

DISTRICT COURT, EL PASO COUNTY, COLORADO 270 South Tejon Street Colorado Springs, Colorado 80903	<div style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></div> Case Number:  Division:  Courtroom:
<b>THE PEOPLE OF THE STATE OF COLORADO:</b> In the Interest of:  <div style="text-align: right;">Child,</div> EL PASO COUNTY DEPARTMENT OF HUMAN SERVICES, <div style="text-align: right;">Petitioner,</div> And Concerning:  <div style="text-align: right;">Respondents.</div>	
<b>CASE MANAGEMENT AND TRIAL MANAGEMENT ORDER</b>	

**IT IS THE ORDER OF THE COURT** that the following Case Management and Trial Management Order is in effect in all juvenile dependency and neglect cases effective October 15, 2024.

**1. APPLICATION OF ORDER**

- A. All parties shall comply with the Fourth Judicial District’s Policies and procedures as set forth in the District Plan for Processing Dependency and Neglect Cases.

**2. PROFESSIONAL CODE OF CONDUCT**

- A. We are all professionals who have different but equally important roles, everyone must act respectfully to each other.
- B. Counsel are advocates and have professional responsibilities; professionals are to understand not take things personally and assume positive intentions.
- C. All parties are to share relevant non-privileged information in a reasonable time prior to court hearings, which includes any reports or updates regarding the family and/or youth.
- D. Unless it is an emergency issue, parties must discuss issues with other professionals prior to bringing it up on the record. This may necessitate parties stepping out into the hallway to discuss an issue prior to raising it with the Court.
- E. If you have discussed something with a caseworker, that does not mean the information has made it to the County Attorney; they must also be given notice.
- F. Rules of engagement apply to out-of-court meetings, communications and mediations.
- G. Rules of engagement apply and include all case professionals. Everyone who is part of the team has value and is to be included, including CASAs.
- H. Court orders are to be complied with, including disclosures regarding ICWA, UCCJEA, and parentage. Mediation is court ordered and attendance is required.
- I. The court is to hold parties accountable for orders that are not complied with.

- J. Families and youth are the priority, we are all working towards stabilization and successful outcomes. We must focus on what steps are needed to continue to move forward toward that outcome.

**3. AGENTS OF RESPONDENT PARENT COUNSEL**

- A. Office of Respondent Parent Counsel (ORPC) and El Paso Department of Human Services (DHS/Department) agree to the following: When a social worker, family advocate and/or parent advocate are appointed through ORPC, they function as an agent of the attorney. Respondent parent counsel shall notify the court and parties if an agent is assigned and when the agent is no longer assigned to the case. These professionals are both implied and expressly authorized by the attorney to communicate on behalf of the client with DHS and its staff and with the Guardian ad Litem (GAL)/Counsel for Youth (CFY).

**4. FILING WRITTEN STATUS REPORTS (WSR), MOTIONS FOR PERMANENCY, TREATMENT PLANS, AND QRTP ASSESSMENTS**

- A. **WSR and Motions for Permanency:** All written status reports and motions for permanency must be filed with the Court and served on all counsel of record or *pro se* parties no later than five (5) days prior to the hearing.
- B. **Treatment Plans:** All written treatment plans must be filed with the Court and served on all counsel of record or *pro se* parties no later than seven (7) days prior to the dispositional hearing.
- C. **Qualified Residential Treatment Program (QRTP) Assessments:** A QRTP assessment will be filed with the Court and served on counsel of record for the parents/guardians/legal custodians of the subject child/youth assessed, the parent/guardians/legal custodian of the child if *pro se*, the child/youth's Guardian ad Litem or child/youth's Attorney, and Court-Appointed Special Advocate (CASA) if assigned. The assessment will be filed as suppressed.
- D. **Service:** Service on counsel shall be accomplished by e-filing.

**5. DISCLOSURES OF EL PASO COUNTY DEPARTMENT OF HUMAN SERVICES RECORDS**

**A. Discovery**

- i. *Duty to Provide Discovery:* All parties are required to provide discovery upon specific written request. All parties shall have a continuing duty to supplement when a party learns the previously provided disclosures or prior discovery are incomplete or incorrect in some material respect. Subsequent and repeated discovery requests shall be handled according to the sections outlined herein.
- ii. *Discovery Provided Upon Written Request*
  - a. Petitions, El Paso County Department of Human Services (DHS), shall provide discovery upon written request utilizing the electronic discovery process as outlined by the OCA. Documents provided

through the discovery process will be those documents in the custody and control of DHS at the time of the request.

