

**TENTATIVE RULINGS  
LAW & MOTION CALENDAR  
Thursday, February 5, 2026 9:00 a.m.  
Courtroom 21 –Hon. Kinna Patel Crocker  
3055 Cleveland Avenue, Santa Rosa CA 95403**

**TO JOIN “ZOOM” ONLINE:**

**Meeting ID: 160-223-6856**

**Passcode: 876992**

<https://sonomacourt-org.zoomgov.com/j/1602236856>

**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 - 6604 by 4:00 p.m. on the day before the hearing. Any party requesting an appearance must notify all other opposing parties/counsel of their intent to appear.

**1. SFL49153, Lambert v. Lambert**

**Motion to Deem Respondent a Vexatious Litigant and Require Prefiling Order**

**GRANTED.**

**Facts**

Petitioner filed this action for dissolution of marriage with a minor child (the “Child”) on December 7, 2009. The Child, born in October 2006, is now 19 years old and no longer a minor. Litigation occurred actively through 2014 including, among others, each party seeking and obtaining a domestic violence restraining order (“DVRO”) against the other party. After 2014, no litigation occurred until 2021, at which point litigation custody and visitation resumed and lasted through 2022.

After 2022, nothing further took place in this action until June 2025, when Petitioner filed a request for DVRO restraining Respondent. The court held a hearing on a temporary DVRO on July 1, 2025. Both Petitioner and Respondent appeared at the hearing and the court found that Respondent had notice of the hearing. However, at the request of all parties, it continued the matter to August 5, 2025 and ordered Respondent to be personally present at the next hearing. In its order continuing the matter, the court specifically noted that further notice was not required.

At the hearing on August 5, 2025, Petitioner and Respondent were both present, with Respondent present in person in accordance with the court's prior order. The court held the hearing and granted Petitioner's request, issuing a three-year DVRO restraining Respondent.

Respondent filed an RFO and Motion to Set Aside DVRO and to File a Response DV 120 for Excusable Neglect in which she moved the court to set aside the DVRO. After the hearing on December 4, 2025, this court denied the motion. The court found that Respondent, instead of basing the motion on any cognizable grounds for vacating the DVRO, was improperly merely relitigating the underlying merits and that her arguments were, in any case, unpersuasive even if she could have obtained the requested relief based on them.

Meanwhile, on August 6, 2014, the Sonoma County Department of Child Support Services ("DCSS") filed an action against Respondent for registration of California support order, SFL67564 (the "DCSS Action"). It named Petitioner in this action as the custodial parent and Respondent as the obligor under an order for child support entered on February 13, 2014 in the Superior Court in the County of Placer (the "Placer Support Order"). Petitioner also appeared in the action and opposed Respondent's filings in it. It asserted that Respondent owed arrears on her payments. Notice was served on Respondent, who was then the subject of several contempt proceedings regarding compliance with the Placer Support Order, which were ultimately dropped. After 2018, nothing occurred in that action, as well, until April 2024, when DCSS filed a stipulation between it and Respondent regarding the latter's support obligations. Then, on June 24, 2024 Respondent filed a Request for Order ("RFO") for temporary emergency orders to dismiss the child support order, followed by several repeat attempts. The court denied all of Respondent's requests.

### **Motion**

In his Request for Order and Motion to Deem Respondent a Vexatious Litigant and Require Prefiling Order, Petitioner moves the court to declare Respondent to be a vexatious litigant subject to a prefiling order pursuant to Code of Civil Procedure sections 391-391.7. He contends that Respondent has filed five motions or applications in this action and a related action from November 2021 through now, with all but one since June 2024 being unsuccessful, and all were meritless.

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).

Pursuant to CCP section 391, et seq., a court may declare a party meeting certain criteria to be a “vexatious litigant” and accordingly impose certain specified restraints on that party’s ability to litigate when self-represented.

