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CIRCUIT COURT

STATE OF WISCONSIN BRANCH 18 MILWAUKEE COUNTY

IN THE INTEREST OF

Case No. 13TP
Branch

Children Under Eighteen Years of Age

RESPONDENT'S REQUEST FOR SUBSTITUTION OF JUDGE

Pursuant to sections48.29 and 801.58 of the Wisconsin Statutes, the Respondent, appearing by his attorney and reserving his right to challenge the court's jurisdiction, requests a substitution for the Honorable _____ as judge in the above entitled action.

Dated this ___ day of _____, 2013, in Wauwatosa, Wisconsin.

Respectfully Submitted,

_____

Attorney for the Defendant
State Bar No.

STATE OF WISCONSIN : CIRCUIT COURT : MILWAUKEECOUNTY
CHILDREN'S DIVISION

IN THE INTEREST OF

DEMAND FOR DISCOVERY
TPR

CHILD/CHILDREN UNDER EIGHTEEN YEARS OF AGE

CASE NO:
BRANCH NO:

TO: Assistant District Attorney
MilwaukeeCounty
Children's Court Center
10201 W. Watertown Plank Road
Wauwatosa, WI53226

PLEASE TAKE NOTICE that _____, parent of _____, by her attorney, _____, pursuant to sec. 48.293, Wis. Stats., and chapter 804, Wis. Stats., and subject to any jurisdictional objections, hereby demands the opportunity to inspect and copy the following:

1. All records, reports or memoranda and photographs relied upon by the assistant district attorney in preparation of the Petition for Termination of Parental Rights dated _____.

2. All records, reports, memoranda, evaluations and photographs prepared or kept by any person employed by the Milwaukee County Department of Social Services relevant to the TPR petition pending before the Honorable _____, including any psychiatric, psychological or medical records, evaluations, reports, letters or notes.

3. Any notes, letters, memoranda or writings prepared by the parent, children, social worker and retained by any person employed by the Milwaukee County Department of Social Services or any person acting as an agent of the Department of Social Services or any person acting through a purchase of services agreement with the Department of Social Services.

4. All records, reports, memoranda, and photographs prepared or kept by City of Milwaukee peace officers regarding the above-entitled matter.

5. All records, reports or memoranda prepared or kept by any child care agency through a purchase of services agreement with the Milwaukee County Department of Social Services, including any psychiatric, psychological or medical records, evaluations, reports, letters or notes.

The parent of the above named child further requests the following:

1. The petitioner state the names, business titles or position and address of each and every person having knowledge of the relevant facts involved in the pending action.

2. The petitioner identify each person the petitioner intends to call as a witness or as an expert witness at trial and set forth any facts known or opinions held by that expert relevant to the pending actions.

3. That the petitioner produce copies of all affidavits of service and correspondence verifying that the original dispositional order and all subsequent orders entered by the court were served upon the respondent.

4. The petitioner detail any and all efforts made to contact the respondent from the initial involvement by the bureau to present.

The parent of the above-named child, by her attorney, hereby request(s) that the assistant district attorney fix a reasonable time and place for the inspection and copying of the above-demanded and requested discovery information and suggests that a room of the Milwaukee County Children's Court Center would be a reasonable place for such inspection and copying information.

Dated at Milwaukee, Wisconsin this _____ day of _____, 2013.

_____

Attorney for Parent

STATE OF WISCONSIN | CIRCUIT COURT BRANCH | RACINECOUNTY

IN THE INTEREST OF:

Case No. 08TP
CHIPS Case No. 07JC

CHILDREN UNDER EIGHTEEN YEARS OF AGE

MOTION TO LIFT INJUNCTION

NOW COMES the mother of the above-named children, _____, by her attorney _____, and hereby moves that the injunction issued on September 5, 2008 be lifted. Ms C requests that the injunction be lifted and that the Ms. C and her mother, Lulu be allowed to have supervised visitation. Ms. C hereby avers that the motion should be granted for the following reasons:

Ms. C's oldest daughter, J, was born on October 15, 2006. Jlived with Ms. C until she was placed in a foster home in July, 2007. Ms. C states that J's initial placement was in a foster home in Milwaukee. Ms. C states that she did not have transportation at the time to visit the child in Milwaukee. Ms. C also states that she did not know that she could write letters to the child. On or around August, 2007, Ms. C and her mother, Lulu, were allowed to have supervised visits with the child. Ms. C was incarcerated from September 2007 to March 2008. While Ms. C was incarcerated her mother continued to have regular visits with the child. When Ms. C was released, she asked her case worker, Kim, to begin to set-up visits. However, because Ms. C was still having some substance abuse problems, the visits were never initiated. But, Ms. C did provide Ms. S with personal items, such as clothes and hair items for her child. The child knows who Ms. C is. The child also has spent a lot of time with her grandmother and knows who she is.

Ms. C's youngest daughter, A, was born on May 19, 2007. Due to A's premature birth,

she was not discharged from the hospital until September, 2007. Ms. C did visit A at the hospital, however her visitations were sporadic due to some substance abuse problems.

Ms. C has been trying very hard to turn her life around and remove herself from her old lifestyle. She has been drug free for several months. She recently completed a parenting class at Next Generation Now (see Exhibit 1). She is currently enrolled in another parenting class. She is on probation with an imposed and stayed prison sentenced. She has a supportive agent, supportive parents, and is creating a supportive network of people that will hold her accountable for her behavior and decisions.

Pursuant to 48.42 (1m), Wis. Stats., Ms. C believes that it is in the best interests of the child to reestablish visits with her and with her mother. Therefore, Ms. C is requesting that the injunction be lifted and that both her and her mother be allowed to have supervised visitations with her children, J and A.

Dated this ___ day of _____, 2008, at Racine, Wisconsin.

_____

Attorney for the Mother
State Bar No.

STATE OF WISCONSIN CIRCUIT COURT BRANCH MILWAUKEE COUNTY

IN THE INTEREST OF:

CHILDREN UNDER THE AGE OF EIGHTEEN YEARS

Case No. 12TP127
CHIPS Case No.
Branch

DEFENDANT'S NOTICE OF MOTION AND MOTION TO MODIFY VISITATION

TO: Attorney
Office of the District Attorney

Attorney
GAL

PLEASE TAKE NOTICE that the Respondent, _____, mother of the above children, by her attorney, _____, hereby moves the Court to modify the current visitation schedule.

AS GROUNDS THEREFORE, the Respondent's current visitation schedule is one supervised visit per week, every Tuesday, for two hours at the Respondent's current residence and every other Wednesday for one hour with the children's therapist. Respondent is requesting that the visitations are modified to two supervised visits per week for two hours at the Respondent's current residence and that the therapeutic visit every other Wednesday continues.

Additionally, the Respondent has two scheduled supervised phone calls per week with her children, Thursday and Saturday, for 30 minutes. The Respondent is requesting that the phone calls modified to allow for three supervised 30 minute phone calls per week.

The Respondent has been faithfully in attending the visits and calling her children, with rare missed visits and calls. The Respondent believes that it in in the child's best interest to add an additional visit and phone calls.

Dated this ___ day of _____, 2013 at Milwaukee, Wisconsin.

Respectfully Submitted,

_____

Milton L. Childs
Attorney for the Defendant
State Bar No. 1035238

STATE OF WISCONSIN CIRCUIT COURT BRANCH MILWAUKEECOUNTY

IN THE INTEREST OF:

Case No. 2012TP0133

CHILDREN UNDER EIGHTEEN YEARS OF AGE

MOTION TO REINSTATE VISITATION

TO: Assistant District Attorney
MilwaukeeCounty

Attorney
Guardian Ad Litem

PLEASE TAKE NOTICE that The Respondent, _____, the mother of the above-named children, by her attorney _____, hereby moves the Milwaukee County Circuit Court, Branch , to reinstate visitation between the Respondent and her children. The visits were suspended by the OCM on or about March 29, 2013.

AS GROUNDS, the Respondent provides the court with the following;

1. On March 8, 2013, the court ordered that visits resume between the Respondent and her children. The visits would start with one visit per week and would be increased after three weeks to two visits per week if there were no problems at the visits. The sooner the better for reinstatement of the visits. The Respondent's conduct should be exemplary.

2. On March 19, 2013, the OCM sent the parties an email stating that visits between the Respondent and her children would resume March 28, 2013. The following visitation plan was provided:

   - The therapeutic visits will occur at Children's Hospital Community Services (620 S. 76th St. Suite 120 Milwaukee, WI 53214) in a designated visitation room.
   - The children will be transported to the agency by Lawson's Transportation Company and will be released to the therapist or case manager.
   - The therapist, _____, and myself will be supervising the visits together. The purpose of this is to ensure that there is a sufficient amount of supervision at all times, as well as, someone that is familiar with the case history. If I am unavailable, my supervisor will take my place in assisting with supervision.
   - The children will arrive at the agency 15 minutes prior to the start of the visit to ensure there is no contact with Respondent without the therapist present.

- The children will leave all backpacks, coats and other belongings in a separate room. These items will not be allowed into the room due to the physical injury that occurred at the last visit while Respondent was putting on one of the children's coats. If there are pictures or other items that the children want to give Respondent, they will be approved by the therapist and case manager/supervisor and monitored closely.
- We discussed, at length, the use of physical contact between Respondent and the children due to the most recent incident that occurred. It was decided that Respondent and the children will be allowed to have physical contact (hugs, kisses, assistance with activities) as long as these interactions remain appropriate and do not cause any harm to the children.
- There will be no conversations between Respondent and the children regarding the case, foster parents, placements or court. This causes significant anxiety for the children and further escalates their behaviors.
- At the conclusion of the visits, Respondent and the children will say good-bye in the room and Respondent will then leave the agency immediately.
- The children will remain at the agency for 15 minutes after the visit to ensure Respondent has left the building and to ensure there is no contact outside of the therapeutic setting (as this violation has occurred in the past). The children will then be transported by Lawson's Transportation back to their foster homes.
- If there are any violations to the visitation plan or the therapist feels that the children are in danger of emotional harm or physical abuse, the visit will be ended immediately.