- b. The Court orders discovery of the following specific items upon written request:
  1. *Caseworker notes, trails entries, and contact sheets*
  2. *Law enforcement reports in DHS custody or control*
  3. *Reports of expert witness unless privilege is asserted*
  4. *Subject to any claim of privilege, relevant medical records of the child(ren) in the possession of any party*
  5. *Video recordings, audio recordings, or written interviews in the custody or control of DHS*
  6. *Photographs in the custody or control of DHS*
  7. *The birth certificates, social security numbers, immunization records and contact information for the children's health and dental care providers in the possession of any party*
  8. *Any item in the file of the Department of Human Services if requested with specificity. Initial request may be broad. All subsequent requests must be made with specificity. The menu of documents contained in the caseworker's file shall be used for options.*
- c. Due to the mandatory discovery orders present in this CMO, DHS is not subject to Request for Productions ("RFP") without prior court approval
- d. If a party asserts an item is privileged, the asserting party must disclose to the opposing parties a privilege log noting the general type of document asserted as privileged and number of pages.
- e. Upon written request, Respondents shall disclose to requesting parties a copy of the child's birth certificate, social security card, and/or Medicaid/insurance card in their possession. These disclosures shall be made no later than twenty-one (21) days after service of the request, or at such other time the court determines reasonable and appropriate.
- f. Limited Redaction: The court finds good cause under C.R.S. §19-1-307(1)(b) for the Petitioner and the El Paso County Department of Human Services Custodian of Records, to redact items listed below, 1-7, from all reports of child abuse and neglect, and all records kept by the custodian of records prior to release in discovery. Redactions, when possible, will note which paragraph the redacted information falls under. The OCA need not do any other redactions. If other redactions are requested, the party has an affirmative duty to request. See section e.
  1. *The reporting party and associated identifying information;*

2. *Any foster placement names and addresses and kinship address;*
  3. *All Social Security numbers;*
  4. *All dates of birth of non-parties;*
  5. *Background check information, including Accurint search results, CBI search results and/or NCIC search results, OCA/DHS cannot release without further court order;*
  6. *Items subject to attorney client privilege to include work product;*
  7. *Items to which dissemination is prohibited by law (child pornographic photos). If such items are in the possession of DHS, parties can arrange with the OCA to view them at their office.*
- g. Affirmative Duty to Request Other Redactions or Non-Disclosure of Documents and Records: Other than the redactions listed above, respondent parent counsel (RPC) or GAL/CFY or CASA have an affirmative duty to request additional redaction in writing with the OCA. If no agreement is reached regarding additional redactions, the party requesting the redaction shall file a motion with the court within five (5) days after service of the request, stating the type of additional information the respondent is requesting to be redacted, and a brief explanation outlining why the request is being made. Objections must be made with specificity. The court will strike general objections. This motion shall be served on all parties and copied to the (OCA) discovery email.
- h. Timing of discovery: If a party is pre-adjudication, discovery shall be made available to the party and GAL/CFY no later than fourteen (14) days after service of the request of if objection is filed, within fourteen (14) days of court ruling. If a party is post-adjudication, discovery shall be made available to the party and GAL/CFY within a reasonable period of time, but no later than twenty-one (21) days prior to any contested hearing. Unless good cause is found by the court, request for discovery must be made in a timely manner, but no less than thirty-five (35) days prior to any post-adjudication contested hearing. Efforts shall be made to release post-adjudication discovery as soon as practical following the request. This timing applies whether the request is titled under any other name to include a Colorado Open Record Request (CORA).
- i. Affirmative duty to confer: Parties have an affirmative duty to confer with the OCA office concerning any discovery deficiencies fourteen (14) days before a contested hearing.

**B. Automatic Dissemination of Records Dispersed Outside Discovery Process:**

The following specific records in the custody of El Paso County Department of Human Services shall be disseminated from the Office of the County Attorney and will not go through the discovery process. No specific request needs to be made. These records will be disseminated within seven (7) calendar days of receipt by the El Paso County Department of Human Services to all parties unless otherwise noted. The court approves the sending of records via email. No redaction is required.