CCP section 391.7 authorizes a court to find a party to be a vexatious litigant and enter a prefiling order upon either the motion of a party or the court’s own motion. Subdivision (a) states, in full,

(a) In addition to any other relief provided in this title, the court may, on its own motion or the motion of any party, enter a prefiling order which prohibits a vexatious litigant from filing any new litigation in the courts of this state in propria persona without first obtaining leave of the presiding justice or presiding judge of the court where the litigation is proposed to be filed. Disobedience of the order by a vexatious litigant may be punished as a contempt of court.

CCP section 391 sets forth the applicable definitions for the title governing vexatious litigants, including the different definitions of “vexatious litigant.” Subdivision (a) states that ‘ “Litigation” means any civil action or proceeding, commenced, maintained or pending in any state or federal court.’ Subdivision (b) sets forth the different circumstances under which one qualifies as a “vexatious litigant.” It states, in pertinent part and with emphasis added,

(b) “Vexatious litigant” means a person who does *any* of the following:

(1) In the immediately preceding seven-year period has commenced, prosecuted, or maintained in propria persona at least five litigations other than in a small claims court that have been (i) finally determined adversely to the person or (ii) unjustifiably permitted to remain pending at least two years without having been brought to trial or hearing.

...

(3) In any litigation while acting in propria persona, repeatedly files unmeritorious motions, pleadings, or other papers, conducts unnecessary discovery, or engages in other tactics that are frivolous or solely intended to cause unnecessary delay.

...

(5) After being restrained pursuant to a restraining order issued after a hearing pursuant to Chapter 1 (commencing with Section 6300) of Part 4 of Division 10 of the Family Code, and while the restraining order is still in place, they commenced, prosecuted, or maintained one or more litigations against a person protected by the restraining order in this or any other court or jurisdiction that are determined to be meritless and caused the person protected by the order to be harassed or intimidated.

A self-represented litigant who repeatedly files unmeritorious motions, pleadings, or other papers, conducts unnecessary discovery, or engages in frivolous tactics to cause unnecessary delay may be determined as a vexatious litigant. CCP section 391(b)(3). With respect to “repeatedly” filing unmeritorious motions, the statute does not define “repeatedly,” and the determination as to what constitutes “repeatedly” and “unmeritorious” is generally left to the sound discretion of the trial court. *Morton v. Wagner* (2007) 156 Cal.App.4th 963, 971; *Holcomb v. U.S. Bank Nat. Ass’n* (2005) 129 Cal.App.4th 1494, 1505–1506. As few as three motions can “form the basis for a vexatious litigant designation where perhaps they all seek the exact same relief which has already been denied or all relate to the same judgment or order or are filed in close succession.” *Morton v. Wagner* (2007) 156 Cal.App.4th 963, 972. The ‘repeated motions must be so devoid of merit and be so frivolous that they can be described as a “ ‘flagrant abuse of the system,’ ” have “no reasonable probability of success,” lack “reasonable or probable cause or excuse” and [be] clearly meant to “ ‘abuse the processes of the courts and to harass the adverse party.’ ” [Citation.]’ Ibid. Repeated unmeritorious filings in a child custody matter can support a vexatious litigant finding. *In re Marriage of Rifkin & Carty* (2015) 234 Cal.App.4th 1339, 1344-1345.

A party may seek, among other things, a pre-filing order requiring the vexatious litigant to obtain leave from the presiding judge before filing any new case in any California court, or from filing “any petition, application, or motion other than a discovery motion, in a proceeding under the Family Code or Probate Code, for any order” without such leave. CCP section 391.7(a). Thus, in finding a party in a family law proceeding to be a vexatious litigant, a court may impose a pre-filing order requiring permission of the presiding judge before filing any new motion or litigation on the

family law proceeding. See *In re Marriage of Deal* (2020) 45 Cal.App.5th 613; *In re Marriage of Deal* (2022) 80 Cal.App.5th 71, 76-77; see also *In re Marriage of Rifkin & Carty* (2015) 234 Cal.App. 4th 1339, 1345-1346. The presiding judge may condition the filing of such a pleading “upon the furnishing of security for the benefit of the defendants as provided in Section 391.3.” CCP section 391.7(b).

