**MOT**

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION - JUVENILE

CLARK COUNTY, NEVADA

In the Matter of: ) Case No.:

) Dept. No.:

**JANE DOE,**  ) Courtroom:

DOB: )

AGE: YEARS OLD )

)

A Minor. )

**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.**

**MOTION TO JOIN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF PUBLIC AND BEHAVIORAL HEALTH, DIVISION OF AGING AND DISABILITY SERVICES, AND DESERT REGIONAL CENTER AS PARTIES**

COMES NOW, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Esq., of FIRM, by and on behalf of **JANE DOE**, a minor, and submits this Motion to Join the Department of Health and Human Services, Division of Public and Behavioral Health, Division of Aging and Disability Services, and Desert Regional Center (hereinafter "DRC") as Parties.

This Motion is made and based upon the following Memorandum of Points and Authorities, the papers and pleadings on file herein, and such other documentary and oral evidence as may be presented at the hearing of this Motion.

DATED this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_, 2016.

**NOTICE OF MOTION**

TO: , ESQ., Deputy District Attorney – Juvenile; Attorney for the Department of Family Services;

TO: , ESQ., Deputy Attorney General, Attorney for the Department of Health and Human Services;

TO: , Director, Nevada Department of Health and Human Services;

TO:\_ , Case Manager, Department of Family Services

**YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE** that the undersigned will bring the foregoing MOTION on for hearing before the above-entitled court on the \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_, 2016 at \_\_\_\_\_\_m.

DATED this \_\_\_\_\_ day of \_\_\_\_\_\_\_, 2016.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. BACKGROUND STATEMENT**

JANE DOE came into Protective Custody on March 26, 2016. JANE is diagnosed with Autism (severe) and was removed from her natural mother’s home because she is unable to provide her with proper care and supervision. (See Exhibit A). She is seventeen (17) years old and is currently placed at Child Haven shelter. Unfortunately since being placed in protective custody, JANE has bounced backed and forth between University Medical Center hospital and Child Haven shelter after going acute.

On April 23, 2016, at the Disposition hearing, JANE was declared a ward of the court. At this hearing, counsel for JANE stressed that finding an appropriate placement was the imminent issue. At that time, counsel made a request to have JANE placed at Child Haven in a cottage separate from the other children. Recognizing the importance of identifying an appropriate placement for JANE, this court set a status hearing in two weeks to allow the Department of Family Services (hereinafter “DFS”) and DRC additional time to find a home. On May 7, 2016, counsel reiterated that JANE still needed placement in a foster home due to DFS’ and DRC’s failure to identify a home. As a result of JANE’s constant fluctuation between Child Haven and UMC, this court granted counsel’s request to have JANE placed in a cottage alone to ease her transition until she could be permanently placed. At the time of this writing, JANE continues to reside at Child Haven.

JANE requires a home that is capable of meeting her special needs and one that is trained on how to deal with children with her disabilities. Unfortunately, DFS has failed to identify a foster home that can provide for her special needs. Furthermore, despite being approved for DRC services, DRC has also failed to provide JANE with a suitable home. Due to the severity of JANE’s Autism, it is critical that she receives a higher level of supervision and care than can be provided at Child Haven. Thus, it is imperative that DRC be held accountable for JANE’s placement, as they have the legal obligation to provide JANE with a long-term placement option that will be able to meet her needs.

**II. LEGAL ARGUMENT**

1. **DRC, THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, THE DIVISION OF PUBLIC AND BEHAVIORAL HEALTH, AND THE DIVISION OF AGING AND DISABILITY SERVICES ARE LEGALLY OBLIGATED TO PROVIDE JANE WITH BOTH MEDICAL CARE AND PLACEMENT; NRS 432B.4655 GIVES THIS COURT THE POWER TO JOIN THESE ENTITIES AS PARTIES AND ISSUE ORDERS TO ENSURE THAT JANE’S NEEDS ARE PROPERLY MET.**

**1. JANE DOE is a minor who qualifies under the category of persons to whom DRC, the Department of Health and Human Services, the Division of Public and Behavioral Health, and the Division of Aging and Disability have a legal obligation to find placement.**

NRS 433 et seq., and NRS 435 et seq., set forth the duties owed to personssuffering from mental illness and/or intellectual disabilities. NRS 433.003(2) states that the legislative intent of the statute is “to charge the Division of Public and Behavioral Health, and the Division of Child and Family Services, of the Department [of Health and Human Services] with recognizing their duty to act in the best interests of their respective consumers by placing them in the least restrictive environment.”[[1]](#footnote-1)

NRS 433.099 and NRS 435.007(8) define intellectual disability as: “significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.”

