

**TENTATIVE RULINGS
LAW & MOTION CALENDAR
Friday, August 7, 2026 9:30 a.m.
Courtroom 23 – Hon. Paul J. Lozada
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. SFL090369, Vaca Dissolution

Motion for Enforcement of Judgment; FC 271 Sanctions CONTINUED to the law and motion calendar of **December 4, 2026, in Department 23 at 9:30 a.m.** because Respondent must provide a memorandum of points and authorities setting forth the law on which she relies along with legal analysis for enforcement of the judgment.

Facts

Petitioner filed the petition for dissolution of marriage with one minor child (the “Child”) on February 18, 2022. The Child is still a minor. The parties entered into a Marital Settlement Agreement (“MSA”) and a stipulated judgment in 2023. The court entered judgment (the “Judgment”) on the MSA and stipulation on December 4, 2023. No meaningful litigation activity occurred in this action following the entry of the Judgment and until now nothing has occurred since the withdrawal of Petitioner’s attorney in January 2024.

Motion

In her Request for Order (“RFO”) and Motion for Enforcement of Judgment; FC 271 Sanctions, Respondent moves the court to enforce the Judgment by directing Petitioner to take required steps for transferring to her three pieces of real property in Mexico (the “Mexico Properties”). She asserts that these were assigned to her as her sole and separate property in the Judgment and that Petitioner was required to take various steps to transfer full title to her but that he has failed to do so.

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”). 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 when a party seeks relief from orders in family proceedings).

The rules regarding the period of enforceability and renewal of judgments in the Enforcement of Judgments Law (“EJL”) at CCP section 683.010 et seq. do not limit the court’s discretion when enforcing Family Code judgments and orders. Fam.Code section 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 section 291(a); *Schelb v. Stein* (2010) 190 Cal.App. 4th 1440, 1447.

It is well established that a marital settlement agreement (“MSA”) incorporated into a judgment provides the terms of that judgment and is thus enforceable as a judgment while the terms of an MSA not so incorporated are enforced through the manner for enforcing a contract, but they are still enforceable and generally controlling. See, e.g., *Marriage of Umphrey* (1990) 218 Cal.App. 3d 647, 656. Courts construe the terms of an MSA with the goal of giving effect to the mutual intent of the parties so that the terms of the MSA control if they are clear and unambiguous. *Hibberd, supra*, 1013. The court in *Alter, supra*, explained,

[Fam.Code] section 3651 is the general rule for modifying or terminating support orders, “whether or not the support order is based upon an agreement between the parties.” (§ 3651, subd. (e).)3 Section 3651, subdivision (a), provides: “Except as provided in subdivisions (c) and (d) and subject to [Family Code provisions not pertinent here], a support order may be modified or terminated at any time as the court determines to be necessary.” Subdivision (c) of section 3651 prohibits modification of “an amount that accrued before the date of the filing of the notice of motion.” And subdivision (d) of section 3651 prohibits modification of a spousal support order based upon the parties’ agreement that “spousal support is not subject to modification or termination.” Thus, under express terms of section 3651, all support orders, even those based upon the agreement of the parties, are modifiable prospectively except spousal support orders that the parties have agreed may not be modified. Agreements pertaining to child support orders are not exempted from the general rule.

If a marital settlement agreement (“MSA”) was “merged” or “incorporated” into the judgment, it no longer operates as an independent legal instrument so enforcement remedies instead are based exclusively on the judgment. See *Marriage of Umphrey* (1990) 218 Cal.App. 3d 647, 656.

Courts have 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.

Accordingly, as explained in *In re Marriage of Iberti* (1997) 55 Cal.App.4th 1434, at 1439-1440, courts may enforce the terms of MSAs incorporated into judgments when enforcing those judgments, and “[m]arital settlement agreements incorporated into a dissolution judgment are construed under the statutory rules governing the interpretations of contracts generally.”

Discussion

The MSA contains essentially the terms regarding the Properties which Respondent sets forth. In it, Petitioner did agree to transfer all titles to Respondent and to take measures to complete the transfer(s). Respondent also shows in her own declaration and the declaration of her attorney, Jasmine Davaloo, that Petitioner has failed to comply.

