TENTATIVE RULINGS
LAW & MOTION CALENDAR
Friday, June 06, 2025, 9:30 a.m.
Courtroom 23 –Hon. Shelly J. Averill
3055 Cleveland Avenue, Santa Rosa

TO JOIN "ZOOM" ONLINE:
Meeting ID: 160-825-4529
Passcode: 611386
https://sonomacourt-org.zoomgov.com/j/1608254529

TO JOIN "ZOOM" BY PHONE:
By Phone (same meeting ID and password as listed above):
(669) 254-5252

The following tentative rulings will become the ruling of the Court unless a party desires to be heard. If you desire to appear and present oral argument as to any motion, it will be necessary for you to contact the department's Judicial Assistant by telephone at (707) 521-6729 by 4:00 p.m. on the day before the hearing. Any party requesting an appearance must notify all other opposing parties of their intent to appear.

1. SFL73431, Saldana v Soulier

Motion to Quash Petitioner's Demand for Documents is **DENIED** as set forth herein. Petitioner must serve notice of entry of this order within ten days of entry of the order. Respondent must serve discovery responses within 17 days of service of notice of entry of this order.

Facts

Petitioner filed this action to establish parental relationship, custody, and visitation of the parties' minor children (the "Children") on April 22, 2016. Respondent acknowledged that Petitioner is the Children's father. The parties have continued to litigate over custody and visitation issues.

Petitioner served Respondent with a Demand for Production of Documents (Set One) ("RFPs") and Special Interrogatories (Set One) (collectively, the "Discovery") on about March 29, 2025.

Motion

Respondent moves the court to quash Petitioner's RFPs or to issue a protective order relieving her from the obligation to respond to the Discovery. She relies on Code of Civil Procedure sections 2017.010 and 2031.060 as well as the right to privacy, asserting that the requests seek irrelevant and private information.

Petitioner opposes the motion. He asserts that Respondent has failed to serve timely responses to the Discovery, thereby waiving objections, filing the motion did not relieve Respondent from the obligation of responding since it applies only to compelling further responses; the motion was defective because not signed and lacking a meet-and-confer declaration; and the Discovery is warranted.

Applicable Authority

According to the Family Law Rules of the California Rules of Court ("CRC") 5.2(d), and Family Code section 210, provisions applicable to civil actions generally apply to proceedings under the Family Code unless otherwise provided. This includes the rules applicable to civil actions in the California Rules of Court and the Code of Civil Procedure ("CCP"), and specifically proceedings pursuant to the Civil Discovery Act set forth at CCP section 2016.010, et seq. See, e.g., *In re Marriage of Boblitt* (2014) 223 Cal.App. 4th 1004, at 1022 (discovery).

A party to whom written discovery requests are directed may "promptly" move for a protective order instead of responding. CCP sections 2030.090, 2031.060.

CRC 3.1345(a) expressly states, "Except as provided in (b), any motion involving the content of a discovery request or the responses to such a request must be accompanied by a separate statement." Subdivision (b) states that no such statement is required on a motion to compel where there has been no response, or where the court has allowed a party to submit a "concise outline" in lieu of a separate statement. The separate statement must specifically set forth the full text of each request at issue; the full response, if any; the factual and legal reasons supporting the party's argument; and other specified information as necessary. Subdivision (d) adds, "A motion concerning interrogatories, inspection demands, or admission requests must identify the interrogatories, demands, or requests by set and number."

Privacy protection for certain information in discovery is rooted in Cal. Const., Art.1, section 1. *Roberts v. Gulf Oil Corp*. (1983) 147 Cal.App.3d 770, 790-791. This provision states, in full, "[a]ll people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy."

The protection is not absolute, however and the information is discoverable where the need for discovery outweighs the privacy concerns. *Palay v. Sup.Ct.* (1993) 18 Cal.App.4th 919, 933; see also *Britt v. Sup.Ct*. (1978) 20 Cal.3d 844, 859-862.

Late Responses and Waiver of Objections

Petitioner contends that because Respondent filed and served this motion instead of responding, and because the deadline for responding has expired, Respondent waived all objections. He asserts that bringing this motion was not a proper method for raising objections to the discovery.