- i. *Family Time Assessments, Reports, and Notes*
- ii. *Treatment Summaries, Attendance, and Drug Testing Results such as Urinalysis and Hair Follicle Results*
- iii. *CORE Referrals*
- iv. *Safety Assessments:* The initial safety assessment shall be distributed to all parties prior to the Shelter Hearing. Any subsequent safety assessment shall be provided to all parties.
- v. *Treatment Evaluations and Assessments:* A notice will be filed with the Court stating an evaluation or assessment has been received and disseminated. The evaluation or assessment will not be routinely filed with the court. An evaluation or assessment of any party completed pursuant to Court order and provided to El Paso County Department of Human Services shall be distributed to the following parties:
  - a. RPC for the person who is the subject of the evaluation or assessment
  - b. Office of the County Attorney
  - c. GAL/CFY
  - d. GAL for parent, if applicable
  - e. CASA, if assigned

**C. Resolution of Discovery Disputes:** Discovery disputes must be resolved as quickly and informally as possible. When a discovery dispute arises, the party may file the discovery request and any responses which form the basis of the dispute only after conferring with the other party. The court will exercise due diligence to resolve the discovery dispute within forty-eight (48) hours of the parties' notice of dispute, or as soon as practicable as directed by the court.

**D. Duty to Honor Confidentiality of Records:** Records received via the discovery process or through automatic dissemination shall be professionally handled and to the extent reasonably possible, protected from the view of third parties and those not associated with the case. Information shall not be used by any party to harass, annoy, or threaten any person related to the case. Information shall not be posted on any social media platform or the internet. When information is released to the attorney's client, this duty to honor shall be clearly explained to client. Counsel shall not disseminate confidential or protected information that was unintentionally released.

## **6. PREPARATION, EXECUTION, AND OBJECTIONS TO LONG ORDERS**

- A. Unless the court otherwise directs, the OCA shall prepare a written order reflecting the findings and orders of the court after a hearing and shall submit the same for approval no later than fourteen (14) days following the Court hearing.
- i. Upon the filing of the long order, all parties shall be served a copy.
  - ii. Parties have a duty to ensure long orders are correct.
  - iii. The Court shall allow fourteen (14) days for objection to the proposed long order prior to signing.
    - a. If a party objects to any content in the long order within fourteen (14) days, the objecting party shall confer with the OCA to see if the order can be resolved.
      1. *If an agreement can be reached within fourteen (14) days, a "revised order" shall be filed by the OCA with a paragraph noting the objection and stating the amended order is stipulated. The court will review and sign.*
      2. *If an agreement cannot be reached, the objecting party shall file and serve the Court and parties with specific objections and suggested modifications to the form of the proposed order. The case will be set for a forthwith status conference prior to the signing of the long order.*
    - b. If an error has been found after the long order has been signed, the parties shall confer and determine if a stipulated amended order may be filed. If not, the objecting party shall file and serve an immediate written objection with the Court and all parties.

## **TRIAL MANAGEMENT ORDER**

## **7. REQUEST FOR ADMISSIONS AND/OR INTERROGATORIES AND/OR DEPOSITIONS AND/OR REQUEST FOR PRODUCTION OF DOCUMENTS**

- A. *Request for Admissions:* Throughout a case a party may serve on each adverse party twenty (20) requests for admission, each of which shall consist of a single request. Any party receiving requests for admission shall serve its answers upon opposing counsel no later than ten (10) days from the date of service, unless otherwise agreed to in writing by parties. The scope and manner of proceeding by means of request for admission and the use thereof shall otherwise be governed by Rule 36, C.R.C.P.
- B. *Interrogatories:* Throughout a case a party may serve on each adverse party thirty (30) written interrogatories, each of which consists of a single question. Any party receiving interrogations shall serve its answers upon opposing counsel no later than ten (10) days from the date of service, unless otherwise agreed to in writing by parties. The scope and manner of proceeding by means of written

interrogatories and the use thereof shall otherwise be governed by Rule 26 and 33, C.R.C.P.

- C. *Depositions*: Throughout a case a party may take depositions of up to four (4) persons. Depositions of incarcerated individuals or repeat depositions of the same person may not occur without a Court order. It is presumed that depositions of children or youth is not in their best interest and request a Court order supported by good cause shown. Each deposition must be limited to two (2) hours. Subpoenas may be issued to compel attendance at depositions. The scope and manner of producing by means of deposition and the use thereof shall otherwise be governed by the Colorado Rules of Civil Procedure.
- D. *Requests for Production of Documents*: Throughout a case, a party may serve on each party, no more than twenty (20) discrete requests for production of documents that are not covered by the standard discovery process. Complete response to the request shall be served no later than twenty-one (21) days after service of the request, or within the timeframe ordered by the Court.

## **8. MOTIONS FOR SUMMARY JUDGEMENT AND MOTIONS FOR DETERMINATION OF QUESTION OF LAW**

- A. Any Rule 56 Motions shall be filed no later than twenty-one (21) days prior to the hearing for which the motion applies. The opposing party shall be allowed seven (7) days following service of the motion to file and serve a response and any opposing affidavits. In some cases, with ongoing discovery, the parties may motion the court for a modification of the timeframe referenced. No reply to the response shall be filed. Failure to file for Rule 56 relief in accordance with the paragraph may constitute a waiver of the remedy requested.