### **Untimely Opposition**

Respondent filed an opposition on January 30, 2026, four court days before the hearing. The opposition is therefore untimely because opposition must be filed and served no later than nine court days before the hearing. CCP section 1005(b); CRC 3.1300(a). She also has not provided proof of service for the opposition. The court must therefore not consider it.

However, even if the court were to consider the opposition, it would not change the analysis or conclusion set forth in this ruling. The opposition contains no substantive basis for denying the motion or even any direct response to the moving arguments and evidence. Instead, as has been the case with her previous filings leading up to this motion, Respondent sets forth a long narrative of complaints about the court proceedings and the alleged misconduct by Petitioner’s attorney, and general efforts to relitigate past issues, including alleged service of prior papers and even issues going back to the marriage itself. She reargues issues, resolved many years ago, regarding custody of the parties’ now adult, emancipated Child, their relationship, and more.

### **Analysis**

The court finds that Respondent has been engaging in vexatious litigation within the statutory definition. Respondent has repeatedly filed, and primarily in a fairly short time in the last two years, several frivolous motions or requests entirely lacking in support. These are also repetitious, each one seeking to relitigate the exact same issue, the order for child support. The issue is also one which was determined more than ten years previously, in 2014, so Respondent waited for several years before commencing the subject litigation. Respondent, moreover, had entered into a stipulation regarding her obligation under the order for child support only two months before commencing the series of challenges to the underlying order. Finally, Respondent’s litigation has been attempting to relitigate not only an order which had been entered years previously and regarding which she had already entered into a stipulation, but one which had become entirely moot. The stipulation, among other things, included a term that Respondent was no longer liable for unpaid arrears of child support. Respondent is therefore attempting, repeatedly,

to relitigate an issue which is entirely moot and regarding which there is nothing to be gained even if Respondent were successful.

The first request at issue Respondent filed in this action on November 19, 2021, sought a temporary emergency order to modify custody and visitation. The court denied the request, explaining that Respondent had failed to make sufficient showing of danger or detriment to the Child, failed to show any emergency, and cited only events which had occurred a year and half previously. As presented, the request on its face was groundless.

The next three filings at issue were in the DCSS Action and significantly more important here. In this action, both DCSS and Petitioner filed papers opposing Respondent's applications. After DCSS registered the Placer Support Order in 2014, there was a lull in litigation lasting several years until 2024. Respondent and DCSS entered into a stipulation regarding Respondent's arrears of missed support payments, filed on April 24, 2024. Notably, in this stipulation the parties agreed to DCSS waiving a portion of Respondent's payment of unpaid past support, accepting Respondent's payment of \$23,500 as full payment on the arrears owed, which amounted to roughly \$55,000 by that time. Respondent, for her part, agreed to the support obligation and agreed to pay the \$23,500 partial payment to resolve the matter. Then, however, on June 24, 2024, Respondent filed an RFO "to dismiss this improper child support order as soon as possible." The court denied it due to lack of notice. On January 3, 2025, Respondent filed a new RFO to change the child support obligations. At the hearing on March 5, 2025, the court denied the request on the grounds that the Child, by then no longer a minor, was emancipated and that there was no longer any support order to modify. It also denied Respondent's request to modify the support order retroactively. Respondent filed another RFO to change the child support order, with related requests, on May 23, 2025. Among other things, she sought discovery of records and information regarding Petitioner's income with respect to the 2014 Placer Support Order. Once again, the court denied the requests as the Child had been emancipated and there was no longer a support order in effect for the court to modify. These motions and requests were particularly frivolous given that Respondent had herself already entered into the stipulation as to her child-support obligations and that pursuant to this stipulation, she was relieved of liability for a significant portion of the unpaid support, at least if she had complied with the stipulation.

