

| | | |
|--|--|-------------------------------------|
| DISTRICT COURT, EL PASO COUNTY, COLORADO 270 South Tejon Street Colorado Springs, Colorado 80903 | | |
| THE PEOPLE OF THE STATE OF COLORADO: In the Interest of: | | |
| EL PASO COUNTY DEPARTMENT OF HUMAN SERVICES, Petitioner, | | Child, Δ COURT USE ONLY Δ |
| And Concerning: | | Case Number: |
| Respondents. | | Div. Ctrm: |
| CASE MANAGEMENT AND TRIAL MANAGEMENT ORDER | | |

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 June 1, 2022.

1. APPLICATION OF ORDER:

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. AGENTS OF RESPONDENT PARENT COUNSEL:

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 court and parties if an agent is assigned and when agent is no longer assigned to the case. These professionals are both impliedly 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).

3. FILING WRITTEN STATUS RESPORTS (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/guardian/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 on counsel shall be accomplished by e-filing.

4. DISCLOSURE OF EL PASO COUNTY DEPARTMENT OF HUMAN SERVICES RECORDS:

A. Definitions:

1. **Discovery Request:** The specific request made by a party to another party requesting specific items needed to effectively represent the interests of a client
2. **Discovery:** Items within the control of a party
3. **Automatic Dissemination:** The dissemination of specific types of records by the Office of the County Attorney (OCA) according to the case management order. These records are distributed from the OCA directly to parties without a request being made to discovery. These records include sensitive information relating to a party and may cause disruption to treatment if provided to all parties.

B. Discovery

1. 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 sections outlined herein.

2. Discovery Provided Upon Written Request:

- a. Petitioner, El Paso County Department of Human Services (DHS), shall provide discovery upon written request utilizing the electronic discovery process as outlined by the OCA. The OCA shall develop a written process, receive feedback, and have court approval of the

process. Once adopted this process shall be followed and will be added to the District Plan. 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. Menu of documents contained in the caseworker's file shall be used for options.*

c. 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 such other time the court determines reasonable and appropriate.

d. Limited Redaction: The Court finds good cause under C.R.S. §19-1-307(1)(b) for the Petitioner and El Paso County Department of Human Services Custodian of Records, to redact items listed below, I-VII, 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, party has an affirmative duty to request. *See* section e.

- I. The reporting party and associated identifying information;*
- II. Any foster placement names and addresses and kinship addresses;*
- III. All Social Security numbers;*
- IV. All dates of birth of non-parties;*

- V. *Background check information, including Accurint search results, CBI search results and/or NCIC search results, OCA/DHS cannot release without further court order;*
- VI. *Items subject to attorney client privilege to include work product;*
- VII. *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.*

e. **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 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 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.

f. **Timing of discovery:** **If a party is pre-adjudication, discovery shall be made available to the party and GAL** no later than fourteen (14) days after service of the request (or if objection filed, within 14 days of court ruling). **If a party is post-adjudication, discovery shall be made available to the party and GAL** within a reasonable period of time, but no later than 21 days prior to any contested hearing. Requests for discovery must be made in a timely manner, but no less than 35 days prior to any 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).

g. **Affirmative duty to confer:** Parties have an affirmative duty to confer with the OCA office concerning any discovery deficiencies 14 days before a contested hearing.

C. Automatic Dissemination of Records Dispersed Outside Discovery Process; The following specific records in the custody of the 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. The court approves the sending of records via email. No redaction is required.

D. Treatment Evaluations and Assessments: An evaluation or assessment of any party done pursuant to Court order and provided to the El Paso County Department of Human Services shall be distributed to the following parties:

1. Respondent parent counsel for the person who is the subject of the evaluation or assessment
2. Office of the County Attorney
3. Guardian ad Litem for child
4. Guardian ad Litem for parent, if applicable
5. CASA, if CASA assigned

A filing with the Court will be done stating evaluation or assessment has been received and disseminated. The evaluation or assessment will not be routinely filed with the Court.

E. Visitation Assessment Reports and Visitation Notes: An assessment or visitation notes relating to any party shall be distributed to all parties.

F. Treatment Summaries, Treatment Attendance and Urinalysis Results: Treatment summaries, treatment attendance and urinalysis results shall be distributed to all parties.

G. CORE Referrals: Confirmation of CORE referrals shall be distributed to all parties.

H. Safety Assessments: The initial safety assessments shall be distributed to all parties prior to the shelter hearing Any subsequent safety assessment shall be provided to all parties.

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

J. 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 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 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.

