

CHILD PROTECTION MOTION PRACTICE

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GENERAL RULES OF THUMB

- Who is Your audience?
- Use to Educate
- Make Your Record
- Know Your Judge

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AFFIDAVIT / DECLARATION

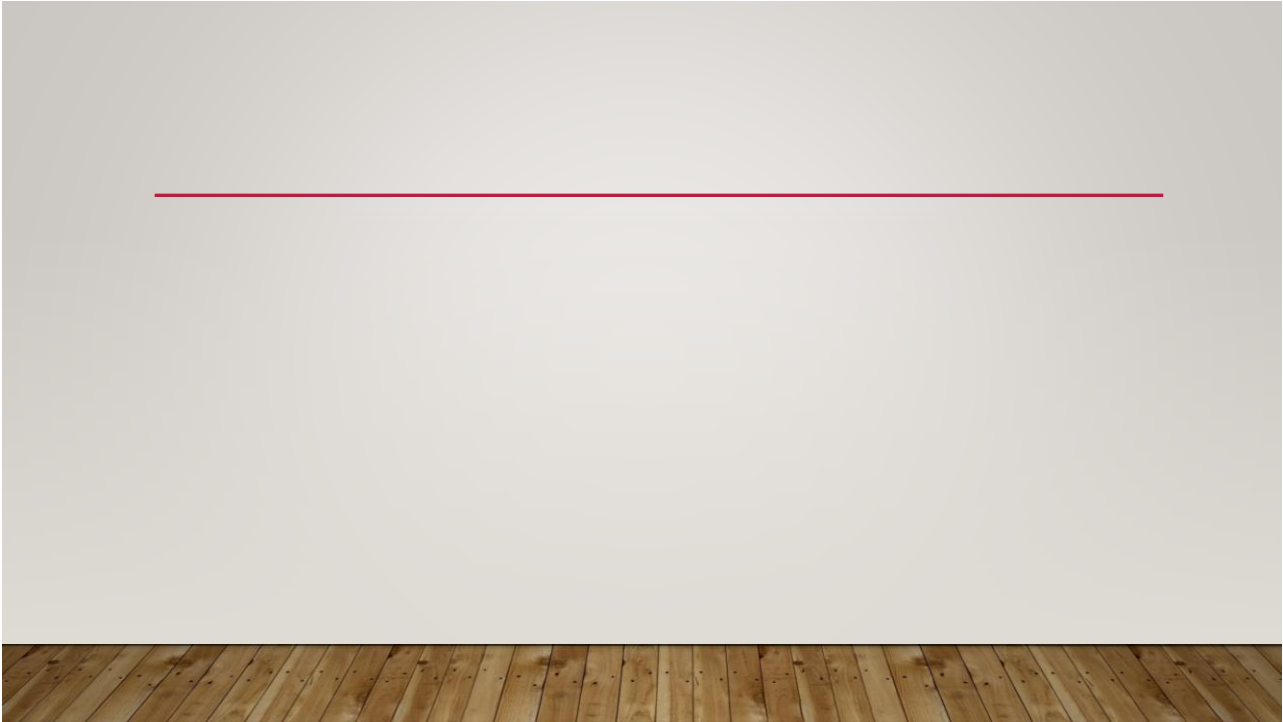
- Who Can File?
 - SW, Parent, Kid, GAL, Interested Party
- Why File?
 - Use to Support Motions
 - Use to Update Court as to Progress on Case Plan or Inform Court of Issues
 - Use for Future Planning in Case such as Leading Up to SMR or PH
 - Use to Clarify Record or Contest Dept Report
 - Give Judge Time to Review Issues Prior to Hearing

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OTHER CONSIDERATIONS

- Allows Attorney to Control Narrative and Direct Client
- Validating for the Client

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ADA COUNTY PUBLIC DEFENDER
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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

IN THE INTEREST OF:

Case No. CV01-23-4567

CUTE CHILD

DECLARATION OF SANDY LEMONS

Children Under Eighteen Years of Age

I, Sandy Lemons, the undersigned, being the natural Mother of Cute Child,
declares:

1. I am providing this declaration to update the Court as to my status and as a response to some of the assertions made in the reports filed by the social worker.
2. The Department of Health and Welfare social worker in the Affidavit of Reasonable Efforts reported that I stated that I had given my child to John before I went to work. That is not accurate as I gave my child to Lisa, my mother, to care for the child while I was at work.



