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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF XXXXX**  
**JUVENILE COURT**

In re Matter of	)	<b>Case No. XXXX</b>
	)	
	)	<b>CHILDREN'S TRIAL BRIEF RE:</b>
C.P. et al.,	)	<b>APPLICABILITY OF SIBLING</b>
	)	<b>RELATIONSHIP EXCEPTION TO</b>
Children.	)	<b>ADOPTION</b>
	)	
	)	Date: XXX, 2006
	)	Time: 8:30 a.m.
	)	Dept.: XXXX

**INTRODUCTION**

The children submit this trial brief in support of their argument that the sibling relationship exception codified in Welfare and Institutions Code<sup>1</sup> section 366.26, subdivision (c)(1)(B)(v) should apply to prevent T. P.'s adoption by the maternal cousins. The evidence supports that if T. P. is adopted by the cousins, it will substantially interfere with the sibling relationships and will be detrimental to T. P.

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code unless otherwise specified.

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2 **STATEMENT OF FACTS**

3 The children were detained on XXXX, 2005 after T. P. was diagnosed with several bone  
4 fractures and failure to thrive. (§ 300 Petition filed XXXX/05.) The Agency initially placed all  
5 four children with their paternal grandparents, XXXX and XXXX. (*Ibid.*) However, at the  
6 detention hearing, the court denied the Agency request to place T. P. with either set of  
7 grandparents. (XXXX/05 Minute Order, p. 2.) As a result, T. P. was re-placed with maternal  
8 cousins, XXXX and XXXX on XXXX. (XXXX/05 Juris./Dispo. Rpt., p. 20.)

9 On XXXX, 2006, the court sustained the petition as amended after a contested hearing.  
10 Disposition was continued for an Evidence Code section 730 report from Dr. XXXX.  
11 (XXXX/06 Minute Order, pp. 1-2.) On XXXX, 2006, the court declared the children dependents  
12 pursuant to section 300, subdivisions (a), (b), and (j), denied reunification services as to T. P.  
13 under section 361.5, subdivisions (b)(5) and (b)(6), and ordered reunification services as to the  
14 other three children. (XXXX/06 Minute Order, p. 2.) A section 366.26 hearing was set for T. P.  
15 for XXXX, 2006, the same day as the section 366.21, subdivision (f) hearing for her siblings.  
16 (XXXX/06 Minute Order, p. 3.)

17 On XXXX, 2006, the Agency recommended adoption for three-year-old T. P. by her  
18 current caregivers and continued reunification for C.P., age five, G. P., age four, and B.P., age  
19 one. (XXXX/06 § 366.26 Rpt., p. 12; XXXX/06 Stat. Rev. Rpt., p. 14.) Counsel for the parents  
20 and children requested a contested hearing on the issue of adoption of T. P. The court also  
21 ordered a supplemental report on why the paternal grandmother was not considered to adopt T.  
22 P. (XXXX/06 Minute Order, p. 2.)

23 All the evidence presented to date supports that the relationship between T. P. and the  
24 siblings is a close and positive one. T. P. has been having weekly visits with the siblings ever  
25 since the paternal grandmother agreed to transport the children to XXXX, except for three visits  
26 that T. P.'s caregivers cancelled. (XXXX/06 § 366.26 Rpt., p. 10.) According to the social  
27 worker, T. P.'s caregiver has said that "visits between the siblings are positive and T.P. looks  
28 forward to interacting with the siblings and anticipates the visits." (*Ibid.*) T.P's relationship with

1 C.P. is especially close. The current caregiver reports that “they always look for each other to  
2 play” and that C.P. is “very affectionate” and “attentive” with T.P. In addition, T.P. shows  
3 interest in B.P. and “always hugs and kisses the sister.” (*Ibid.*) Yet, when asked by the social  
4 worker about continuing the sibling visits once T.P. is adopted, the current caregiver said “she  
5 would not be able to facilitate weekly visits between T.P. and the siblings as it is time consuming  
6 and weekends are the days they have for family activities.” (*Id.* at p. 9.)