3. On March 29, 2013, the OCM sent parties an email detailing what happened at the visit on March 28, 2013. See attachment-email from OCM dated Fri., March 29, 2013. The visit was ended early due to the Respondent's inability to manage her children's behavior and respond appropriately to their emotional needs.

4. On March 29, 2013, this attorney spoke with the Respondent about the visit. The Respondent stated that when the visit began, _____ did tell her not to touch her. But as the visit progressed, he was interacting with her well. When the decision was made to end the visit, the Respondent stated that _____ and _____ were crying and upset because the visit was ending. Also, the Respondent stated that _____'s active throughout the visit and she had to continually redirect him at the visit. The Respondent stated that she was advised at an IEP meeting that one way to calm _____ down was to pick him and hold him. So she attempted to use that technique and was told by the worker and the therapist not to hold him in her lap. The Respondent stated that she asked the OCM to assist her by taking _____ for a walk, but the OCM would not take him for a walk. The Respondent confirms that the visit was ended early.

5. The Respondent request that the visits are reinstated as soon as possible. The Respondent believes that she did not violate any conditions in the visitation plan that warranted the ending of the visit on March 28th and the termination of future visits. The Respondent believes that the visits should be restructured in the following manner to improve the visits:

- Separate or staggered visits with the children. This would allow the Respondent to have individual time with each child and allow the children to also have visitation time together
- Allow the Respondent's parent assistant to observe and participate in the visits. The parent assistant can observe the Respondent during the visits and make recommendations and suggestions while the visits are occurring.
- Not allow the OCM to be present in the visits. The Respondent believes that the OCM is a distraction in the visits. The Respondent stated that during the visit on March 28th, the OCM was laughing during the visits as the Respondent was trying to redirect _____. The OCM was not present in the visits during the two prior therapeutic visitation sites.
- The Respondent would like the visits to be recorded. The Responded was advised that the facility has the ability to record the visits.

THEREFORE, based on the above argument, the Respondent request that the visits between her and her children be reinstated.

Dated this ___ day of _____, 2013 at Milwaukee, Wisconsin.

Respectfully Submitted,

_____

Attorney for the Defendant
State Bar No.

STATE OF WISCONSIN CIRCUIT COURT BRANCH MILWAUKEECOUNTY

IN THE INTEREST OF:

Case No. 10TP

CHILDREN UNDER EIGHTEEN YEARS OF AGE

MOTION FOR VISITATION: MOTION TO ORDER TRANSPORATION

TO: Assistant District Attorney
MilwaukeeCounty

Attorney
Legal Aid Society of Milwaukee

PLEASE TAKE NOTICE that _____, the mother of the above-named child, by her attorney Milton L. Childs, hereby moves the Milwaukee County Circuit Court, Branch 41, pursuant to Wis. Stats. 48.42(1m), to order visitation between the mother and her child, to order transportation to the visits and to order that the bureau provide overnight housing for the mother in conjunction with the visits.

The Respondent Mother advises the court that the state must include in their petition alleged facts sufficient to show that prohibiting visitation or contact would be in the best interest of the child. The State has not provided such information. The TPR petition states that the child lived with the mother for over a year. When the child was removed from the mother's home, the child had monthly contact with the mother. Until the child was placed in a foster home outside Milwaukee County.Wis. Stats. 48.42(1m)(e)2 allows the court to reinstate visits if the court determines by clear and convincing evidence that the visitation or contact would be in the best interests of the child.

Additionally, the mother advises the court that the child is current placed in Warrens, WI. Due to the distance from Milwaukee, the mother advises the court that if she takes the bus or

train to the visit, she will have to stay overnight in Warren because there is not a return bus or train to Milwaukee until the next day. At this point the mother is unable to pay for housing for overnight stays. The mother asks the court to order that the bureau provide funding for the overnight housing.

Lastly, relating to visitation, on one occasion the bureau set-up a visit and the mother traveled to Warren for the visit, but the current caretaker for the child cancelled the visit without notifying the mother. The mother requests that the court order that visitations continue and that the caretaker is ordered to contact the mother and bureau before any visits are canceled.

Dated this ___ day of _____, 2013 at Milwaukee, Wisconsin.

Respectfully Submitted,

_____

Attorney for the Defendant
State Bar No.

STATE OF WISCONSIN : CIRCUIT COURT : MILWAUKEECOUNTY

CHILDREN'S DIVISION

IN THE INTEREST OF

Case No. 13TP058

A CHILD UNDER EIGHTEEN YEARS OF AGE Branch 18

NOTICE OF MOTION, MOTION TO VACATE DEFAULT JUDGMENT

To: ADA GAL

PLEASE TAKE NOTICE that Respondent, _____, mother of the above captioned children, by her attorney, _____, hereby provides notice that she will appear before the Honorable _____, Branch , MilwaukeeCounty Circuit Court on the 30th of July, 2013 at 11:00 a.m. in his courtroom at the Milwaukee County Children's Court Center, 10201 Watertown Plank Rd., Wauwatosa, and will move the Court for an order vacating the default judgment entered on June 18, 2013 pursuant to Sections 806.02 and 806.07 Wis. Stats.

The Respondent advises the court that during the week of June 10, 2013 the Respondent's father had a heart attack and was taken to the hospital in Marshfield, WI. The Respondent returned to Milwaukee on June 17, 2013 for a doctor appointment. The Respondent received new medication. The new medication is very strong and when she took the medicine it caused her to sleep through most of the day on June 18, 2013, the day that she missed her motion hearing. Since the Respondent has been assigned an attorney, she has been in contact regularly with her attorney and has made the last two court appearances (May 2, 2013 and May 28, 2013).

The Respondent requests that the court vacate the default finding and allow the Respondent to participation in the grounds phase of the TPR.

Dated at Milwaukee, Wisconsin this ___ day of _____, 2013.

Respectfully submitted,

_____

State Bar #
Attorney for Mother

STATE OF WISCONSIN CIRCUIT COURT BRANCH MILWAUKEE COUNTY

IN THE INTEREST OF:

Case No.

CHILDREN UNDER EIGHTEEN YEARS OF AGE

RESPONDENT'S RESPONSE TO PETITIONER'S MOTION FOR DEFAULT JUDGMENT

The Respondent, by her attorney _____, hereby responds to the Petitioner's motion for default judgment against the Respondent. The Respondent requests that the Petitioner's motion is dismissed.

The Respondent understands that the circuit court has statutory and inherent authority to sanction parties for failure to comply with discovery orders. The court in the Johnson case stated that "Dismissal of an action is a particularly harsh sanction for a party's failure to obey discovery orders because it destroys the noncomplying party's property interest in his cause of action." Johnson v. Allis Chalmers, 162 Wis. 2d 261, 274. The Respondent also believes that not allowing the Respondent to contest claims as to the grounds phase is also harsh. The high court stated that it would "sustain the sanction of dismissal if there is a reasonable basis for the circuit court's determination that the noncomplying party's conduct was egregious and there was no "clear and justifiable excuse" for the party's noncompliance. Once these factors are established, it is within the circuit court's discretion to dismiss the action." Id. at 276. The Respondent believes that her behavior was not egregious, defined as extreme, substantial and persistent. Also, the Respondent has a clear and justifiable excuse for not being able to attend the scheduled depositions. The Respondent's behavior is in no way similar to the

behavior of the petitioner in the Johnson case, where the petitioner failed to respond to requests by the defendant, failed to respond to a court order to provide specific information to the defendant and ignored five attempts by the defendant to schedule a deposition.

Additionally, in the Brandon Apparel Group case, the court stated that a "Default judgment terminates litigation without regard to the merits of the claim; therefore, a circuit court should impose it as a sanction only when a harsh sanction is necessary." Brandon Apparel Group v. Pearson Properties, Ltd., 247 Wis. 2d 521, 531. The Respondent believes that a default judgment or not allowing her to contest the grounds phase is also a very harsh sanction for failing to attend a deposition. The Petitioner has thousands of pages of discovery available to them to assist them in trial preparation, to assist in witness preparation and to determine the respondent's defense. Again, the Respondent believes that her behavior was not egregious, defined as extreme, substantial and persistent and the Respondent has a clear and justifiable excuse for not being able to attend the depositions.

Therefore, the Respondent request that the court deny the Petitioner's Motion to for Default Judgment. In further support of this motion, please see the attached Affidavit.

Dated at Wauwatosa, Wisconsin, this ___ day, August, 2013.

Respectfully Submitted,

_____

Attorney for the Respondent
State Bar No.

STATE OF WISCONSIN CIRCUIT COURT BRANCH MILWAUKEECOUNTY

IN THE INTEREST OF:

Case No.

CHILDREN UNDER EIGHTEEN YEARS OF AGE

MOTION TO ALLOW GRANDPARENT VISITATION

TO: ADA GAL

PLEASE TAKE NOTICE that Respondent _____, the father of the above-named children, by his attorney _____, hereby moves the Milwaukee County Circuit Court, Branch , on, or a date set by the court, to allow visitation between, the children's paternal grandmother, and the above named children.,

AS GROUNDS THEREFORE, in June 2010 Ms. _____, the paternal grandmother of the above-named children, came to Milwaukee from Little Rock, Arkansas in hopes of being considered as a placement option of the above named children. On July 13th, Ms. _____ appeared before the Honorable Christopher Foley and requested that her grandchildren be placed with her in Little Rock, Arkansas. On July 26th, a meeting was held between Ms. _____, Ms. _____ of the SPD office, Ms. _____, the former Ongoing Case Manger, Ms. _____, incoming Ongoing Case Manager, and Ms. _____, the Permanency Plan Consultant. Ms. _____ was informed that the Bureau would have to investigate her background before an interstate compact would be initiated.

