

ATTORNEY Bar #(0000)

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FIRM NAME

Attorneys for CLIENT

Street Address

City, State Zip

Telephone: (000) 000-0000

Facsimile: (000) 000-0000

IN THE THIRD JUDICIAL DISTRICT JUVENILE COURT

IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

THE STATE OF UTAH, in the
interest of:

)

**MOTION FOR ORDER OF
STANDARD PARENT-TIME
PURSUANT TO U.C.A. §30-3-35.5**

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CHILD (00/00/00)

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Case #

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A person(s) under the age
of eighteen years.

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JUDGE

)

COMES NOW, Respondent, CLIENT, through counsel, ATTORNEY of FIRM, and hereby moves this court for an order commencing the Minimum Schedule for parent-time pursuant to U.C.A. §30-3-35.5 and 30-3-35. Respondent submits the following memorandum in support of her motion:

MEMORANDUM

STATEMENT OF FACTS

1. In November 2000, Respondent filed a motion for trial home placement.
2. In December 2000, the court ordered an evaluation of CHILD for

recommendations of (a) whether CHILD should be transitioned back into her mother's home; (b) what is the best way to accomplish said transition; (c) if the CUSTODIAN's should play an important role in CHILD's life; and (d) all other issues regarding CHILD's custody, guardianship and placement.

3. Following the completion of the evaluation in March 2001, the Guardian ad Litem filed a Verified Petition for Termination of Parental Rights or for Permanent Custody and Guardianship.
4. A Stipulation and Order was entered in this matter August 8, 2001. Pursuant to the stipulation and order, the CUSTODIAN' s were granted permanent custody. The parties were ordered to follow a transition plan and obtain a family counselor to work with the CUSTODIAN's and CHILD regarding visitation issues.
5. It was ordered that Respondent was granted visitation with CHILD as recommended by the family counselor with the goal of standard visitation as set forth in the Utah Code if this is in CHILD's best interest as determined by the therapist.
6. Following the order in August 2001, the parties retained the services of PSYCHOLOGIST and attended counseling with COUNSELOR, M.A. through the same office. Counsel for Respondent received several letters from PSYCHOLOGIST's office. The first letter indicates that it is in the child's best interest to retain visitation with her mother and that visitation should take place. (See, Exhibit 1: August 16, 2001 letter).
7. The second letter indicates that visitation should be reduced to every other

Saturday from 12:00 noon until 6:00 p.m. The letter indicates that this decision is based on the fact that the last visitation agreement was not adhered to in the keeping of the visitation times and dates. The letter does not indicated exactly what the problems were. (See, Exhibit 2: December 5, 2001 letter).

8. The third letter, dated January 14, 2002, indicates that the office of PSYCHOLOGIST is removing themselves from the case based on a conflict of interest and the Tarasoff Warning. (See, Exhibit 3: January 14, 2002 letter)
9. The final letter, dated February 26, 2002, attempts to explain why PSYCHOLOGIST removed her office from the case. The letter indicates that Ms. COUNSELOR had learned from the CUSTODIAN's family that the "CLIENT parents were regarded by many with considerable fear." The letter goes on to state, "Ms. COUNSELOR recalls many occasions upon which the CUSTODIAN's expressed, in confidence, great fear about being the target of anger and retaliation by the CLIENT's." (See, Exhibit 4: February 26, 2002 letter).
10. Respondent has remedied the situation that lead to the out of home placement of her daughter.
11. Respondent has completed the Third District Drug Court Program.
12. Respondent has completed the requirement of random urinalysis tests which have all been negative since May 2000.
13. Respondent has attended and completed a parenting class.
14. Respondent has suitable housing for her and her daughter. Respondent resides in

a home with adequate space for her and her daughter.

15. CHILD has two siblings that she interacts with during visitation.

ARGUMENT

Presumably the parties followed the court order of obtaining therapy for CHILD.

At the time of resolution, it is presumed that the parties were acting in what they believed to be the best interest of CHILD and the parties were aware of the relationship CHILD has with her mother. All parties agreed that the goal should be standard visitation. Given the statements contained in the letters from Dr. PSYCHOLOGIST's office, it is apparent that representations made by the CUSTODIAN's had a great effect on Dr. PSYCHOLOGIST and her associate. The February 26, 2002 letter clearly indicates that the CUSTODIAN's have made representations throughout the therapeutic relationship. These representations do not appear to be intended to further the relationship between the Respondent and her child and certainly appear to undermine the efforts of advancing toward a standard visitation schedule. Respondent believes that the CUSTODIAN's have sabotaged the previous therapeutic setting with Dr. PSYCHOLOGIST and have engaged in Parental Alienation with CHILD.

Respondent and her relationship with her child has been harmed by the entire situation from start to finish. Faced with possible termination of parental rights, versus what she hoped was a means to maintain a relationship with her daughter, Respondent agreed to the order of permanent custody. At that time, Respondent made a decision that she thought was in the best interest of her daughter. However, Respondent has again been thwarted in her attempts to maintain a relationship with CHILD.

Despite the egregiousness of the situation, Respondent has been more than patient with

the situation. The therapist(s) seemed to have taken a wait and see approach in this case. Given the length of time that has passed, it is appropriate that this court now order standard parent-time pursuant to statute. If therapy is needed it should be dealt with in this posture, not a wait and see approach and not requiring the Respondent to again be patient.

It appears that there will always be a level of animosity between the parties, an order of standard parent-time would at least resolve the conflict of where, when and how much visitation Respondent should be entitled. If necessary, the CUSTODIAN's and Respondent can then cooperate with a therapist individually for the benefit of CHILD, but the schedule of visitation will be known and enforceable. Any other resolution will only create further delay and harm to CHILD and Respondent, as well as being an invitation for conflict.

WHEREFORE, Respondent respectfully requests that the court order the following:

1. An order of standard parent-time pursuant to U.C.A. §30-3-35.5 and 30-3-35.
2. Designate a third party pick-up or drop off location to eliminate various allegations of lateness or non-compliance.

DATED this _____ day of April, 2002.

ATTORNEY
FIRM
Attorneys for CLIENT

EXHIBIT 1

August 16, 2001
Letter

EXHIBIT 2

December 5, 2001

Letter

EXHIBIT 3

January 14, 2002

Letter

EXHIBIT 4

February 26, 2002
Letter

CERTIFICATE OF MAILING

I hereby certify that on this ____ day of _____, 2002, I faxed and mailed, postage prepaid, a true and correct copy of the foregoing Motion for Order of Standard Parent-time to:

GUARDIAN AD LITEM