7 The paternal grandmother has said that she is concerned that the siblings’ visits will stop  
8 if the current caregivers are allowed to adopt T.P. She noted the “very special relationship”  
9 between C.P. and T.P. and said that C.P. sometimes cries and asks why T.P. cannot live with  
10 them. (XXXX/06 § 366.26 Rpt., p. 11.) Both the mother and father have also told the social  
11 worker that if T.P. is going to be adopted, they would like the paternal grandmother to adopt  
12 because they know she will ensure that the siblings continue to have a relationship. (XXXX/06  
13 Stat. Rev. Rpt., p. 11.)

14 In his evaluation for disposition, Dr. XXXX noted the close bond between the children.  
15 He observed C.P. and G.P. greet T.P. “in a very warm, spontaneous and affectionate manner.”  
16 (XXXX/06 Evaluation, p. 4.) As for G.P., Dr. XXXX reported that G.P. appeared “to be very  
17 affectionate and obviously pleased to see T.P. ... .” (*Ibid.*) He observed G.P. gladly holding  
18 T.P.’s hand while walking to the bathroom. (*Id.* at p. 5.) Dr. XXXX opined that C.P. was  
19 particularly attached to T.P. and had taken on a big brother role to his younger sisters. (*Id.* at p.  
20 18.) He said that all of the children seemed generally well-adjusted and their behavior suggested  
21 “a rather positive family environment, not one where severe child abuse is usually found.”  
22 (*Ibid.*) Finally, after first saying that it would probably be ill-advised to remove T.P. from the  
23 current placement, Dr. XXXX then suggested that the court evaluate placement of T.P. with the  
24 paternal grandparents “mainly for the sake of the relationship with the siblings ... .” (*Id.* at pp.  
25 19-20.)

26 No evidence has been presented to contradict the observations of T.P.’s caregiver, the  
27 paternal grandmother, and Dr. XXXX that T.P. and the siblings share a close relationship.

### 28 **ARGUMENT**

1           **I. ADOPTION OF T.P. BY HER CAREGIVERS WOULD JEOPARDIZE HER**  
2           **RELATIONSHIP WITH HER SIBLINGS AND BE DETRIMENTAL**

3           The sibling relationship is the longest lasting relationship that most people have in their  
4           lifetime. The bond between siblings who have been abused or neglected is generally even  
5           stronger, as they have had to depend on one another to cope with their trying circumstances. In  
6           fact, former foster children are more inclined to search for their siblings than for their biological  
7           parents. (Child Welfare Information Gateway, U.S. Dept. of Health & Human Services,  
8           Administration for Children & Families, *The Sibling Bond: Its Importance in Foster Care and*  
9           *Adoptive Placement* (1992), pp. 2-4, attached as Exhibit 1.)

10          In recognition of the importance of sibling relationships, in January 2002 the Legislature  
11          added a statutory exception to adoption of a dependent child: the sibling relationship exception.  
12          (§ 366.26, subd. (c)(1)(E); Stats. 2001, ch. 747, § 3; see also §§ 306.5, 358.1, subd. (d), 362.1,  
13          subd. (a)(2), 366, subd. (a)(1)(D), 366.1, subd. (f), 366.29, 366.3, subd. (e)(9), 388, subd. (b),  
14          16002 [requiring court to consider sibling relationships throughout proceedings].) The sibling  
15          relationship exception applies when termination of parental rights would cause substantial  
16          interference with a sibling relationship “taking into consideration the nature and extent of the  
17          relationship, including, but not limited to, whether the child was raised with a sibling in the same  
18          home, whether the child shared significant common experiences or has existing close and strong  
19          bonds with a sibling, and whether ongoing contact is in the child’s best interest, including the  
20          child’s long-term emotional interest, as compared to the benefit of legal permanence through  
21          adoption.” (§ 366.26, subd. (c)(1)(E).) If the court finds that severance of the sibling  
22          relationship would be detrimental to the child, the court then weighs the benefit to the child of  
23          maintaining the sibling relationship versus the benefit of being adopted in deciding whether to  
24          apply the exception. (*In re L.Y.L.* (2002) 101 Cal.App.4th 942, 951-952.)