Petitioner's argument on this point is unpersuasive. As explained above, the applicable provisions governing discovery expressly state that a party who has been served with discovery requests may serve and file a motion for protective order instead of responding. Respondent also filed and served her motion bot "promptly" and before the deadline for responding had expired, making the motion timely, with the result that she has not yet waived objections.

Petitioner also argues that the copy of the motion served on him as not signed and lacks a meet-and-confer declaration. The court notes that these are potential issues but in this instance finds them to be immaterial. Electronically filed documents are generally deemed signed by the person who filed them. CRC 2.257(c). While that is insufficient for documents that must be signed under penalty of perjury, such as evidence in this motion, the motion itself does not need to be signed under penalty of perjury. Moreover, the copy of the motion filed with the court has what appears to be an electronic signature, which is sufficient. CRC 2.257. The court finds the lack of a meet-and-confer declaration to be immaterial in this instance.

Compelling Responses

In his opposition, Petitioner asks the court to compel responses to the Discovery. However, this is improper and unpersuasive. As explained above, Respondent's decision to file a motion for

protective order was appropriate and as a result she has not yet waived objections. Moreover, Petitioner's request is for affirmative relief requiring a noticed motion with the requisite notice and opportunity for Respondent to present opposition. There is no authority for seeking or obtaining such relief as part of an opposition to a motion. Should Petitioner wish to bring a motion to compel responses, and have grounds for doing so, Petitioner has the option of bringing a motion to compel in accord with the Discovery Act. The court DENIES Petitioner's request to compel responses at this time, without prejudice to Petitioner bringing an authorized noticed motion in accord with the Discovery Act.

Substance of Respondent's Motion

Despite the foregoing discussion, ultimately Respondent's motion is substantively unpersuasive. Respondent fails to present to the court the full Discovery requests at issue, making it impossible for the court to determine if the Discovery is improper or unwarranted, and thus if a protective order is appropriate. Petitioner does not in his opposition papers provide the missing information, either. Respondent's motion sets forth some purported requests form the Discovery with her objections to it, but this is insufficient. First, this list does not comply, procedurally or substantively, with the requirements for a separate statement of items in dispute, as set forth above. Second, on the face of the document, these appear not to be all of the Discovery requests because the requests presented appear to be only interrogatories, without the RFPs which the motion also addresses. Third, the requests seek information which is, on its face, may be directly relevant to matters at issue regarding custody, visitation, and support. They include financial information regarding rent and income, relevant to issues such as support. They also include information regarding Respondent's boyfriend and possible criminal history, matters relevant to the Children's safety and thus custody and visitation. These are all issues which are currently being litigated. Even to the degree that they include private matters, therefore, the information is discoverable because directly relevant. The court notes that those items seeking personal, confidential information of Respondent's boyfriend, a third party, may potentially be subject to objection. However, this applies only to specific items, at this time the court cannot make a sufficient determination of this issue, and Respondent's appropriate remedy at this time is to respond with objections.

Conclusion

The court DENIES the motion without prejudice to Respondent to respond with objections in accord with the applicable authority and this order. The court notes that Respondent filed this motion on April 16, 2025, 18 days after Petitioner served her with the discovery, and the deadline for responding to discovery is 30 days, plus a possible extension for manner of service. Nothing indicates how Petitioner served Respondent with the Discovery. Accordingly, the court will apply the 5-day extension for service by mail, so that Respondent's unused portion of the deadline for responding is 12 days plus 5, or 17 days. Respondent will thus have an additional 17 days in which to serve discovery responses including any objections, from the date of service of notice of entry of this motion.

The Petitioner shall prepare and serve a proposed order consistent with this tentative ruling within five days of the date set for argument of this matter. Opposing party shall inform the preparing party of objections as to form, if any, or whether the form of order is approved, within five days of receipt of the proposed order. The preparing party shall submit the proposed order and any objections to the court in accordance with California Rules of Court, Rule 3.1312.

