**PMOT**

ATTORNEY, ESQ.

Nevada Bar No. Bar #

Address

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION – JUVENILE

CLARK COUNTY, NEVADA

In the Matter of: ) Case No.:

 ) Dept. No.:

**CLIENT 1,** ) HEARING REQUESTED

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 )

 )

 MINORS. )

 )

**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 FOR AN ORDER TO SHOW CAUSE WHY THE DEPARTMENT OF FAMILY SERVICES SHOULD NOT BE HELD IN CONTEMPT OF COURT FOR FAILING TO COMPLY WITH THIS COURT’S WRITTEN ORDER ON DATE**

 COMES NOW the minor children, CLIENT 1, CLIENT 2, and CLIENT 3, by and through their attorney, Attorney, Esq., of Firm, and submits this Motion for an Order to Show Cause why the Department of Family Services should not be held in contempt of court for failing to comply with this Court’s written Order on Date.

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This Motion is made and based upon the following Memorandum of Points and Authorities, the affidavit attached hereto, the exhibit attached hereto, 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 day of Month, Year.

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

ATTORNEY, ESQ.

Nevada Bar No.: Bar #

Address

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I.** **SUMMARY**

 CLIENT 1, CLIENT 2, and CLIENT 3 were reunified with their parents on Date. On Date, this Court signed an Order stating that the Department of Family Services (hereinafter “Department”) is to notify the minors’ attorney at least 3 business days prior to any anticipated move, absent an emergency. *See Exhibit “A”.* In addition, the Court ordered the Department to provide reasonable notice and invitation to any meetings regarding these subject minors. On Date, a reunification Child and Family Team Meeting (hereinafter “CFT”) was held by the caseworker and two supervisors without notice or invitation given to the minors’ attorney. Further, the minors were moved from their placements and placed with their parents without prior notice given to their attorney. The exclusion of the minors’ attorney at the CFT meeting was intentional and willful. Moreover, the conduct by the caseworker and any supervisor who approved these egregious actions should be held in contempt of court for deliberately violating a court order.

**II. STATEMENT OF FACTS**

 CLIENT 1, CLIENT 2, and CLIENT 3 were removed from their parents care and placed into protective custody on Date. All three minors were declared wards of this Court and placed with a paternal aunt and uncle. On Date, the paternal relatives informed the caseworker they could no longer care and supervise CLIENT 1. As a result, CLIENT 1 was released to his parents on a trial home visit while his sisters remained with the paternal aunt. At the first permanency review hearing held on Date, the Court expressed concerns regarding the parents’ ability to secure stable housing for all the children. To prevent placing CLIENT 1 in a foster home and considering his age, CLIENT 1 remained in the parents care while his sisters remained with the paternal aunt.

 On or about Date, CLIENT 1 was removed from his parents again and placed into a foster home. On Date, a Modification of a Court Order hearing was held and the Court again expressed concerns regarding the parents’ ability to care and properly supervise CLIENT 1 and therefore, ordered that CLIENT 1 remain in his current foster home. On Date, the minors’ attorney received a phone message from the caseworker stating that the Department plans to “possibly move CLIENT 1 with his parents and then discuss where we are with reunifying the girls.” On Date, the minors’ attorney contacted the paternal aunt to schedule an appointment to see the girls in her home.

 On Date, the caseworker visited CLIENT 2 and CLIENT 3 at school to ask if they wanted to return home with their parents. The caseworker did not mention to the children a date or time for the reunification nor did she contact their attorney to give her an opportunity to discuss this issue in further detail with the children. The following day, at approximately 11:00 am, in response to receiving a phone call from the father, the paternal aunt contacted the caseworker and asked if it was true that the children were being reunified with the parents. The caseworker confirmed that reunification with the parents was going to occur.

 The paternal aunt informed the caseworker that the minors’ attorney had contacted her to see the children. Additionally, the paternal aunt questioned whether the minors’ attorney was aware of the Department’s intention of reunifying the children. In response, the caseworker stated she would contact the minors’ attorney. On the contrary, the attorney was notified on Monday, Date upon hearing a voice message left by the caseworker on the previous Friday at approximately 6:13 pm after the CFT reunification meeting was held. In the message, the caseworker stated the meeting “basically happened at the last minute...you may not be thrilled that we had a meeting without you but it was something beyond my control.” In addition, she stated they will “move forward on Monday on bringing the kids home.”