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3. Social Worker reported the allegations were based on reports from School Nurse claimed that she interviewed my children on November 5 at 10 a.m. This is not true, my children were not interviewed by School Nurse.
4. The Amended Petition states that Cute Child was in foster care but that is not true as she was already home under protective supervision. Additionally, the Amended Petition states I have two children, when I actually have four children.
5. At the case plan hearing the prosecutor, Jerry Smith, stated that it was reported to her that Cute Child was observed being held by a six or eight year old child. That is not true, she was being held by her sister who is nine years old.
6. I am currently enrolled in protective parenting classes and have completed two out of the nine required classes.

DATED THIS 12th day of March 2021.

Sandy Lemons

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MOTION FOR PROTECTIVE SUPERVISION / EXTENDED HOME VISIT

- EHV – Dept can do visits up to 48 hours without permission of the court, this is a request for visits to go beyond 48 hours. Dept retains legal custody of child. Co parenting with the state of Idaho.
- Pro Sup – Legal custody returned to the parent but CP case remains open.

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I, Jon Stamos, the undersigned, being the biological father of Mark and Mable, do hereby affirm and state as follows:

1. On April 24, 2018, a case plan was ordered requiring me to do the following:
 - a. Jon Stamos shall ensure safe and appropriate housing for his children. Jon Stamos shall not allow anyone to reside in the home, overnight or longer, without the prior approval of the assigned Department social worker. Jon Stamos shall allow the Department social worker and Guardian Ad Litem to conduct random home visits.
 - b. Jon Stamos shall continue to maintain contact with his children through face-to-face visitation, Skype, phone calls and/or written interactions and visits, to demonstrated appropriate parenting skills and positive communication.
 - c. Jon Stamos shall continue to demonstrate the ability to meet the basic needs of food, clothing, shelter, and supervision for his children. Further, PARENT shall ensure their medical, physical, mental, and developmental needs are met.
 - d. Jon Stamos will participate in a mental health assessment with a Department of Health and Welfare approved provider and comply with any and all recommendations.
2. To date, I have substantially completed the requirements of my previously ordered case plan as follows:
 - a. I currently live with my mother in a four bedroom, two bathroom home in Boise. Health and Welfare social worker has been in the home and is aware of the condition. There is sufficient room in the home for myself and the children. I am the sole owner a home where the mother is currently residing.

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- a. I visit Mark and Mable Mondays and Wednesday for four hours each day. Visits are at the daycare providers home. It is my belief that visits go well for me and the children.
 - c. I am actively seeking employment and have interviewed for several positions.
 - d. I completed the mental health evaluation on August 6, 2018. The evaluator felt that I could benefit from counseling due to stress involved from the current situation. A written report is forthcoming.
 3. Based upon the foregoing, I respectfully request that the Court enter an Order modifying the case plan to provide a specific visitation schedule and require Health and Welfare to provide unsupervised visits with Mark and Mable.
- DATED THIS 9th day of August 2018.