2. SFL087609, Ramey Dissolution

Motion to Dismiss Petitioner's Order to Show Cause and Affidavit for Contempt **DENIED** as explained herein.

Facts

Petitioner filed this petition for dissolution of marriage with minor children on January 15, 2021. There are four children (the "Children") and all are currently minors as of June 2025. The parties have since actively litigated numerous issues and both parties requested a domestic violence restraining order ("DVRO") protecting the respective requesting party and the Children from the other party. The court issued a temporary DVRO protecting Respondent and restraining Petitioner, ultimately amending it on September 21, 2021.

The parties, at that time both represented by counsel, took part in a settlement conference on February 24, 2023. During that conference, the parties entered into a written Memorandum of Understanding (the "Settlement") which Respondent's attorney had drafted. The court entered the Settlement as a court order that same day. Respondent also agreed to vacating the temporary DVRO which had last been amended on September 21, 2021, and the court vacated that temporary DVRO the same day as well. The Settlement includes provisions regarding contact between the parties (the "Settlement Restraining Order"), requiring peaceful contact and ordering both parties to "stay at least 100 yards from the other," or the other's home, workplace, and vehicle, "except for brief and peaceful contact with the other person for purposes of exchanging the children for court ordered visitation, or either party's presence near the children's school." Settlement, ¶¶9-10.

On March 10, 2025, Petitioner filed a request for an Order to Show Cause for contempt (the "OSC"). Petitioner asserted that Respondent had willfully violated a court order of February 24, 2023 by failing to comply with the terms of the Settlement which the court entered as an order, specifically the Settlement Restraining Order. Petitioner specifically argued that Respondent, who began working as a "yard duty" at the Children's school, would repeatedly and unnecessarily come within 100 yards of Petitioner when he was visiting the school for activities related to the Children. This, he asserted, violated the Settlement Restraining Order, which requires the parties to stay at least 100 yards from each other with only specified exceptions. The court granted the request the same day, issuing the OSC and setting the hearing on the OSC for April 14, 2025.

Motion

Respondent moves the court to dismiss the contempt OSC. She argues that a note added to Family Code section 6380 precludes Non-CLETS restraining orders renders void that portion of the Settlement containing such on order, the Settlement Restraining Order, on which the contempt request is based. She also argues that, in any case, the OSC affidavit fails to demonstrate a prima facie case of contempt because Respondent has not violated the Settlement Restraining Order but is merely performing her job at the school.

Petitioner opposes the motion.

Applicable Authority

According to the Family Law Rules of the California Rules of Court ("CRC") 5.2(d), and Family Code ("Fam.Code") section 210, provisions applicable to civil actions apply to proceedings under the Family Code unless otherwise provided. This includes the rules applicable to civil actions in the California Rules of Court and the Code of Civil Procedure ("CCP"). See, e.g., *In re Marriage of Boblitt* (2014) 223 Cal.App. 4th 1004, at 1022; *In re Marriage of Zimmerman* (2 Dist. 2010) 183 Cal.App.4th 900, at 910-911.

Contempt Proceedings

The court may impose a punishment for contempt to compel obedience to its judgments and orders. CCP sections 128, 178, 187, 1209, et seq. CCP section 1209 sets forth the conduct constituting contempt and includes, inter alia, (a)(5), "[d]isobedience of any lawful judgment, order, or process of the court."

When conduct amounting to contempt does not occur in the presence of the court, the proper procedures include granting a warrant of commitment upon notice or order to show cause ("OSC"). CCP section 1211, 1212. The court must investigate the charge, hear any answer, and allow examination of witnesses. CCP section 1217. The court must find that there has been a valid order, respondent actually knew of the order, respondent had the ability to comply, and respondent willfully refused to comply. *Conn v. Sup.Ct*. (1987) 196 Cal.App.3d 774, 784. A contempt proceeding is quasi-criminal and thus the respondent has some rights of a criminal defendant, including a presumption of innocence and right to live testimony. *People v. Gonzalez* (1996) 12 Cal.4th 804, 816; CCP section 1217.

