

Tentative Rulings

Law & Motion and Family Law Calendar for October 26, 2015

October 22, 2015, 4:00p.m.

Department Two

To request a hearing on any matter on this calendar, you must call the Court at 530-283-6305 by 12:00 noon, October 23, 2015 notice of the intention to appear must also be given to all other parties. If the clerk is not notified of a party's intention to appear, there will be no hearing and the tentative ruling becomes the order of the court.

If you do appear and want the matter reported by a court reporter in unlimited civil, family law or probate, you must contract with and provide your own court reporter. The Court does not provide an official reporter for these calendars.

Probate – 9:00 a.m.

Case No. PR15-00003 – Estate of Maynarich

Tentative Ruling: **Granted.** The court finds that notice has been given as required by law. Petitioner's Petition for Final Distribution and Approval of Final Accounting is granted.

Civil – 9:30 a.m.

Case No. CV15-00128 – Petition of Garcia

Tentative Ruling: **No appearance required.** The court finds that notice has been given as required by law. The court will grant the petition.

Case No. CV12-00214 – Rose vs. Guereque

Tentative Ruling: **Appearance required.** The court will review the payment plan.

Family Law – 10:30 a.m.

Case No. FL04-24455 – County of Plumas vs. Valadez

Tentative Ruling: **Appearance required.** The court will set a contested hearing date.

Case No. FL15-00063 – Mar. of Dooley

Tentative Ruling: **Appearance required.** The court intends to set a date for a contested hearing on the issue of spousal support.

Case No. FL15-00007 – Mar. of Johnson

Tentative Ruling: **Appearance required.**

Case No. FL10-00016 – Mar. of Ullrich

Tentative Ruling: **No appearance required. Respondent's request is denied.** The court has reviewed the file, the Judgment, various rulings subsequent to the judgment, and respondent's recent request for modification, and petitioner's response, which is before the court at this time. To summarize, a Judgment was entered on September 12, 2011. Attached to the judgment is a Marital Settlement Agreement. That agreement provides that husband was to pay monthly spousal support to wife in the amount of \$250. The agreement also stated that husband was unemployed, and that when husband obtained employment, he may agree to, or be required to pay a larger amount. At that time, husband was also \$25,000 in arrears in spousal support, and he was to pay an additional \$250 per month, until paid in full. The agreement also stated that there would be annual reviews, and the court would retain jurisdiction over spousal support. After back support was paid in full, the annual reviews would be discontinued. The agreement further states: "In the event of *changed circumstances* that would either increase or decrease the amount of the payment of current support or back support, the court shall make a determination if those changed circumstances warrant modification of current support or back support." (emphasis added)

Approximately nine and a half months after the entry of judgment, respondent filed a request on July 3, 2012, to modify spousal support, because she was in need of medical procedures, and her belief that petitioner was now employed. Petitioner responded and requested the court vacate spousal support and dismiss all arrearages. Following a contested hearing, the court modified spousal support, increasing the amount to \$350 per month beginning 10/1/12, and maintaining the additional arrearage payment of \$250 per month, for a total of \$600. The court based the modification on husband's employment, his bank records and wife's medical report. The court also set an annual review for September 23, 2013.

Following the court's ruling, respondent, now represented by counsel, filed an order to show cause for contempt on November 14, 2012, mistakenly listing the monthly spousal support and arrearage amount owed as \$250 each, for a total of \$500, and alleging the petitioner failed to pay this amount on November 1, 2012. A stipulation was filed on January 4, 2013, dismissing the contempt with petitioner making certain payments to respondent for her attorney fees and incidental costs. (It is unknown if petitioner continued to make the ordered \$300 per month in

spousal support until this amount subsequently changed back to \$250 per month pursuant to the parties' various subsequent agreements listed below.)

Prior to the annual review scheduled for September, respondent filed another request for modification on August 28, 2013, (requesting a modification of the existing \$600 per month order) alleging that petitioner previously misled the court with regard to his financial status. The parties then reached an agreement on the day of the contested hearing, October 30, 2013, with petitioner making several scheduled payments on the arrearages, increasing his monthly arrearage payment, beginning February 1, 2014 and payments of \$250 monthly spousal support, for a total of \$650. The court also scheduled the next review hearing for September 8, 2014.

Another stipulation was filed before this hearing on August 29, 2014. This stipulation stated that respondent agreed to increase the arrearage payment to \$450, in addition to the \$250 monthly spousal support, for a total of \$700 per month. In addition, other payments were to be made, presumably to complete the total payments on the arrears. Another yearly review was set for September 14, 2015.

Prior to this year's review, respondent filed a request to increase support, based on her allegations that petitioner deceived the court, her belief that he has sufficient assets to pay additional support and that without the \$700 she had been paid monthly, she did not have enough money now to pay for her necessities. Petitioner had completed paying the arrearages on August 2, 2015. A hearing on her request was scheduled for October 14, 2015.

At the annual review on September 14, 2015, the court noted that petitioner was up to date with his payments, and confirmed the 10/14/15 hearing date.

In reviewing respondent's present modification request for an increase to \$1500 per month in spousal support, the court finds that petitioner fails to allege a change in circumstances, other than she needs the additional support to pay for her necessities. Obviously, she has depended on the additional monthly payment of arrearages over the past several years to supplement her income. Yet, this fact is not a change of circumstance that would justify additional spousal support. The assertion that petitioner has assets that would allow him to increase support, without more factual evidence, is also not sufficient. And, the court has previously heard testimony in earlier hearings about both parties' failure to disclose income and/or assets, and the court will not reconsider past transgressions. As the MSA provided over four years ago, annual reviews are discontinued now that the arrearages are paid in full, and the respondent's request does not demonstrate "changed circumstances" in order to modify support. Support will remain in the amount of \$250 per month, as agreed to on August 29, 2014.

Case No. FL14-00163- Mar. of Morrison

Tentative Ruling: **No appearance required.** The court continues this hearing to Commissioner Hamlin's calendar on October 28, 2015, at 1:00p.m.

Case No. FL15-00189 – Tolen v. Daniel

Tentative Ruling: **Appearance required.**

CASE MANAGEMENT CONFERENCE TENTATIVE RULINGS

Case No. CV15-00038 – Dayton vs. Smith

Tentative Ruling: **Appearance required.** The court notes the plaintiff has failed to file a case management conference statement. Should there be any further violations of Rule 3.725, this matter will be set for an order to show cause and sanctions may be imposed.

Case No. CV15-00017 – Humphrey vs. Lancaster

Tentative Ruling: **Appearance required.** The court will discuss the status of the case with the parties.

Case No. LC14-00127 – Cavalry SPV I vs. King

Tentative Ruling: **No appearance required.** The court continues this case management conference to November 23, 2015, at 2:00p.m.

Case No. CV12-00070 – Hessel vs. Forderhase

Tentative Ruling: **Appearance required.** The court will discuss the status of the case with the parties.

Case No. CV15-00007 – Quouthy vs. SGI Resort Properties

Tentative Ruling: **No appearance required.** The court has received a notice of settlement. However, the court will *not* vacate the trial and readiness dates at this time, as the notice indicates the settlement has not been finalized. At the request of counsel, the court will continue the case management conference to December 28, 2015, at 2:00p.m.

Case No. CV14-00083 – Fondon vs. Ruschhaupt

Tentative Ruling: **Appearance required.** The court intends to reset the jury trial, as the court has not received a judgment, or dismissal.

Case No. CV14-00089 – Smith vs. Emmot

Tentative Ruling: **Appearance required.**