

<p>[DISTRICT/JUVENILE] COURT, [NAME OF] COUNTY, COLORADO [Street address] [City], Colorado [zip code]</p>	
<p>THE PEOPLE OF THE STATE OF COLORADO</p> <p>In the Interest of:</p> <p>[NAME(S)],</p> <p>[Child(ren/Youth)],</p> <p>And Concerning,</p> <p>[NAME(S)],</p> <p>Respondent[s].</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>[Name] Guardian <i>ad litem</i> for the Child[ren/Youth Name(s)] [Street address] [City], Colorado [zip code] Phone: [###-###-####] Fax: [###-###-####] E-mail: [aaa@bbb.ccc] [#####]</p> <p style="text-align: right;">Atty. Reg.#:</p>	<p>Case Number: [##JV##]</p> <p>Division: [##]</p>
<p style="text-align: center;">GUARDIAN AD LITEM FORTHWITH MOTION FOR FAMILY TIME BETWEEN THE [CHILD/REN/YOUTH NAME(S)] AND THE RESPONDENT[S NAME(S)]</p>	

[Name], Guardian *ad litem* (“GAL”) for the [Child/ren/Youth Name(s)], respectfully requests that this Court order family time between the [Children/Youth Name(s)] and the Respondent[s Name(s)] on a forthwith basis. In support, this GAL states the following.

DUTY TO CONFER

1. This GAL conferred with [Child/ren/Youth Name(s)], the [City/County] Attorney [Name], and [insert other applicable roles and names] about this Motion.

2. [Name(s)] support[s] this Motion.
3. [Name(s)] [does/do] not support this Motion.
4. [Name(s)] [has/have] not responded to this GAL's attempts to confer.

FACTS

5. This case involves [# Children/Youth]. The [Child/Youth Name] is [#] years old; [he/she] is placed [where]. The [Child/Youth Name] is [#] years old; [he/she] is placed [where]. The [Child/Youth Name] is [#] years old; [he/she] is placed [where].
6. On [date], this Court ordered family time between the [Child/ren/Youth Name(s)] and the Respondent[s Name(s)] ("Respondent/Respondents") [when and where]. *[Provide other persuasive elements of that order.]*
7. *[Provide persuasive facts about the status/quality of family time.]*
8. On [date], without notice to this GAL, the [Name] County Department of Human Services ("Department") prohibited family time due to the Department's concerns related to COVID-19.
9. This GAL spoke with the [Child/ren/Youth], the caregivers of the [Child/ren/Youth], and the Respondent[s]. Neither the [Child/ren/Youth] nor the Respondent[s] have been diagnosed with COVID-19, displayed any symptoms of COVID-19, or have had any known exposure to individuals who have tested positive for COVID-19. These statements also apply to all individuals residing in the homes of the [Child/ren/Youth] and the Respondent[s]. *[Provide additional details regarding anyone else you may have checked with, such as the doctor/pediatrician of a child/youth.]*
10. In addition to prohibiting family time, the Department has not provided an alternative method of contact between the [Child/ren/Youth] and the Respondent[s]. The

[Child/ren/Youth does not/do not] have access to a telephone, tablet, or other electronic device [he/she/they] could use to speak with [the Respondent(s)], see [the Respondent(s)] and be seen by with [the Respondent(s)], or communicate with [the Respondent(s)] in writing via text message or electronic mail.

11. Family time is very important to for *this family*. *[Provide details regarding the importance of sibling placement or contact. For example, “Ten-year-old Marissa is worried about her parents. She is scared about losing her mother to COVID-19 (which she refers to as “the disease”) just like she lost her “gamma” to Cancer. She is begging her foster parent for permission to check-in on her mother daily to make sure her mother okay. Marissa is also feeling very alone and lonely without school, and with living so far away from Pueblo, her hometown where she grew up with her family. She needs to speak with her mother to feel part of something – to feel part of a family.]*
12. *[Provide additional details regarding the Department’s actions/your concerns/etc.]*