Upon a sufficient affidavit, the court will issue an order to show cause ("OSC") regarding contempt, which sets the hearing on the contempt proceedings, and the OSC ordinarily must be served as required for service of summons and complaint. *Cedars-Sinai Imaging Med. Group v. Sup.Ct.* (2000) 83 Cal.App.4th 1281, 1286-1287; *In re Koehler* (2010) 181 Cal.App.4th 1153, 1169. As explained in *Cedars-Sinai Imaging Med. Group v. Sup.Ct.* (2000) 83 Cal.App.4th 1281, at 1286-1287.

Motions to Dismiss

Motions to dismiss are generally based on several CCP provisions, including CCP sections 583.110-583.430, governing involuntary dismissal for failure to prosecute; failure to amend after demurrer sustained in section 581(f); failure to pay transfer costs after change of venue in section 399(a); failure to comply with discovery orders in section 2023.030 and the related discovery provisions; failure to post bonds or security when required as in sections 391.3, 391.4, and 1030(d). The court finds no indication that any of these bases for dismissal applies here.

A nonstatutory motion to dismiss challenging a pleading is essentially the equivalent of a general demurrer, i.e., a demurrer on the ground that the pleading fails to state facts sufficient to constitute a cause of action or on the ground that the court lacks subject-matter jurisdiction. See *Citizens for Parental Rights v. San Mateo County Bd. of Ed*. (1975) 51 Cal.App.3d 1, 38. In family-law matters, moreover, parties have no authority to demur and the equivalent of a demurrer in such cases is a motion to quash, which is based on specific grounds. CRC 5.63; CRC 5.74(b)(2). Nothing here implicates the grounds for such a motion to quash, set forth in CRC 5.63(b).

Timeliness of Service

Relying on CCP section 1005, Petitioner argues that Respondent served the motion late. Petitioner correctly points out that moving papers must be served and filed at least 16 court days before the hearing, unless otherwise allowed. CCP section 1005(b). Respondent's proof of service shows that she served the motion by e-mail on May 23, 2025. This was only 9 court days before the hearing. Notice was thus improper. The court DENIES the motion on this basis.

Discussion

That said, even if notice were proper, the court finds the motion unpersuasive in substance. The court rejects all of Respondent's arguments and also DENIES this motion on this basis, as well, as explained below.

Fundamentally, this motion is without authority and is an unauthorized preemptive attempt to oppose the OSC on issues which are to be addressed at the upcoming OSC hearing. There is no basis for a "motion to dismiss" a hearing on an OSC for contempt. Moreover, Respondent merely is raising issues supporting her argument that the court should ultimately not find her in contempt.

Respondent's arguments, moreover, are at this point substantively unpersuasive as well. She fails to show that there is no valid, enforceable court order or that the court issued the OSC upon a facially defective affidavit since she instead raises mere factual disputes.

Respondent first argues that a "note" added to Family Code section 6380 in 2024 precludes Non-CLETS restraining orders renders void that portion of the Settlement containing such on order, the Settlement Restraining Order, on which the contempt request is based. However, she provides no further specification and does not identify the note or provide the language on which she relies. Her entire discussion states,

> Family Code Section 6380 was modified in 2024 to include a note acknowledging the Legislature's awareness of a practice whereby attorneys create NONCLETS restraining orders requiring folks to stay away from one another but would not be transmitted to the CLETS system. The legislature specifically precludes the creation of "NONCLETS restraining orders." The enacting of this note to Section 6380 makes that portion of the MOU at issue herein void an it should be stricken as provided in Exhibit A to this Request For Dismissal.
> Section 6380 was amended in 2024, effective January 1, 2025, but this amendment was enacted after the Settlement at issue.
> SECTION 1. The Legislature finds and declares all of the following:
> (a) The Legislature has become aware of a practice in proceedings relating to restraining orders whereby the parties seek to have the court enter a stipulated protective order that would not be transmitted to the California Law Enforcement Telecommunications System, also known as CLETS, when the law otherwise requires its transmittal. These proposed stipulated orders are sometimes colloquially referred to as a "non-CLETS restraining order."
> (b) It is the intent of the Legislature in enacting this measure to clarify that all protective orders subject to transmittal to CLETS are required to be so transmitted.

