

Responses to Discovery Served by Foster Parents

Responses on Behalf of Kai and Jasmyn

Motion for Protective Orders → If you have not already addressed it in a case management order (CMO) or through a motion for protective orders under CRCP 26(c), immediately file a forthwith motion for a protective order limiting the scope of the written discovery and the deposition. Make sure to clarify what the repercussions are for asking a question in a deposition outside of the scope of the protective order (e.g., deposition may be halted pending further court order).

Written Discovery Response → Once you have a protective order or CMO limiting discovery in place, you are in the world of typical civil litigation discovery objections.

- Objections
 - Relevance - Object to every question that's overbroad/irrelevant/etc.
 - Privilege - Object to providing any of your medical, educational, or therapeutic records on grounds of the physician/patient privilege for the medical documents, and relevance, and refuse to produce these without a court order.
- Come up with a narrative that you agree on, after talking with Dorothy and Kai, for the questions. Refer back to that narrative, and, when you admit the RFAs, include the caveat that you had no choice, and would have wanted to see Jasmyn more often.

Notice of Deposition Response → Again, you should have limited the time, location, subject, and duration of the deposition through your CMO or CRCP 26(c) motion for a protective order. Once you have done that, you are in the world of deposition prep.

- Before the deposition – prep your witness/the child. Use your judgment re how many times and for how long to prep your witness. Do NOT wait until the day of the deposition to prep your witness.
- During the deposition – Bring snacks, and take breaks. Do not let your witness get overtired or over hungry if you can avoid it. If the questions are beyond the scope of the protective order, stop the deposition, and/or get the judge on the phone.
 - →DO NOT LET A DEPOSITION RETRAUMATIZE THE CHILD.

Responses by Dorothy – NOT your client

- Counsel for Dorothy – Is there a way for Dorothy to get her own counsel as a special respondent to the proceeding?
- Discussions re Written Discovery – It is completely fair for you to provide Dorothy with a copy of your written discovery responses for the children (which will detail, for example, why you think she is the right choice), and for her to have those as a reference when she responds to her own written discovery.
- Discussions re Notice of Deposition –
 - Is a subpoena required? Perhaps, if she's not a special respondent.
 - Location and time – Because Dorothy takes care of Kai, your client, you have some standing to object to a deposition that is far away from her home (Grand Junction v. Denver) and goes to long.

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- → You have more power here because Dorothy takes care of Kai. As Kai's CFY, you can say it has to be in Grand Junction, at a time that doesn't conflict with her caretaking for Kai. Or perhaps by video, limited to 3 hours.
- Again, address these types of issues as much as possible in the CMO or protective orders.