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| DISTRICT COURT, Click or tap here to enter text., COLORADOClick or tap here to enter text., Click or tap here to enter text., CO Click or tap here to enter text. | ▲ COURT USE ONLY ▲ |
|  THE PEOPLE OF THE STATE OF COLORADOIn the Interest of: Click or tap here to enter text.,ChildClick or tap here to enter text.,Petitioner And Concerning Click or tap here to enter text.,Respondent |
| Attorney for RespondentClick or tap here to enter text. | Case Number: Click or tap here to enter text.Division: Click or tap here to enter text. |
| RESPONDENT’S MOTION TO RESUME VISITATION |

COMES NOW, Respondent, Click or tap here to enter text., by and through counsel, Click or tap here to enter text., and respectfully moves this Court to enter orders addressing the Department’s unilateral decision to suspend Respondent’s court ordered parenting time and, as grounds, states as follows:

**Factual Setting**

1. On Click or tap here to enter text., Click or tap here to enter text. The \_\_\_\_\_\_\_\_\_\_\_ County Department of Human Services (“Department”) cancelled visitation between Respondent and **his/her** minor **child(ren)** without notice. The Department cites health and safety concerns caused by the recent outbreak of coronavirus, COVID-19 (“COVID-19”), as grounds for cancelling visitation.
2. The Department cancelled court-ordered parenting time abruptly and without authorization from this Court or notification to the Court. At this time, the Department has not provided information as to when visits may resume. As of the time of the writing of this motion, County has failed to provide an alternative method of contact between Respondent and his/her children.

1. According to the Centers for Disease Control and Prevention (“CDC”), based on available evidence, children do not appear to be at higher risk for COVID-19 than adults. *Coronavirus Disease 2019 (COVID-19)*, Centers for Disease Control and Prevention (2020), https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/children-faq.html (last visited Mar 13, 2020).
2. Furthermore, according to the American Academy of Pediatrics, COVID-19 seems to impact children at lower rates than adults, and those who do happen to contract the virus typically have mild illness. Melissa Jenco, *Experts discuss COVID-19 impact on children, pregnant women*, AAP News (2020), https://www.aappublications.org/news/2020/03/12/coronavirus031220 (last visited Mar 13, 2020).
3. Family time is critical to maintaining the parent-child relationship when a child is in out-of-home care. Administration for Children and Families, Family Time and Visitation for Children and Youth in Out-of-Home Care, 3 (2020), <https://www.acf.hhs.gov/cb/resource/im2002>. Children participating in regular time with parents exhibit more positive outcomes when compared to peers who participate in fewer or less regular visits. *Id.* at 4. Additionally, consistent contact with parents is strongly associated with reunification. *Id.* The quality of time a parent spends with his or her child is critical for the strength of relationships of all families, especially those with child welfare system. *Id.* at 5. Factors affecting the quality of family time include where and how the time together is spent. *Id.* Inadequate family time can impede parental engagement, inhibit healthy parent-child bonding, disrupt and damage, relationships, delay permanency, and perpetuate trauma for both children and parents. *Id.* at 8.
4. Most children in out-of-home placement have experience significant trauma. Being placed out of the home and separated from parents is often a significant traumatic experience itself. When children experience trauma, it is essential that they experience consistency and predictability. See, e.g., *Parenting a Child Who Has Experienced Trauma*, Children’s Bureau, 2014, available at <https://www.childwelfare.gov/pubPDFs/child-trauma.pdf>.
5. When a county makes a unilateral decision to suspend contact between a parent who is already experiencing a weakened bond due to separation, they have a responsibility to the parent and child. To suspend visitation without any plan for ongoing contact or any explanation to the child is likely to cause further trauma and damage to the child and to the parent-child relationship.

**Applicable Law**

1. By law, the County is required to provide services designed to facilitate, as appropriate, the speedy reunification of parents with any of their children who have been placed in out-of-home placement. Colo. Rev. Stat. § 19-3-208(2)(a)(IV) (2019).
2. Visitation services for parents with children or youth in out-of-home placement must be available and provided by the county or city, as determined necessary and appropriate by individual case plans. § 19-3-208(2)(b)(IV).

1. The child’s health and safety are the paramount concerns in determining whether it is appropriate to provide visitation services. § 19-1-103(89). Questions concerning the children’s health and safety are matters entrusted to the sound discretion of the trial court. *People ex rel. K.B.*, 369 P.3d 822, 830 (Colo. App. 2016).
2. Absent safety concerns, a parent is entitled to face-to-face visitation, and correspondence between parents and children does not constitute visitation. *People ex rel. D.G.*, 140 P.3d 299, 302 (Colo. App. 2006). The court may not delegate the determination of entitlement to visitation to caseworkers, therapists, and others. *Id*.
3. Trial courts are required to make decisions regarding visitation and may not delegate that function to third parties. *People ex rel. B.C.*, 122 P.3d 1067, 1070-71 (Colo. App. 2005). While it is appropriate to order experts, such as therapists, to devise plans and make appropriate recommendations as to visitation, those orders must always be subject to the continuing supervision and review by the trial court. *Id*. at 1071. The trial court, in the final analysis, retains the ultimate decision-making authority. *Id*.