On September 9th, Ms. _____ was informed that she had a Child Protective Service history in both Arkansas and Milwaukee. Ms. _____ was further advised that she would need to go through a rehabilitation process in order to be considered for placement of her grandchildren

in Arkansas. According to Ms. Colson, Ms. _____would not need to start a rehabilitation process for the referrals in Milwaukee.

On October 22nd, an administrative hearing was held in Arkansas and the Administrative Law Judge held that allegations against Ms. _____ were found to be unsubstantiated. (See Attachment #1)

Ms. _____ of the SPD Office contacted Ms. _____ and Mr. _____, the current Children's Service Society of Wisconsin supervisor on the case, to request that the interstate compact process began and regarding visitation. To date, Ms. _____ has not received a response regarding her request. Ms. _____ has remained in Milwaukee during this entire time hoping to at least begin visiting her grandchildren, but is anxious to return to Arkansas

THEREFORE, based on the above information, the Respondent is requesting that the court allow visitation to begin between the paternal grandmother and the children.

Dated this ___ day of _____, 2013 at Milwaukee, Wisconsin.

Respectfully Submitted,

_____

Attorney for the Defendant
State Bar No.

BRANCH

IN THE INTEREST OF:

Case No. 08TP

RESPONDENT'S RESPONSE TO THE STATE'S MOTION FOR SUMMARY JUDGMENT

The Respondent, _____, by her attorney, _____, and upon all of the files, records and proceedings heretofore had herein, moves the Court to deny the State's Motion for Summary Judgment as there are genuine issues as to any material fact. The Respondent responds as follows:

1. The Respondent in this matter is _____.

2. The Respondent is represented by Attorney _____.

3. The State filed a petition on May 19, 2007 on Case No. 08TP41 and October 22, 2008 on Case No. 08TP42, as stated in the Petitioner's Motion for Summary Judgment.

4. The grounds for termination of the Respondent's parental rights are: Abandonment, pursuant to 48.415 (1)(a)2 and Failed to Assume Parental Responsibility, pursuant to 48.415(6).

5. Pursuant to Wis. Stat. sec. 48.415 (1)(a)2 and Wis. JI-Children 313, the petitioner bears the burden on questions 1 and 2 to prove that the children were placed or continued outside the respondent's home pursuant to a court order which contained the termination of the parental rights notice required by law and that the respondent failed to visit or communicate with the children for a period of three months or longer.

6. Pursuant to Wis. Stat. sec 48.415 (1)(a)2 and Wis. JI-Children 313, the respondent bears the burden on questions 3 through 6 to show that there was good cause for the respondent's failure to visit or communicate with the children or with the person that had physical custody of the children during the 3 months period listed in question 2. In determining if good cause existed, the court may consider factors, including but not limited to, whether the respondent had a reasonable opportunity to visit or communicate with the children or with the person that has physical custody of the children, and factors beyond the respondent's control which prevented or interfered with visitation or communication.

7. Pursuant to Wis. Stat 48.415(6) and Wis. JI-Children 346, the respondent bears the burden to prove by clear, satisfactory, and convincing evidence that the respondent has not had a substantial parental relationship with the above named children.

FACTS

_____ was born on October 15, 2006. The pregnancy was normal without any complications. _____ stayed with the respondent until she was removed from the home on July 13, 2007. _____ was born on May 19, 2007. Respondent was not aware that she was pregnant and went to the hospital because she was in a lot of pain. She was advised at the hospital that she was pregnant and that her placenta erupted. _____was born four months early. _____remained in the hospital until September 2007. The respondent visited _____ at the hospital five to ten times. The respondent also called the hospital ten to twenty times to check on _____. The respondent would call directly to the NICU Unit where _____ was staying. At one point the respondent lost her hospital identification bracelet that allowed her to visit _____. So there was a period of time when the respondent could not visit _____ until she was able to obtain a new bracelet. The respondent did get another bracelet.

On June 29, 2007, Ms. _____, the children's case worker, visited the respondent's home and saw _____ in a bassinet. _____ slept with the respondent in the respondent's bed, therefore _____ did not have a bed. Ms. _____ requested that the respondent go to the Next Generation Now Program and get a Pack 'n Play for free. The respondent advised Ms. _____ that she would be able to get a free Pack 'n Play from her landlord.

The respondent moved from her apartment and advised the hospital of her move and informed them that they can contact her at her mother's house. _____ was still living with the respondent, but would visit with the respondent's mother regularly. _____ was removed from

the respondent while she was with the respondent's mother. Initially, _____ was placed in a foster home in Milwaukee. Several months later _____ was placed in the same foster home as _____. The respondent did not have transportation, so she could not make it to Milwaukee to visit her daughter. The respondent was not advised that she could write letters or call her daughter. In or around August 2007, Human Services Department began to arrange visitations between the respondent and _____. They would not arrange visitation with _____. The respondent was advised that she was too sick at this time.

In August 2007, the respondent was advised that there was a bench warrant issued against her. Ms. _____ advised the respondent that visitations would be terminated until the respondent cleared the warrant. Before the respondent was able to clear the warrant, she was arrested on September 20, 2007. The respondent was arrested and other charges were issued against her. The respondent remained in jail until March 20, 2008. The respondent's mother was still visiting with _____ while the respondent was in jail. The respondent's current case worker, _____, visited her while she was in jail. The respondent requested to see her children, but the initial request was denied. After the respondent was released from jail, the respondent met with Ms. _____ and the goal was to begin to set-up visitations again. The respondent was advised by Ms. _____ that she needed to talk with the respondent's probation agent before she could resume visitation. However, three weeks later the respondent tested positive for drugs and Ms. _____ refused to set up visitations. Over the next few months the respondent would meet with Ms. _____ and bring clothes and hair items for her daughters. The respondent's mother was still allowed to see _____ and would also bring hair items, food and bottles to the visitations. The respondent was testing positive periodically for drugs, so Ms. _____ still refused to arrange visitation. The respondent was requesting treatment, but she never received referrals from her agent or from Ms. Serpe for treatment programs.

On or about July 22, 2008, the respondent was scheduled to meet with her agent, but

another agent was present and accused the respondent of using someone else's urine because the test results were negative. The respondent failed to report to her agent on July 25, 2008 and did not have contact with her agent until she was arrested on September 20, 2008. The respondent remained in custody until October 15th. The respondent was given an Alternative to Revocation and was placed in the Chatham House until January 2009 when she graduated from the program.

ARGUMENT

The State correctly argues that under Wis. Stats. sec. 802.08(2), summary judgment shall be rendered if the pleadings, dispositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that "the moving parties are entitled to a judgment as a matter of law". However, the Court must proceed with caution. It has been established in Wisconsin that summary judgment is available in certain termination of parental rights cases. Summary judgment procedure imposes that the moving party demonstrate both the absence of any genuine factual disputes and entitlement to judgment as a matter of law under the legal standards applicable to the claim. See Wis. Stats. sec. 802.08(2) and (3).

The state further references *In the Interest of Alexander V.* for its holding that due process does not mandate a jury trial in the first phase of the TPR case, the right to a jury trial is statutory only and is subject to the provisions of civil procedure including summary judgment. *In the Interest of Alexander V.*, 271 Wis. 2d 1, 678 N.W. 856, (2004). This summary is an oversimplification of the case. *Alexander V.* cautions that summary judgment "will ordinarily be inappropriate in TPR cases" premised on fact intensive grounds for parental unfitness. *Id*. at P36. The court provides a list of grounds that summary judgment may be inappropriate, of which abandonment and failure to assume parental responsibility are included. *Id*. Furthermore, the state failed to note the difference between *Alexander V.* and the case at hand. The court in

Alexander V. specifically noted that the ground for termination, continuing denial periods of physical placement or visitation, is expressly provable by evidence of a court order. *Id.* at P39. This is not true in the case at hand where the grounds are abandonment and failure to assume parental responsibility.

Additionally, to grant summary judgment in the present case would violate the Respondent's due process right to a fact finding hearing in this case. In *Santosky et al v. Kramer et al*, 455 U.S. 745, 753, 71 L. Ed. 2d 599, 102 S. Ct. 1388 (1982), the Supreme Court held that there was a three part test for determining what process is constitutionally due in termination of parental rights cases. The Court held that:

> The nature of the process due in parental rights termination proceedings turns on a balance of the "three distinct factors" specified in *Mathews v. Eldridge*, 424 U.S. 319, 335, 96 S. Ct. 893, 903, 47 L. Ed. 2d 18 (1976): the private interest affected by the proceeding; the risk of error created by the State's chosen procedure; and the countervailing governmental interest supporting the use of the challenged procedure. *Santosky*, 455 U.S. at 754 cited by *Id*. at Para. 40.

