

**[DISTRICT/JUVENILE] COURT, [NAME OF] COUNTY,
COLORADO**

[Street address]

[City], Colorado [zip code]

[This caption is for a D&N case.]

THE PEOPLE OF THE STATE OF COLORADO

In the Interest of:

[NAME(S)],

[Child(ren/Youth)],

And Concerning,

[NAME(S)],

Respondent[s].

[This caption is for a JD case.]

THE PEOPLE OF THE STATE OF COLORADO

In the Interest of:

[NAME],

JUVENILE,

And Concerning,

[NAME(S)],

Respondent[s].

▲ COURT USE ONLY ▲

[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] [#####]	Case Number: [##JV/JD##] Division: [##] Atty. Reg.#:
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FORTHWITH MOTION FOR CONTACT BETWEEN THE [CHILD/REN/YOUTH NAME(S)] AND THEIR GUARDIAN AD LITEM

[Name], Guardian *ad litem* (“GAL”) for the [Child/ren/Youth Name(s)], respectfully requests that this Court immediately authorize contact between the [Child/ren/Youth] (“Child/ren/Youth”) and this GAL, for the reasons outlined below and pursuant to the authority cited below.

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. On [date], this Court issued an order appointing this GAL to represent the best interests of the [Child/ren/Youth]. That order required this GAL to have [in-person OR what kind of] contact with the [Child/ren/Youth]. *[Provide other persuasive elements of the appointment order.]*

6. On [date], in violation of this Court's [date] Order and without notice to this GAL, the [Name] County Department of Human Services ("Department") prohibited in-person contact between the [Child/ren/Youth] and this GAL, due to the Department's concerns related to COVID-19.
7. In addition to prohibiting in-person contact between the [Child/ren/Youth] and this GAL, the Department has not provided an alternative method of contact between the [Child/ren/Youth] and this GAL. The [Child/ren/Youth does not/do not] have access to a telephone, tablet, or other electronic device [he/she/they] for speaking with this GAL, seeing this GAL and be seen by this GAL, or communicating with this GAL in writing via text message or electronic mail.
8. *[Use this paragraph in motions requesting in-person contact.]* This GAL spoke with the [Child/ren/Youth and his/her/their] caretaker[s]. The [Child/ren/Youth] and the individuals residing with the [Child/ren/Youth] are healthy. Neither the [Child/ren/Youth] nor anyone residing with the [Child/ren/Youth] has been diagnosed with COVID-19, displayed any symptoms of COVID-19, or had any known exposure to individuals who tested positive for COVID-19. *[Provide additional details regarding anyone else you may have spoken with about medical status, such as doctors/pediatricians.]*
9. *[Use this paragraph in motions requesting in-person contact.]* This GAL and the people residing with this GAL are healthy. Neither this GAL nor anyone residing with this GAL has been diagnosed with COVID-19, displayed any symptoms of COVID-19, or had any known exposure to individuals who tested positive for COVID-19.

10. This GAL is concerned about not having [in-person OR any OR a particular type of] contact with the [Child/ren/Youth]. *[Provide case-specific details explaining why you are concerned. If telephone or videophone contact is available, why are those methods of communication insufficient for you to conduct your independent investigation? Do you have concerns about placement or services the Child/Youth may need during the COVID-19 outbreak? Is the Child/Youth in a new placement or a placement that has given notice? Are you the only professional who has been a constant figure in the child's life?]*
11. *[Provide additional details regarding the Department's actions/your concerns/etc.]*

LAW

12. The Colorado Rules of Civil Procedure govern all Dependency and Neglect (“D&N”) matters unaddressed 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.”).
13. GALs represent the best interests of children/youth. §§ 19-1-103(59) and 19-3-203(3), C.R.S. (2019); CJD 04-06(V)(B) (2019). GALs participate in D&N cases as parties. §

19-1-111(3), C.R.S. (2019). In all cases, the GAL must comply with the provisions of CJD 04-06. § 19-1-111(6), C.R.S.

14. Integral to a GAL's representation of children's/youth's best interests is a GAL's independent investigation of the best interests of children/youth. § 19-3-203(3), C.R.S.; § 19-1-111(6); CJD 04-06(V)(D)(4); Additional Commentary to CJD 04-06(V)(D)(4); CJD 04-06(V)(E)(1-3); Commentary to CJD 04-06(V)(E)(1-3).
15. Contact/communication with and observation of, the children/youth whose best interests a GAL represents are critical components of a GAL's independent investigation. No later than 30 days following a GAL's appointment in a D&N case, a GAL must personally conduct an in-person meeting with the child/youth, interview the child/youth (where developmentally appropriate), and observe the child/youth with the child's/youth's caregivers in the child's/youth's placement. CJD 04-06(V)(D)(4). Upon appointment in a juvenile delinquency case, a GAL must personally conduct an in-person meeting with the child/youth and interview the child/youth. CJD 04-06(V)(E)(1). Such interview must occur as soon as possible, given the tight timeframes in juvenile delinquency and/or direct file proceedings. Commentary to CJD 04-06(V)(E)(1). Where the child/youth is in detention, the GAL must make diligent efforts to meet the child/youth at the detention facility as soon as possible, but no later than seven days after appointment. *Id.*
16. Additional elements of a GAL's investigation in D&N cases require in-person contact. GALs or their qualified staff must personally meet with placement providers. CJD 04-06(V)(D)(4)(b). Where possible, GALs must meet with proposed placement providers and observe the child's/youth's interactions with such providers. *Id.* With consent of counsel, GALs must personally interview respondent parents. CJD 04-06(V)(D)(4)(c).