The amendment added the following language to section 6380 reflecting the above statement:

> (j)(1) All protective orders subject to transmittal to CLETS pursuant to this section are required to be so transmitted.
> (2) This subdivision does not constitute a change in, but is declaratory of, existing law.

The end result of this is that it is expressly clear and mandated that all protective orders to which the statutory provisions apply must be reported through CLETS pursuant to Fam. Code section 6380.

There is no authority in Family Code section 6380, or elsewhere, that supports the argument that a stay away order not entered in CLETS is void. Instead, it is a clarification that any stay away orders entered after the modification became effective should be transmitted to CLETS even if that was not the intention of the parties.

Respondent's argument that the affidavit supporting the contempt OSC does not make a prima facie case of contempt, assuming the Settlement Restraining Order to be valid and enforceable, is unpersuasive. She merely raises factual arguments disputing Petitioner's showing in the affidavit and claiming that she did not intentionally or unnecessarily approach to within 100 yards, but did so only as part of her employment. This is a factual issue and a dispute. The

affidavit clearly, on its face, sets forth a prima facie basis for finding that Respondent had violated the Settlement Restraining Order because it provides evidence showing that Respondent has approached within the established 100-yard distance and has done so unnecessarily and in a manner which does not fall within the exceptions which the Settlement Restraining Order sets forth. Whether Respondent has a valid explanation for this conduct is to be considered at the OSC hearing and clearly does not affect Petitioner's prima facie showing.

Ultimately, the factual issues which Respondent presents are to be addressed at the proper OSC hearing.

Conclusion

The court DENIES the motion in full, subject to the parties being able to address the basis for a contempt order at the scheduled OSC hearing.

The prevailing party shall prepare and serve a proposed order consistent with this tentative ruling within five days of the date set for argument of this matter. Opposing party shall inform the preparing party of objections as to form, if any, or whether the form of order is approved, within five days of receipt of the proposed order. The preparing party shall submit the proposed order and any objections to the court in accordance with California Rules of Court, Rule 3.1312.

3. SFL091017, Simmons Dissolution

Motion to Enforce Compliance of MSA re QDRO **GRANTED** as to compelling compliance to the limited extent requested in the motion and as to the request for attorney's fees and costs.

Facts

Petitioner filed this action for dissolution of marriage with minor child on May 9, 2022. The child is no longer a minor. After very little litigation, and with Respondent having filed no response, Petitioner filed a declaration for default or uncontested dissolution on May 20, 2024. The same day, she also presented a written Marital Settlement Agreement (the "MSA") into which the parties had entered, and the court entered judgment thereon. Notice of Entry of Judgment was filed and served by mail on both parties the same day as well.

The MSA states, among other things, that it "shall… survive incorporation in the Judgment of Dissolution of Marriage and survive the execution and delivery by either party of any and all instruments mentioned herein. MSA, ¶11.1. According to ¶11.13, the court shall reserve jurisdiction to enter any and all orders necessary to determine the community retirement benefits earned during the marriage, including post-judgment discovery. The form judgment adds that the court reserves jurisdiction to make orders necessary to carry out the judgment. MSA ¶1.2 states that Petitioner in all ways leaves to Respondent as his sole and separate property in settlement of property claims, among other things, 50% of the community interest in Respondent's retirement benefits (the "Plan"), while ¶1.3 similarly states that Respondent leaves to Petitioner, among others, the other 50% of the community interest in the Plan. It requires the parties jointly to retain Moon, Schwartz, & Madden ("MSM") to determine the community benefits and draft orders to divide the benefits.

Motion

Petitioner moves the court to enforce the MSA regarding the Plan and the intended resulting qualified domestic relations order ("QDRO") regarding the Plan. She argues that Respondent has failed to provide the necessary information to complete the QDRO and make the determinations and orders regarding the Plan as set forth in the MSA. She also seeks monetary sanctions for enforcement expenses.

There is no opposition.

