



1 After considering all the admissible evidence and the arguments of counsel, and good  
2 cause appearing, the Court announces its Memorandum of Decision and Statement of  
3 Decision:<sup>1</sup>

4 **1. General Provisions**

5 1.1. Authority to Order Child Support

6 This is an order for support as defined by *Family Code Sections 150 and*  
7 *155.*<sup>2</sup> The Court finds authority to order child support in this proceeding as  
8 authorized under *Sections 3600 and 3650. See: Marriage of Dick (1993)*  
9 *15 Cal. App. 4th 144, Marriage of Economou (1990) 224 Cal. App. 3d*  
10 *1466. Under Section 3604, nothing in this order prejudices the rights of the*  
11 *parties with respect to any subsequent order. This proceeding is brought*  
12 *under the Family Code which confers jurisdiction upon the Court to order*  
13 *child support under Section 4001. As required by Section 4003 and*  
14 *consistent with the readiness of the parties and subject to other proceedings*  
15 *entitled to earlier or greater statutory priority, the Court gave this matter*  
16 *preference in the determination of child support.*

17 1.2. Duration of Order for Child Support

18 The Court finds that each party has an equal responsibility to support the  
19 minor child (*Section 3900*). As provided by *Section 3601*, an order for child  
20 support shall continue in effect, as to each unmarried child until terminated  
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22 <sup>1</sup> As used in this decision, the word party or parents are used interchangeably. All references to  
23 gender are intentionally omitted. For ease of reference, the Court uses the word party or parent  
24 in lieu of the words "Obligee" or "Obligor" (See *Section 3550*). Where appropriate the decision  
25 identifies the payor and recipient of support by reference to their party designation as either  
26 Petitioner or Respondent. The singular minor child includes the plural minor children (*Section*  
27 *10*).

28 <sup>2</sup> Unless indicated to the contrary, all statutory references are made to the *Family Code*.

1 or modified by order of court or termination by operation of law when the  
2 minor child has attained the age of 18, or is a full time high school student  
3 and is not self supporting, until the child completes the 12<sup>th</sup> grade or attains  
4 the age of 19 years, whichever shall first occur. (*Section 3901*. See  
5 *Marriage of Hubner* (2001) 94 Cal. App. 4th 175.)

6 1.3. Duty to Notify

7 Under *Section 4007*, the Court orders that the party receiving child support  
8 shall notify the payor in writing within 15 days of any contingency that  
9 would cause child support to terminate under this order.

10 1.4. Retroactive Modification of Support

11 The Court modifies support under this order consistent with its discretion  
12 and under the limitations of *Section 3603*. To the extent applicable and  
13 consistent with the provisions of *Section 4009*, the Court has considered its  
14 authority to make orders for support retroactive. Nothing in this order  
15 modifies or terminates any order for amounts accrued before the date of the  
16 filing of the notice of motion or order to show cause to modify or terminate  
17 under *Section 3651(c)*. Consistent with the provisions of *Section 3653(a)*,  
18 this order is made retroactive to the date set forth in the order, and does not  
19 violate the provisions of federal law (*42 U.S.C. Section 666(a)(9)*).

20 1.5. Reasons for Denying Retroactive Modification of Support

21 To the extent that the Court has denied retroactive modification of support  
22 to an earlier date, the Court articulates the good cause justifying the denial  
23 of earlier retroactive under *Section 3653(b)* (See *Marriage of Leonard*  
24 (2004) 119 Cal. App. 4th 546):

25 1.5.1. X

26 1.6. Inquiry Into Issues Related to Receipt of Public Assistance

27 The Court inquired whether the party seeking support is receiving or has an  
28 application pending for public assistance. And if so, the Court issued its

1 order for payment of support through the offices of the Child Support  
2 Services Department.

3 1.7. No Spousal Privilege

4 Consistent with *Section 3551*, the Court finds there is no spousal privilege  
5 between either party or their respective spouse on matters related to the  
6 evidence received by the Court in making its order.

7 1.8. Tax Returns

8 The Court considered the parties' state and federal income tax returns. The  
9 tax returns were deemed relevant under *Section 3552*. The Court made  
10 provision for the returns to be held as a confidential record of the court and  
11 where appropriate the tax returns were removed from the file and returned  
12 to the party propounding the return. The Court finds that the disclosure of  
13 income information is relevant despite any claim of extraordinarily high  
14 income since the Court must make a finding of Guideline Child Support.<sup>3</sup>  
15 See *Marriage of Hubner, Id.* Consistent with the privacy protections of  
16 *Section 3665*, the Court warns the parties against disclosure of the other's  
17 tax returns to anyone other than the Court, the party's attorney or advisors  
18 in this proceeding.