GALs or their staff must make diligent efforts to observe child/youth interactions with respondent parents. *Id.* No later than 30 days following a change in a child's/youth's placement, a GAL must personally conduct an in-person meeting with the child/youth, observe the child/youth with the child's/youth's caregiver in the child's/youth's placement. CJD 04-06(V)(D)(5)(a).

ARGUMENT

Communication Between the [Child/ren/Youth] and his GAL Is More Critical Now Than Ever.

17. 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).
18. The CDC reports that children and teens and individuals with mental health conditions and substance use problems may respond more strongly to the stress of this crisis. *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.*
19. The CDC warns individuals with mental health conditions and/or substance abuse issues as follows:

People with preexisting mental health conditions should continue with their treatment and be aware of new or worsening symptoms. Additional

information can be found at the Substance Abuse and Mental Health Services Administration (**SAMHSAexternal icon**) website.

<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html> (last visited April 20, 2020). Bold in original.

20. The CDC indicates that children and teens react to COVID-19, in part, based on what they see from the adults around them. *Id.* 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.*
21. 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).

22. 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 importance of D&N attorneys during COVID-19:

[The Children’s Bureau] believes that justice requires that parents and children continue to be able to meet, speak, and stay in frequent communication with their attorneys. Therefore, we urge all attorneys, courts, Court Improvement Programs (CIPs) and administrative offices of the courts to work together to ensure that parents, children, and youth are well represented and able to participate in all proceedings in which judicial determinations are made, whether they are conducted in-person or virtually. Similarly, we expect that all parties will continue to receive timely notice of all proceedings, as required by the Act. States and courts are reminded that hearings and notices must be accessible to limited English proficient individuals and individuals with disabilities, in accordance with Federal civil rights laws. CB urges all attorneys to keep in close contact with their clients, in any way they can, and to bring urgent issues to the attention of the courts and all parties.

Federal Department of Health & Human Services Administration on Children, Youth and Families, *Covid-19 Child Legal and Judicial Letter, 2*, available at

https://www.acf.hhs.gov/sites/default/files/cb/covid_19_childlegalandjudicial.pdf, (last visited April 20, 2020). Emphasis added.

23. Access to counsel was also championed by a joint statement of organizations indicating the following:

Access to counsel and CASAs for young people and parents must be preserved. This is especially true for youth in congregate care settings who may be particularly isolated during this time. Because effective, zealous representation and advocacy moves cases forward, improves outcomes, and remains an ethical mandate, no attorney should be barred from seeing

their client. Where medically recommended, virtual and social distancing accommodations can be made to ensure safe, confidential communications.

Children's Advocacy Institute, Children's Rights, Juvenile Law Center, National Association of Counsel for Children, National Center for Youth Law, Youth Law Center, *Joint Statement on Child Welfare Courts During a Public Health Crisis: Access to Justice and Advocacy are Critical Anchors During Uncertain Times* (March 31, 2020), 1, available at https://cdn.ymaws.com/www.naccchildlaw.org/resource/resmgr/news_items/joint_policy_statement_final.pdf (last visited April 20, 2020).

24. The ever-evolving situation and increased stressors caused by the COVID-19 outbreak, render GAL communication with children/youth and GAL investigations of children's/youth's placement and services needs more important now than ever.
25. This is particularly true for this GAL and [this/these Child/ren/Youth.] *[Provide case-specific details explaining why contact between you and this/these Child/ren/Youth is so important. See paragraph 10 for helpful facts.]*

This GAL Respectfully Requests that this Court Immediately Authorize In-Person Contact Between the [Child/ren/Youth] and this GAL.

26. The Department's decision to prohibit in-person contact between the [Child/ren/Youth] and this GAL unnecessarily infringes on this GAL's obligations pursuant to the Colorado Children's Code, Chief Justice Directive 04-06, and this Court's [date] order appointing this GAL to investigate and represent the best interests of the [Child/ren/Youth].
27. The CDC is neither requiring nor recommending that *all* individuals quarantine at *all* times. CDC, *Coronavirus Disease 2019 (COVID-19): How to Protect Yourself*, available at <https://www.cdc.gov/coronavirus/2019-ncov/prepare/prevention.html> (last visited

March 18, 2020). Far from such generalities, the CDC is recommending that people stay home *if they are sick*, avoid *close contact with people who are sick*, and *put a distance between themselves and others* if COVID-19 is spreading in the community. *Id.*

28. In light of the CDC's statements, in-person contact remains in the best interests of the [Child/ren/Youth]. Neither the [Child/ren/Youth] nor this GAL are sick or have been in close contact with people are sick. More specifically, nether the [Child/ren/Youth] nor the GAL have been diagnosed with COVID-19, displayed any symptoms of COVID-19, or had any known exposure to individuals who tested positive for COVID-19. The same holds true for the individuals residing in the homes of the [Child/ren/Youth] and this GAL. Moreover, neither the [Child/ren/Youth] nor this GAL have any intention of being in close proximity of one another if we are permitted to have in-person contact.