Applicable Authority

According to the Family Law Rules of the California Rules of Court ("CRC") 5.2(d), and Family Code ("Fam. Code") section 210, provisions applicable to civil actions generally apply to proceedings under the Family Code unless otherwise provided. This includes the rules applicable to civil actions in the California Rules of Court and the Code of Civil Procedure ("CCP"), and specifically motions to vacate pursuant to CCP section 473 or proceedings pursuant to the Civil Discovery Act set forth at CCP section 2016.010, et seq. See, e.g., *In re Marriage of Boblitt* (2014) 223 Cal.App. 4th 1004, at 1022 (discovery); *In re Marriage of Zimmerman* (2 Dist. 2010) 183 Cal.App.4th 900, at 910-911 (discussing the applicability of Code of Civil Procedure section 473).

Obligations imposed under a marital settlement agreement ("MSA") which has not been "merged" or "incorporated" into the judgment remain enforceable by ordinary contract remedies and provisions for enforcement of settlement agreements. See Fam.Code section 2128(b); *Marriage of Lane* (1985) 165 Cal.App. 3d 1143, 1147-1149 (breach of warranty action available to enforce MSA warranties because there was no merger); see also *Marriage of Armato* (2001) 88 Cal.App. 4th 1030, 1045-1047 (signed written agreement increasing child support enforceable by motion pursuant to CCP section 664.6).

When a party seeks to enforce a stipulated settlement entered in writing or orally before the court, the court "may enter judgment pursuant to the terms of the settlement." Code of Civil Procedure ("CCP") section 664.6. This seems to give the court discretion. In addition, when ruling on a CCP section 664.6 motion, the court is a trier of fact and its ruling will be upheld if based on "substantial evidence." *Fiore v. Alvord* (1985) 182 Cal.App.3^{d} 561, 566. As explained in *Hines v. Lukes* (2008) 167 Cal.App.4th 1174, at 112, "[t]he court retains jurisdiction to enforce a settlement under the statute even after a dismissal, but only if the parties requested such a retention of jurisdiction before the dismissal. (Citation) Such a request must be made either in a writing signed by the parties or orally before the court."

The court in *Weddington Productions, Inc. v. Flick* (1998) 60 Cal.App.4th 793, at 797 emphasized that before "judgment can be entered, two key prerequisites must be satisfied." These are contract formation and a writing signed by the parties with the material terms. *Id.* As with other contracts, if there is no meeting of the minds on the material terms, then no contract has been formed. *Id.*, 797. Absent such a contract, there is no settlement agreement which the court may enforce. *Id.* Section 664.6 only applies to agreements made in writing and signed by the parties, or orally before the court. If the agreement does not meet these requirements, the party cannot enforce it under section 664.6. *Weddington, supra,* 809-810.

The current approach favors carrying out the parties' intentions by enforcing contracts and disfavors finding contracts unenforceable due to uncertainty. See *Larwin-Southern California, Inc. v. JGB Investment Co.* (1979) 101 Cal.App.3^{d} 626, at 641. The court in *Larwin-Southern* stated that neither law nor equity requires every term and condition to be set forth in the contract and that the court may look to "the usual and reasonable terms found in similar contracts" and it may infer unexpressed provisions from the writing, the circumstances, custom, and usage, as long as they do not alter the terms of the agreement. *Id.* "At bottom," the court said, "if the parties have concluded a transaction in which it appears that they intend to make a contract, the court should not frustrate their intention if it is possible to reach a fair and just result, even though this requires a choice among conflicting meanings and the filing of some gaps the parties have left." *Id.*

Additionally, the court has authority to enforce a judgment including one which incorporates an MSA. CCP §128 gives the court the power to control the proceedings before it, preserve and enforce order, compel obedience to judgments, orders, etc.; and make orders and process "conform

to law and justice." The court in *Venice Canals Resident Home Owners Ass'n v. Superior Court In and For Los Angeles County* (1977) 72 Cal.App.3d 675, at 679, explained,

> The inherent power of the trial court to exercise reasonable control over litigation before it, as well as the inherent and equitable power to achieve justice and prevent misuse of processes lawfully issued is well established [Citations]; the court may make discretionary orders with reasonable conditions; and even make subsequent limitations and modifications of prior orders in order to achieve justice [Citation]…."

