**PMOT**

ATTORNEY CONTACT INFO

Attorney for XXX

In conjunction with Legal Aid Center of Southern Nevada Pro Bono Project

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 )

 )

**CLIENT 2,** )

DOB: Date of Birth )

 )

**CLIENT 3,** )

DOB: Date of Birth )

 )

**CLIENT 4,** )

DOB: Date of Birth )

 )

 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 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: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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**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 (hereinafter “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, 159A, 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 domiciled, 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 importance of maintaining sibling relationships, especially for youth in foster care. It is for these reasons, the Nevada Legislature has passed legislation that supports and protects sibling relationships.

The sibling relationship is one of the most important relationships that a child will develop in life. As such, the Legislature created a presumption that it is in a child’s best interest to be placed together with his siblings.

N.R.S. 432B.550 provides in pertinent part:

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

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

(b) Preference must be given to placing the child in the following order:

(1) With any person related within the fifth degree of consanguinity to the child or a fictive kin, and who is suitable and able to provide proper care and guidance for the child, regardless of whether the relative or fictive kin resides within this State.

(2) In a foster home that is licensed pursuant to chapter 424 of NRS. (emphasis added)

Furthermore, the Nevada Legislature also mandates that visitation be encouraged during the times siblings are in separate homes if the presumption is rebutted. N.R.S. 432B.580 provides in pertinent part 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:

. . .

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

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

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

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

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

(I) The reasons why the child is not placed together with the siblings; and

**(II) A plan for the child to visit the siblings, which must be presented at the first hearing to occur after the siblings are separated and approved by the court. The plan for visitation must be updated as necessary to reflect any change in the placement of the child or a sibling, including, without limitation, any such change that occurs after the termination of parental rights to the child or a sibling or the adoption of a sibling.**

. . .

4. After a plan for visitation between a child and the siblings of the child 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. Upon the issuance of such an order, the court shall provide each sibling of the child with the case number of the proceeding for the purpose of allowing the sibling to petition the court for visitation or enforcement of the order for visitation. If a person refuses to comply with or disobeys an order issued pursuant to this subsection, the person may be punished as for a contempt of court. (emphasis added)

Finally, the Legislature requires that courts conduct hearings to determine whether to include visitation orders for siblings in the final adoption decrees.

N.R.S. 127.2827 states:

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 any order for visitation with a sibling of the child that was issued pursuant to NRS 432B.580 and the court must conduct a hearing to determine whether to include an order for visitation with a sibling in the decree of adoption.

2. The court shall incorporate an order for visitation provided to the court pursuant to subsection 1 into the decree of adoption unless, not later than 30 days after notice of the filing of the petition for adoption is provided to all legal custodians or guardians of the child who are required to be provided with such notice pursuant to [NRS 127.123](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000363&cite=NVST127.123&originatingDoc=NAB1FFF20D93F11EBBA54A693960DFA90&refType=LQ&originationContext=document&transitionType=DocumentItem&ppcid=33c55d1039934e8486d854420d4e38a4&contextData=(sc.UserEnteredCitation)), 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 petitions the court to exclude the order of visitation with a sibling from the decree of adoption or amend the order for visitation before including the order in the decree of adoption.

. . .

4. 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. If a petition is submitted pursuant to subsection 2, the court must not enter a decree of adoption until the court has made a determination concerning visitation with a sibling.

 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.

 In the case at hand, 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 or placed under a guardianship.

**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 CONTACT INFO

In conjunction with Legal Aid Center of Southern Nevada Pro Bono Project

**AFFIDAVIT OF COUNSEL**

***CERTIFICATE OF SERVICE***

 I HEREBY CERTIFY that on the Day day of Month, Year, I served the foregoing **MOTION FOR SIBLING VISITATION AND TO INCORPORATE VISITATION ORDER INTO ANY ADOPTION DECREE AND/OR GUARDIANSHIP ORDER** 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