However, Respondent provides only unclear discussion regarding enforcement and provides no memorandum of points and authorities, fails to discuss the applicable authority, and provides no other analysis. Such a memorandum is required and as a practical matter impairs the court’s ability to determine the validity of the motion. CRC 3.1112(a); CRC 3.1113(a). Respondent must provide a memorandum of points and authorities setting forth the law on which she relies, along with legal analysis for enforcement of the judgment.

Conclusion

The court CONTINUES the motion for the defects stated above to December 4, 2026 at 9:30am in department 23 with the following briefing schedule:

Moving parties’ new moving papers: due by Friday, September 11.

New Oppo due by Friday, September 25.

New Reply due by Friday, October 2.

No further briefing on this issue permitted thereafter.

It is SO ORDERED.

2. SFL077569, Lindgren Dissolution

Motion for Transfer of Venue/Jurisdiction to Nevada CONTINUED to the law and motion calendar of December 4, 2026, in Department 23 at 9:30 a.m. because the proof of service is defective. It fails to show service on the County of Sonoma Department of Child Support Services. Prior to the new hearing, the moving party must file timely proof of service in accord with California Rule of Court 3.1300, demonstrating proper service of the motion and notice of the new hearing.

Facts

Petitioner filed this action for dissolution of marriage with a minor child (the “Child”) on August 15, 2017. The Child is still a minor. The court ordered Petitioner to have full physical and legal custody of the Child on November 2, 2017, with Respondent granted visitation time. The court entered judgment of dissolution on December 19, 2018, finding no community property or debt to divide. On January 7, 2020, Petitioner filed a stipulation regarding custody and visitation.

No further activity occurred until April 8, 2026, when the County of Sonoma Department of Child Support Services (“DCSS”) intervened by filing a notice of substitution of payee, identifying itself as the payee for unpaid arrears of child support which Respondent owed. On April 16, 2026, the court entered an order upon a stipulation between Petitioner, Respondent, and DCSS regarding child support.

Motion

In her Request for Order (“RFO”) and Motion for Transfer of Venue/Jurisdiction to Nevada, Petitioner moves the court pursuant to Family Code section 3427 to transfer the matter to Nevada based on the fact that she and the Child have been living in Nevada for the last four years. She states that after having moved to South Lake Tahoe, California in 2020, she moved about 35 miles away to Gardnerville, Nevada in early 2022 and that she informed Respondent of this. She notes that the Child still goes to school in South Lake Tahoe but asserts that this, Respondent’s presence in California, and Respondent’s roughly monthly visitation with the Child are the only remaining ties to California. She also notes that although the Child’s paternal grandmother also resides in California, a court order prohibits visits at her home so she only sees the Child during some of Respondent’s visitation times.

Respondent opposes the motion, although he provides no proof of service and his opposition is untimely. He argues that he finds it unnecessary and that it would be extremely inconvenient for him to go to Nevada for any proceedings.

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”). 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 when a party seeks relief from orders in family proceedings).

Family Code 3427 governs the authority of the courts of California to decline to exercise jurisdiction based on a finding that California is an inconvenient forum. Section 3427(a) states that a California court may do so on a motion of the court or a party “at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum.” Subdivision (b) mandates that “before” making such a determination, the court first “shall consider whether it is appropriate for a court of another state to exercise jurisdiction,” and “shall allow the parties to submit information and shall consider all relevant factors...” It states that the court must “consider all relevant factors,” including those which it lists, specifically,

- (1) Whether domestic violence has occurred and is likely to continue... and which state could best protect the parties and the child.
- (2) The length of time the child has resided outside this state.
- (3) The distance between the court in this state and the court in the state that would assume jurisdiction.
- (4) The degree of financial hardship to the parties in litigating in one forum over the other.
- (5) Any agreement of the parties as to which state should assume jurisdiction.
- (6) The nature and location of the evidence required....
- (7) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence.
- (8) The familiarity of the court of each state with the facts and issues in the pending litigation.