Finally, in this action Respondent filed an RFO and Motion to Set Aside DVRO and to File a Response DV 120 for Excusable Neglect in which she moved the court to set aside the DVRO. In denying the motion, this court found that Respondent, instead of basing the motion on any

cognizable grounds for vacating the DVRO, was improperly relitigating the underlying merits. It also found that her arguments were, in any case, wholly unpersuasive even if she could have obtained the requested relief based on them. She also included in the motion renewed attempts to relitigate issues of both child custody and child support, even though the Child was by then an emancipated adult, along with claims of fraud regarding finances underlying the support order, in addition to setting forth a wide variety of other claims entirely beyond the scope of, and unrelated to the DVRO. Among others, she asserted that both Petitioner and his attorney “have spent 15 years lying and manipulating this court system,” and that both were guilty of “corruption,” engaging in a “smear campaign” against her, child endangerment of the by-then adult Child, and hiding assets to avoid changes to the child support order. She also made lengthy arguments relitigating issues about the parties’ past relationship during the marriage itself, which had been resolved over 10 years before. Although this last motion was not on its face directly related to the by-then moot and repeatedly litigated issue of child support, in fact Respondent did once again repeat her allegations regarding support and included a renewed effort to challenge the support, in the guise of simply challenging the DVRO. She did this despite the court’s repeated prior rulings and explanation that the support order was no longer in effect and that the matter was moot. The motion repeated the pattern of bringing a wholly frivolous motion devoid of factual or legal support, and making a range of unsupported, immaterial allegations. As the court has noted above, Respondent’s untimely opposition continues this same pattern of conduct, repeating past allegations and complaints. These are fundamentally another repetition of the very motions and requests which Petitioner cites as basis for this motion and serve to underscore the propriety of the requested order.

In the end, Respondent has been, without any legal or factual support, attempting to relitigate issues which have long since been resolved and which were rendered moot before she filed the last several matters, including issues of the marriage itself and now-moot support obligations to which she in fact stipulated. Not only has her continued litigation been frivolous and repetitious, but, critically, it addresses matters for which there is simply no reason to engage in continued litigation. In her papers, Respondent claims that she is filing these motions in order to end all continued interaction with Respondent, yet it she in fact she who, on the face of the matters, is forcing continued interaction in the form of unnecessary litigation of already-resolved issues.

### **Conclusion**

The court GRANTS the motion. 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.

**2. 25FL01377, Stewart v. Stewart**

**Motion to Compel Further Discovery Responses/Production of Documents, Sanctions  
GRANTED in part, DENIED in part.**

**Facts**

Respondent served Petitioner with written discovery requests (the “Discovery”) consisting of Form Interrogatories-Family Law and a Demand for Production of Documents (“RFP”) on August 8, 2025. Declaration of Donald Stewart, Attachment to FL-300 Request for Order filed on October 28, 2025 (“Stewart Dec.”). Petitioner, through her attorney, served verified responses without objections on September 9, 2025. Despite agreement to produce some requested documents, she produced no documents. Ibid. Respondent, finding some responses insufficient and seeking the promised production, made efforts to meet and confer to resolve the issue but Petitioner provided no further responses or promised documents even though Petitioner indicated that she would comply by October 17, 2025. Ibid. Instead, on that date, Petitioner’s attorney withdrew from representing Petitioner. Following that, in October 2025, the parties communicated regarding settlement and the discovery but Petitioner still failed to provide any new responses or promised documents. Ibid.

**Motion**

In his Request for Order (“RFO”) and Motion to Compel Further Discovery Responses/Production of Documents, Sanctions, Respondent moves the court to compel Petitioner to provide further responses to the Discovery and to produce promised documents. The separate statement of items in dispute, attached to the memorandum of points and authorities, specifies that Respondent seeks further responses to RFPs 1, 4, 8, 9, 14, 19, and 22, as well as interrogatories 1, 5-8, 10, 14, 15, 17, and 21. He seeks production in compliance with the promise to produce documents for RFPs 3, 10, 12, 13, 15, 16, 18, and 21.