19 1.9. Income and Expense Declarations

20 Consistent with *Section 95* and *California Rules of Court, Rules 5.118* and  
21 *5.128*, the Court considered the income and expense declaration forms of  
22 the parties in the form adopted by the Judicial Council (FL-150 and  
23 attachments). The Court finds that the parties' respective most current  
24 income and expense declaration forms are timely as defined by law. To the  
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26 <sup>3</sup> The phrase "Guideline Child Support" means the amount of child support determined by  
27 application of the Statewide Uniform Guideline for Child Support as calculated by applying the  
28 formula expressed in *Section 4055*.

1 extent the Court finds the income and expense declarations of the parties  
2 are incomplete and inaccurate, the Court has assessed attorney's fees and  
3 sanctions against the offending party under *Section 3667* and under its  
4 general authority to award attorney's fees under *Section 2030, et seq.*

5 1.10. Consideration of Property Available to Either Party

6 Under *Section 4008*, the Court considered the appropriateness of awarding  
7 support based on all property available to either party.<sup>4</sup>

8 1.11. Failure to Exercise Custodial Access Time

9 In fixing Guideline Child Support the Court made a calculation of time  
10 share under *Section 4055*, but the existence or enforcement of child support  
11 owed by the payor is not affected by a failure or refusal by the custodial  
12 parent to implement any rights as to custody or visitation as mandated by  
13 *Section 3556*.

14 1.12. Severability of Child Support Obligation

15 Under *Section 3585*, the Court finds that the child support provisions of any  
16 agreement or order are law-imposed and are made under the power of the  
17 Court to order child support.

18 1.13. Order for Family Support

19 To the extent that this decision combines an order for child and spousal  
20 support as family support, as authorized by *Section 3586*, the Court finds it  
21 has authority to refrain from making a separate order for child support.  
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23 <sup>4</sup> To the extent that either party's income and expense declaration or any attached or separately  
24 filed property declaration or schedule of assets and debts included blanks, or the use of words  
25 such as unknown, or to be determined, or varies, or "TBD" or other incomplete, vague,  
26 unsubstantiated references, the Court considered these omissions on the issue of credibility and  
27 where appropriate adversely determined facts against the errant party. See *Evidence Code*  
28 *Sections 403, 412, 413, 623 and 665.*

1 **2. Order for Job Training or Placement**

2 2.1. In General

3 The policy of the State of California provides that parents owe their minor  
4 children a duty of support under *Section 4053(a)*. Based on this policy, the  
5 Court has authority to order job training placement or vocational  
6 rehabilitation for either parent.

7 2.2. Authority to Order Job Training

8 *Section 3558* authorizes an order for job training, placement, vocational  
9 rehabilitation and work programs. The Court can fix the scope of the  
10 training and require documentation of participation to assist the Court in  
11 determining whether a parent is making a good faith attempt at job training  
12 and placement.

13 2.3. Specific Order

14 Pursuant to *Section 4505*, the Court orders **DESIGNATE PARTY** to  
15 provide a written list of at least five different places the parent has applied  
16 for employment every two weeks. This disclosure shall include a written  
17 list of the places where the parent made an application for employment  
18 shall be made in the form of a declaration filed with the court and signed  
19 under penalty of perjury. The disclosure may include an attachment which  
20 is incorporated by reference into the declaration. The declaration or its  
21 attachment shall set forth a description of the job, the name, address,  
22 telephone number, e-mail address, or other contact information of the  
23 prospective employer, the skill set listed as required for the job, the  
24 compensation rate, the travel requirements of the employment and the name  
25 of the contact person together with any other relevant information the party  
26 learned about the job. The party obligated under this order is expected to  
27 broadly construe the obligation of disclosure under this order and shall  
28 provide the most specific, accurate and current information available. A

1 copy of the declaration shall be served upon the other party by mail or any  
2 other procedure authorized by the *Code of Civil Procedure*.

3 **3. Method for Calculating Child Support**

4 3.1. In General

5 The order for Guideline Child Support is made consistent with the  
6 provisions of *Section 4050*; and this order adheres to the uniform guidelines  
7 (*Section 4052*).

8 3.2. Software Used to Determine Support

9 In calculating child support, the Court used the most current version of  
10 **DissoMaster**™ which is approved software for the purposes of calculating  
11 Guideline Child Support under *Section 3830*.

