**MOT**

ATTORNEY, ESQ.

Nevada Bar No. Bar #

Address

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION – JUVENILE

CLARK COUNTY, NEVADA

In the Matter of: ) Case No.: J

) Dept. No.:

**CLIENT 1,** ) Courtroom:

DOB: Date of Birth )

AGE: Age YEARS OLD )

)

**CLIENT 2,** )

DOB: Date of Birth )

AGE: Age YEARS OLD )

)

**CLIENT 3,** )

DOB: Date of Birth )

AGE: Age YEARS OLD )

)

**CLIENT 4,** )

DOB: Date of Birth )

AGE: Age YEARS OLD )

)

MINORS. )

)

**MOTION FOR SIBLING VISITATION AND TO INCORPORATE VISITATION ORDER INTO ANY ADOPTION DECREE AND/OR GUARDIANSHIP ORDER**

COMES NOW the minor children, CLIENT 1, CLIENT 2, CLIENT 3, and CLIENT 4, by and through their attorney, Attorney, Esq., of Firm, and hereby files this Motion for Sibling Visitation and to Incorporate Visitation Order into any Adoption Decree and/or Guardianship Order. This Motion is based upon the following Memorandum of Points and Authorities, the papers and pleadings on file, and any oral argument allowed at the time of the hearing of this matter.

DATED this Day day of Month, Year.

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ATTORNEY, ESQ.

Nevada Bar No.: Bar #

Address

**NOTICE OF MOTION**

TO: Attorney, Esq., Deputy District Attorney, Attorney for the Department of Family Services;

TO: Attorney, Esq., Attorney for Natural Mother, Mother;

TO: Attorney, Esq., Attorney for Natural Father, Father;

TO: Case Manager, Case Manager, Department of Family Services;

TO: Adoption Worker, Adoption Worker, Department of Family Services.

**PLEASE TAKE NOTICE** that the undersigned will bring the foregoing MOTION on for hearing before the Eighth Judicial District Court – Family Division, 601 N. Pecos Road, Las Vegas, Nevada 89101, on the Day day of Month, Year in Courtroom Courtroom **#** at Time.

**NOTICE: YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THIS MOTION WITH THE CLERK OF THE COURT AND TO PROVIDE THE UNDERSIGNED WITH A COPY OF YOUR RESPONSE WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION. FAILURE TO FILE A WRITTEN RESPONSE WITH THE CLERK OF THE COURT WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION MAY RESULT IN THE REQUESTED RELIEF BEING GRANTED BY THE COURT WITHOUT HEARING PRIOR TO THE SCHEDULED HEARING.**

DATED this Day day of Month, Year.

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ATTORNEY, ESQ.

Nevada Bar No.: Bar #

Address

**MEMORANDUM OF POINTS AND AUTHORITIES**

1. **FACTUAL BACKGROUND STATEMENT**

CLIENT 1, 9 years old,CLIENT 2, 5 years old, CLIENT 3, 3 years old, and CLIENT 4,1 year old, are siblings and were originally removed from their home on Date. They were made wards of the Juvenile Court and placed in the custody of the Clark County Department of Family Services (hereinafter “DFS”) on Date.

Prior to coming into custody, CLIENT 1, CLIENT 2, CLIENT 3, and CLIENT 4 lived in the same home. Initially, when the children came into care, they were all placed in the same foster home. However, after a few months, CLIENT 1was placed with her paternal aunt and the other three children remained in the same foster home.

Despite being in two separate placements, CLIENT 1sees her siblings once a week. CLIENT 1was the primary caretaker for her siblings. The three youngest siblings looked to CLIENT 1as the most stable influence in their lives.

The permanency plan for CLIENT 1is guardianship with the paternal aunt. The permanency plan for CLIENT 2, CLIENT 3, and CLIENT 4is termination of parental rights (“TPR”) and adoption. The foster parents are the adoptive resource. The TPR trial is scheduled for Date. This Motion for Sibling Visitation Order and Inclusion in Any Adoption Decree is being filed to request that the Court protect and preserve this sibling group’s relationship.