Applying the first prong of this test to the case at hand, the private interest affected by a TPR proceeding is unquestionably very strong. A parent's interest in the parent-child relationship and in the care, custody and management of his or her child is recognized as a fundamental liberty interest protected by the Fourteenth Amendment. *Santosky* at 753. The United States Supreme Court has described the fundamental nature of parental rights in this way:

> It is plain that the interest of a parent in the companionship, care, custody and management of his or her children "comes to this Court with a momentum for respect lacking when appeal is made to liberties which derive merely from shifting economic arrangements." *Kovacs v. Cooper*, 336 U.S. 77, 95, 93 L. Ed. 513, 69 S. Ct. 448 (1949)(Frankfurter, J. concurring).
>
> The Court has frequently emphasized the importance of the family. The rights to conceive and to raise one's children have been deemed "essential", *Meyer v. Nebraska*, 262 U.S. 390, 399, 67 L. Ed. 1042, 43 S. Ct 625 (1923), "basic civil rights of man", *Skinner v. Oklahoma*, 316 U.S. 535, 541, 86 L. Ed. 1655, 62 S. Ct. 1110 (1942) and "rights far more precious … that property rights", *May v. Anderson*, 345 U.S. 528, 533, 97 L. Ed. 1221, 73 S. Ct. 840, 67 Ohio Law Abs. 468 (1953). "It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary

> function and freedom include preparation for obligations the state can neither supply nor hinder." *Prince v. Massachusetts*, 321 U.S. 158, 166, 88 L. Ed. 645, 64 S. Ct. 438 (1944).*Stanley v. Illinois*, 405 U.S. 645, 651, 31 L. Ed. 2d 551, 92 S. Ct. 1208 (1972). See also *Alexander V.*Paras. 21 and 22.

There should be no dispute as to how significant the Respondent's interest is in her relationship with her daughters.

Applying the second prong test to the case, the risk of error by the State's chosen procedure is substantial. The ground of abandonment requires several specific determinations, which include whether or not the Respondent had good cause for having failed to visit or communicate with the child or with the person that has physical custody of the child. The State and the Human Services Department were aware that the Respondent has a number of substance abuse issues that may have caused the Respondent to fail to visit or communicate with the child or with the person that has physical placement of the child. The respondent was very young, immature and ignorant of the procedures of the system. The respondent believes that the trier of fact should decide if the Respondent had good cause for her behavior. Additionally, the respondent wanted to and even requested that visitations be arranged so that she could begin to re-establish a relationship with her daughters, but unfortunate the visits did not resume. The respondent, however, was still concerned about the children and would ask questions about the children, to both Ms. Serpe and to the respondent's mother, who continued to see the Jeryia until the fall of 2008.

Applying the third and final prong of the test, the countervailing governmental interest supporting the use of the challenged procedure, could be significant but the State failed to state specific interests that would be best served by the court granting the motion for summary judgment.

When balanced against the significant private interest affected and the opportunity for gross mistake in this case, any countervailing governmental interest supporting the use of

summary judgment is minimal. When taking away a parent's right to their child, it is necessary to make sure that the grounds of abandonment and failure to assume parental responsibility are met in the specific circumstances. Blanket assertions by the State are not sufficient.

Finally, I join in with the concern of Justice Prosser in his dissent opinion in the *Alexander V.* case of the use of summary judgments in termination of parental rights cases. Having a jury trial "is intended to protect civil litigants from overreaching and abuse by officials in all three branches of government, not just the judiciary." *Id*. at P66. Also, "depriving the fact-finder, especially a jury, of the full story before the fact-finder determines that grounds of unfitness exist, is not what the legislature intended. Depriving a parent of the right to the jury trial granted by statute is even worse." *Id*. at P98.

The attached affidavit provides information that the Respondent may have had good cause for failing to communicate or visit her child or the person that had physical custody of the child and that the respondent did not failure in her parental responsibilities.

THEREFORE, the State's Motion for Summary Judgment should be denied and a trial date should be scheduled by the court.

Dated this ___ day of _____, 2009.

Respectfully Submitted,

_____

AssistantState Public Defender
State Bar No.

IN THE INTEREST OF:

Case No. 11TP0337

RESPONDENT MOTHER
MOTION FOR SUMMARY JUDGMENT

The Respondent, _____, by her attorney, _____, and upon all of the files, records and proceedings heretofore had herein, moves the Court for Summary Judgment as there are no genuine issues as to any material fact. The Respondent responds as follows:

8. The Respondent mother in this matter is _____.

9. The Respondent is represented by Attorney _____.

10. The State filed a Petition for Termination of Parental Rights on November 21, 2011 on Case No. 11TP337.

11. The grounds for termination of the Respondent's parental rights are: Continuing Need of Protection and Services, pursuant to Wis. Stats. Section 48.415(2) and Failure to Assume Parental Responsibility, pursuant to Wis. Stats. Section 48.415(6).

12. Pursuant to Wis. Stat. sec. 48.415(2) and Wis. JI-Children 324A, the petitioner bears the burden to prove by clear, satisfactory, and convincing evidence, particularly on questions 2, 3 and 4 to prove did the BMCW make a reasonable effort to provide the services ordered by the court; has Ms. _____ failed to meet the condition established for the safe return of Alicia to Ms. _____'s home; and is there a substantial likelihood that Ms. _____ will not meet these conditions within the nine-month period following the conclusion of this hearings.

13. Pursuant to Wis. Stat 48.415(6) and Wis. JI-Children 346, the petitioner bears the burden to prove by clear, satisfactory, and convincing evidence that the respondent has not had a substantial parental relationship with the above named children.

FACTS

On July 15, 2010, _____ was born preterm at 36 weeks. _____ had been

exposed to cocaine and methadone. _____ was treated with morphine and an apnea to overcome the withdrawals symptoms. _____ stayed in the hospital for three weeks after her birth and then lived with her parents, _____ and _____. On September 17, 2010, Ms. _____'s eldest child, _____, disclosed that his mother and Mr. _____ were still fighting and making him afraid and unhappy. There was a safety plan in place that Ms. _____ was not to have Mr. _____ spend nights due to the due to allegations of violence that allegedly occurred in front of the children. On September 24, 2010, the SCCM met with Ms. _____ inside the home to assess for the safety of the children. The children were noted to be safe at that time. On September 28, 2010, the BMCW received a referral stating a failed safety plan. Due to this failed safety plan, Ms. _____ 's positive UA screens and the allegations of domestic violence in front of the children, the children were detained.

Ms. _____ has had two prior unsuccessful AODA treatments at the Meta House. The first treatment was residential. Ms. _____ was admitted on February 25, 2010 and discharged on June 23, 2010. Ms. _____ was admitted to the day treatment program at Meta House on September 8, 2010 and was discharged on November 1, 2010. Ms. _____ was readmitted to the residential treatment program at Meta House on February 7, 2012 and on May 24, 2012, she completed the residential treatment and was transitioned to day treatment, which she is still participating in. (See Exhibit 1) Since her participation in Meta House in 2012, Ms. _____ has been tested regularly for the following drugs: opiates, cocaine, benzodiazepine, cannabinoid/THC and ecstasy. Ms. _____'s only positive test for any of the above drugs was on February 6, 2012; this was her admission urine analysis. Between February and June 2012, Ms. _____ has had 34 urine tests and they were all negative for controlled substances. Ms. _____ was also tested twelve times for alcohol and the results were all negative. The only drug that was found in Ms. _____ 's urine was methadone, which she is prescribed.

Since February 2012, Ms. _____ has also received parenting services through her

residential treatment at Meta House. Ms. _____ has attended six sessions of the Nurturing Program for Families in Substance Abuse Treatment and Recovery. Recent topics of this program included: changing unproductive communication styles and increasing effective communication and problem solving skills; the use of nurturing touch with children as a soothing technique and as a parenting intervention; and increasing skills in self-calming and modeling calming techniques for children. Ms. _____ has also attended six sessions of Parent Education. Recent topics included: the appropriate and effective use of consequences and time out with children; establishing developmentally appropriate rules for children; discipline with teens; understanding issues of child abuse; and reviewing issues of safety and "good touch/bad touch" with children. Ms. _____ has also attended nine individual sessions with a Parent Specialist. Lastly, Ms. _____ has attended five sessions of Filial Therapy. This group focuses on strengthening the parent/child relationship through child centered play therapy skills. Ms. _____ is to use these skills to facilitate communication and increase her understanding of her children's feelings, wishes and needs. (See Exhibit 2)

Additional, Ms. _____ has been working very hard to complete the required conditions of return ordered by the court. Per the court report signed on May 18, 2012 by OCM Jessica , (See Exhibit 3) the following concerns are noted in Ms. _____ 's case:

- Ms. W completed the domestic violence group at Soujourner
- Ms. W attends weekly individual therapy at Inner Dynamics
- Ms. W attends couples counseling with Mr. at Inner Dynamics
- Ms. W regularly attends her group sessions and is actively participating. She had maintained negative UA screens since she was admitted to Meta House and has been sober for 90 days
- Ms. W is able to properly tend to the children during the visits
- Ms. W has been diligently attending all doctors' appointments for all of the children and has been actively advocating for each child as necessary
- Ms. W, per the SVW notes, is doing well in the visits. Ms. W demonstrates appropriate care for the children, making dinner and feeding the children.
- Ms. W is able to show appropriate care for Alicia by bathing her, changing their diapers, clipping finger and toe nails as well as showing concern for diaper rashes.
- Ms. W uses available resources to meet her children's needs

- Ms. W has adequate knowledge to fulfill caregiving responsibilities, Ms. W can state what her children need and she can articulate her children's likes and dislikes as well as how to keep her children safe.

Furthermore, Ms. W has her visits with_____ increased from two days per week to four days per week. All of the current visits are in the home of Ms. W or in the community.

ARGUMENT

The Wisconsin Supreme Court has held that summary judgment is available in the first phase of a TPR case at which parental unfitness is determined. Steven V. Kelly H., 2004 WI 47, 271 Wis.2d 1.Additionally, under Wis. Stats.sec. 802.08(2), summary judgment shall be rendered if the pleadings, dispositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that "the moving parties are entitled to a judgment as a matter of law". It has been established in Wisconsin that summary judgment is available in certain termination of parental rights cases. Summary judgment procedure imposes that the moving party demonstrate both the absence of any genuine factual disputes and entitlement to judgment as a matter of law under the legal standards applicable to the claim. See Wis. Stats. sec. 802.08(2) and (3).

