

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 05/19/17 TIME: 8:30 A.M. DEPT: H CASE NO: FL1105942

PRESIDING: HON. VERNA A. ADAMS

REPORTER:

CLERK: P. OKUBO

PETITIONER: MELISSA HUGHES

and

RESPONDENT: DANIEL LEWIS

NATURE OF PROCEEDINGS: REVIEW – CUSTODY AND VISITATION

RULING

Appearances required.

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 05/19/17 TIME: 8:30 A.M. DEPT: H CASE NO: FL082040

PRESIDING: HON. VERNA A. ADAMS

REPORTER:

CLERK: P. OKUBO

PETITIONER: RON P. LUIS

and

RESPONDENT: STACY M. LUIS

NATURE OF PROCEEDINGS: MODIFICATION – CHILD CUSTODY; CHILD SUPPORT;
VISITATION [PETR] RON P. LUIS

RULING

Child Support

Based on the Notice filed on May 12, 2017, the Department of Child Support Services is now providing services regarding child support in this matter. Accordingly, Petitioner/Father's Request for Order for modification of child support is deferred to Dept. N, and the parties are ordered to serve all pleadings on DCSS. Child support issues are continued to July 6, 2017 at 1:30 p.m. in Dept. N.

Custody and Visitation

Based on the information before the court, it is evident that the best interests of the parties' minor children are served by the court adopting the parenting plan recommended by Family Court Services on May 11, 2017, as amended by the court. The court will do so and the parenting plan is set forth below:

1. The parties shall continue to share joint legal and physical custody of their three minor children.
2. Meadow and Chloe shall remain on the 2/2/5 schedule which has been in effect since July, 2008.
3. Both parents shall be responsible for getting the children to their regularly scheduled after school extracurricular activities during their respective custody times.

4. The children may contact the noncustodial parent (via phone, text, e-mail, etc.) whenever they wish to do so and shall have unfettered access to the noncustodial parent.
5. Commencing forthwith, during the school year, Dante shall be in Father's custody from Monday morning through Thursday morning each week and in the custody of Mother from Thursday after school through Friday morning. Dante shall continue to alternate weekends with his parents on the same schedule as his sisters. This schedule shall be a trial schedule. Parents shall discuss whether the schedule is working for Dante prior to the commencement of the 2017 Winter Break to determine whether the schedule should be continued for the remainder of the school year or whether other modifications are warranted. Parents may make changes to Dante's custody schedule at any time per mutual parental agreement after considering Dante's wishes and input.

If the parties are unable to agree on a schedule for summer, 2017, and for holidays, the court will make appropriate orders on the subject. That issue was not addressed in Father's Request for Order; it was mentioned in Family Court Services' recommendations, but clear recommendations were not made.

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

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 05/19/17 TIME: 8:30 A.M. DEPT: H CASE NO: FL1300892

PRESIDING: HON. VERNA A. ADAMS

REPORTER:

CLERK: P. OKUBO

PETITIONER: CHRISTINE M. WEIDNER

and

RESPONDENT: DAVID P. WEIDNER

NATURE OF PROCEEDINGS: MODIFICATION – CUSTODY/SUPPORT/ATTY’S FEES
AND COSTS [RESP] DAVID P. WEIDNER

RULING

Petitioner/Mother’s evidentiary objections are overruled. Although Respondent/Father violated CRC 5.111 when he filed an over-long reply declaration without leave of court, the parties are in pari delicto, in that Mother failed to comply with MCR Fam 6.13. The police reports are hearsay but they fall within the exception of Evidence Code §§1230 and 1235. They do not contain information about the parties’ minor children.

Custody and Visitation

Based on the information before the court, it is evident that the best interests of the parties’ minor children are served by the court adopting the parenting plan recommended by Family Court Services on May 13, 2017, as amended by the court. The court will do so and the parenting plan is set forth below:

1. The children shall be placed in the primary physical custody of Father.
2. Provided that Mother secures her own residence apart from Mark Arman, the children shall be in Mother's custody each day from after school until Father is off work. Parents shall alternate weekends from Friday after school through Monday morning.
3. If Mother continues to reside with Mark Arman, Father shall have sole physical and legal custody of the children. In that event, Mother’s custodial time will be as agreed upon by the parties or ordered by this court if the parties are unable to agree; at this time the court has not been given sufficient information to fashion a schedule based on that set of circumstances.