12 3.3. Adherence With Legislative Mandate

13 The parents' first obligation is to support their minor children consistent  
14 with their station in life (*Section 4053(a)*). The duty to support is a mutual  
15 duty of both parents (*Section 4053(b)*) taking into account their actual  
16 income and level of responsibility for the minor children (*Section 4053(c)*)  
17 based on their ability to pay (*Section 4053(d)*) and consistent with the  
18 parents' standard of living (*Section 4053(f)*). In fixing child support, the  
19 order takes into account any disparity in standard of living based on  
20 incomes (*Section 4053(g)*). The court considered the responsibility of each  
21 party to provide care for the minor children (*Section 4053(i)*). The Court  
22 makes its order recognizing that the Guideline Child Support amount  
23 determined by calculation under the uniform formula is presumptively  
24 correct (*Section 4053(k)*). The Court acknowledges that this presumption is  
25 a rebuttable presumption affecting the burden of proof by admissible  
26 evidence showing the application of the formula would be unjust or  
27 inappropriate (*Section 4057(b)*). To the extent that this order deviates from  
28 the uniform formula amount of child support, this Tentative Decision

1 articulates the basis for and extent of the deviation from the uniform  
2 formula amount of child support.

3 **4. Gross Income of the Parties**

4 4.1. In General

5 *Section 4058* provides that the Court shall make findings regarding the  
6 gross income of the parties. The **DissoMaster**™ Printout attached to this  
7 Memorandum of Decision sets forth the findings of the Court on gross  
8 income of the parties.

9 4.2. Nonrecognition of Home Equity

10 In setting child support under this order, the Court did not consider the  
11 unrealized increased equity of either party in the residence occupied by  
12 either party. See *Marriage of Henry* (2005) 126 Cal. App. 4th 111. The  
13 Court did not add to gross income the fair rental value of either party's  
14 residence if there was no mortgage on the property. See *Marriage of*  
15 *Schlaflly* (2007) 149 Cal. App. 4th 747 and *Marriage of Williams* (2007)  
16 150 Cal. App. 4th 1221.

17 4.3. Recurring or Nonrecurring Bonus or Overtime Income

18 As identified below, the Court considered the issue of whether the Court  
19 should add to annual gross income any past bonus or overtime as  
20 nonrecurring or likely to be recurring in the future. See: *County of Placer*  
21 *v. Andrade* (1997) 55 Cal. App. 4th 1393. To the extent that a party chooses  
22 to work overtime beyond a regular work regimen, the Court did consider  
23 this overtime as available income for the purpose of paying child support.  
24 See: *Marriage of Scheppers* (2001) 86 Cal. App. 4th 646.

25 4.4. Imputing Income

26 The Court exercised its discretion on the issue of imputing income to either  
27 party based on the authority of the Court to impute income where a party  
28 has left a salaried position to start a new business. See *Marriage of Padilla*



1 (1995) 38 Cal. App. 4th 1212. To the extent the Court elected to impute  
2 income to either party the Court articulates the substantial evidence  
3 supporting that decision. See *Marriage of Cohn* (1998) 65 Cal. App. 4th  
4 923. The Court considered the needs of any minor children in imputing  
5 earning capacity. See *Marriage of Hinman* (1997) 55 Cal. App. 4th 988;  
6 and whether the custodial parent being employed was in the best interest of  
7 the children. See *Marriage of Cheriton* (2001) 92 Cal. App. 4th<sup>h</sup> 269. The  
8 Court also considered the ability or opportunity of any unemployed party to  
9 work. See *Marriage of Eggers* (2005) 131 Cal. App. 4th 695. Where  
10 appropriate and supported by admissible evidence, the Court considered the  
11 availability of employment consistent with a parent's skill and training.  
12 See *Marriage of LaBass & Munsee* (1997) 56 Cal. App. 4th 269. The  
13 Court allocated the issue of the burden of proof on the question of earning  
14 capacity to the party claiming the existence of an earning capacity exists for  
15 the other. See *Marriage of Bardzik* (2008) \_\_\_ Cal. App. 4th \_\_\_ 2008  
16 WL 2854823.

17 4.5. Add Back of Depreciation

18 To the extent that either party's income is reduced or adjusted by a  
19 deduction for depreciation as an itemized deduction, the Court added the  
20 depreciation back into gross income. See *Marriage of Asfaw v. Wolderhan*  
21 (2007) 147 Cal. App. 4th 1407.