The Respondent mother, based on the attached affidavit and other documents, believes that she has met all the required conditions of the disposition order (See Exhibit 4)., contrary to Wis. Stats.Section 58.415(2). Additionally, the Respondent mother, based on the attached affidavit and other documents, believes that she does have a substantial parental relationship with Alicia, contrary to Wis. Stats.Section 48.415(6).

THEREFORE, the Respondent mother request that the Court grant her motion for Summary Judgment on all parts of this petition, believing that there is an absence of any genuine factual disputes.

Dated this 16th day of July, 2012 at Wauwatosa, Wisconsin.

Respectfully Submitted,

_____

Attorney for the Respondent Mother
State Bar No.

Office of the State Public Defender
10930 W. Potter Road, Suite D
Wauwatosa, WI53226
414-266-7364

IN THE INTEREST OF:

Case No. 11TP

AFFIDAVIT OF

_____, being first duly sworn on oath, deposes and states the following:

1. My date of birth is February 1, 19.

2. I am the mother of_____ .

3. That I completed the residential treatment program at Meta House and that I am currently actively participating in Meta House's outpatient program. That I am able to control my urges and impulses to use illegal substances, realizing how this will help me to supervise and care for my child. I also have a safety plan in place for my family to prevent further violence in the home.

4. That I have participated in several parenting classes and sessions while at Meta House.

5. That I have maintained negative UA screens since I was admitted to Meta House and have been sober for over 90 days.

6. That I have completed domestic violence group at Soujourner.

7. That I attended individual therapy at Inner Dynamics and I am searching for another individual therapy provider. My former individual therapist was also the therapist for Mr. and myself. I would like to have a separate individual therapist.

8. That I attend couples counseling with Mr. at Inner Dynamics. I am working to build a healthy relationship with Mr. for the well-being of the family.

9. That I have been diligently attending doctor appointments for _____ and have been actively advocating for my child.

10. That I have been demonstrating appropriate care for _____; making dinner and feeding _____; bathing her; changing her diaper; clipping her finger nail and toe nail; as performing other parental duties.

11. That I have adequate knowledge to fulfill care-giving responsibilities.

12. That I have regularly participated in successful visits with_____ . I have been able to increase my visits from two to four visits. My visits are currently in my home.

13. That I have a safe, suitable and stable home.

14. That I do not abuse my child or subject my child to the risk of abuse.

15. That I demonstrate, through my visits with_____ , that I am able and willing to care for Alicia.

16. That I have been cooperating and staying in touch with my ongoing casemanager.

Dated this ___ day of _____, 2013 in Wauwatosa, Wisconsin.

_____

Subscribed and sworn before me
this 16th day of July, 2012.

_____
Notary Public, Milwaukee County, WI
My commission expires _____

IN THE INTEREST OF:

Case No. 09TP

DEFENDANT'S NOTICE OF MOTION AND MOTION TO ADJOURN

TO: Attorney
Office of the District Attorney

Attorney
GAL

PLEASE TAKE NOTICE that _____, mother of the above children, by her attorney, _____, hereby moves the Court to adjourn the Jury Trial scheduled for Monday, August 30, 2010 at 8:30 a.m. before the Honorable _____.

AS GROUNDS THEREFORE, the State has filed a Termination of Parental Rights Petition for _____, 10TP. _____ is another child of the Respondent. Respondent requests that this case is tried with the cases of her other children that are listed above. Therefore, at the request of Respondent and for judicial economy, it is requested that the jury trial scheduled for August 30, 2010 be adjourned to allow for proper discovery and investigation on the 10TP matter.

Dated this ___ day of _____, 2010 at Milwaukee, Wisconsin.

Respectfully Submitted,

_____

Attorney for the Defendant
State Bar No.

STATE OF WISCONSIN CIRCUIT COURT BRANCH MILWAUKEECOUNTY

IN THE INTEREST OF:

Case No. 11TP

DEFENDANT'S NOTICE OF MOTION AND MOTION TO ADJOURN

TO: Attorney
Office of the District Attorney

Attorney
GAL

PLEASE TAKE NOTICE that Respondent, _____, mother of the above child, by her attorney, _____, hereby moves the Court to adjourn the Jury Trial scheduled for Monday, June 11, 2012 at 9:00 a.m. before the Honorable John.

AS GROUNDS THEREFORE, at the last court date the Respondent was in custody awaiting placement at a residential treatment center. The Respondent anticipated that she would be released from custody and start inpatient treatment at the Genesis Chatham House in Racine some time in April. However, due to a waiting list, the Respondent was not transferred to the Chatham House until the week of May 14th. The Respondent requests that the court adjourn the jury trial to allow her the opportunity to begin treatment and to show some progress in treatment before having the trial. The trial is scheduled to start less than a month after she has started treatment and may interfere with some of her classes/treatment. Additionally, the termination of parental petition was filed on December 28, 2011. The case is fairly new on the TPR calendar. Lastly, during the first phase of a termination of parental rights case, the rights of the parents are paramount. The Respondent is only 20 years old. She would like, and she should be given, every opportunity to complete the required conditions and reunite with her child. Not adjourning the trial will affect her rights.

THEREFORE, the Respondent requests that the court adjourn the jury trial.

Dated this ___ day of _____, 2012 at Milwaukee, Wisconsin.

Respectfully Submitted,

_____

Attorney for the Defendant
State Bar No.

IN THE INTEREST OF:

Case No. 13TP

Children Under the Age of Eighteen

DEFENDANT'S NOTICE OF MOTION
AND MOTION TO EXTEND DEADLINES OF PRETRIAL SCHEDULING ORDER

TO: Attorney
Office of the District Attorney

Attorney
GAL

The Respondent Mother, by her attorney, _____, hereby requests for an extension in the Court's pre-trial scheduling order for a date to be determined at the Final Pretrial Hearing scheduled on September 9, 2013. The Respondent will not be able to comply with the Court's scheduling order for reasons set forth in the attached affidavit.

Dated at Wauwatosa, Wisconsin, this ___ day of September, 2013.

Respectfully Submitted,

_____

Attorney for the Defendant
State Bar No.

STATE OF WISCONSIN CIRCUIT COURT BRANCH MILWAUKEECOUNTY

IN THE INTEREST OF:

Case No. 13TP

Children Under the Age of Eighteen

AFFIDAVIT IN SUPPORT OF MOTION TO EXTEND DEADLINES OF PRE-TRIAL SCHEDULING ORDER

State of Wisconsin)
County of Milwaukee)
)

I, _____, Assistant State Public Defender, do hereby swear the following to be

true.

1. That I am currently the attorney for Respondent, _____ on cases 13TP__.

2. That on June 21, 2013 at a Status Hearing, the court provided a scheduling order to parties that included a Final Pretrial Conference on September 9, 2013. The order required that seven days prior to the Final Pretrial Conference that pretrial motions, jury instructions, voir dire questions and a final witness list be filed and served upon all parties.

3. I have not had the opportunity to complete discovery in this case. Particularly, the Respondent has not completed her deposition. On September 4, 2013, the Respondent began her deposition, but due to time constraints we were not able to complete the deposition. At this time I still need to determine what pretrial motions need to be filed and what witnesses will be needed.

3. I am requesting permission from the court to file all necessary and relevant pretrial and trial documents after completion of necessary discovery.

Dated this ____ day of November, 2012 at Milwaukee, Wisconsin.

_____

Subscribed and sworn to before me, this ____ day of November, 2012.

_____
Notary Public
My commission expires: _____.

STATE OF WISCONSIN : CIRCUIT COURT : MILWAUKEE COUNTY
CHILDREN'S DIVISION

IN THE INTEREST OF

Case No.

A CHILD UNDER EIGHTEEN YEARS OF AGE Branch

RESPONDENT'S (MOTHER) PROPOSED JURY INSTRUCTIONS

NOW COMES the Respondent, _____, by her attorney, _____, respectfully moves the Court to instruct the jury using the following instructions:

Substantive Instruction Children #324A Continuing Need of Protection/Services

Civil #50 Preliminary Instructions Before Trial

Children #100 Preliminary and Discharge Instruction

Children #300 Preliminary Instructions (General)

Civil #100 Opening

Criminal #103 Evidence Defined

Civil #110 Arguments of Counsel

Civil #115 Objections of Counsel

Civil #120 Ignoring Judge's Demeanor

Civil #130 Stricken Testimony

Civil #145 Special Verdict Questions: Interrelationship

Criminal #147 Improper Questions

Civil #205 Burden of Proof: Middle

Civil #215 Credibility of Witnesses

Civil #230 Circumstantial Evidence

Civil #260 Expert Testimony

Civil #265 Expert Testimony: Hypothetical Questions

Civil #420 Impeachment of Witness: Prior Inconsistent or Contradictory

Children #180 Appropriate Date for Jury's Findings

Civil #180 Five-Sixths Verdict

Civil #190 Closing

Civil #195 Instruction Where the Jury is Unable to Agree

Civil #197 Charge After Verdict is Received

Children #301 Consideration of Child's Best Interest in Termination Proceeding
(*See attached modified instruction*)

Dated at Wauwatosa, Wisconsin this _____ day of _____, 2013.

Respectfully submitted,

_____

State Bar No.
Attorney for the Respondent Mother

STATE OF WISCONSIN CIRCUIT COURT BRANCH MILWAUKEECOUNTY

In The Interest of:

Case No. 13TP019

Children Under the Age
Of Eighteen years

RESPONDENT'S PROPOSED SPECIAL JURY INSTRUCTIONS

I want to again emphasize that this hearing is only one part of a process that may result in termination of parental rights.