4. Mark Arman shall not have contact with the children.
5. The girls shall have permission to participate in therapy.
6. The children shall not be given alcohol by either parent or any other caregiver.
7. Mother shall enroll in and complete a 52-week certified batterers' treatment program for women who have perpetrated domestic violence.
8. Mother shall not consume alcohol 24 hours prior to or during her custodial time with the children. Mother shall submit to random alcohol testing per Father's request for a period of six months. Violations of court orders that Mother not drink prior to or during her custodial time with the children shall result in court orders for Mother to seek professional treatment for alcohol abuse beyond attending AA meetings (e.g. participating in an outpatient treatment program).
9. Mother shall continue in individual therapy.
10. If the children are permitted to remain in the Campbell Union school district via an inter-district transfer or if Mother maintains a residence in the district (by moving back to the home she owns in Los Gatos in conjunction with her reduced custodial time), the children may remain in school in the Campbell Union school district.
11. If for any reason the children do not remain in the Campbell Union school district, then Father shall not enroll the children in public schools in his current neighborhood. He may enroll the children in other schools of a similar caliber to the ones the children are currently attending which may include either private schools in the Peninsula/South Bay or moving the children back to Marin County to attend schools in Marin County.
12. Mother shall not expose the children to domestic violence.
13. Father shall not expose the children to loud fights between himself and his girlfriend which includes the use of profanity, etc.
14. The court will issue an order for holidays and vacations if the parties are unable to agree on same.

Child Support

Father's Request for Order to modify child support is granted as follows:

Based on his paystubs, Father has total bi-weekly earnings of \$6,639.51 (\$14,386 per month). He contributes \$422 per month to a 401k plan and has monthly pre-tax deductions for medical, dental and vision insurance totaling \$105. Father's paystubs show additional pre-tax deductions of \$361 for dependent care and medical FSA accounts, \$108 for parking and \$271 for "Transit

Pre”; those deductions have been included in the court’s calculation as adjustments to income. Father is entitled to head of household tax filing status and the court assumes he will claim one exemption; according to his income and expense declaration he has itemized deductions of \$755 in mortgage interest and \$553 in property taxes. The court uses a 50/50 timeshare to calculate support.

Mother is charged with \$10,000 per month in other taxable income based on Father’s assertion that she receives at least that amount from her father’s trust and in light of the fact that she hasn’t documented the income she claims on her income and expense declaration. Mother states she pays \$420 for medical and dental insurance and she is given a deduction in that amount. Mother also will file taxes as head of household, claiming four exemptions and itemized deductions of \$1,370 in mortgage interest and \$800 in property taxes (the amounts Father reports she pays for her Marin County residence).

Based on the above assumptions set forth in the attached *DissoMaster* calculation, commencing April 7, 2017 Father shall pay to Mother monthly guideline child support in the amount of \$512, payable one-half on the first and one-half on the 15th day of each month and continuing until further order of court, or until the child in question marries, dies, is emancipated, reaches age 19, or reaches age 18 and is not a full-time high school student, whichever occurs first.

The parties shall share equally all reasonable uninsured medical and dental expenses incurred on behalf of their minor children, and childcare costs related to either party’s employment or reasonably necessary education or training for employment skills. The parties are ordered to comply with the provisions of Family Code §4063 in seeking reimbursement for uninsured medical and dental expenses, and a copy of the *NOTICE OF RIGHTS AND RESPONSIBILITIES – Health-Care Costs and Reimbursement Procedures* shall be attached to the *ORDER AFTER HEARING*. These provisions shall apply to reimbursement for childcare expenses as well.

Attorney Fees and Costs

Each party is ordered to pay his/her own attorney’s fees and costs of suit.

Counsel for Father to prepare formal order.

