

STATE OF NORTH CAROLINA  
COUNTY OF CUMBERLAND

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
JUVENILE FILE NO. \_\_\_\_JA \_\_\_\_

IN THE MATTER OF:

**PETITIONER'S PRE-TRIAL MOTIONS**

NOW COMES Petitioner Cumberland County Department of Social Services and moves the court to allow the following pre-trial motions with regard to the special session of the matter currently scheduled for \_\_\_\_\_:

**MOTION FOR USE OF CLOSED CIRCUIT TELEVISION**

Petitioner moves this court for an order allowing the use of the closed circuit television equipment for the testimony of the minor child and says to the court in support thereof as follows:

1. That the petitioner alleges that the minor child was subjected to sexual abuse in the home as alleged in the petition filed herein.
2. That the minor child is currently \_\_\_\_ years old.
3. That the petitioner further alleges that the minor child is diagnosed with post-traumatic stress disorder and, according to her current therapist, \_\_\_\_\_ the minor child will be further traumatized if she must testify in court in the presence of the alleged perpetrator. According to the therapist, the minor child's emotional wellbeing and further therapy would be negatively impacted by her testimony in the presence of the alleged perpetrator.
4. That Petitioner further alleges that the above diagnosis of post traumatic stress disorder constitutes more than mere nervousness or excitement or some reluctance to testify and that this emotional condition will interfere with the child's ability to communicate her testimony to the court in

the event she must testify in the presence of the alleged perpetrator and Respondent mother.

5. That Petitioner moves that the closed circuit television equipment installed in Room 206 or other appropriate courtroom be used so that the Respondents can view the minor child's testimony from an adjacent room as well as telephonic equipment which will allow the Respondents to communicate with their respective counsel.
6. That the use of equipment such as this in juvenile cases has been upheld by the Court of Appeals in the case of In re J.B., 172 N.C. App. 1 (2005) in its analysis of the *Eldridge* factors of fundamental fairness.
7. That the Respondents will not be unduly prejudiced by the use of the closed circuit television equipment during the minor child's testimony in that Respondent counsel will be present for cross examination, Respondents will be able to communicate with their respective counsel and Respondents will see the minor child testify in real time.
8. That the minor child will suffer emotional harm if she must testify in the presence of these Respondents.

**MOTION TO CLOSE THE COURTROOM and  
MOTION TO ALLOW SUPPORT PERSON FOR THE MINOR CHILD**

The Petitioner further moves the court to close the courtroom to all non-essential personnel and to bar the general public from sitting in the courtroom and further that during the testimony of the minor child, that all witnesses be sequestered and relatives of witnesses also be barred from the courtroom to insure the privacy of the minor children.

That as a specific exception to this motion, the Petitioner requests that a support person designated by the wishes of the minor child be allowed to be present in the courtroom and available to the minor child during her testimony.

That the Petitioner requests that the said designated support person should be duly cautioned by the court not to influence the testimony of the minor child in any way but to merely be physically present with the child as an emotional support.

**MOTION TO PREVENT PERSONS FROM ENTERING AND EXITING THE COURTROOM DURING THE TESTIMONY OF THE MINOR CHILD**

Petitioner further moves this court for an order preventing persons from entering or exiting the courtroom during the testimony of the minor child as this is a significant distraction to the minor child during the serious proceedings before the court. Petitioner requests that a sign be clearly posted on the doors to the courtroom restricting access.

**MOTION FOR USE OF DEVELOPMENTALLY APPROPRIATE LANGUAGE DURING DIRECT AND CROSS-EXAMINATION OF THE CHILD WITNESS**

Petitioner further moves this court for an order requiring the use of developmentally appropriate language for the age of the child witness in that all questions should be framed in simple, understandable language, that there should be no compound questions, that there should be no use of double negatives, and that cumulative questions should be disallowed.

**MOTION TO ALLOW LEADING QUESTIONS DURING THE DIRECT EXAMINATION OF THE MINOR CHILD**

That pursuant to N.C.G.S. §8C-1, Rule 611 (c) the Petitioner moves this court for an order allowing the use of leading questions as necessary to develop the minor child's testimony in that the subject matter of this testimony is of a delicate, sensitive and embarrassing nature.

**MOTION REGARDING COURTROOM PROCEDURES AND MODIFICATIONS**

That pursuant to N.C.G.S. § 8C-1, Rule 611(a) the court shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth (2) avoid needless consumption of time and (3) protect witnesses from harassment or undue embarrassment. In the interest of facilitating the child

witness' best interest, the Petitioner requests the following courtroom procedures and modifications during the child's testimony:

1. That the child's testimony be scheduled for 9:00 a.m.
2. That the child be able to bring with them a transitional object such as a stuffed animal.
3. That the judge be dressed in a shirt and tie without his robe.
4. That frequent breaks be taken as needed to allow the child to focus on the questioning.
5. That objections by any attorney be made by raising a hand and stating in a quiet tone of voice the general nature of the objection (i.e. hearsay, relevancy, prejudicial etc.); if a lengthy discussion is necessary for the court to rule on the objection, the Petitioner requests that a break be taken to allow the child to leave the room during the discussion; otherwise Petitioner requests the court to either sustain or overrule the objection without explanation.

#### **MOTION FOR USE OF CHILD FRIENDLY OATH**

Petitioner moves the court for an order allowing the child to be sworn by the clerk using a developmentally appropriate "child friendly" oath which employs simple and concrete language as follows:

- "Do you \*promise\* that you \*will\* tell the truth?  
(Wait for child's response)

▶ THEN

- "Are you going to tell me any lies"?

**WHEREFORE**, Petitioner prays this court for an order allowing the above stated pre-trial motions and for an order allowing the use of the video conferencing equipment for the testimony of the minor child.

This the \_\_\_\_\_ day of September, 2007.

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Elizabeth Kennedy-Gurnee  
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Staff Attorney  
Cumberland County Department of  
Social Services  
P.O. Box 2429  
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(910) 677-2670

CERTIFICATE OF SERVICE

This is to certify that I have this date served the following with a copy of the foregoing pre-trial motions and notice of hearing for \_\_\_\_\_ via the methods indicated and pursuant to the requirements of Rule 5 of the North Carolina Rules of Civil Procedure:

\_\_\_\_\_  
Attorney for Respondent  
Via confirmed telefacsimile (910) \_\_\_\_\_

\_\_\_\_\_  
Attorney for Respondent  
Via confirmed telefacsimile (910) \_\_\_\_\_

\_\_\_\_\_  
Attorney for Respondent  
Via confirmed telefacsimile (910) \_\_\_\_\_

\_\_\_\_\_  
Attorney Advocate, GAL  
Via confirmed telefacsimile (910)678-2941

This the \_\_\_\_\_ day of September, 2007.

\_\_\_\_\_  
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