22 4.6. Spousal Support Considered as Income

23 Spousal support received by the noncustodial parent from the custodial  
24 parent was not added to income for the calculation of child support. See:  
25 *Marriage of Corman* (1997) 59 Cal. App. 4th 1492.

26 4.7. Life Insurance Proceeds & Inheritances

27 The Court did not consider the proceeds from life insurance. The Court did  
28 consider any investment income received therefrom. See *Marriage of*

1           *Scheppers, Id.* The Court did not consider the corpus of any inheritance as  
2 income. See *County of Kern v. Castle* (1999) 75 Cal. App. 4th 514.

3           4.8.   Imputing a Rate of Return

4           In the absence of competent admissible evidence of an actual rate of return  
5 derived from the ownership of capital assets including but not limited to  
6 interest, dividends or capital gains income, the court appropriately imputed  
7 a reasonable rate of return to either party's non-income-producing assets.  
8 See *Marriage of Destein* (2001) 91 Cal. App. 4th 1385. To the extent either  
9 party has substantial capital assets (other than the equity in the residence  
10 occupied by that party), the Court has considered the imputation of a fair  
11 return on that capital as permitted by *Marriage of de Guigne* (2002) 97 Cal.  
12 App. 4th 1353. The Court is not bound by the actual rate of return realized  
13 by an under performing investment portfolio, but has discretion to impute a  
14 reasonable rate of return *Marriage of Schlafly* (2007) 149 Cal. App. 4th  
15 747.

16           4.9.   Lump Sum Personal Injury Award, Payments or Income From Personal  
17 Injury Proceeds Annuity

18           If either party holds an undifferentiated lump sum personal injury award,  
19 the Court exercised its discretion in considering all or some portion of those  
20 funds as available for the purposes of paying child support. See *Marriage*  
21 *of Heiner* (2006) 136 Cal. App. 4th 1514. Further, payments from an  
22 annuity purchased as part of an undifferentiated and unallocated personal  
23 injury settlement is not income for the purposes of calculating child  
24 support. *Marriage of Rothrock* (2008) 159 Cal. App. 4th 223.

25           4.10. Capital Assets

26           If a party has a demonstrated history of invading capital assets and using  
27 the proceeds to maintain their standard of living (*Marriage of de Guigne,*  
28 *Id.* and *Marriage of Destein, Id.*), the Court has considered this pattern of

1 invading capital assets for living expenses in fixing child support. Where a  
2 party holds assets from the sale of a business or other assets, such as unsold  
3 stock, the Court has not considered those assets (beyond imputation of a  
4 reasonable rate of return) in fixing support. See *Marriage of Pearlstein*  
5 (2006) 137 Cal. App. 4th 1361.

#### 6 4.11. Tax Returns

7 Where appropriate, the Court considered the tax returns of each party  
8 including their individual return or the partnership or corporate return of  
9 any entity from which they derive income or benefits; and the Court applied  
10 the presumption that the returns are correct under *Marriage of Loh* (2001)  
11 93 Cal. App. 4th 325.

#### 12 4.12. Loan Applications & Financial Statements

13 To the extent the Court received evidence from a party's loan application or  
14 financial statements, the Court weighed this evidence in fixing support.  
15 See *Marriage of Chakko* (2004) 115 Cal. App. 4th 104. Case law supports  
16 consideration of any statement made by a party, especially if made under  
17 penalty of perjury, as competent and admissible on issues related to the  
18 calculation of child support. See *Marriage of Calcaterra and Badakhsh*  
19 (2005) 132 Cal. App. 4th 28.

#### 20 4.13. Perquisite Income

21 Taking into consideration that the Court shall consider income from all  
22 sources, the Court considered as income any perquisite received by the  
23 party. See *Stewart v. Gomez* (1996) 47 Cal. App. 4th 1748. As for the  
24 issue of tax impacting any perquisite income, the Court duly exercised its  
25 discretion by weighing the evidence and applying the holdings of *Marriage*  
26 *of Schulze* (1997) 60 Cal. App. 4th 519 and holdings in *Marriage of Loh*,  
27 *Id.*, *Marriage of Chakko*, *Id.* and *Marriage of Calcaterra and Badakhsh*,  
28 *Id.* Where appropriate the Court followed the better reasoned case as

1 applied to the facts and circumstances surrounding this order. See *Auto*  
2 *Equity Sales, Inc. v. Superior Court of Santa Clara* (1962) 57 Cal. 2d 450.<sup>5</sup>