PREPARED BY (NAME AND ADDRESS): DEPT. H Marin County Superior Court	TELEPHONE NO:	
DISSOMASTER REPORT 2017, Monthly		CASE NUMBER: FL 1300892

Input Data	David	Christine	Guideline (2017)	Cash Flow Analysis	David	Christine
Number of children	2	1	Nets (adjusted)	Guideline		
% time with NCP	49.99%	49.99%	David	10,385	Payment (cost)/benefit	(512) 512
Filing status	HH/MLA	HH/MLA	Weidner		Net spendable income	9,873 8,800
# Federal exemptions	1	4	Christine	8,288	% combined spendable	52.9% 47.1%
Wages + salary	14,386	0	Cain		Total taxes	3,896 1,292
401(k) employee contribution	422	0	Total	18,673	# withholding allowances	11 0
Self-employment income	0	0	Support		Net wage paycheck/mo	10,317 0
Other taxable income	0	10,000	CS Payor	David Weidner	Proposed	
TANF plus CS received	0	0	Presumed	512	Payment (cost)/benefit	(512) 512
Other nontaxable income	0	0	Basic CS	512	Net spendable income	9,873 8,800
New-spouse income	0	0	Add-ons	0	NSI change from gdl	0 0
Wages + salary	0	0	Per Kid		% combined spendable	52.9% 47.1%
Self-employment income	0	0	Child 1	69	% of saving over gdl	0% 0%
SS paid other marriage	0	0	Child 2	166	Total taxes	3,896 1,292
Retirement contrib if ATI	0	0	Child 3	277	# withholding allowances	11 0
Required union dues	0	0	Spousal support	blocked	Net wage paycheck/mo	10,317 0
Nec job-related exp.	0	0	Total	512	Default Case Settings	
Adj. to income (ATI)	740	0	Proposed, tactic 9			
SS paid other marriage	0	0	CS Payor	David Weidner		
CS paid other relationship	0	0	Presumed	512		
Health insurance	105	420	Basic CS	512		
Itemized deductions	1,308	2,170	Add-ons	0		
Other medical expenses	0	0	Per Kid			
Property tax expenses	553	800	Child 1	69		
Ded. interest expense	755	1,370	Child 2	153		
Charitable contribution	0	0	Child 3	290		
Miscellaneous itemized	0	0	Spousal support	blocked		
Required union dues	0	0	Total	512		
Mandatory retirement	0	0	Combined Savings	0		
Hardship deduction	0*	0*				
Other gdl. deductions	0	0				
AMT info (IRS Form 6251)	0	0				



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 05/19/17 TIME: 8:30 A.M. DEPT: H CASE NO: FL1501904

PRESIDING: HON. VERNA A. ADAMS

REPORTER:

CLERK: P. OKUBO

PETITIONER: KATHERINE ARMISTEAD

and

RESPONDENT: JAMES ARMISTEAD

NATURE OF PROCEEDINGS: NOTICE OF MOTION – AND MOTION FOR ATTORNEY FEES AND COSTS [PETR] KATHERINE ARMISTEAD

RULING

The court grants Petitioner/Wife’s Request for Order for a *pendente lite* allowance of attorney’s fees, in part, as follows.

In this case, Wife has had three attorneys of record, not including her current limited scope counsel. They are: Sharon F. Mah, Stephen Bruce Bley, and Mauna Berkov. In addition, she consulted with Attorney David Picchi, although he never was of record. Wife’s application is defective in that she does not disclose how much she has paid her prior counsel.

Respondent/Husband has had one attorney of record in the past—Nancy Rubin, and he is currently represented by Charlotte Huggins. Husband’s responsive papers are also defective in that he does not disclose how much he has paid his prior counsel.

On January 20, 2016, the parties agreed jointly to engage Joanne Bertozzi as a neutral accounting expert. Husband has advanced Ms. Bertozzi’s fees in a total amount of \$66,000. Ms. Bertozzi has done a tremendous amount of work on the case and she is now engaged in performing a post-separation accounting.

The court is troubled by the fact that notwithstanding Ms. Bertozzi’s assurances (see Ex. A to Husband’s Responsive Declaration filed May 8, 2017) and the considerable volume of financial information produced by Husband and subpoenaed by Wife, much of which was reviewed at several intensive Case Progress Conferences with the court, Wife is unable or unwilling to believe that Husband is not concealing, misappropriating, or in some way tampering with community property. Her pending Request for Order repeats these allegations.