In this jury trial, the first phase of the proceedings, your responsibility is to determine what the facts are from all the evidence and answer the questions on the special verdict that will be submitted to you. Your answers will determine whether the State has proved that a ground or grounds for termination of parental rights exists. However, you are not being asked to decide if parental rights should be terminated. Based on your answers to the questions on the special verdict, it will be my responsibility to conduct further proceedings and hearings, and it is solely and ultimately my responsibility to determine if parental rights should be terminated based upon factors the law requires a court to consider if grounds for termination of parental rights are proven. You should not be concerned with what the final result of this jury proceeding might be, and you should not be concerned with what the final result of this entire lawsuit might be.

If you find a ground has not been proved, it is also my obligation to determine when and under what circumstances the children may be returned to a parent.

Consideration of the best interests of the child is a matter for the court in proceedings which will be conducted in the future; it is not a consideration for the jury.

SOURCES:
WIS JI-CHILDREN 301 as modified

I want to again emphasize that this hearing is only one part of a process that may result in termination of parental rights.

In this jury trial, the first phase of the proceedings, your responsibility is to determine what the facts are from all the evidence and answer the questions on the special verdict that will be submitted to you. Your answers will determine whether the State has proved that a ground or grounds for termination of parental rights exists. However, you are not being asked to decide if parental rights should be terminated. Based on your answers to the questions on the special verdict, it will be my responsibility to conduct further proceedings and hearings, and it is solely and ultimately my responsibility to determine if parental rights should be terminated based upon factors the law requires a court to consider if grounds for termination of parental rights are proven. You should not be concerned with what the final result of this jury proceeding might be, and you should not be concerned with what the final result of this entire lawsuit might be.

Consideration of the best interests of the child is a matter for the court in proceedings which will be conducted in the future; it is not a consideration for the jury.

COMMENT

This instruction and comment were approved in 2004. The instruction was revised in 2013. An editorial revision was made to the instruction in 2009. The comment was updated in 2008.

Dual Purpose Evidence. The committee recommends giving this instruction at the end of the grounds hearing in cases where there is "dual purpose" evidence that goes to both grounds and disposition. Examples of this dual purpose evidence include, among other things: details of "unsuccessful" parental visits, that is, a child's negative reaction to the parent at the visit; foster parent testimony about the child's special needs and details of the foster parents' duties in meeting the child's special needs; foster parent testimony about the

Page 2

failure of the parent to contact the child, provide support for, or give gifts to the child; and details regarding the physical and mental health of the biological parent.

Since this type of evidence could shift the jury's focus away from the grounds testimony, the above limiting instruction may be appropriate after the specific testimony and again during the closing instructions.

See *In re Kristeena A.M.S.*, 230 Wis.2d 460 (Ct. App. 1999) citing *In re C.E.W.*, 124 Wis.2d 47, 54 (1985).

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STATE OF WISCONSIN CIRCUIT COURT BRANCH MILWAUKEE COUNTY

In The Interest of:

Case No. 13TP019

Children Under the Age
Of Eighteen years

RESPONDENT'S PROPOSED SPECIAL JURY INSTRUCTIONS

Between October 25, 2010 and January 14, 2011, proceedings in this matter were suspended due to legal developments that are not a matter of your concern and as to which you are not to speculate. During that time period, the BMCW was under no obligation to provide services to the parent, _____, and the parent, _____, had no obligation to meet the conditions of safe return. In addition, during that period, the parent, _____, had no obligation or ability to exercise significant responsibility for the daily supervision, education, protection and care of his children. He also did not have the legal right to visit his children during that period.

Under Wisconsin law, at the time of filing of a termination of parental rights petition, the petitioner can move the court to suspend a parent's right to visit the child/ren who are the subject of the proceedings until the litigation is resolved. A court is obligated to rule on that motion based upon factors the law mandates the court to consider and having little or no bearing on a jury's determination as to whether the petitioner has or has not proved one or more of the grounds alleged for termination of parental rights. This court granted the State's motion to suspend visitation as to all of the children in this on October 23, 2010. As a result, the parent, _____, was not permitted to visit with the children and the BMCW was not obligated to provide visitation as of that date as to all of the children. This court's order as to the visitation motion has no bearing whatsoever on the merits of the petitioner's claim nor on what your answers to the questions in the special verdict should be. You are not to consider it in any way in answering the questions in the special verdict.

STATE OF WISCONSIN : CIRCUIT COURT : MILWAUKEECOUNTY

CHILDREN'S DIVISION

IN THE INTEREST OF

Case No. 11TP143

CHILDREN UNDER THE AGE
OF EIGHTEEN YEARS

RESPONDENT'S (MOTHER) PROPOSED VOIR DIRE

Respondent Mother, by her Attorney Milton L. Childs, submits the following proposedvoir dire questions:

1. Do you know or are you related to any of the following people involved in this case?
    a. Attorneys
    b. Witnesses
    c. Parties
    d. Children

2. Are you currently employed?
    a. Where?
    b. How long have you been employed?
    c. What are your duties?
    d. If you are retired, how were you previously employed?

3. If you are married, is your spouse employed?
    a. Where?
    b. How long have they been employed?
    c. What are their duties?
    d. If they are retired, how were they previously employed?

4. Do you have any children?
    a. How many?
    b. Please give us their ages, sexes, marital status and occupations

5. Have you ever served on a jury before?
    a. State or Federal
    b. Where?
    c. When?
    d. Was it a civil or criminal case?
    e. Did your jury reach a verdict?
    f. Were you the Foreperson?

6. Was anyone ever called to jury duty before but was unable to serve? Why?

7. Does anyone, for any reason, have a problem with sitting in judgment of another person?

8. This trial may last all week – does anyone have any problems or commitments that would make it a problem to serve on this jury?

9. Any juror taking medication affecting their ability to be fully attentive?

10. Any juror having difficulty hearing, seeing or suffering from a physical problem which would prevent giving full attention to the trial?

11. Do you now or have you in the past had a relative or close friend that is connected with a Social Service/Human Service Agency or the Bureau of Milwaukee Child Welfare (know any social workers)?

a. How are they employed?
b. Have you formed any opinion about their employment as a result of discussions you have had with them? If so, what opinions?

12. Are any of you or your relatives or close friends employed in any capacity in the legal system? This includes secretaries, bailiffs, court reporters, clerks, and investigators.

13. Have any of you or your relatives or close friends ever worked for a prosecutor's office. This includes local, state and federal agencies such as city attorneys, district attorneys, attorney generals, United States Attorneys, military prosecutors or other similar organizations.

14. Have you or your spouse ever been a foster parent? If so, when? How long? Number of children?

a. What is your experience with the foster care system? Have you formed any opinions about the foster care system?

15. Have you ever been in foster care or had a child in foster care?

a. What is your experience with the foster care system? Have you formed any opinions about the foster care system?

16. Do you know of anyone with children in foster care?

a. What is your experience with the foster care system? Have you formed any opinions about the foster care system?

17. Have you or someone close to you ever had a child removed from his or her care by a social worker or government agency?

a. When did this happen? Circumstances of why it happened? Results? Were you or the parent/guardian of the child treated? Your opinion of the process? Are you able to be fair to both sides in considering this case?

18. Have you or your spouse ever cared for a relative's child? If so, when? How long?

a. Were you working with the parent(s) to return the child to their care?
b. What were the result? Are you able to be fair to both sides in considering this case?

19. Have you or your spouse or a relative or close friend been involved in adopting a child?
   a. Who? How involved in adoption? When? Your experience?Your opinions about adoption?

20. Have you or someone close to you ever had any contact with Children Court?
   a. When? Nature?

21. Have you or anyone close to you ever been involved in a Termination of Parental Rights proceeding?
   a. Relationship to that person? Social workers involved? Was there a court action and what was the result of the court action? Did you form any opinions about TPR actions from your involvement/discussion? What is your opinion?

22. Please raise your hand if you agree with the following: Someone can love and have a relationship with their child/ren even though they may not provide daily care for the child.
   a. Why?

23. Does anyone believe that the State should never try to terminate anyone's parental rights, no matter what the circumstances?

24. The child is not going to testify in this trial – is there anyone who believes that they must hear from the child in order to make a decision in this case?

25. Your role as jury is to decide if grounds exist to terminate my client's parental rights. The court will then decide if termination of my client's parental rights is in the best interests of the children. Does the fact that the court decides what happens to this child after a verdict bother anyone?

26. Have you or anyone close to you ever been in therapy or counseling with a psychologist, psychiatrist or counselor (You do not have to go into the details of your counseling)?
   a. When? Did you or this person have children while undergoing treatment? Opinion of psychologist/psychiatrist/counselors? Do you feel these professionals are general reliable? Satisfied with the treatment?

27. Does anyone have anyone close to you that has cognitive limitations?
   a. With the appropriate services, was this person able to get a job? Take care of their personal needs? Provide for any children they may have had?
   b. Does an individual with cognitive limitations comprehend information in the same manner as someone without cognitive limitations? How must one communicate to help someone with cognitive limitations comprehend information?
   c. Has this person ever been taken advantage of by those close to them?

28. Has a family member's action ever resulted in your inability to trust them in the future?

29. If you are chosen to sit, can you think of any reason which might keep you from a being fair and impartial juror in this case?

30. Does anyone have negative feelings about lawyers?

31. How many of you feel that it is okay for a family agency, like the BMCW, to intervene when a family is having a problem?

32. How many of you listen to talk radio programming/cable TV programs?
-Conservative or liberal talk radio programming/cable TV programs?
-What radio stations/cable TV programs?
-Do you agree or disagree with some of the conservative beliefs concerning personal responsibility?
- Does anyone think that the government should not provide financial benefits to individuals? Why?

33. Please raise your hand if you are the perfect parent.

Dated this ___ day of _____, 2011 at Wauwatosa, Wisconsin.

_____

Attorney for Mother Respondent
State Bar No.

IN THE INTEREST OF

Case No.