Upon hearing this message, the minors’ attorney left a message with the caseworker to contact her immediately. Fortunately, the paternal aunt contacted the minors’ attorney and informed her the children were moved on Friday as opposed to Monday as stated in the voice message by the caseworker. According to the paternal aunt, she had to inform both girls they would be going home to their parents that day. Although both girls were initially happy to hear they would be returning home, both began crying to the paternal relatives. Seeing that the caseworker was not going to assist in facilitating the move of the children, the paternal relatives gathered a few belongings for the girls and transported them to meet with their mother at a bus stop.

 Approximately three weeks prior to this move, the caseworker visited CLIENT 1 at school and asked if he wanted to return home. At no time did the caseworker contact CLIENT 1 nor his attorney to discuss reunification time frames and transitioning him back into his parents care. CLIENT 1 became aware that he could return home when his parents informed him a meeting occurred with the caseworker who approved placement with the parents. Immediately, CLIENT 1 gathered a few belongings and took a bus to his new home.

**III. LEGAL ARGUMENT**

1. **The Department of Family Services did not act with reasonable care in reunifying CLIENT 1, CLIENT 2, and CLIENT 3 with their parents.**

This Court has placed CLIENT 1, CLIENT 2, and CLIENT 3 in the custody of the Department of Family Services. In doing so, the Court has entrusted it with their care and well-being. By habit and practice, it has established the expectation that the Department act in a manner reasonably calculated to protect children from harm, and to work in cooperation with other professionals involved with the child. In the immediate instance, the Department did not act with reasonable care in transitioning the children into their parents care. The Department failed to consult with the minors’ attorney or the paternal relatives with regards to such an important issue such as placement.

 Pursuant to N.R.S. 432B, the Department of Family Services has an obligation to care for the emotional health and well-being of children placed in their care. In the case at hand, the Department has acted without any regard as to how their decisions effect the minors emotionally and academically. When the children were initially placed with the paternal relatives, all three minors were delayed significantly in school. Since being in the care of the paternal aunt, CLIENT 2 and CLIENT 3 have improved dramatically in their academics. Further, CLIENT 2 has expressed how much she enjoys school and has worked very hard on her school work to ensure she is right on track.

 When CLIENT 2 was informed she would be reunified with her parents, she expressed her concern about attending a new school. Despite her concerns, the caseworker decided to go forward with the move without consulting any other individuals involved with these children. There was no transition plan in place to discuss how the children would be withdrawn from their current school and enrolled into a new school.

Due to the haste decision by the Department to move the children, as of the writing of this Motion, the children have not been enrolled at their new school. Furthermore, according to the paternal aunt, after only two days, the father contacted her asking the paternal aunt if she would consider taking CLIENT 2 back into her care so that CLIENT 2 could finish the school year. Father admitted to the paternal aunt that if the children were moved after the school year, as opposed to immediately, he would have been better prepared for them. He could have obtained beds for the girls and enrolled them all in school. More concerning is the father stated that CLIENT 2 spent the entire weekend crying in the closet because she was concerned about school. Had the caseworker invited the paternal relatives and minors’ attorney to the meeting, many of these concerns could have been addressed prior to moving the children.

 Concerned how the children felt about reunifying with their parents, the minors’ attorney visited the children immediately in their new apartment. In speaking with the children they stated that they are happy to be placed with their parents. However, they expressed that they wish they knew ahead of time they would be returning to their parents.

The children were shocked when they discovered they were going home that day. Unfortunately, because the caseworker failed to inform the children or their attorney of the Department’s intention to reunify, the minors did not have an opportunity to say goodbye to teachers or friends, pack all their belongings, and emotionally prepare themselves for their change in placement. Essentially, the children came home from school packed a few things and were sent to live with their parents after being out of the home for almost a year.

 The Department has failed to recognize the impact such an abrupt move could have on these children and the paternal relatives. For the last year, these relatives have cared for these children without any financial assistance from the Department. Despite their commitment to these children, the Department did not have the decency to notify the family ahead of time the intention to reunify the family until the paternal aunt contacted the caseworker the day of the move.