Throughout this litigation, Wife has accused Husband of failing to respond to discovery requests, but she has never filed a motion to compel discovery. Without a judicial determination of such a motion, it is impossible for the court in this case to determine whether Husband has actually failed to cooperate or whether Wife's mistrust of Husband is without basis in fact.

If the court believed that an award of \$50,000 in attorney's fees and costs would assist Wife in objectively evaluating the case for settlement, it would be tempted to make such an order. However, in view of the history and posture of this case, it has little confidence in such outcome.

Noting that Husband has just advanced an additional \$10,000 for Ms. Bertozzi, the court will order him to advance the sum of \$15,000 for Wife's attorney's fees, on the following terms and conditions:

- That advance will be charged against Wife's half of the community property, unless at the time of settlement or trial, Wife can demonstrate that Husband concealed or misappropriated community property within the meaning of Family Code §§2602 and/or 2120(b).
- That advance will be made only to an attorney licensed in the State of California who makes a general appearance for Wife in this case. In such case, the advance will be made within ten business days of the filing of the general appearance.

Counsel for Wife to prepare formal order.

Appearances required for Case Progress Conference.

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 05/19/17 TIME: 8:30 A.M. DEPT: H CASE NO: FL1701343

PRESIDING: HON. VERNA A. ADAMS

REPORTER:

CLERK: P. OKUBO

PETITIONER: EDGAR GUTIERREZ

and

RESPONDENT: AMARILIS YASOHARA
AGUILAR

NATURE OF PROCEEDINGS: CHILD CUSTODY – AND VISITATION [PETR] EDGAR GUTIERREZ

RULING

Based on the information before the court, it is evident that the best interests of the parties' minor child are served by the court adopting the parenting plan recommended by Family Court Services on May 15, 2017. The court will do so and the parenting plan is set forth below:

Parental Responsibilities

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

Timeshare Schedule

3. Tania shall live primarily with Amarilis and shall be with Edgar during the following times:
 - a. Every Sunday from 12:30 p.m. to 6:00 p.m.
 - b. Every Tuesday from 4:00 p.m. to 7:00 p.m.
-

4. Any additional time for Tania to be with Edgar shall be as agreed upon by Amarilis.
5. Both exchanges on Sunday shall occur at the Mi Pueblo grocery store in San Rafael. For the weekday exchanges, Edgar shall pick Tania up at her daycare and return her to Amarilis at the church in the Canal area of San Rafael. Any changes to the exchange locations shall be as agreed upon by Amarilis.

Holidays/Vacations

6. Tania shall be with Amarilis every year on **Mother's Day** and with Edgar every year on **Father's Day**.
7. Tania shall be with Amarilis on **Tania's birthday (July 15th)** in odd-numbered years, and with Edgar in the even-numbered years.
8. Tania shall be with Amarilis on her birthday (September 9th) and with Edgar on his birthday (January 7th) every year.
9. In the odd-numbered years, Tania shall be with Edgar on **Christmas Day** from 12:00 p.m. to 7:00 p.m. and in the even-numbered years she shall be with Edgar on **Christmas Eve** from 12:00 p.m. until 9:00 p.m.
10. In the odd-numbered years, Tania shall be with Edgar on **New Years' Eve** from 12:00 p.m. to 7:00 p.m. and in the even-numbered years with Edgar on **New Years' Day** from 12:00 p.m. to 7:00 p.m.

Collateral Issues

11. The parents shall engage in peaceful contact only in the presence of Tania.
12. Neither parent shall use any illegal drugs, or any prescribed drugs beyond their prescribed amount, while Tania is in their care, or 24 hours prior.
13. Neither parent shall make any derogatory comments about the other parent in the presence of Tania, or allow others to do so.
14. Neither parent shall expose Tania to any custody issues, or any other adult issues.
15. Neither parent shall change Tania's residence from the 9 Bay Area counties without written permission from the other parent, or a court order.
16. Edgar may not remove Tania from the 9 Bay Area counties without written permission from Amarilis, or a court order.

17. If Amarilis is going to travel with Tania outside of the 9 Bay Area counties, she must give Edgar an itinerary, any flight information, any addresses of where they will be staying, and any contact information.
18. Any changes to the schedule are permitted provided both parents are in agreement to the changes.

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