1. **LEGAL ARGUMENT**
2. **THIS COURT HAS ORIGINAL AND EXCLUSIVE JURISDICTION OVER THIS MATTER.**

Original jurisdiction over this matter is vested in this Court:

**“NRS 3.223  Jurisdiction of family courts.**

      1.  Except if the child involved is subject to the jurisdiction of an Indian tribe pursuant to the Indian Child Welfare Act of 1978, 25 U.S.C. §§ 1901 et seq., in each judicial district in which it is established, the family court has original, exclusive jurisdiction in any proceeding:

      (a) Brought pursuant to title 5 of NRS or [chapter 31A](http://www.leg.state.nv.us/NRS/NRS-031A.html#NRS031A), 123, 125, 125A, 125B, 125C, 126, 127, 128, 129, 130, 159, 425 or 432B of NRS, except to the extent that a specific statute authorizes the use of any other judicial or administrative procedure to facilitate the collection of an obligation for support.”

N.R.S. § 432B.410 (1) further provides that: “Except if the child involved is subject to the jurisdiction of an Indian tribe pursuant to the Indian Child Welfare Act, the court has exclusive original jurisdiction in proceedings concerning any child living or found within the county who is a child in need of protection or may be a child in need of protection.” Having taken CLIENT 1, CLIENT 2, CLIENT 3, and CLIENT 4 into protective custody, pursuant to a Petition –Abuse/Neglect filed by the Clark County Department of Family Services under N.R.S. § 432B.470, this Court acquired subject matter jurisdiction over this case, and personal jurisdiction over the minors.

**B. NEVADA SUPPORTS VISITATION AND PRESERVATION OF SIBLING RELATIONSHIPS.**

The State of Nevada has long recognized the existence and the importance of maintaining sibling relationships especially for youth in foster care. It is for these reasons, the Nevada Legislature has passed legislation requiring a presumption that sibling groups should be placed together. The Legislature also mandated that visitation be encouraged during the time siblings are in separate homes if this presumption is rebutted. Furthermore during the legislative session of 2009, the statute was again amended to require that courts conduct hearings to determine whether to include visitation orders for siblings in the final adoption decrees. The only consideration for the courts in determining visitation is the best interests of the child.

In 1999, the Legislature added subparagraph (b) to subsection 5 of NRS 432B.550. Subparagraph (b) and created a preference that a child, in need of protection and not permitted to remain in parental custody, be placed together with siblings, if practicable. In 2005, the Legislature, again recognized the importance of sibling relationships, and enacted Assembly Bill 42 which amended the language of NRS 432B.550 to change the preference for siblings to be placed together to a presumption that it is in their best interest to be placed together.[[1]](#footnote-1)

NRS 432B.550(5) read as follows:

5. In determining the placement of a child pursuant to this section, if the child is not permitted to remain in the custody of his parents or guardian:

a) It must be presumed to be in the best interests of the child to be placed together with his siblings

b) Preference must be given to placing the child with any person related within the third degree of consanguinity to the child who is suitable and able to provide proper care and guidance for the child, regardless of whether the relative resides within the State.[[2]](#footnote-2)

In amending 432B.550(5), the Legislature understood that Assembly Bill 42 was recognized:

As an important step in helping . . . to ensure that children in the foster care system maintain a very important connection. Setting expectations for child welfare agencies to facilitate the maintenance of these relationships during a serious family disruption is important. Sibling ties represent a special support system, one that is reflected in its uniqueness by being the longest-lasting relationship that a person may have. Splitting siblings in foster care interrupts the sole connection a child may have to his or her family origin. The loss can negatively impact the child through his or her lifetime.[[3]](#footnote-3)

Another statutory amendment made by the Legislature during the 2005 session reflects the Legislature’s focus on the significant relationship which exists between dependent children and their siblings.[[4]](#footnote-4) NRS 432B.580 was amended to require that specific information regarding siblings be provided to the Court semiannually; specifically, whether siblings are placed together, what efforts were made to place them together, what actions were taken to ensure sibling contact, and a complete plan for sibling visitation.[[5]](#footnote-5) Additionally, subsection (4) to NRS 432B.580 was added in 2005, which requires that,

After a plan for visitation between a child and his siblings submitted pursuant to subparagraph (4) of paragraph (b) of subsection 2 has been approved by the court, the agency which provides child welfare services must request the court to issue an order requiring the visitation set forth in the plan for visitation. If a person refuses to comply with or disobey an order issued pursuant to this subsection, he may be punished as for a contempt of court.[[6]](#footnote-6)

At the 2009 session of the Nevada Legislature, Chapter 127 of the NRS was again amended by adding a new section 10 to read as follows:

1. If a child who is in the custody of an agency which provides child welfare services is placed for adoption, the agency must provide the court which is conducting the adoption proceedings with a copy of an order for visitation with a sibling of the child that was issued pursuant to NRS 432B.580 and the order for visitation with a sibling in the decree of adoption.