Furthermore, NRS 435.400(1) states: “The division [of Aging and Disability Services] facilities providing services for persons with intellectual disabilities and persons with related conditions are designated as: (a) Desert Regional Center…”[[2]](#footnote-2)

The foregoing statutes impute a legal obligation upon the Department of Health and Human Services (hereinafter “Department”), its underlying Divisions, and the facilities there under, including Desert Regional Center, to fulfill its duty to assist those who seek to benefit from the Divisions’ resources.

As previously stated, JANE is eligible for DRC’s services and now seeks to benefit from them. JANE is asking DRC, the Department of Health and Human Services, the Division of Public and Behavioral Health, the Division of Aging and Disability Services, and this Court under its authority as set forth in NRS 432B.4655[[3]](#footnote-3) to fulfill its statutory duties and obligations to her, which includes placing her in a home that will serve her needs. Additionally, NRS 433.354 and NRS 435.465 give the Department, through its’ Divisions, the power to execute contracts or agreements with essentially any party, private or public, in order to meet its statutory obligations to persons who are suffering from mental illness or intellectual disabilities.

As illustrated by the previous statutes, DRC, through the Division of Aging and Disability Services, has the statutory power and legal obligation to perform within their statutory means to assist in providing placement for JANE that is suitable for her needs. To ensure that DRC and the agencies under which it falls meet their legal obligation, it is necessary to join these entities as parties.

**III. CONCLUSION**

JANE DOE has been in the custody of DFS since March 2016. JANE has the statutory right to be placed in a foster home where her needs will be properly met. To ensure that she is provided with the necessary care, the full cooperation of DRC with DFS is needed. NRS 432B.4655 gives this Court the power to hold DRC responsible for JANE’s placement in a home in an efficient manner. DRC is obligated under Nevada statutes to fulfill its duty to JANE.

JANE DOE respectfully requests that this court exercises its power to ensure expedient placement by immediately joining the Department of Health and Human Services, the Division of Public and Behavioral Health, the Division of Aging and Disability Services, and Desert Regional Center as parties. Furthermore, JANE asks that this court issues all necessary orders to ensure that her needs are fully addressed, including but not limited to, long-term placement.

Respectfully submitted this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 2016.

***CERTIFICATE OF MAILING***

I HEREBY CERTIFY that on the \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_, 2016, I placed a true and correct copy of the foregoing ***MOTION TO JOIN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF PUBLIC AND BEHAVIORAL HEALTH, DIVISION OF AGING AND DISABILITY SERVICES AND DESERT REGIONAL CENTER AS PARTIES***, First-Class postage prepaid, in the United States Postal Service at Las Vegas, Nevada, and addressed as follows:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_ , Esq.

Deputy District Attorney Juvenile

Family Court

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, Esq.

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An employee of

FIRM

1. The Division of Child and Family Services is a parallel agency to the Division of Public and Behavioral Health. Both fall under the umbrella of the Department of Health and Human Services. [↑](#footnote-ref-1)
2. DRC falls under the Division of Aging and Disability Services which is under the Department of Health and Human Services. [↑](#footnote-ref-2)
3. **NRS 432B.4655  Joinder of governmental entity or other person to certain proceedings to enforce legal obligation of such entity or person**. A court may issue an order to join any governmental entity or other person as a party in any proceeding concerning the protection of the child to enforce a legal obligation of the entity or person to the child if, before issuing the order, the court provides notice and an opportunity to be heard to the governmental entity or person. [↑](#footnote-ref-3)