CHILDREN UNDER THE AGE
OF EIGHTEEN YEARS

SPECIAL VERDICT FORM A
CONTINUING NEED OF PROTECTION OR SERVICES

QUESTION NO. A-1: Has _____ been adjudged to be in need of protection or services and placed outside the home for a cumulative period of six months or longer pursuant to one or more court orders containing the termination of parental rights notice required by law?

ANSWERED YES BY THE COURT
(Yes or No)

QUESTION NO. A-2: If the answer to Question A-1 is "yes", has the Bureau of Milwaukee Child Welfare made reasonable efforts to provide the services ordered by the Court?

_____
(Yes or No)

_____
Dissenting Juror

_____
Presiding Juror

_____
Dissenting Juror

_____
Date

QUESTION NO. A-3: If the answer to Question A-2 is "yes", then has _____ failed to meet the conditions established for the return of the child to his home?

_____ _____
(Yes or No) Dissenting Juror

_____ _____
Presiding Juror Dissenting Juror

_____
Date

QUESTION NO. A-4: If the answer to Question A-3 is "yes", then is there a substantial likelihood that _____ will not meet these conditions within the nine-month period following the conclusion of this hearing?

_____ _____
(Yes or No) Dissenting Juror

_____ _____
Presiding Juror Dissenting Juror

_____
Date

STATE OF WISCONSIN : CIRCUIT COURT : MILWAUKEECOUNTY
CHILDREN'S DIVISION

IN THE INTEREST OF

Case No. 12TP03

CHILDREN UNDER THE AGE OF EIGHTEEN YEARS

Branch

RESPONDENT'S (FATHER) MOTION IN LIMINE

To: Assistant District Attorney

Guardian ad Litem

NOW COMES the respondent, _____, by her attorney, _____, and respectfully moves the Court to enter the following orders:

1. That following their introduction to the panel of potential jurors, all potential witnesses (including all Milwaukee County Department of Human Services workers and Bureau of Milwaukee County Child Welfare workers or private contract workers providing services to the above-named children or family members) be excluded from the courtroom (except when testifying) and admonished not to discuss their proposed or completed testimony with any other potential witness during the pendency of the trial pursuant to the provisions of sec. 906.15, Wis. Stats., see also Nyberg v. State, 75 Wis. 2d 400, 249 N.W. 2d 524 (1977).

2. That the Petitioner and Guardian Ad Litem shall split preemptory challenges pursuant to C.E.W., 124 Wis. 2d 47, 368 N.W. 2d 47 (1985).

3. That the court allow, if necessary, the individual questioning of jurors because of the sensitive issues that will be presented during trial. See *Hammill v. State*, 89 Wis. 2d 404, 278 N.W.2d 821 (1978)

4. That the Guardian Ad Litem shall not invoke the best interests of the child in statements to the jury. C.E.W., 124 Wis. 2d 47, 368 N.W. 2d 47 (1985).

5. That the court exclude from the jury's consideration, through evidence, any reference to or reiteration of hearsay statements or unsubstantiated charges made by the respondent to third parties (including statements or charges made to or by social workers in this case) even if those hearsay statements or unsubstantiated charges are contained or repeated in written records in the possession of the Bureau of Milwaukee County Child Welfare, private contract social workers or their respective agencies, or other third parties. (Statement may be allowed under Wis. Stats. section 908.03 if proper foundation is provided by the Petitioner).

6. That the court exclude from the jury's consideration, through evidence, any reference to or reiteration with hearsay statements allegedly made against the respondent by third parties (including statements made to social workers in this case) unless such statements were made under oath or after being advised of their rights under sec. 48.243(1) Wis. Stats. (Second layer of hearsay).

7. That the court prohibit the Petitioner from calling as a witness any person whom the petitioner knows (or should have known through the exercise of due diligence) to have a criminal record, unless a copy of such record is disclosed to counsel prior to trial.

8. That the court prohibit the Petitioner from referring to, using at the time of trial, or moving into evidence any document not disclosed pursuant to any discovery demand.

9. That the court prohibit the Petitioner from calling any witness not disclosed pursuant to any discovery demand.

10. That the court prohibiting the Petitioner and Guardian Ad Litem from calling any current or former foster parent of the above-named children to testify to a "day in the life of" their foster child (or similar testimony). Such evidence is not relevant to the grounds plead and its probative value is outweighed by the passions and prejudices that will result if such testimony is allowed into evidence.

11. That the court prohibit all parties from referring to adoption or to the best interests of the child when addressing the jury because it is not relevant to any element of any allegation under Wis. Stats section 48.415 that must be proven during the Grounds Phase. Sheboygan v. Julie A.B., 255 Wis. 2d 170, 186, 648 N.W.2d 402, 410 (Wis. 2002).

12. To prohibit the any bureau case worker, social worker or any other similar witness from testifying as expert witnesses to their knowledge of the Respondent and the above named children, particularly whether the Respondent would be able to meet conditions of the court order within the nine-month period following the conclusion of this hearing. Wis. Stats.section 907.01 limits a lay witness to testify to only their personal knowledge. Any specialized knowledge that the witness would testify to relating to the Respondent would have to be provided by the Petitioner prior to trial to determine if the data is reliability.

13. To prohibit the Petitioner from making any reference to any prior criminal convictions regarding the Respondent. If utilized for impeachment per Wis. Stats.section 906.09, such inquiries must be limited to the number of convictions and should only include those convictions that relate to issues of credibility. To allow admission of the substantive nature and the substantive facts of the criminal convictions is irrelevant and therefore inadmissible under Wis. Stats.section 904.02. However, if the information is relevant, it should still be excluded under Wis. Stats. section 904.03 because it's probative value is

substantially outweighed by the danger of unfair prejudice.

14.To prohibit the Petitioner from making any reference to the Respondent's drug use prior to the filing of the Termination of Parental Rights Petition. To allow admission is irrelevant and therefore inadmissible under Wis. Stats. section 904.02. However, if the information is relevant, it should still be excluded under Wis. Stats. section 904.03 because it's probative value is substantially outweighed by the danger of unfair prejudice.

15. To prohibit the Petitioner from making any reference to any prior juvenile adjudications and municipal citations regarding the Respondent. To allow admission of the substantive nature and the substantive facts of the juvenile adjudication/municipal citations is irrelevant and therefore inadmissible under Wis. Stats.section 904.02. However, if the information is relevant, it should still be excluded under Wis. Stats. section 904.03 because it's probative value is substantially outweighed by the danger of unfair prejudice.

16. To prohibit the Petitioner from allowing Dr. Kenneth Sherry from testifying. Dr. Sherry evaluated the Respondent on February 9, 2007. The evaluation, assessment and tests performed by Dr. Sherry are over five years old and therefore the information is stale. The Respondent has been evaluated in 2011 by Dr. Emiley and the Respondent believes that psychological evaluation is more timely.

17. To prohibit the Petitioner from sharing to the jury any child protective service referrals or safety services contact that resulted in an unsubstantiated findings or where the case was screened out as no impending threats, no threatened harm or maltreatment. The information is irrelevant under Wis. Stats section 904.02 and therefore should be inadmissible. If the court finds that the information is relevant, it should be excluded under Wis. Stats. section 904.03 because its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues or misleading the jury.

18. To prohibit the Petitioner or their witnesses from making any statements or references to the Respondent allegedly telling either the social workers, her therapist, or anyone else that she wanted to terminate her parental right or believed that such was in the best interest of her children. The information is irrelevant under Wis. Stats section 904.02 and therefore should be inadmissible. If the court finds that the information is relevant, it should be excluded under Wis. Stats.section 904.03 because its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues or misleading the jury.

19. To prohibit the Petitioner or their witnesses from making any statements or

References to any domestic abuse incidents and/or physical altercations between the Respondent and any other individuals. The Respondent has not been arrested nor convicted on relating to any domestic abuse/physical altercations.

Additionally, the Respondent has never filed or had filed against her any

restraining orders. The statements in the petition and other discovery documents relating to domestic abuse/physical altercations is hearsay. The information is irrelevant under Wis. Stats section 904.02 and therefore should be inadmissible. If the court finds that the information is relevant, it should be excluded under Wis. Stats. section 904.03 because its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues or misleading the jury.

20. To prohibit the Petitioner or their witnesses from making any statements or references that the Respondent is homeless. The Petitioner will be able to elicit testimony or evidence that at this time the Respondent does not have a safe, suitable and stable residence. The information is irrelevant under Wis. Stats section 904.02 and therefore should be inadmissible. If the court finds that the information is relevant, it should be excluded under Wis. Stats. section 904.03 because its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues or misleading the jury.

21. To prohibit the Petitioner or their witnesses from making statements or references that the father of the child is unknown. The information is irrelevant under Wis. Stats section 904.02 and therefore should be inadmissible. If the court finds that the information is relevant, it should be excluded under Wis. Stats. Section 904.03 because its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues or misleading the jury.

22. Instruct jury that if they determine the bureau has not made reasonable efforts or that the parent can complete the conditions within the next nine months, that does not mean that the child will be returned to the parent immediately after the trial is over.

The Respondent reserves the right to bring additional motion based upon information obtained through further discovery.

Dated at Wauwatosa, Wisconsin this ___ day of _____, 2013.

Respectfully submitted,

_____

State Bar No.
Attorney for the Respondent Mother

STATE OF WISCONSIN CIRCUIT COURT BRANCH MILWAUKEE COUNTY

IN THE INTEREST OF:

Case No.

RESPONDENT'S REQUEST FOR WITNESS TO APPEAR BY TELEPHONE

TO: Attorney
Assistant District Attorney

Attorney
GAL

PLEASE TAKE NOTICE that the Respondent, _____, mother of the above child, by her attorney, _____, hereby moves the Court, pursuant to 807.13(2) of Wis. Stats., to allow one of the Respondent's witnesses to appear by phone.

