were interviewed by FCS.

Mikayla struggles with issues involving Father's family. Father must be open to listen to her allegations and to support her.

CUSTODY AND VISITATION

The court has reviewed Father's petition and in consideration of the Report issued by FCS on January 23, 2024, the court finds good cause to adopt the recommendations as follows:

Custody

1. The parents shall continue to share joint legal custody of both children. They shall share in the responsibility and confer in good faith on matters concerning the health, education, and welfare of the children. Each parent shall have access to the children's school, medical, mental health, and dental records and the right to consult with professionals who are providing services to the children.
2. The parents shall continue to share joint physical custody of both children.

Timeshare

3. David shall live with both parents on the "50/50" schedule preferred by David and agreed upon by both parents.
4. Mikayla shall live primarily with Mother and shall be with Henry as desired by Mikayla.
5. Both children shall be with both parents on an agreed upon Holiday schedule. Mikayla shall not be forced to attend if she is unwilling.

Collateral Issues

6. Mikayla shall be in counseling. Both parents shall follow any recommendations made by the counselor, including recommendations for any family counseling for Mikayla and her father.
7. Both children shall sleep in their own beds in both homes.
8. Father shall take a class for parenting teenagers.
9. Neither parent shall share any information from this report with either child.

Under current orders, litigants who require the assistance of an interpreter shall appear in person. Interpreter services via video technology are not available.

As authorized by CRC 5.125, the court will prepare the Findings and Order After Hearing.

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