1. **The Department of Family Services is in Contempt of Court.**

 This Court has the authority to find that the Department of Family Services is in contempt of court. N.R.S. 22.010 states that disobedience or resistance to any order of the court constitutes contempt. As the facts set forth above, the Department of Family Services has disobeyed a specific court order. Pursuant to N.R.S. Chapter 22, this Court can enforce an order by subsequent contempt proceedings. This Court may impose a fine not exceeding $500, or imprisonment not exceeding 25 days, or both on a person determined guilty of contempt.[[1]](#footnote-1)

 On Date, District Court Judge, Judge, signed an Order stating the Department of Family Services is to notify the subject minors’ attorney, Attorney, of any change in placement, three (3) business days prior to the change in placement, absent an emergency. *See Exhibit “A”.* In addition, the Order states that the Department of Family Services provide reasonable notice and invitation to participate in any meetings regarding the subject minors that will involve team discussions or decisions relating to placement. *See Exhibit “A”.*

 In the case at hand, no conditions existed which necessitated the move on an emergency basis. Further, when the minors’ attorney asked the caseworker why she was not notified of the reunification meeting, the caseworker stated she did not have time to contact the attorney. However, in speaking with the mother, the meeting was initially scheduled for Thursday, Date but then rescheduled to Friday, Date in the afternoon. Additionally, the caseworker was informed by the paternal aunt at approximately 11:30am on Friday morning, that the minors’ attorney must not be aware of the reunification plans. The caseworker responded she would contact the attorney.

 The minors’ attorney was available all day Friday afternoon and did not receive an invitation to the meeting or given notice of the intent to move her clients. It seems apparent that the caseworker purposely held the meeting without the desire to include the minors’ attorney. Obviously there had been several conversations between the caseworker and the parents in an attempt to schedule a reunification meeting. Yet, the caseworker failed to include the minors’ attorney in these discussions despite a court order. When the minors’ attorney questioned why she was not included at the reunification meeting, the caseworker responded she did not have time to give notice. Additionally, the caseworker stated that she had the support of two supervisors at the meeting and if minors’ attorney had a problem with the decision made by the Department, then minors’ attorney could inform the Judge next week at the review hearing.

 The order of the court was designed to prevent the exact situation that has happened here. Had the required notice been provided, the parties could have come together prior to the move to discuss the transition plan for the children. Further, had the caseworker informed the minors’ attorney that reunification was to occur on Friday, any concerns or reservations by the children could have been somewhat mitigated, simply as a result of speaking with their attorney beforehand. Most importantly, had the caseworker given proper notice to the minors’ attorney, any emotional trauma could have been prevented or alleviated.

Consequently, Caseworker, the caseworker in charge of the case, Supervisor, the supervisor who approved these actions, and any other person who authorized these actions should be held in contempt of court for its disregard of this Court’s order.

**IV.** **REQUEST FOR RELIEF**

It is hereby respectfully requested that:

1. Caseworker, Supervisor, and any other person who authorized the change in placement for CLIENT 1, CLIENT 2, and CLIENT 3 without providing prior notice to the minors’ attorney at least three (3) business days prior to the anticipated move as ordered by the Court, be held in contempt of court;

2. Caseworker, Supervisor**,** and any other person who authorized the reunification of CLIENT 1, CLIENT 2, and CLIENT 3 with their parents, without giving proper notice and invitation to minors’ attorney to the reunification CFT meeting as ordered by the Court, be held in contempt of court;

1. Caseworker, Supervisor, and any other person found in contempt of court be assessed the full penalty of $500.
2. That a new caseworker be assigned to CLIENT 1, CLIENT 2, and CLIENT 3 immediately.

Respectfully submitted this Day day of Month, Year.

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

ATTORNEY, ESQ.

Nevada Bar No.: Bar #

 Address

**AFFIDAVIT OF COUNSEL**

***CERTIFICATE OF SERVICE***

 I HEREBY CERTIFY that on the Day day of Month, Year, I served the foregoing **MOTION FOR AN ORDER TO SHOW CAUSE WHY THE DEPARTMENT OF FAMILY SERVICES SHOULD NOT BE HELD IN CONTEMPT OF COURT FOR FAILING TO COMPLY WITH THIS COURT’S WRITTEN ORDER ON DATE** by the Court’s electronic system (EFS E-File & Serve) and/or depositing in the U.S. Mail in a sealed envelope with first-class postage fully prepaid thereon, to the following:

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

 An employee of

 Firm

Exhibit “A”

1. N.R.S. 22.100. [↑](#footnote-ref-1)