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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF XXX XXXXXX**
10

11 In the Matter of) Case Number: XXXX
12)
13 (MINOR) XXXX) FORUM NON CONVENIENS
14)
15 Minor(s).)
16)
17) Date: January XX, 2003
Time: 8:30am
Dept.: XXX
18 _____
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20 **INTRODUCTION**

21 This brief addresses whether, pursuant to Family Code section 3427, California is an
22 inconvenient forum to make custody determinations in this case.
23

24 **STATEMENT OF FACTS**

25 (Minor) arrived in California in August 2001 after she disclosed to her paternal aunt A.
26 XXXX, that her father Cxxxx XXXX had been sexually abusing her for approximately three years.
27 (Minor) is a Mexican National and had lived with her father, stepmother and three younger half
28 sisters in <state> since the age of nine. (Minor) has no support system or other family members in
<state>. (Minor)'s mother is in Mexico and has not seen her for at least seven years.

1 On September XX, 2001 the XXX XXXXX County Department of Children and Family
2 Services filed a Welfare and Institutions Code Section 300 petition alleging that father had almost
3 on a daily basis sexually abused (Minor) since the age of nine. Said sexual abuse included sexual
4 intercourse and fondling. The court found all parties were properly noticed for the jurisdictional
5 adjudication, however father requested a continuance because father was unable to travel to
6 California due to the increased airport security after the terrorist attacks of September 11, 2001.
7 Father through counsel argued that father was unable to travel by air because he didn't have a
8 green card. On December XX, 2001 father again failed to attend the properly noticed adjudication
9 under the same argument that he did not have a green card to travel to by Air. (Minor)'s paternal
10 aunt testified that she was aware that father had traveled by air from <state>1 to <state>2 and back
11 since (Minor)'s detention in California.

12 On December XX, 2001, the court found (Minor) to be credible and commented on her
13 demeanor. (Minor) didn't have hesitation to respond, and recalled specific dates and times of
14 specific events. The court sustained the WIC 300 petition of severe sexual abuse of (Minor) by her
15 father.

16 (Minor) has been residing continuously in California since August 2001. She is doing well
17 in her foster home, school, is attending weekly therapy and has found a support system to help her
18 through the severe abuse perpetrated upon her by her father.

19 Father, CXXXXX XXXX, filed an appeal and the court of Appeal affirmed the judgment of
20 dependency of December XX, 2001, vacated all subsequent orders and remanded the case to the
21 juvenile court to conduct a hearing pursuant to Family Code section 3427, subdivisions (a), (b), and
22 (c) on the issue of forum non conveniens.

23
24 **CALIFORNIA IS THE APPROPRIATE FORUM TO MAKE CHILD CUSTODY**
25 **DETERMINATIONS FOR (MINOR)**

26 The issue at hand is whether California is an inconvenient forum for custody determinations
27 to be made regarding (Minor). Family Code Section 3427 is the exclusive method of determining
28

1 the proper forum in custody disputes involving other jurisdiction and governs juvenile dependency
2 proceedings. (In re Nada R. (2001) 89 Cal. App. 4th 1166).

3 Family Code Section 3427 (a) indicates in pertinent part that a court of this state “...*may*
4 decline to exercise it jurisdiction at any time if it determines that it is an inconvenient forum *under*
5 *the circumstances and that another court is a more appropriate forum.*”(emphasis added). The
6 language of Family Code Section 3427 (a) is clearly discretionary and not mandatory.

7 In order to determine whether the California court should decline to exercise jurisdiction in
8 (Minor)’s case, it is important for the court to consider the legislative purpose of the Uniform Child
9 Custody Jurisdiction and Enforcement Act (UCCJEA). California adopted the UCCJEA and
10 codified it in former Civil Code section 5150 et seq. which became effective in January 1974. The
11 UCCJEA was revised and adopted in 1997 and then in January 2000, was adopted in California
12 and codified in Family Code Section 3400 et seq.. “In 1968, concern over parents engaging in
13 forum shopping to gain favorable custody decisions led the National Conference of Commissioners
14 on Uniform State Laws and the American Bar Association to approve the Uniform Child Custody
15 Jurisdiction act (UCCJEA)...Its purpose was to ‘avoid jurisdictional competition and conflict,
16 [promote] exchange of information and other mutual assistance between courts of sister states.’”
17 (In re C.T. (2002) 100 Cal. Ap. 4th 101 at 106). In (Minor)’s case, the parents are not forum
18 shopping for a more favorable custody decision and there is no concern over jurisdictional
19 competition. In fact there is no other open jurisdiction in any other State.

20
21 Respectfully submitted,

22 LAW OFFICES OF XXXXX
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27 By: XXXX XXXX
28 Attorney for XXXX