Subdivision (c) adds that if the court determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, it shall stay the proceedings upon condition that a child custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.

Fam. Code section 3422 governs continuing jurisdiction of the courts of this state. Respondent relies on subdivision (a) which states, in full,

- (a) Except as otherwise provided in Section 3424, a court of this state that has made a child custody determination consistent with Section 3421 or 3423 has exclusive, continuing jurisdiction over the determination until either of the following occurs:
 - (1) A court of this state determines that neither the child, nor the child and one parent, nor the child and a person acting as a parent have a significant connection with this state and that substantial evidence is no longer available in this state concerning the child's care, protection, training, and personal relationships.
 - (2) A court of this state or a court of another state determines that the child, the child's parents, and any person acting as a parent do not presently reside in this state.

Service and Notice

The proof of service for this motion is incomplete and defective. It shows service only on Respondent and fails to show service on Intervenor DCSS. It shows service on Respondent by mailing to a P.O. Box address in Cobb, California, not Respondent's address of record on file with the court, 1953 Alamo Lane, Santa Rosa. Respondent has filed an opposition but this does not resolve the failure to serve DCSS. The moving party has therefore failed to file complete proof of service on all parties. Proof of service for a motion must be filed at least 5 court days prior to the hearing. California Rule of Court ("CRC") 3.1300(c).

Accordingly, the court must CONTINUE the motion.

Discussion

Petitioner presents a potentially valid basis for allowing the courts of Nevada to exercise jurisdiction over this litigation. She demonstrates that she and the Child currently reside in Nevada and have done so since 2022. The Child still goes to school in California, but at a school only 35 miles away, just across the California border in a neighboring county. The only other direct tie to California is Respondent, who does not have legal or physical custody of the Child and only is allowed to visit the Child, which occurs up to about once per month only. Respondent's mother is also in California but as Petitioner notes, the Child is not allowed to have visitation time at her house so she only visits the Child sometimes when Respondent has his visitation time. The other factor is child support, which Respondent is obligated to pay. This involves the primary potential complication factor at this point, since DCSS has intervened and is entitled to collect support payments from Respondent on the basis that it has paid support to Petitioner. This is not a bar to allowing Nevada to exercise jurisdiction but is an issue which this court must consider. At this time, as noted above, Petitioner has failed to demonstrate service on DCSS and absent any such notice or response to this motion from DCSS, the court is at this time unable to make a proper determination on this issue.

Conclusion

The court CONTINUES the motion for the reasons stated above to December 4, 2026 at 9:30am in department 23 with the following briefing schedule:

Moving parties' new moving papers: due by Friday, September 11.

New Oppo due by Friday, September 25.

New Reply due by Friday, October 2.

No further briefing on this issue permitted thereafter.

It is SO ORDERED.

3. 25FL00474, Farias Dissolution

Petitioner's motion for bifurcation of marital status per Family Code section 2337 is GRANTED. All jurisdictional facts have been met and there is no opposition on file.

The prevailing party shall submit the proposed order and any objections to the court in accordance with California Rules of Court, Rule 3.1312.

4. 25FL01827, Delmar Kirksey Dissolution

Petitioner's motion for bifurcation of marital status per Family Code section 2337 is GRANTED. All jurisdictional facts have been met and there is no opposition on file.

The prevailing party shall submit the proposed order and any objections to the court in accordance with California Rules of Court, Rule 3.1312.

5. 26FL00332, Giles Durling/Durling Dissolution

Respondent's Motion to set aside default entered 04/01/26 and allow filing of response per Code of Civil Procedure 473(b) is GRANTED. Attorney's fees request is not properly supported in the pleadings and is DENIED without prejudice.

The prevailing party shall submit the proposed order and any objections to the court in accordance with California Rules of Court, Rule 3.1312.

6. 23FL00611, Brecher Dissolution

Motion to be relieved as counsel is GRANTED. The Court will sign and issue proposed order on file.

****This is the end of the Tentative Rulings.****