3 **5. Adjustments of Award for Support Based on Seasonal or Fluctuating Income**

4 **5.1. In General**

5 Under *Section 4064*, the Court may adjust child support orders as  
6 appropriate to accommodate seasonal or fluctuating income. Under  
7 *Marriage of Riddle* (2005) 125 Cal. App. 4th 1075, the period selected for  
8 determining the seasonal or fluctuating nature of the income must be a fair  
9 and representative sample. The Court did not award support based on a  
10 future percentage of either parties' income since such a calculation would  
11 require an analysis of both parties' income, not just a floating percentage of  
12 one party's future income. See *Marriage of Hall* (2000) 81 Cal. App. 4th  
13 313.

14 **5.2. Determination on Issue of Seasonal or Fluctuating Nature of Income**

15 Having considered the income and expense declarations of the parties and  
16 the relevant admissible evidence on the issue of what constitutes a fair and  
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18 <sup>5</sup> The Court concludes it has discretion to consider as non-taxable any benefit derived by a parent  
19 from the payment of expenses by a business enterprise substantially under the control of that  
20 parent, such as where a party's earned income is paid as salary from an entity predominately  
21 controlled by that party, such as a Sub-S Corporation or C-Corporation where the party signs the  
22 Form 1120 Return and his or her own 1040, or a sole proprietorship entity where a party controls  
23 the payment of expenses and deduction as business expenses on a Schedule C attached to his or  
24 her 1040, or a partnership return (including an LLC or LLP) where custom and habit demonstrate  
25 that the party enjoys perquisites that are deducted as business expenses (legitimate or not) and  
26 the party has no tax load on the benefit received. In these settings and based on the evidence  
27 presented, the Court has exercised its discretion as set forth below by characterizing this  
28 perquisite income as non-taxable. And if appropriate, the Court has characterized it as taxable.

1 representative sample (*Riddle, Id.*) for the purpose of calculating gross  
2 income in fixing Guideline Child Support, the Court makes the following  
3 findings:

4 X

5 **6. Rulings on Contested Issues Regarding Gross Income**

6 On the contested issues of the gross income of either party and consistent with the  
7 principles enunciated above, the Court makes the following findings:

8 X

9 **7. Calculating Net Disposable Income**

10 **7.1. In General**

11 The DissoMaster™ Printouts attached to this Memorandum of Decision  
12 establish the Court's findings and conclusions in arriving at the annual net  
13 disposable income of the parties taking into account the income and  
14 expense declarations of the parties and the admissible evidence at the time  
15 of hearing.

16 **7.2. Specific Findings**

17 As part of its Statement of Decision under *Section 3654*, and as required by  
18 *Section 4005*, the Court makes appropriate findings with respect to the  
19 following specific elements of the Court's decision:

20 7.2.1. X

21 **8. Earning Capacity of the Parties**

22 *Section 4058(b)* vests the Court with discretion to consider the parties' earning  
23 capacity consistent with the best interest of the minor children. On the contested  
24 issue of earning capacity the Court makes the following findings:

25 8.1. X

26 **9. New Mate or Nonmarital Partner Income**

27 **9.1. In General**

1            *Section 4057.5* precludes consideration of a party's new mate or nonmarital  
2 partner income in setting support. Case law requires that the Court  
3 consider the tax impact of the new mate income upon the net disposable  
4 income of the party whose income is affected. (*Marriage of Carlsen (1996)*  
5 50 Cal. App. 4th 212; and the **DissoMaster™** Printout filed herein reflects  
6 the findings on new mate income and the application of it in fixing child  
7 support.

## 8            9.2. Exceptional Cases

9            Under *Section 4057.5 (b)*, where the Court finds the facts justify a finding  
10 of an extraordinary case, the Court may consider whether a parent has  
11 voluntarily or intentionally quit work or reduced income because of  
12 reliance on a subsequent spouse's income. The Court must allow a  
13 hardship deduction for the needs of one or more stepchildren (*Section*  
14 *4057(d)*). On the contested issue of whether this case constitutes an  
15 extraordinary case warranting the consideration of new mate or partner  
16 income, the Court makes the following findings:

17            9.2.1. X

## 18            10. Finding of Financial Hardship

### 19            10.1. In General

20            *Section 4070* permits the Court to adjust child support through the  
21 **DissoMaster™** software by accepting certain hardship deductions  
22 according to relevant admissible evidence establishing the hardship under  
23 *Section 4071*. The **DissoMaster™** Printout attached to this order reflects  
24 the Court's findings on the issue of financial hardship which are described  
25 here.