Jon Stamos

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MOTION FOR PROTECTIVE SUPERVISION / EXTENDED HOME VISIT

- Who Can File?
 - Dept, Parent, Kid or GAL
- Why File?
 - Dept feels parents are ready
 - Kid thinks they are ready
 - Parent thinks they are ready
 - Case needs movement
 - Current visitation schedule not adequate

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MOTION FOR PROTECTIVE SUPERVISION / EXTENDED HOME VISIT

- Arguments
 - Best argument for or against
 - Safety issues
 - Not best to stay with fosters
 - School and stability

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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

IN THE INTEREST OF:

CHILD
 Children Under Eighteen Years of Age

Case No. CV CP 123456

MOTION FOR AN ORDER OF
 PROTECTIVE SUPERVISION

COMES NOW, Molly Moon, Mother of the above-mentioned child, by and through the Ada County Public Defenders Office, and hereby Motions this Court for an Order of Protective Supervision. This Motion is based upon the pleadings previously filed with this Court, Affidavit of Molly Moon and oral arguments to be presented.

DATED THIS 23rd day of December 2014.

Joshua Wickard
 Ada County Public Defenders Office

Motion - 1

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MOTION TO AMEND CASE PLAN

- Sets forth tasks and responsibilities for both parents and department
- Tasks in case plan are things that need be accomplished to address the issues that brought a child into care.
- Dept responsibility as to the parent's tasks
 - Referrals
- Case plan is a fluid document

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MOTION TO AMEND CASE PLAN

- Who can file?
 - Dept, Parent, Kid or GAL
- Why file?
 - Add a task that a parent needs to complete
 - SA assessment, Psych eval, parenting class
- Arguments
 - Is there a factual basis for the request?
 - Is it necessary to address safety issue?
 - Not to raise bar to parents

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MOTION TO AMEND CASE PLAN

- Use to address specific issues
 - Department shall provide reasonable visitation schedule
 - 24/7 visitation
 - Parent signing of release of information

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ADA COUNTY PUBLIC DEFENDER
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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA
IN THE MATTER OF: Case No. CV01-23-4967

CUTE KID

MOTION TO AMEND THE CASE
PLAN

Child under the age of 18 years

COMES NOW, Joe Cool, Father, in the above matter, by and through counsel of record, the Ada County Public Defender's Office and hereby moves this Honorable Court, in the above-entitled matter, for an order modifying the Case Plan for him to participate in ABC/SAP programs while in custody. Joe Cool's trial was reset to October and he would like to proactively approach the tasks in his case plan and believes participation in these classes will benefit him while in custody. The case plan should also reflect that the department is required to pay for those classes. Lastly, it is in the best interest of the child for this order requiring Joe Cool's participation in ABC/SAP programs be released to the jail.

DATED this ____ day of July, 2021.

Joshua Wickard
Attorney for the Father

MOTION TO AMEND THE CASE PLAN

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MOTION FOR FINDING OF NO REASONABLE EFFORTS

- Federal funding depends on lots of factors but one is that they are making reasonable efforts towards the permanent plan
- Major finding the court has to make at all required hearings: Shelter Care, Adjudicatory, Case Plan Hearings, Six Month Reviews and Permanency Hearings

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MOTION FOR FINDING OF NO REASONABLE EFFORTS

- Who can file?
 - Parent, Kid or GAL
- Why file?
 - Parent, Kid or GAL don't feel like the Dept is doing their job
 - Strategic or extend reunification time
 - Preserve record
- Argument
 - Reasonable Effort is a mystical phrase – I try to argue by asking what was the effort and was it reasonable
 - State present Dept perspective of what they have done and why it is reasonable
 - Dept Policy and IDAPA rules important here
 - Funding to the department

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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

In the Matter of:
CUTE KID

Case No. CV01-21-34567
MOTION FOR FINDING
OF NO REASONABLE
EFFORTS AND
MOTION TO AMEND CASE PLAN
TO PROVIDE SPECIFIC
VISITATION

Children under the Age of 18 Years

COMES NOW, Larry Lego, biological father of the above-named children, by and through his Attorney of record, the Ada County Public Defender's Office, and hereby Motions this Court for a Finding of No Reasonable Efforts towards reunification by the Idaho Department of Health and Welfare. Further the Father moves this Court for an Order Amending the Case Plan to provide a minimum of four hours a week visitation with her children.