Courts therefore have inherent power to control judicial proceedings in order to insure orderly administration of justice and to see to it that all persons indulge in no act or conduct calculated to obstruct administration of justice. *People v. Smith* (1970) 13 Cal.App.3d 897.

The rules regarding the period of enforceability and renewal of judgments in the Enforcement of Judgments Law ("EJL") at CCP § 683.010 et seq. do not limit the court's discretion when enforcing Family Code judgments and orders. Fam.Code § 291. Accordingly, a money judgment or judgment for possession or sale of property made or entered under the Family Code, including a judgment for child, family or spousal support, is enforceable until paid in full or otherwise satisfied. Fam.Code § 291(a); *Schelb v. Stein* (2010) 190 Cal.App. 4th 1440, 1447.

A qualified domestic relations order ("QDRO") recognizes the existence of an "alternate payee's" right to benefits payable from a qualified plan. The QDRO can take the form of a judicial order, including approval of a property settlement agreement, relating to provision of child support, spousal support, or marital property rights to an alternate payee and is made pursuant to state domestic relations law. IRC § 414(p)(1) & (8); 29 USC § 1056(d)(3)(B) & (K); see *Marriage of Shelstead* (1998) 66 Cal.App. 4th 893, 902.

Discussion

Compliance with MSA Regarding the Plan

As set forth above, this MSA expressly states that it survives entry of judgment as an enforceable MSA and that the court retains jurisdiction to enforce the MSA terms regarding the Plan. The terms of the MSA and judgment are clear that the court retains jurisdiction to make the necessary orders regarding the Plan and that this includes post-judgment efforts to obtain the information required to make findings and orders regarding the Plan. At this point, Petitioner's request is limited to ordering Respondent "to comply with the MSA as to QDRO preparation." Request for Order ("RFO"), section 7. Petitioner details the supporting facts, including efforts at contacting Respondent to obtain the information and Respondent's failure to cooperate or provide the information. Declaration of Marla Keenan-Rivero ("Keenan-Rivero Dec."). The court GRANTS the motion on this point.

Sanctions

Petitioner also seek monetary sanctions for the expenses of this motion. Specifically, she requests $7,000 for time at $450 an hour for the attorney and $200 an hour for the paralegal, indicating that she has incurred $5,322.84 in attorney's fees and costs, with billing statements attached. Keenan-Rivero Dec. ¶¶21-23. The Court grants the request for $7,000 in attorney's fees and costs pursuant to Family Code section 271, given Respondent's demonstrated failure to cooperate in the preparation of the QDRO as set forth in the MSA causing the necessity of this motion.

Conclusion

The prevailing party shall prepare and serve a proposed order consistent with this tentative ruling within five days of the date set for argument of this matter. Opposing party shall inform the preparing party of objections as to form, if any, or whether the form of order is approved, within five days of receipt of the proposed order. The preparing party shall submit the proposed order and any objections to the court in accordance with California Rules of Court, Rule 3.1312.

4. SFL092917, Zezza/Vasquez Dissolution

Respondent's request to enter a bifurcation of marital status is **DENIED** without prejudice.

A Petition for Dissolution of Marriage was filed on February 3, 2023. Respondent filed a Response on March 17, 2023. The case has sat dormant since that time until the filing of the pending request for bifurcation. Respondent filed a Community Property Declaration on March 17, 2023, which discloses the existence of a CalSTRS account. The CalSTRS account has not been joined or divided in this action as required by Family Code section 2337(d)(1) prior to the entry of Judgment. Accordingly, the bifurcation of marital status is denied at this time.

The pending motion also requested that the matter be set for a settlement conference, but suggested the Petitioner was unlikely to attend. Given that information, the matter will be set on a Case Management Conference Calendar on June 26, 2025, at 9:00 in Department 23. Both parties are ordered to be present at that future date.

END OF TENTATIVE RULINGS