5. REQUEST FOR ADMISSIONS AND/OR INTERROGATORIES AND/OR DEPOSITIONS AND/OR REQUEST FOR PRODUCTION OF DOCUMENTS:

Unless otherwise ordered by the court, or good cause shown, discovery shall be limited as follows for each contested hearing:

A. 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 requests unless otherwise agreed to in writing by the 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. A party may serve on each adverse party thirty (30) written interrogatories, each of which shall consist of a single question. Any party receiving interrogatories shall serve its answers upon opposing counsel no later than ten (10) days from the date of service requests unless otherwise agreed to in writing by the parties. The scope and manner of proceeding by means of written interrogatories and the use thereof shall otherwise be governed by Rules 26 and 33, C.R.C.P.

C. A party may (at such party's expense) take a deposition of each adult party, caseworkers, and three (3) other persons without leave of the court. However, no child named in the Petition shall be deposed without leave of the Court. 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. A party may serve on each party no more than 20 discrete requests for production of documents. Complete response to the requests shall be served no later than 21 days after service of the request, or within the timeframe ordered by the court.

6. MOTIONS FOR SUMMARY JUDGMENT AND MOTIONS FOR DETERMINATION OF QUESTION OF LAW:

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. No reply to the response shall be filed. Failure to file for Rule 56 relief in accordance with this paragraph may constitute waiver of the remedy requested.

7. PRE-TRIAL MOTIONS, PERMANENCY PLANNING MOTIONS AND CERTIFICATE OF CONSULTATION:

- A. Except for motions for continuance or motions to sequester witnesses, all pre-trial 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 waiver of the 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 opposing counsel and opposing counsel either objects or does not object as governed by Rule 121, C.R.C.P., Section 1-15(8).
- C. Counsel are relieved from conferring under this rule on the following motions:
 - 1. Motions for summary judgement.
 - 2. Motions concerning allocation of peremptory challenges.
 - 3. Motions seeking to limit improper appeals to the trier of fact.
 - 4. Motions to sequester witnesses.
 - 5. Motions for attendance of report authors.
 - 6. Permanency motions.

8. PREPARATION AND EXECUTION OF LONG ORDERS AND OBJECTIONS TO LONG ORDERS:

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.

- A. At the time the long order is sent to the Court it shall be copied to all parties. The court shall not sign a long order until 14 calendar days have passed after filing with the Court.
- B. Parties have a duty to ensure orders are correct.
 - 1. If an error is found after the 14 days and the court has signed the order, the parties shall professionally confer and determine if a stipulated amended order may be filed. If not, objecting party shall file an immediate written objection with the court and all parties.
 - 2. If a party objects to any content in the long order within the fourteen (14) days, the objecting party shall professionally confer with the OCA to see if the matter can be resolved prior to the court signing of the long order. If an agreement can be reached within the 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 then sign the “revised order.” If an agreement cannot be reached, the objecting party shall file and serve specific objections and suggested modifications to the form of the proposed order with the court and parties. The court shall not sign the order and it will be set for a forthwith status conference at a time agreeable by the parties.

9. SUBPOENA DUCES TECUM: Shall be issued in compliance with C.R.C.P. 45.

10. TRIAL MANAGEMENT ORDER:

- A. When scheduling a hearing, all counsel must consult with each other in advance so the appropriate amount of time will be set for the hearing.
- B. No later than fourteen (14) days before a hearing on permanent custody, contested disposition, termination hearings, allocation of parental responsibilities hearings or other contested hearing, a list of witnesses and a list of exhibits shall be filed with the court and provided to all parties. Authenticity of exhibits is deemed stipulated to unless objected to in writing no later than three (3) days before the hearing. Concerning adjudicatory trials, termination hearings, and allocation of parental responsibilities hearings, all expert witnesses shall be disclosed no later than fourteen (14) days before the hearing, and rebuttal experts no later than seven (7) days before the hearing. A copy of the expert’s CV and any reports authored by the expert shall be provided to all parties at the same time. If the expert did not prepare a written report, a brief summary of the expert’s expected testimony and opinion shall be provided in accordance with the provisions of C.R.C.P 26 (a) (2) (B) (II). Written interrogatories or depositions may be utilized to conduct further discovery beyond the disclosures provided for in this paragraph.
- C. For an adjudicatory trial, the OCA shall deliver the proposed jury instructions to chambers and 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 county attorney’s packet.
- D. If counsel for any party objects to the admissibility of any expert testimony as contemplated by *People v. Shreck*, 22 P.3d 68 (Colo.2001), such objections must be made by written motion and must be filed 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.
- E. 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 and GAL shall each excuse three jurors. Respondent parent counsel shall share three challenges.

- F. Opening statements, closing arguments and voir dire are limited to twenty (20) minutes per party. For good cause shown, these time limits may be modified by the court.
- G. All counsel and parties are required to comply with this Trial Management Order. Failure to comply may result in the imposition of sanctions, to include restrictions on evidence and/or witnesses.
- H. order replaces all previous case management/trial management orders issued by the court.
- I. The court on its own or the parties may request an amendment of this order or a separate trial management order.

SO ORDERED this 1st day of June, 2022.

BY THE COURT:



Linda Billings Vela
District Court Judge