After the Motion to Suspend visits was denied by this Court, visitation with Cute Kid was recently reduced from two hours a week to one hour a week. Larry Lego was told that visitations were reduced to allow the department time to observe visits and make sure they were good visits.

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Larry Lego reports Cute Kid was upset and wanted more time with her father, and this was witnessed by two social workers.

Said reduction in visits violates the Idaho Department of Health and Welfare policy that states "frequent and regular contact between the child and parents and other family members will be encouraged and facilitated unless it is specifically determined not to be in the best interest of the child. Such contact will be face-to-face, with this contact augmented by telephone calls, written correspondence, pictures, and the use of video and other technology as may be relevant and available." IDAPA 16.06.01.405.

Pursuant to the Public Policy of the Idaho Department of Health and Welfare and the Standard for Visitation Between Parents, Siblings, Relatives and Children in Out-of-Home Care, visitation should not be used as a reward to punish the child or family:

Parents and children have a right to visit each other unless face to face contact could pose a safety risk to the child. Visits between a child and their parents should not be cancelled or restricted for other reasons. Withholding visits shall never be used as a threat or form of punishment for the child or the child's parents. Changes in visitation arrangements or schedules must be directly related to the safety of the child and the case plan. Circumstances that may warrant additional assessment of safety prior to visitation may include:

- a parent who is currently demonstrating out-of-control behaviors;
- a parent who arrives to a visit under the influence of a substance;
- a parent bringing an unknown person to the visit with them.

Lastly, Idaho Code does not support arbitrarily reducing visitation between parent and child. "The state of Idaho shall, to the fullest extent possible, seek to preserve, protect, enhance and reunite the family relationship." Idaho Code 16-1601. Reducing visits for no apparent reason does not result in the state preserving and enhancing the family relationship.

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In this case the Department had sought to suspend visitation with the Larry Lego and was denied by this Court. The action of reducing visits with the father appears punitive and without a rational basis. The Department is required to make reasonable efforts towards reunification, and it is reasonable to expect that the Departments efforts to include adhering to its own policies, procedures and Idaho statute when establishing and maintaining a reasonable visitation schedule. Additionally, reducing time between parent and child is not in the child's best interest and appears to have resulted in trauma to the child. As such the Larry Lego respectfully requests this Court to make the Finding that the Idaho Department of Health and Welfare failed to make reasonable efforts towards reunification and an order Amending the Case Plan requiring the Department to provide at least four hours a week.

DATED THIS 23rd day of July, 2019.

 Joshua Wickard
 Attorney for the Larry Lego

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MOTION FOR JUDICIAL REVIEW OF PLACEMENT

- Fairly new it that it allows a party to ask the court to review the current placement and determine if appropriate or in best interest of the child
- Dept still chooses where kid will go
- Who can file?
 - Parent, Kid, GAL
- Why File?
 - Parent, Kid, GAL not happy with placement.
- Arguments
 - Present court information as to why not in child's best interest

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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

In the Matter of:
 CUTE KID

Case No. CV01-23-4567

MOTION FOR JUDICIAL
 REVIEW OF
 PLACEMENT

Children under the Age of 18
Years

COMES NOW, Respondent, Molly Mom, by and through her attorney of record, Ada County Public Defender's Office, pursuant to Idaho Code 16-1603, 16-1619 and Idaho Juvenile Rule 43, moves this Court to review the placement of her children with the current foster home. This Motion is to contest the placement of the children by the department and to ask the Court to not approve the placement. This Motion is based upon the pleadings previously filed with this Court, oral arguments to be presented and the attached Affidavit of Molly Mom. A hearing is requested to address Respondent's motion.

DATED THIS _____ day of March, 2021.

 Joshua Wickard
 Attorney for the Mother

MOTION FOR JUDICIAL REVIEW OF PLACEMENT

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