There is no opposition, although Respondent has filed proofs of service showing proper and complete service of the moving papers as well as notice of the hearing.

Respondent also filed and served an additional declaration regarding discovery on January 29, 2026. This asserts that Petitioner has still not resolved the discovery issues.

### **Authority Governing Motions to Compel Further Responses**

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.

When a propounding party is dissatisfied with responses to interrogatories or requests for production or inspection (“RFP”), that party may move to compel further responses. CCP sections 2030.300, 2031.310. The moving party must make adequate attempts to meet and confer. *Ibid.* Generally, once a timely, proper motion to compel further responses has been made, the responding party has the burden to justify objections or incomplete answers. *Coy v. Sup.Ct.* (1962) 58 Cal.2d 210, 220-221.

A party moving to compel further responses to a production request, however, must demonstrate “good cause” for seeking the items. CCP section 2031.310(b)(1). This requires a showing that the items are relevant to the subject matter of the litigation and a showing of specific facts justifying discovery. *Glenfed Develop. Corp. v. Sup.Ct.* (1997) 53 Cal.App.4th 1113, 1117. Whether there is an alternative source for the information is relevant though not dispositive. *Associated Brewers Distrib. Co. v. Sup.Ct.* (1967) 65 Cal.2d 583, 588. Once the moving party demonstrates good cause, the responding party must justify its objections. *Kirkland v. Sup.Ct.* (2002) 95 Cal.App.4th 92, 98.

A party has a duty to provide “complete” responses and to make them as straightforward as possible. CCP sections 2030.220; 2031.210-2031.230. Requests must be answered to the extent possible and an answer that contains only part of the information requested or which evades a meaningful response is improper. *Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 783.

A responding party has a duty to make a reasonable, good-faith effort to obtain the requested information and if it is unable to comply, it must state that it made a reasonable and diligent search. CCP sections 2030.220 2031.230; *Deyo, supra*, 84 Cal.App.4th 783.

CCP section 2031.220 governs a statement of compliance with a production request. It states, in full,

A statement that the party to whom a demand for inspection, copying, testing, or sampling has been directed will comply with the particular demand shall state that the production, inspection, copying, testing, or sampling, and related activity demanded, will be allowed either in whole or in part, and that all documents or things in the demanded category that are in the possession, custody, or control of that party and to which no objection is being made will be included in the production.

CCP section 2031.230 governs responses containing a statement of inability to comply. It states, in pertinent part,

A representation of inability to comply with the particular demand... shall affirm that a diligent search and a reasonable inquiry has been made in an effort to comply with that demand. This statement shall also specify whether the inability to comply is because the particular item or category has never existed, has been destroyed, has been lost, misplaced, or stolen, or has never been, or is no longer, in the possession, custody, or control of the responding party.

#### Further Responses vs. Production / Promised Documents

Where a party has failed to respond to a request for production or the responses are considered inadequate, the first step is not to compel production but, as with interrogatories, to compel a response, and only once a party has obtained a response agreeing to produce items may the party seek production in compliance with that response. CCP sections 2031.300, 2031.310, 2031.320.

Where the responding party agrees to produce the documents, things, property, or information requested, but then fails to do so, the party seeking discovery may move to compel production of the promised documents, information, or things. CCP section 2031.320. As with a motion to compel for failure to respond, there is no deadline and no meet-and-confer requirement. *Ibid.* The moving party must merely show that the responding party failed to comply as agreed. CCP section 2031.320(a); see also *Standon Co., Inc. v. Sup.Ct.* (1990) 225 Cal.App.3d 898, 903.