26            10.2. Extraordinary Health Expenses Under *Section 4071(a)(1)*- The Court finds:

27            10.2.1. X

28            10.3. Uninsured Catastrophic Losses Under *Section 4071(a)(1)*- The Court finds:

1 10.3.1. X

2 10.4. Minimum Basic Living Expenses of Natural or Adopted Child *Section*  
3 *4071(a)(2)*- The Court finds:

4 10.4.1. X

5 10.5. The Court finds the amount of allowed hardship does not exceed the  
6 amount of support ordered under this order on a per child basis as required  
7 under *Section 4071(b)*.

8 10.6. The Court considered the amount of hardship deduction determined under  
9 the *DissoMaster*™ Program, taking into account the Judicial Council  
10 Tables for calculating hardship deductions under *Section 4071(c)* and the  
11 Court made the following further adjustments:

12 10.6.1. X

13 **11. Statement of Reasons & Duration of Hardship Deduction**

14 11.1. In General

15 *Section 4072* requires the Court to state the reasons supporting the hardship  
16 deduction. The Court shall document the amount of the deduction and the  
17 underlying facts and circumstances. If possible, the Court shall specify the  
18 duration for the hardship deduction; and the Court recognizes that express  
19 evidentiary findings are required under *In Re Marriage of Carlsen (Id.)*.

20 Under *Section 4073*, the Court is guided by the goals of the *Family Code* in  
21 allowing or disallowing a hardship deduction. Further, the Court's order  
22 regarding hardship deductions also applies to any order for family support  
23 under *Section 4074*.

24 11.2. Specific Statement of Findings

25 In compliance with *Section 4072* and *Carlsen, Id.*, the Court makes the  
26 following findings:

27 11.2.1. X

28 **12. Rebuttals to Guideline Child Support**

1 12.1. Consideration of An Award of Support

2 In compliance with the provisions of *Section 4056*, the Court has stated the  
3 amount of Guideline Findings for support.

4 12.2. Reasons for Award of Other Than Guideline Amount

5 Where the Court deviates from the Guideline Child Support amount, the  
6 Court is obligated to state the reasons for deviating from guideline. And  
7 the statement of reasons must be given regardless of whether either party  
8 requests it. See *Marriage of Gigliotti* (1995) 33 Cal. App. 4th 518 and  
9 *Rojas v. Mitchell* (1996) 50 Cal. App. 4th 1445. Consistent with the  
10 requirements of *Section 4056(a) (2)*, the Court articulates the reasons for  
11 deviating from the Child Support Guideline amount:

12 12.2.1. X

13 12.3. Other Than A Guideline Amount of Support Meets Child's Best Interests

14 As required by *Section 4056(a) (3)*, the Court articulates the reason the amount of  
15 support ordered is consistent with the best interests of the children:

16 12.3.1. X

17 12.4. Considerations in Rebutting Guideline Amount of Child Support

18 12.4.1. In General

19 Upon proof by a preponderance of evidence the Court can  
20 deviate from Guideline Child Support.

21 12.4.2. An order for deferred sale of the family residence under  
22 *Section 3800, et seq.* is made (*Section 4057(b)(2)*).

23 12.4.3. Extraordinary high income and the formula amount exceeds  
24 the needs of the children (*Section 4057(b)(3)*).

25 12.4.4. Application of the Guideline would be unjust different time  
26 share arrangements for different children (*Section*  
27 *4057(b)(5)(A)*) because of equal time share and  
28 disproportionate incomes (*Section 4057(b)(5)(B)*) or special



1 medical or other needs that justify a higher than guideline  
2 amount of support (*Section 4057(b)(5)(C)*).

3 **13. Order for Guideline Child Support**

4 13.1. Payment Amounts & Effective Dates

5 Child support under this order is payable until terminated or modified by  
6 operation of law as set forth. Child support shall be payable semi monthly,  
7 one half payable on the 1<sup>st</sup> day of each month and one half payable on the  
8 15<sup>th</sup> day of each month on the commencement date set forth herein. Upon  
9 proper application, a Wage Assignment shall issue.