The Respondent requests that her aunt, _____, D.O.B. _____, Address: 2710 _____, New Orleans, LA70115, is allowed to appear by phone. The Respondent stayed with Ms. Jones in the past. Ms. Jones was aware of why the Respondent came to Milwaukee. Additionally, Ms. Jones is able to confirm the Respondent's housing conditions before the child was taken and her housing at this time, as well as other pertinent information.

Furthermore, the witness cannot afford to travel to Milwaukee to testify. The Respondent is unable to bear the cost of paying for the witness's appearance. The Respondent believes that the State will be able to effectively cross-examine the witness.

THEREFORE, the Respondent requests that the court allow the witness to appear by phone.

Dated this _____ day of _____, 2013 at Milwaukee, Wisconsin.

Respectfully Submitted,

_____
Attorney for the Defendant
State Bar No.

STATE OF WISCONSIN CIRCUIT COURT BRANCH MILWAUKEE COUNTY

IN THE INTEREST OF:

Case No. 2012TP

CHILDREN UNDER EIGHTEEN YEARS OF AGE

MOTION TO ALLOW RESPONDENT'S SOCIAL WORKER TO INTERVIEW CHILDREN

TO: Assistant District Attorney
MilwaukeeCounty Guardian Ad Litem

PLEASE TAKE NOTICE that The Respondent, _____, the mother of the above-named children, by her attorney _____, hereby moves the Milwaukee County Circuit Court, Branch 41, to allow the Respondent's attorney social worker to speak with three of the above children, _____ and _____ and _____. The purpose of the interview is to allow the court to hear the wishes of the child, in compliance with Wis. Stats. 48.236 (3)(d).

The Respondent believes that the children are old enough to provide their own wishes. _____ is 11 years old, _____ is 9 years old and _____ is 8 years old. The Respondent is aware that the court is required to consider the wishes of the children, but that there is no requirement that the children communicate those wishes personally at the dispositional hearing. The court has discretion to determine what it the best way to know the wishes of the children. The court can have the children tell the court directly, in chamber interview, or the court can allow other parties to share the children's wishes.

The Respondent is requesting that a neutral party interview the children and share there desires with the court. The social worker has experience in interviewing children involve in CHIPS/TPR cases. The Social worker is willing to speak to the kids with their therapist, if appropriate and with the GAL. The social worker provided the following possible procedure to speak with the children:

I would probably bring a coloring book and crayons to my visit with _____. I would introduce myself and tell her who I am and what my role is as a social worker. I probably wouldn't start out by saying that I work for her mother's attorney. I would describe what a social worker does in the most basic language I can think of. I would give her some background information about myself and my family. I might bring a picture of my two children and my cats. I would then ask her age, favorite subject in school, favorite television shows and questions along those lines. After that I would ask her how long she has been at Mercy Options and how she likes it there. I would ask her what she likes about it and what she doesn't like about it. Maybe we could talk a little bit about her therapy and what she thought of it. I would then bring up her family and would ask when was the last time she saw and or talked to her mother. I would ask her what they talked about and how it went. I might discuss with her the last time she received a gift from her mother and how she liked it. I would ask her how she felt the last time she spoke to her mother. I'd ask if she is interested in seeing her mother again and if she had any desire to live with her. I would ask her why she answered the question the way she did. I would then question her about her cousin, _____ and her grandmother, _____. I would ask her what she remembers about them and if they are currently in touch with her. I would probe into what her relationship is with both of them. I would probably end the discussion with some general discussion regarding Easter. Did she get an Easter basket and what was in it. What her favorite candy is, etc. I would ask very similar questions of _____ at his foster home.

THEREFORE, based on the above argument, the Respondent request that the children be interviewed.

Dated this ___ day of _____, 2013 at Milwaukee, Wisconsin.

Respectfully Submitted,

_____

Attorney for the Defendant
State Bar No.

BRANCH

IN THE INTEREST OF:

Case No. 11TP

CHILDREN UNDER EIGHTEEN YEARS OF AGE

RESPONDENT'S (MOTHER) WITNESS LIST

The Respondent, by her attorney, _____, hereby submits the following proposed witnesses in the trial in the above-captioned case.

1. _____, or any other designated representative/counselorMeta House
2. _____, or any other designated representative/counselorChild and Family Services Manager Meta House
3. _____, or any other designated representative from Inner Dynamics
4. Representative from Quality Addiction Management (QAM)

The Respondent reserves the right to call any other witnesses, with proper notification to the Petitioner prior to trial.

Also, the Respondent reserves the right to call rebuttal witnesses or witnesses for impeachment only based on the testimony of witnesses presented by the Petitioner.

Dated this ___ day of _____, 2013 at Wauwatosa, Wisconsin.

_____

Attorney for Mother Respondent
State Bar No.

STATE OF WISCONSIN CIRCUIT COURT MILWAUKEECOUNTY
CHILDREN'S DIVISION

IN THE INTEREST OF:

Case No. 11TP049
Branch

A CHILD UNDER THE AGE OF EIGHTEEN YEARS

MOTION FOR JUDGMENT NOTWITHSTANDING THE VERDICT
805.14(5)(b)

Respondent Mother, _____, by counsel, hereby moves the Court for a judgment notwithstanding the verdict pursuant to Wis. Stats. section 805.14(5)(b). Per the statutes, the party against whom a verdict has been rendered may move the court for judgment notwithstanding the verdict in the event that the verdict is proper but, for reasons evident in the record which bear upon matters not included in the verdict, the movant should have judgment. The Respondent Mother renews all previous motions and herby moves for motion for judgment notwithstanding the verdict of the TPR grounds of abandonment and continuing need of protection or services because the State has failed to present credible evidence to sustain a finding in favor of the State.

To establish abandonment, the burden shifted to the Respondent Mother that she had good cause for having failed to visit or communicate with her children or that the Mother communicated with a representative from the bureau during that specified period of time. There was testimony by the prior case manger, Ms. _____, that on May 6, 2010 the Respondent Mother made phone contact with the OCM and requested to participate in visits. The case manager directed the Respondent Mother to have her probation officer contact the case manager so that the case manager can confirm that the Mother has permission to travel. Then the case manager would contact PSG to set up visits. Ms. _____ then testified that on June 8, 2010, the OCM

received an email from the Mother's probation officer discussing the Mother. Lastly, Ms. _____ testified that she did not see any emails confirming that the OCM contacted PSG to arrange visits. Therefore, the Mother believes that she had good cause for not having visits or communication her children from April 1, 2010 to September 22, 2010.

Additionally, to establish continuing need of protection or services, the State must prove there is a substantial likelihood that the Mother will not meet the conditions of the disposition order within the nine-month period following the conclusion of the trial. The Mother believes that there was ample testimony to support her belief that she has the capacity to complete the conditions, that she has already completed some of the required conditions, and that she has the desire and is willing to do what ever is needed to get her children back. The Mother therefore believes that there is a substantial likelihood that she will meet the conditions within the next nine months.

Therefore, the Respondent Mother requests that the court grant her request for judgment notwithstanding the verdict.

Dated this ___ day of _____, 2013, in Wauwatosa, WI.

Respectfully Submitted,

_____

State Bar No.
Attorney for the Respondent Mother

STATE OF WISCONSIN : CIRCUIT COURT : MILWAUKEECOUNTY

CHILDREN'S DIVISION

IN THE INTEREST OF:

Case No.
Branch

A CHILD UNDER THE AGE OF EIGHTEEN

NOTICE OF INTENT TO PURSUE POST- DISPOSITIONAL RELIEF

The mother of the above named children, _____, gives notice of intent to seek post dispositional relief from the court order entered by the Honorable _____ on the ____ day of ____, 2013, in which the mother's parental rights were terminated. The mother qualified for trial representation by the State Public Defender and her financial circumstances have not materially improved since the initial determination of her indigency and appointment of counsel.

The mother requests that the State Public Defender appoint counsel for purposes of the post-dispositional relief.

Name of Trial Counsel:
Address of Trial Counsel:

Name of Mother:
Address of Mother:

Dated this _____ day of _____, 2013.

_____

AssistantState Public Defender
State Bar #

September 24, 2013

_____
_____ Street
Milwaukee, WI53207

RE: Notice of Intent to Pursue Postdispositional Relief

Dear Ms. _____:

I am writing to advise you of your appeal rights. You have the right to appeal Judge Foley's order terminating your parental rights. An appeal means that you are asking an appellate court to review the judge's findings and orders to see if they were legally correct. If the appellate court finds that you were treated unfairly or that your rights were violated, Judge Foley's order might be changed or you might be given a new court hearing. If the appellate court finds that Judge Foley acted within his authority, your termination of parental rights would stand.

An appellate court does not review new facts and does not consider what will happen in the future that may change a person's circumstances, for example a future job or future housing. The appellate court focuses on what was presented in court and the findings of the court.

Since you did not appear at the last two scheduled hearings, I do not believe you have any appealable issues.

If you do wish to appeal, you must follow this procedure:

> A Notice of Intent to Pursue Postdispositional Relief **must** be filed with the court within **30 days** from date, May 18, 2010. I will assist you in preparing and filing this form.

Because the law permits only 30 days for the papers to be filed, you must make the decision as to whether or not you wish to appeal immediately. Please contact me no later than **June 1, 2010**, if you wish to pursue this appeal process.

I also need to know whether or not you want the Public Defender's Office to appoint an attorney for you. If you want an attorney appointed for you, I need to know if you started a job or received a substantial amount of money since I was first appointed to represent you.

If you have any questions regarding this matter, please feel free to contact me at (414) 266-7364 or (414) 266-1210.

Sincerely,

Milton L. Childs
Assistant State Public Defender