#### **Discussion**

#### Further Responses

As noted above, Respondent seeks further responses to RFPs 1, 4, 8, 9, 14, 19, and 22, as well as interrogatories 1, 5-8, 10, 14, 15, 17, and 21. As is required, Respondent has set forth the discovery requests, responses, and basis for seeking further responses for each of these in the separate statement.

Regarding the RFPS, the responses to 1, 4, and 8 are insufficient and evasive. In these, Petitioner states that she is not producing any documents because she believes that Respondent has those he needs. Although a party need not produce documents which are just as easily available to the requesting party, a party may not simply avoid producing documents simply by asserting a belief that the responding party already has those requested. Respondent also states that he does not have the documents and cannot find them in the residence. The court GRANTS the motion as to these.

The responses to RFPs 9, 14, 19, and 22 are sufficient. In these, Petitioner states that she has made a diligent and reasonable search and cannot locate the documents, so she has none in her custody, control, or possession and believes that they do not exist. This is adequate. The court DENIES the motion as to these.

The interrogatory responses to 1, 5, 7, 14, 15, 17, and 21 are all facially incomplete and evasive. In most, Petitioner fails to give all the requested information or otherwise address that information, providing only some information without complete explanation. The court GRANTS the motion as to these.

In response to interrogatory 10, seeking a Schedule of Assets and Debts, Petitioner provided one and referred to it but Respondent points out that she failed to provide in it all of the required information or documents. The court GRANTS the motion as to this.

Petitioner's responses to interrogatories 6 and 8 are simply "none" without any further explanation or information. Respondent notes for both interrogatories that Petitioner has admitted to the contrary. The court GRANTS the motion as to these.

#### Compelling Production

Respondent also seeks production of documents which Petitioner promised to produce in response to RFPs 3, 10, 12, 13, 15, 16, 18, and 21. Petitioner indeed promised, without reservation, to comply and produce all documents sought in her possession, custody, or control, but she provided nothing. As explained above, a party may seek to compel production which a party has promised and need show only that the responding party has not produced the documents promised. The court GRANTS the motion as to these.

### **Sanctions**

For compelling further responses, the court shall impose monetary sanctions on the losing party unless that party acted with substantial justification, or other circumstances make sanctions unjust. CCP sections 2023.010, 2023.030, 2031.310. In order to obtain sanctions, the moving party must state in the notice of motion that the party is seeking sanctions, identify against whom the party seeks the sanctions, and specify the kind of sanctions. CCP section 2023.040. Sanctions are limited to the “reasonable expenses” related to the motion. *Ghanooni v. Super Shuttle of Los Angeles* (1993) 20 Cal.App.4th 256, 262.

Fam. Code section 271 broadly authorizes the court to make an award of attorney’s fees and costs “in the nature of a sanction,” and “[n]otwithstanding any other provision of this code,” based on “the extent to which the conduct of each party or attorney furthers or frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation by encouraging cooperation between the parties and attorneys.” The party requesting an award of attorney’s fees and costs on this basis is not required to demonstrate any financial need for the award.

Respondent seeks monetary sanctions of \$2,500 pursuant to both the Discovery Act and Fam. Code section 271 but the evidence presented is unclear. Respondent provides only his own declaration stating, generally, that he has “incurred significant attorney fees” related to the resolving the discovery issue and preparing this motion. He provides no other evidence or explanation and there is no declaration from the attorney as to the hours spent or costs. The amount sought is potentially reasonable, but Respondent must provide some evidence from the attorney as to the time spent and the costs incurred. The court provisionally grants the request for sanctions but pursuant to proof of fees and costs actually and reasonably incurred. If a hearing is requested, Respondent may provide this evidence at the hearing. If a hearing is not requested, the matter of sanctions shall be continued to February 13, 2026 at 9:00am in Department 21.

### **Conclusion**

The motion is GRANTED in part, DENIED in part, as explained above. The court provisionally grants the request for monetary sanctions conditioned on sufficient demonstration and evidence of attorney’s fees and costs actually and reasonably incurred.