10 13.2. **DissoMaster™** Printouts

11 The **DissoMaster™** Printouts attached to this Memorandum of Decision are  
12 intended to comply with the provisions of *Section 4056(b)* regarding the  
13 matters set forth on the Printouts.<sup>6</sup>

14 13.3. Amount of Order & Effective Dates:

15 13.3.1. Pursuant to **DissoMaster™** Printout 1 attached hereto, child  
16 support is ordered as follows:

17 13.3.2. Other **DissoMaster™** Printouts-

18 The Court attaches the following additional **DissoMaster™**  
19 Printouts and explains the rationale supporting each:

20 13.3.2.1. **DissoMaster™** Printout 2- x

21 13.4. Payment of Arrearage Amounts

22 Based on the effective date for payments, there is now due and owing an  
23 arrearage amount of support of \$ **FILL IN AMOUNT**.

24  
25  
26 <sup>6</sup> In the calculation of time share between the parents, the Court applied the concept of custodial  
27 care, supervision and responsibility for the child. See *Marriage of Katzberg* (2001) 88 Cal. App.  
28 4th 974 and *DaSilva v. DaSilva* (2004) 199 Cal. App.4th 1030.

1           13.4.1.       The total arrearage amount shall be paid in four equal  
2                               installments commencing on **FILL IN DATE**. If any  
3                               arrearage installment is more than 10 days late, the entire  
4                               arrearage amount shall accelerate and become all due and  
5                               payable.

6           13.4.2.       Other Court Determined Method For Payment of Arrearage-

7                               X

8 **14. Additional Forms of Child Support in General**

9       *Section 4061* establishes the method for apportionment of additional forms of  
10      child support. *Section 4062* creates two forms of additional child support  
11      (hereinafter **add on child support**) the categories are divided between those which  
12      must be considered and those which may be considered by the Court. The Court  
13      has no authority to create additional **add on child support** categories. See  
14      *Marriage of de Guigne, supra*.

15 **15. Mandatory Additional Support**

16      15.1. Child Care under *Section 4062(a)(1)*- the Court has considered and  
17              allocated the child care expenses under *Section 4061*; and the **DissoMaster**  
18              ™ Printouts identify the amounts considered and the allocations made.

19      15.2. Uninsured Medical Expenses under *Section 4062(a)(1)*- the Court has  
20              allocated these expenses in the Section below entitled Health Insurance.

21 **16. Discretionary Additional Child Support**

22      The Court possesses no discretion to create new forms of mandatory or  
23      discretionary **add on child support** under *Section 4062*. *Section 4062(b)* articulates  
24      only two categories of discretionary **add on child support**.

25      16.1. Costs Related to the Educational or Other Special Needs of  
26              Children- *Section 4062(b)(1)*

27              On the contested issue of consideration of educational or special needs  
28              expenses, the Court makes the following findings and order:

1 16.2. Travel Expenses for Visitation- *Section 4062(b)(2)*

2 On the contested issue of consideration of travel expenses for visitation, the  
3 Court makes the following findings and order:

4 16.3. Other Forms of Discretionary Add-on Child Support

5 Courts have no discretion to create new forms of special need child  
6 support add ons (*DeGuine, supra.*) but Court's may fairly construe  
7 various types of special need child support add ons such as sports,  
8 dance, and other activities under *Marriage of Schlafly, supra.*

9 16.4. X

10 16.5. X

11 **17. Order to Maintain Health Insurance**

12 17.1. In General

13 Consistent with *Section 3750*, health insurance includes all coverage for  
14 health, vision or dental care provided for the benefit of dependent children.  
15 As required by *Section 4006*, the Court considered the availability of health  
16 insurance coverage for the minor child.

17 17.2. Order to Maintain Existing Coverage

18 As provided by *Section 3751(a)*, to the extent that health insurance is now  
19 available to either party at no cost or reasonable cost, that parent shall  
20 maintain the coverage (hereinafter generally referred to as "coverage" or  
21 "the plan").

22 17.3. Order to Obtain Future Coverage

23 As permitted by *Section 3751(b)*, if health insurance coverage becomes  
24 available to either party at no or reasonable cost, the Court orders that the  
25 party eligible for no cost or reasonable cost insurance to obtain the  
26 insurance and notify the other party; if support is assigned for collection to  
27 the Child Support Services Department (Department) (*Section 3752*), then  
28 the Department shall be given notice of the existence of the coverage.

1 17.4. Continuing Obligation to Provide Information

2 Under *Section 3752.5*, the Court orders each party to notify the other of any  
3 changes in the health insurance policy information. If coverage is available  
4 or ordered, then the party who has the insurance shall provide the other  
5 parent with all relevant information, including but not limited to insurance  
6 cards, policy information, coverage limitations, approved provider lists or  
7 any other information available to the party under the plan.