LAW

13. The Colorado Rules of Civil Procedure govern all Dependency and Neglect matters which are not addressed by the Colorado Rules of Juvenile Procedure or Title 19 of the Colorado Revised Statutes (“the Colorado Children’s Code”). Although neither the Colorado Rules of Juvenile Procedure nor the Colorado Children’s Code addresses forthwith motions, Colorado Rule of Civil Procedure 121 authorizes such motions. C.R.C.P. 121 § 1-15:1 ¶ 4 (2019) (“Any motion requiring immediate disposition shall be called to the attention of the courtroom clerk by the party filing such motion.”); Comment 3 to 121 § 1-15:1 ¶ 4 (2019) (“Any matter requiring immediate action should be called to the attention of the courtroom clerk by the party filing a motion for forthwith disposition.

Calling the urgency of a matter to the attention of the court is a responsibility of the parties. The court should permit a forthwith determination.”).

14. One of the overarching purposes of the Colorado Children’s Code is to “preserve and strengthen family ties whenever possible.” § 19-1-102(1)(b), C.R.S. (2019).
15. Family time between parents and children/youth in out-of-home placement must be available and provided by departments, as determined necessary and appropriate by individual case plans. § 19-3-208(2)(b)(IV), C.R.S. (2019).
16. The health and safety of children/youth are the paramount concerns in determining whether family time is appropriate. § 19-1-103(89), C.R.S. (2019). Questions concerning the health and safety of children/youth are matters entrusted to the sound discretion of the trial court. *People ex rel. K.B.*, 369 P.3d 822, 830 (Colo. App. 2016).
17. Absent safety concerns, a parent is entitled to face-to-face visitation, and correspondence between parents and children does not constitute visitation. *People ex rel. D.G.*, 140 P.3d 299, 302 (Colo. App. 2006). Moreover, trial courts may not delegate the determination of entitlement to visitation to caseworkers, therapists, and others. *Id.*

ARGUMENT

This GAL respectfully requests that this Court immediately order the Department to provide family time.

18. When the Department prohibited the family time, the Department violated this Court’s [date] order requiring such placement and the provisions of the Children’s Code stated above.
19. In addition to violating this Court’s order and provisions of the Children’s Code, the Department’s decision to prohibit family time was unnecessary. Neither the [Chid/ren/Youth] nor the parent[s] have been diagnosed with COVID-19, displayed

symptoms of COVID-19, or had any known exposure to individuals who have tested positive for COVID-19. The same holds true for all individuals residing with the [Child/ren/Youth] and the Respondent[s].

20. In addition to the above circumstances and considerations, in-person family time is critical for *this family*. [Provide details regarding the importance of family time to this family.]

If this Court does not immediately order the Department to provide in-person family time, this GAL respectfully requests that this Court immediately order the Department to provide the [Child/ren/Youth] means for frequent communication with the Respondent[s].

21. The Centers for Disease Control and Prevention (“CDC”) comments on the harsh emotional realities of the COVID-19 outbreak by indicating, “The outbreak of [...] COVID-19 may be stressful for people. Fear and anxiety about a disease can be overwhelming and can cause strong emotions in adults and children.” CDC, *COVID-19: Daily Life & Coping*, available at <https://www.cdc.gov/coronavirus/2019-ncov/prepare/managing-stress-anxiety.html> (last visited April 20, 2020).
22. The CDC has also reported that children/youth and individuals with mental health conditions may respond more strongly to the stress of crises. *Id.* Such stress can include fear/worry about one’s health as well as the health of the individuals one loves, changes in eating/sleeping patterns, difficulty eating/concentrating, worsening of chronic health issues, worsening of mental health conditions, and/or increased use of alcohol, tobacco, or other drugs. *Id.*
23. The CDC indicates that children and teens react to COVID-19, in part, based on what they see from the adults around them. <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html> (last visited April 20, 2020). Common

changes in children/youth can include excessive crying/irritation in younger children, regression, excessive worry/sadness, unhealthy eating/sleeping habits, irritability/acting out behaviors in teens, poor school performance/avoiding school, difficulty with attention/concentration, avoidance of activities enjoyed in the past, unexplained headaches/pain; and use of alcohol, tobacco, or other drugs. *Id.*