2. Any interested party in the adoption, including, without limitation, the adoptive parent, the adoptive child, a sibling of the adoptive child, the agency which provides child welfare services, or a licensed child-placing agency may petition the court to participate in the determination of whether to include an order of visitation with a sibling in the decree of adoption.

3. The sole consideration of the court in making a determination concerning visitation with a sibling pursuant to this section is the best interest of the child.[[7]](#footnote-7)

This consistent pattern of legislation clearly evidences a concern, favor and mandate of the Nevada Legislature to protect sibling relationships. The statutory provisions require that the courts actively assist children in the foster care system to maintain their important sibling bonds, both while they are in the dependency system, and afterwards if they are adopted. Why else would Legislature amend the statue and add a new section that specifically requires the court to determine if the best interests of the child dictates that an order of visitation be included in the final adoption decree?

In this case, CLIENT 2, CLIENT 3, and CLIENT 4are placed in a foster home together. CLIENT 1was fortunate to have been placed with a relative. All of the children share a deep bond and wish to continue to have contact with one another. They lived together until they were separated during the foster care process.

These children have expressed their wishes to have a continued sibling relationship with one another. Additionally, the law presumes that it is in their bests interests to continue visiting and communicating with each other, even in the event that termination of parental rights is granted and/or they are adopted.

**III. CONCLUSION**

The children’s requests are exceedingly modest. They simply ask to continue to be able to visit with one another, once per week for two (2) to four (4) hours. The parent, custodian, and/or legal guardian of these children can allow more contact if time and conditions allow. The Nevada Legislature and statutes will allow nothing less.

Respectfully submitted this Day day of Month, Year.

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ATTORNEY, ESQ.

Nevada Bar No.: Bar #

Address

***CERTIFICATE OF MAILING***

I HEREBY CERTIFY that on the Day day of Month, Year, I placed a true and correct copy of the foregoing ***MOTION FOR SIBLING VISITATION AND TO INCORPORATE VISITATION ORDER INTO ANY ADOPTION DECREE AND/OR GUARDIANSHIP ORDER***,postage fully prepaid, in the United States Mail addressed as follows:

Attorney, Esq.

Deputy District Attorney Juvenile

Family Court

601 N. Pecos Road, Room 470

Las Vegas, Nevada 89101

Attorney for the Department of Family Services

Attorney, Esq.

Address

Attorney for the Natural Mother, Mother

Attorney, Esq.

Address

Attorney for the Natural Father, Father

Case Manager, Case Manager

Department of Family Services

701 N. Pecos Road, Bldg. K

Las Vegas, Nevada 89101

Adoption Worker, Adoption Worker

Department of Family Services

701 N. Pecos Road, Bldg. K

Las Vegas, Nevada 89101

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

An employee of

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1. Hearing on A.B. 42 before the Assembly Comm. on Health and Human Serv., 73rd Leg. (Nev., March 7, 2005). [↑](#footnote-ref-1)
2. In 2009, this was expanded to allow placement within the fifth degree of consanguinity. [↑](#footnote-ref-2)
3. Hearing on A.B. 42 before the Assembly Comm. on Health and Human Serv., 73rd Leg. (Nev., March 7, 2005). [↑](#footnote-ref-3)
4. A.B. 42, 73rd Leg. (Nev. 2005). [↑](#footnote-ref-4)
5. NRS 432B.580(2). This provision read as follows:

   2. An agency acting as the custodian of the child shall, before any hearing for review of the placement of a child, submit a report to the court, or to the panel if it has been designated to review the matter, which includes:

   (a) An evaluation of the progress of the child and his family and any recommendations for further supervision, treatment or rehabilitation; and

   (b) Information concerning the placement of the child in relation to his siblings, including, without limitation:

   (1) Whether the child was placed together with his siblings;

   (2) Any efforts made by the agency to have the child placed together with his siblings;

   (3) Any action taken by the agency to ensure that the child has contact with his siblings; and

   (4) If the child is not placed together with his siblings:

   (I) The reason why the child was not placed together with his siblings; and

   (II) A plan for the child to visit his siblings, which must be approved by the court. [↑](#footnote-ref-5)
6. NRS 432B.580(4) [↑](#footnote-ref-6)
7. NRS 127.2827 [↑](#footnote-ref-7)