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. SFL47849, Everson v. Everson**

**Motion to Set Aside Dismissal Entered on 10/13/2025 DENIED.**

**Facts**

Petitioner filed this action for dissolution of marriage with minor children on August 17, 2009. Judgment was entered May 7, 2014. The parties have continued periodically to litigate over child support since that time. On October 13, 2025, the court conducted a hearing on child support at which both parties were present. The court dismissed the matter pursuant to Family Code section 3910 (the “Dismissal”).

**Motion**

Respondent moves the court to set aside the Dismissal. She contends that she mailed the FL-155 form regarding expenses on October 8, 2025, but it was not entered into the court file by the time of the hearing, resulting in the dismissal. She then mailed relevant documents to the court after the hearing.

Petitioner opposes the motion. He argues that Respondent has presented nothing new which could support the motion or provide a basis for setting aside the order. He also asserts that instead of challenging the order, the proper approach would have been for Respondent merely to file the request again but she has not done so and has still not provided the missing documents which were required.

**Applicable Authority**

Respondent fails to provide any authorities or legal discussion for this motion. Accordingly, the court relies on the following, as the standard law governing such relief.

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).

Relief from orders, due to default or otherwise, in family-law cases may be based on the grounds generally applicable to motions to vacate under CCP section 473, or, after that deadline, only in accordance with the grounds in Fam. Code sections 2121, 2122, and 3691. *In re Marriage of Zimmerman* (2 Dist. 2010) 183 Cal.App.4th 900, 910-911.

CCP section 473 allows an order setting aside the default where based on mistake, inadvertence, surprise, or excusable neglect, and such action is discretionary. There is also a policy in favor of hearing cases on their merits and the motion to vacate should be granted if the moving party shows a credible, excusable explanation. *Elston v. City of Turlock* (1985) 38 Cal.3d 227. The provision should be liberally construed in order to afford relief. See, e.g., *Goodson v. Bogerts, Inc.* (1967) 252 Cal.App.2d 32; *Hansen v. Hansen* (1961) 190 Cal.App.2d 327; *Reed v. Williamson* (1960) 185 Cal.App.2d 244.

The provision of this section authorizing the court to relieve party from a judgment or order resulting from mistake, inadvertence, surprise or excusable neglect is remedial in its nature and is to be liberally construed so as to dispose of cases on their merits. *Ramsey Trucking Co. v. Mitchell* (1961) 188 Cal.App.2d Supp. 862.

### **Discussion**

The motion is not persuasive and, in any case, is not required. Petitioner’s moving papers fail to discuss any authority for the requested relief or provide sufficient discussion or evidence to support the request. Moreover, this court explained that the dismissal was without prejudice. The proper approach to resolving this situation is for Petitioner simply to refile the appropriate documents and seek a new hearing.

### **Conclusion**

The court DENIES the motion. Petitioner has not presented legal or factual basis for the requested relief, with her explanation remaining unclear. More importantly, she seeks to vacate an order which merely dismissed a hearing on child support without prejudice to Petitioner seeking the

relief again properly. 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. **25FL01060, Sikes v. Sikes**

**Motion CONTINUED to May 7, 2026 at 9:00AM in Department 21**

There is no proof of service for this motion, or other indication that Petitioner has received notice of the motion or hearing. The court CONTINUES the motion to allow Respondent to file proof of service showing service on Petitioner of all moving papers as well as notice of the new hearing. In addition, Respondent may file additional papers with evidence and explanation, no later than 16 court days before the new hearing.

5. **SFL67437, (Secret)**

**MOTION DROPPED.** On November 20, 2025, Petitioner was directed to serve this motion on the Department of Child Support Services as a party to the case. There is no proof of service showing such notice of this hearing or the motion upon the Department of Child Support Services. The motion and hearing are hereby dropped.