8 17.5. Designation of Party Responsible to Maintain Health Insurance

9 Under this order, the Court orders **DESIGNATE PARTY** to maintain  
10 health insurance for the minor child. Under *Section 3766*, the minor child  
11 shall be enrolled under the plan within 30 days.

12 17.6. Health Insurance Assignment Order

13 Upon proper presentation and consistent with *Section 3761*, the Court will  
14 issue a health insurance assignment order.

15 **18. Uninsured Medical Expenses**

16 18.1. In General

17 Under *Section 4062(a)(2)*, the Court is obligated to establish an allocation  
18 for the uninsured medical expenses of the minor child that is consistent  
19 with *Section 4063*. There is a rebuttable presumption that the costs  
20 actually paid for health care needs of the minor child are reasonable under  
21 *Section 4063(e)*.

22 18.2. Uninsured Medical Expenses- *Default is for Equal Share*

23 The parties shall each pay one half (1/2) of any uninsured medical, dental,  
24 vision, psychiatric or psychological expenses, prescriptions, co-payments,  
25 deductible, or any other medical expense of the minor child.

26 18.3. Resort to Approved Providers

27 Under *Section 4063(e)(1)*, the health insurance coverage provided under  
28 this order shall be the coverage utilized at all times consistent with the

1 coverage.

2 18.4. Under *Section 4063(e)(2)*, if either parent obtains health care insurance  
3 coverage in addition to that provided pursuant to this order, that parent shall  
4 bear sole financial responsibility for the costs of that additional coverage  
5 and the costs of any care or treatment obtained pursuant thereto in excess of  
6 the costs that would have been incurred under the health care insurance  
7 coverage provided for in this order.

8 18.5. Duty to Pay Uninsured Medical Expenses

9 Each party shall pay one half of the reasonable uninsured medical expenses  
10 of the minor child, including any payment reimbursing the other party,  
11 within 30 days of presentation of a demand for payment or reimbursement.

12 18.6. Obligation of Party Seeking Reimbursement

13 Consistent with *Section 4063(b)* a party seeking reimbursement shall  
14 provide the other parent with an itemized statement of the costs for which  
15 reimbursement are sought within 30 days (*Section 4063(b)(1)*). If a parent  
16 is seeking reimbursement directly, then he or she must so inform the other  
17 parent. If a parent is seeking an order for direct payment to the health care  
18 provider, then he or she must provide the reimbursing parent with the  
19 necessary information about how to make direct payment (*Section 4063(b)*  
20 (*1*)).

21 18.7. Obligation of Party Owing Reimbursement

22 Reimbursement shall be made to parent entitled to reimbursement or  
23 payment of the remaining costs directly to the provider shall be made  
24 within 30 days of notification of the amount due or according to the  
25 payment schedule established by the health care provider unless the parents  
26 agree in writing to another payment schedule or the Court has established  
27 another payment schedule (*Section 4063(b)(3)*).

28 18.8. Resolution of Disputed or Unpaid Amounts

1 19.4. Findings on Issue of Attorney's Fees and Costs

2 The Court makes the following findings on the contested issue of attorney's  
3 fees and costs:

4 19.4.1. X

5 19.5. Order for Payment

6 DESIGNATE PARTY, shall pay the sum of \$ DESIGNATE AMOUNT,  
7 to DESIGNATE RECIPIENT payable as follows: \$ DESIGNATE  
8 AMOUNT payable on DESIGNATE START DATE and on the 10<sup>th</sup> day  
9 of each month thereafter until paid in full. If any one installment is more  
10 than ten (10) days late, the entire unpaid balance shall accelerate, become  
11 all due and payable and shall bear interest at the legal rate from the date of  
12 default.

13 20. General Provisions

14 By stipulation of the parties, this document was served upon the parties by  
15 facsimile or e-mail as indicated on the transmittal form attached. Based on the  
16 Stipulation for method of service, the Court Clerk is relieved of her obligation to  
17 serve this document by mail. The Clerk shall file the Memorandum of Decision  
18 and Statement of Decision; and it shall be entered on the register of actions.

19 Pending entry of a formal order or judgment, this order is effective when signed  
20 by the Court.

21 **IT IS SO ORDERED.**

22 Date: x

23  
24 \_\_\_\_\_  
25 X

26 JUDGE OF THE SUPERIOR COURT  
27  
28