24. One can only imagine how the COVID-19 outbreak is impacting America's children/youth *with D&N cases* – children/youth who may be residing outside of their family homes and who may have already experienced a loss, stress, anxiety, and fear in their short lives. See U.S. Department of Health and Human Services, *Adverse Childhood Experiences (ACEs)*, available at <https://www.childwelfare.gov/topics/preventing/preventionmonth/resources/ace/> (last visited April 20, 2020) (explaining that ACEs are traumatic events occurring before age 18 including abuse and neglect, as well as parental mental illness, substance abuse, divorce, incarceration, and domestic violence; by definition, children in the child welfare system have suffered at least one ACE; and recent studies show that children in the child welfare system are far more likely to have experienced at least four ACEs). See also *Coronavirus Is Isolating Some Kids in Protective Care From Parents and Services*, available at <https://www.npr.org/2020/03/21/817991076/coronavirus-is-isolating-some-kids-in-protective-care-from-parents-and-services> (last visited April 20, 2020); *Foster care children at risk during COVID-19 pandemic* <https://www.news5cleveland.com/news/coronavirus/foster-care-children-at-risk-during-covid-19-pandemic> (last visited April 20, 2020).

25. One of the self-support methods recommended by the CDC is connecting with others. CDC, *Manage Anxiety and Stress*. Similarly, the National Child Traumatic Stress Network (“NCTSN”) recommends that people “seek support and continued connections from friends and family by talking to them on the telephone, texting, or communicating through email or social media.” NCTSN, *Parent/Caregiver Guide to Helping Families Cope With the Coronavirus Disease 2019 (COVID-19)*, https://www.nctsn.org/sites/default/files/resources/fact-sheet/outbreak_factsheet_1.pdf (last visited April 20, 2020).
26. In a recent letter addressed to child welfare and judicial leaders regarding the COVID-19 crisis, the Federal Department of Human Services Administration for Children and Families reiterated the timeframes required for many D&N proceedings, findings, and orders and encouraged courts to make case-by-case determinations about hearing dates:

CB is also aware of instances where judges have issued blanket orders suspending or drastically reducing family time (visitation) between children in foster care and parents, sometimes indefinitely. Family time is important for child and parent well-being, as well as for efforts toward reunification. Family time is especially important during times of crisis. CB strongly discourages the issuance of blanket orders that are not specific to each child and family that suspend family time; doing so is contrary to the well-being and best interest of children, may contribute to additional child trauma, and may impede the likelihood of reunification. With respect to family time, CB urges all courts, CIPs, and administrative offices of the courts to:

- Discourage or refrain from issuing blanket court orders reducing or suspending family time;
- Be mindful of the need for continued family time, especially in times of crisis and heightened anxiety;
- Remain cognizant that interruption or cessation of family time and parent-child contact can be traumatic for children;
- Continue to hold the child welfare agency accountable for ensuring that meaningful, frequent family time continues;
- Become familiar with ways in which in-person visitation may continue to be held safely;

- Encourage resource parents to provide transportation to, and supervision of, family time in order to limit additional people having to be involved to limit possible exposure to COVID-19;
- Consider the use of family members to supervise contact and to engage in visitation outdoors, where feasible;
- Inquire whether parents and resource parents have access to cell phones and computers with internet access to ensure virtual connections where in-person family time is not possible;
- Encourage use of technology such as video conferencing, phone calls and other readily available forms of communication to keep children, parents, and siblings connected;
- Ask parents their preference when deciding how to proceed with family time as some parents may prefer to meet via technology due to health concerns; and
- Consider whether children may be reunified with their parents in an expedited manner if the child's safety would not be jeopardized.

Federal Department of Health & Human Services Administration on Children, Youth and Families, *Covid-19 Child Legal and Judicial* Letter, 3, available at https://www.acf.hhs.gov/sites/default/files/cb/covid_19_childlegalandjudicial.pdf, (last visited April 20, 2020). Emphasis added.