**Application & Analysis**

1. When County cancelled visitation between Respondent and **his/her** minor **child(ren)**, it made a decision reserved exclusively for the court.

1. By abruptly cancelling visitation without notice or a plan for ongoing contact, County endangered the health of the parent-child relationship and caused further trauma to the child.
2. While the United States has declared a state of emergency, and these are extraordinary times, there is no reason that the county could not put in place a plan to permit ongoing contact of some kind and no reason the county could not involve the court in making this decision and monitoring this decision. Based on the current information about the susceptibility of children to COVID-19, County has failed to demonstrate how the cancellation of visitation in the interest of the child’s health and safety outweighs the right to face-to-face visitation.

1. Should the Court determine face-to-face visitation to be inconsistent with the health and safety of the **child(ren)**, counsel requests the Court order visitation via **Skype/FaceTime/Video Service**. Counsel requests the court order that video visits begin within seven days. Video visits do not require people to be in the same place and can be done remotely. Counsel further requests that Respondent be permitted phone calls and text message communication with the minor child and that the GAL and caseworker work with the caregiver to facilitate such communication. With Google voice and other services readily available to provide confidential communication services, there is no reason that such communication cannot occur.
2. Counsel requests that the GAL and caseworker facilitate a way for the caregiver to communicate directly with the parent in the event of an emergency, and that the parent be permitted to visit the child at the hospital if the child is hospitalized.
3. In this time of high stress and worry and national emergency, Respondent is even more worried about **his/her** child than usual. Respondent requests the caseworker and GAL facilitate a way for the caregiver to provide regular updates directly to the parent about the health and wellbeing of the child.
4. Should the Court determine face-to-face visitation to be inconsistent with the health and safety of the **child(ren)**, counsel requests the Court order make-up visits as soon as the danger to the **child(ren)’s** health and safety has passed.
5. Counsel also requests the Court order that, if requested, therapeutic services for Respondent and **his/her** **child(ren)** be provided to cope with the stress of the abrupt cessation or modification of visitation and resulting damage to the parent-child relationship.

WHEREFORE, Respondent requests the Court enter the Order to resume visitation, face-to-face or otherwise, and to order makeup visitation if face-to-face visitation is not occurring.

 Respectfully Submitted,

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| ORDER REGARDING PARENTING TIME |

The Court, having reviewed the Motion, any Responses, and the Court file, hereby enters the following findings:

1. The Court maintains ongoing jurisdiction to enter orders regarding visitation and parenting time, even in emergencies.
2. Respondent has court-ordered parenting time in this case that the Department has unilaterally suspended due to a public health crisis. While the Court finds this to be necessary to protect the safety of the community, ongoing suspension of visitation is not in the best interests of the child.

The Court enters the following ORDERS:

1. The Department shall notify the Court of any emergency cancellation of visitation or parenting time within seven days of the cancellation. The Department shall include in the notification a plan for when visitation will resume (i.e. what criteria will be used to assess when it is safe for face-to-face visitation to resume or a date when they will reassess and notify the court and all parties whether they can resume).
2. The Department shall develop a plan for ongoing contact between the parent and child to include video visitation, email, text messaging, or any other form of communication that would be safe and meaningful to the child and parent.
3. The Department shall ensure that the caregiver has contact information for the parent that is up-to-date and that the caregiver is able to communicate directly with the parent in an emergency.
4. Should the child be hospitalized, the parent is authorized to visit the child at the hospital. If the parent is inappropriate at the hospital or is not healthy enough to be at the hospital, the hospital is authorized to request that the parent leave the hospital. The parent shall not leave the hospital with the child.
5. The caseworker, GAL, and/or CASA shall develop a plan to provide regular updates regarding the health and well-being of the child, including photos and health updates. These updates should occur at least weekly so long as face-to-face visits are not occurring. If the caregiver has direct communication with the parent, these can be provided by the parent.
6. All missed visits shall be made up as soon as safe and practicable.
7. The Department shall consider on an ongoing basis whether alternative visitation arrangements can be safely made to permit face-to-face visits to resume.
8. If requested, the Department shall provide therapeutic services to the parent and/or child to address trauma caused by this unexpected separation and emergency.

Signed this \_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_, 2020.

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 District Court Judge/Magistrate