25          The court must find detriment to the child being considered for adoption, not the child’s  
26          siblings, in order for the exception to apply. (*In re Daniel H.* (2002) 99 Cal.App.4th 804, 813.)  
27          However, this does not mean that the siblings’ feelings about the relationship should not be  
28          considered. As the California Supreme Court recently said: “The sibling’s relationship with the

1 child is not irrelevant. Certainly, evidence of the sibling's relationship with the child and, if the  
2 sibling is articulate, perhaps of the sibling's views of that relationship, might be relevant as  
3 indirect evidence of the effect the adoption may have on the adoptive child. A nonadoptive  
4 sibling's emotional resistance towards the proposed adoption may also implicate the interests of  
5 the adoptive child. In an appropriate case, the court should carefully consider all evidence  
6 regarding the sibling relationship as it relates to possible detriment to the adoptive child." (*In re*  
7 *Celine R.* (2003) 31 Cal.4th 45, 55.)

8       There is no question that the child who is the subject of an adoption recommendation has  
9 standing to raise the sibling relationship exception. (*In re Hector A.* (2005) 125 Cal.App.4th  
10 783, 791.) Here, it is T.P. herself who is asserting the exception, joined by the siblings, C.P.,  
11 G.P., and B.P. (See *Hector A.*, *supra*, at pp. 792-799.) T.P. lived with the siblings more than  
12 half of her life. (See XXXX/05 Juris./Dispo. Rpt., p. 20.) During the little more than one year  
13 that T.P. has been separated from the siblings, the child has visited them regularly. Since June  
14 2006, the visits have taken place weekly. (XXXX/06 § 366.26 Rpt., p. 10.) By all accounts, T.P.  
15 enjoys the visits. T.P.'s caregiver has said that the visits "are positive as T.P. looks forward to  
16 interacting with the siblings and anticipates the visits." (*Ibid.*) T.P.'s relationship with C.P. is  
17 especially close. The current caregiver reports that "they always look for each other to play" and  
18 that C.P. is "very affectionate" and "attentive" with T.P. (*Ibid.*) The paternal grandmother has  
19 also observed the "very special relationship" between C.P. and T.P. C.P. sometimes cries and  
20 asks why T.P. cannot live with them. (XXXX/06 § 366.26 Rpt., p. 11.) Additionally, T.P.  
21 demonstrates affection for B.P. and "always hugs and kisses her sister." (XXXX/06 § 366.26  
22 Rpt., p. 10.)

23       Moreover, Dr. XXXX, a licensed psychologist and member of the juvenile court's  
24 Evidence Code section 730 expert panel, described the children as interacting in a "in a very  
25 warm, spontaneous and affectionate manner" when they were in his office recently. (XXXX/06  
26 XXXX Evaluation, p. 4.) He even suggested that the court consider replacing T.P. with the  
27 paternal grandparents in order to preserve the relationship with the siblings. (*Id.* at pp. 19-20.)  
28 Though not a sibling bonding study, Dr. XXXX's evaluation suggests that it would be

1 detrimental to terminate T.P.'s relationship with the siblings, especially C.P. (*Id.* at p. 18.)  
2 Thus, there is substantial evidence that it would be detrimental to T.P. if the child were to lose  
3 contact with the siblings.