## **9. PRETRIAL MOTIONS, PERMANENCY PLANNING MOTIONS AND CERTIFICATE OF CONSULTATION**

- A. Except for motions for continuance or motions to sequester witnesses, all pretrial motions, shall be filed with the court and copies served on opposing counsel by email no later than seven (7) days before trial. Failure to file pretrial motions in accordance with this paragraph may constitute a waiver of remedy requested.
- B. All motions requesting specific relief from the court shall include a statement that the moving party has conferred or made a good faith effort to confer with the opposing counsel and opposing counsel's position as governed by Rule 121 C.R.C.P. section 1-15(8).
- C. Counsel is relieved from conferring under this rule on the following motions:
  - i. Motions for summary judgment
  - ii. Motions concerning allocation of peremptory challenges
  - iii. Motions seeking to limit improper appeals to the trier of fact
  - iv. Motions to sequester witnesses
  - v. Motions for attendance of report authors
  - vi. Permanency motions

## **10. SUBPEONA DUCES TECUM**

- A. Subpoenas shall be issued in compliance with C.R.C.P. 45.

## **11. CONTESTED HEARINGS**

- A. The following shall be followed prior to setting all contested hearings except for adjudication and termination hearings:
  - i. All parties, including all professionals and the ongoing caseworker or their representative shall participate in an off-the record good faith conference to discuss the anticipated contested matter(s).
  - ii. The date of the good faith conference shall be agreed upon while the parties are in court and announced on the record. Absent extenuating circumstances, the good faith conference shall be over the phone, via video or in person.
  - iii. When a contested hearing is requested, the Court shall set a good faith conference, a review hearing, and the contested hearing in this chronological order.

## **12. EXHIBITS, WITNESS LISTS, AND EXPERT WITNESSES**

- A. No later than fourteen (14) days before a hearing on permanent custody, contested disposition hearing, termination hearings, allocation of parental responsibility hearings (APR), adjudicatory hearing, or other contested hearings, witness lists and exhibit lists shall be filed with the court and provided to all parties.
- B. Authenticity of exhibits is deemed stipulated to unless objected to in writing no later than three (3) days before the hearing.
- C. All expert witnesses shall be disclosed no later than fourteen (14) days before the hearings, and rebuttal experts no later than seven (7) days before the hearing.
  - i. A copy of the expert's CV and any reports authored by the expert shall be provided to all parties at the same time.
    - a. If the expert did not prepare a written report, a summary of the expert's opinion shall be provided.
  - ii. Written interrogatories or depositions may be utilized to conduct further discovery beyond the disclosures provided for in this section.
    - a. If depositions are anticipated, a party may request a witness list be provided sooner than fourteen (14) days prior to the contested hearing. If the parties are unable to reach an agreement on the request, the matter can be set for a status hearing with the Court.

## **13. ADJUDICATORY TRIALS**

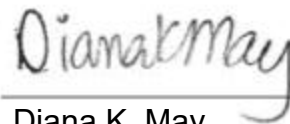
- A. The OCA shall deliver the proposed jury instructions to chambers and the opposing counsel by email no later than the morning of trial. Each party must provide their own proposed instruction(s) for any that are in dispute and any additional instructions not included in the OCA's packet.



- B. If counsel for any party objects to the admissibility of any expert testimony as contemplated by *People v. Shreck*, 22 P.3d68 (Colo.2001), a written motion must be filed and served no later than seven (7) days before trial. Failure to file such motions will be deemed a waiver of *Shreck* admissibility objections. The proponent of the expert witness shall still be required to establish the witness's qualifications pursuant to Rule 702, C.R.E.
- C. For jury selection, seven (7) jurors, including an alternate juror, shall be seated in the jury box. Counsel shall conduct their voir dire of jury venire as determined by the Court. The OCA may exercise three (3) challenges. GAL/CFY may exercise three (3) challenges. RPC shall share jointly three (3) challenges.
- D. Voir dire, opening statements, and closing arguments are limited to twenty (20) minutes per party. For good cause shown, these limits may be modified by the court.
- E. All counsel and parties are required to comply with this Trial Management Order. Failure to comply may result in the imposition of sanctions, including restrictions on evidence, and/or witnesses.
- F. This order replaces all previous Case Management and Trial Management Orders issued by the court.
- G. The Court on its own or the parties may request an amendment of this order or a separate trial management order.

SO ORDERED this 15<sup>th</sup> day of October 2024.

BY THE COURT:



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Diana K. May  
Presiding Juvenile Court Judge