If this Court Does Not Immediately Authorize In-Person Contact Between the [Child/ren/Youth] and this GAL, this GAL Respectfully Requests that this Court Immediately Order the Department to Provide Means for Frequent Communication Between the [Child/ren/Youth] and this GAL.

29. The [Child/ren/Youth] and this GAL must be able to communicate via means such as videophone, telephone, email, and text message. Videophone is essential to this GAL's investigation, as it will enable this GAL to see/hear the [Child/ren/Youth] and see the [Child's/Children's/Youth's/Youths'] environment. Videophone will also aid the quality of communications between this GAL and the [Child/ren/Youth], as it will enable the GAL and the [Child/ren/Youth] to both see and hear one another.
30. In addition to the above means of communication, the [Child/ren/Youth] and this must be permitted to communicate with this GAL [*how often. So many times per week? Upon the request of the Child/ren/Youth and this GAL?*]

WHEREFORE, this GAL respectfully requests that this Court authorize contact between the [Child/ren/Youth] and this GAL 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 Forthwith Motion for Contact Between the [Child/ren/Youth] and the Guardian *Ad Litem* 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]

[DISTRICT/JUVENILE] COURT, [NAME OF COUNTY], COLORADO

[Address]

[City], Colorado [zip code]

[This caption is for a D&N case.]

THE PEOPLE OF THE STATE OF COLORADO

In the Interest of:

[NAME(S)],

[Child(ren/Youth)],

And Concerning,

[NAME(S)],

Respondent[s].

[This caption is for a JD case.]

THE PEOPLE OF THE STATE OF COLORADO

In the Interest of:

[NAME],

JUVENILE,

And Concerning,

[NAME(S)],

Respondent[s].

▲ COURT USE ONLY ▲

Case Number: [##JV/JD##]

Division: [##]

**ORDER ON FORTHWITH MOTION FOR CONTACT BETWEEN THE
[CHILD/REN/YOUTH NAME(S)] AND THE GUARDIAN AD LITEM**

THIS COURT, having reviewed the Forthwith Motion for Contact Between the [Child/ren/Youth Name(s)] and the Guardian *ad Litem* (“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 issued an order appointing this GAL to represent the best interests of the [Child/ren/Youth Name(s)]. That order required this GAL to have [in-person OR what type of] contact with the [Child/ren/Youth (Name(s))] (“Child/ren/Youth”). *[Provide other persuasive elements of the appointment order.]* [In-person and other] contact between the GAL and the [Child/ren/Youth] is also required by the Colorado Children’s Code and Chief Justice Directive 04-06.
4. On [date], without notice to this GAL, the [Name] County Department of Human Services (“Department”) prohibited the GAL from having in-person contact with the [Child/ren/Youth] due to the Department’s concerns related to COVID-19.
5. The Department’s decision to prohibit in-person contact between the [Child/ren/Youth] and this GAL unnecessarily infringes on this GAL’s obligations pursuant to the Colorado Children’s Code, Chief Justice Directive 04-06, and this Court’s [date] order appointing this GAL to investigate and represent the best interests of the [Child/ren/Youth].

6. Neither the [Child/ren/Youth] nor the GAL have been diagnosed with COVID-19, displayed any symptoms of COVID-19, or had any known exposure to individuals who tested positive for COVID-19. The same holds true for the individuals residing with the [Child/ren/Youth] and this GAL.
7. [Use this finding in Motions for in-person contact.] Neither the [Child/ren/Youth] nor the GAL have any intention of being in close proximity if they are permitted to have in-person contact.
8. *[Provide additional necessary findings.]*

THEREFORE, THIS COURT ORDERS:

1. The Motion is granted.
2. The GAL shall have in-person access with the [Child/ren/Youth].

AND/OR

The Department shall provide the [Child/ren/Youth] means to communicate with the GAL via videophone, email, and text. The [Child/ren/Youth] shall be permitted to communicate with the GAL at the request of the [Child/ren/Youth] and/or the GAL, without limitation. *[Delete any means of communication that is prohibited by a court order or would not be in the best interests of the Child/ren/Youth. For example, children/youth who have committed sex offenses may not be permitted to have access to the internet.]* Additionally, the [Child/ren/Youth] shall be permitted to communicate with this GAL *[how often. So many times per week? Upon the request of the Child/ren/Youth and this GAL?]*

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]