4 The evidence also supports a finding that if the current caregivers adopt T.P., they will  
5 not ensure that the siblings' relationship continues. Despite her acknowledgment that T.P.  
6 benefits from the visits with the siblings, the current caregiver has told the social worker that  
7 "she would not be able to facilitate weekly visits between T.P. and the siblings as it is time  
8 consuming and weekends are the days they have for family activities." (XXXX/06 § 366.26  
9 Rpt., p. 9.) Complicating matters further is the fact that the current caregiver's live in XXXX,  
10 quite a distance from the paternal grandparents and siblings. If sibling visits are to continue, it  
11 will require a firm commitment on the part of the prospective adoptive parents. However, at  
12 present, the paternal grandmother is shouldering all of the responsibility for transporting the  
13 siblings to XXXX for the visits, which are currently *court-ordered*, and yet the current caregivers  
14 have nevertheless cancelled three visits in the past several months. (XXXX/06 § 366.26 Rpt., p.  
15 10.) The only reasonable conclusion to draw from the caregivers' statements and past behavior  
16 is that if they adopt T.P., it will cause substantial interference with T.P.'s relationships with the  
17 siblings.

18 This case is factually similar to *In re Naomi P.* (2005) 132 Cal.App.4th 808. In that case,  
19 Naomi was placed with a family friend who wished to adopt her. Naomi's three older siblings  
20 lived with their maternal grandmother, who was their legal guardian. Naomi had never lived  
21 with her siblings, but she visited them weekly. At the time of the section 366.26 hearing, Naomi  
22 was only three and could not express her feelings. However, the siblings testified about their  
23 love for their little sister. The grandmother, mother, and Naomi's caregiver also testified that  
24 Naomi appeared to enjoy the visits. (*Id.* at pp. 812-821.) The juvenile court found that it was  
25 reasonable to infer that if the siblings enjoyed the visits, Naomi did too. The fact that the  
26 children had never lived together was not determinative in the court's view. (*Id.* at p. 821.) The  
27 court found that the siblings had been "a constant thread in this young child's life and that there  
28 is a compelling reason to believe that continued contact is important for this child's long-term

1 emotional well-being. The sibling relationship is an enduring one. It begins in infancy, as this  
2 one has, and extends into old age.”” (*Ibid.*)

3 The juvenile court also doubted Naomi’s caregiver’s testimony that she would ensure that  
4 sibling visits continued, as she did not appear to appreciate the importance of the sibling  
5 relationship. (*Naomi P.*, *supra*, 132 Cal.App.4th 808, 821.) The Second District Court of  
6 Appeal found that substantial evidence supported the juvenile court’s finding that the sibling  
7 relationship exception applied and affirmed its order of legal guardianship for Naomi. (*Id.* at pp.  
8 823-824.)

9 Factually, this case presents an even more compelling argument for applying the sibling  
10 relationship exception. Unlike Naomi, who had never lived with her siblings, T.P. has lived with  
11 the siblings for more than half the child’s life. (See XXXX/05 Juris./Dispo. Rpt., p. 20.) Also,  
12 the court here has expert evidence from Dr. XXXX that the sibling relationship, at least between  
13 C.P. and T.P., is significant, so much so that Dr. XXXX even suggested that the court consider  
14 replacing T.P. with the paternal grandparents so that the child could be with the siblings.  
15 (XXXX/06 Evaluation, pp. 4, 18-20.) The social worker has not offered any evidence to  
16 contradict the family members’ or Dr. XXXX’s accounts that T.P. shares a close relationship  
17 with the siblings. In fact, it does not appear from the reports that the social worker has ever  
18 personally observed a sibling visit. (XXXX/06 § 366.26 Rpt., p. 10; XXXX/06 Stat. Rev. Rpt.,  
19 p. 10.)

20 In summary, the evidence presented to date supports a finding that adoption of T.P. by  
21 the maternal cousins would substantially interfere with the relationship with the siblings and that  
22 ongoing sibling contact is in T.P.’s long-term emotional interest such that it outweighs the  
23 benefit to the child of adoption.

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1 **CONCLUSION**

2 For the reasons stated, the children respectfully request that the court find that the sibling  
3 relationship exception applies and that it is not in T.P.'s best interest to be adopted by the  
4 maternal cousins.

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7 Dated: XXXX, 2006

Respectfully submitted,

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9 Law Offices of XXXX

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12 By: XXXX XXXX, Esq.  
13 Attorneys for the Children  
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