27. This GAL is very concerned about how today's COVID-19-related realities and stressors, in combination with the lack of family time, are impacting the [Child/ren/Youth]. *[Provide details.]*
28. As a result of these and other concerns, this GAL urges this court to order the Department to immediately arrange methods for the [Child/ren/Youth] to communicate with the parent[s] via videophone, email, and text message.
29. This GAL also urges this Court to order the Department to immediately make arrangements so this GAL can communicate with the [Child/ren/Youth] at least [how often per week]. *[Explain why that frequency is necessary.]*
30. *[Include any additional arguments and/or requests].*

WHEREFORE, this GAL respectfully requests that this Court order family time as outlined above.

RESPECTFULLY submitted this [## day of Month, year].

[Name]
GAL

CERTIFICATE OF DELIVERY OR MAILING

I hereby certify that a true and correct copy of this Guardian *ad Litem*'s Motion for Family Time Despite the Department's COVID-19 Concerns was hand-delivered, sent by email, or sent in the U.S. mail, first-class, postage prepaid, this [## day of Month, year], duly addressed as follows:

[Name(s) of individual(s) the document was sent to, with address(es) where the document was sent.]

[Name]

<p>[DISTRICT/JUVENILE] COURT, [NAME OF COUNTY], COLORADO [Address] [City], Colorado [zip code]</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <p>Case Number: [##JV##] Division: [##]</p>
<p>THE PEOPLE OF THE STATE OF COLORADO</p> <p>In the Interest of:</p> <p>[NAME(S)],</p> <p>[Child(ren/Youth)],</p> <p>And Concerning,</p> <p>[NAME(S)],</p> <p>Respondent[s].</p>	
<p>ORDER REGARDING GUARDIAN AD LITEM’S MOTION FOR FAMILY TIME DESPITE THE DEPARTMENT’S COVID-19 CONCERNS</p>	

THIS COURT, having reviewed the Guardian *ad Litem*’s Motion for Family Time Despite the Department’s COVID-19 Concerns (“Motion”), and the Court file, having heard any evidence presented and considered the statements of the parties and their counsel, and being fully advised, FINDS:

1. This Court has jurisdiction over the subject matter of this case and the parties to this case.
2. The Motion is well-founded and supported by the evidence.
3. On [date], this Court ordered family time [when and where].
4. *[Provide persuasive facts about the status/quality of family time.]*
5. On [date], the [Name] County Department of Human Services (“Department”) prohibited family time due to the Department’s concerns related to COVID-19.

6. Neither the [Child/ren/Youth] nor the parent[s] have been diagnosed with COVID-19, displayed any symptoms of COVID-19, or had any known exposure to individuals who have tested positive for COVID-19.
7. When the Department prohibited family time, the Department violated this Court's [date] order requiring family time, as well as provisions of the Colorado Children's Code requiring family time.
8. In addition to violating this Court's order and provisions of the Colorado Children's Code, the Department's decision to prohibit family time was unnecessary. Neither the [Child/ren/Youth] nor the parent[s] have been diagnosed with COVID-19, displayed symptoms of COVID-19, or had any known exposure to individuals who have tested positive for COVID-19.
9. *[Provide additional necessary findings.]*

THEREFORE, THIS COURT ORDERS:

1. The Motion is granted.
2. The Department shall immediately provide in-person family time.

AND/OR

Within seven days of this order, the Department shall provide the [Child/ren/Youth] means to communicate with the parent[s] via videophone, email, and text.

3. *[Provide any additional necessary orders.]*

DONE this _____ day of _____, 20_____.

BY THIS COURT:

JUDGE/MAGISTRATE [NAME]

This Court returned a true and correct signed copy of this Order to the Guardian *ad litem* for distribution of this Order to the parties via the below Certificate of Delivery or Mailing.

[Name]

CERTIFICATE OF DELIVERY OR MAILING

I hereby certify that a true and correct copy of this Order was hand-delivered, sent by email, or sent in the U.S. mail, first-class, postage prepaid, this [## day of Month, year], duly addressed as follows:

[Name(s) of individual(s) the document was sent to, with address(es) where the document was sent.]

[Name]