

1 (Firm)
2 BY: (Attorney) CSB#
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Attorney for (MOTHER), MOTHER

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF X
SITTING AS THE JUVENILE COURT**

In the matter of:)	CASE NO.
)	
(MINOR))	NOTICE OF MOTION AND MOTION FOR RECONSIDERATION PURSUANT TO CODE OF CIVIL PROCEDURE - §1008(b)
DOB:)	
)	DATE:
Minor.)	TIME:
)	DEPT:

I.

NOTICE OF MOTION

The mother, (Mother), by and through her attorney, respectfully submits the following motion for reconsideration.

II.

STATEMENT OF FACTS

The mother is twenty-seven years old and has a history of substance abuse beginning when she was thirteen years old. The mother has participated in substance

1 abuse treatment four times in the past, the mother sought out treatment on her own
2 three times and one time, in 1995, the mother was court ordered to participate in drug
3 diversion. (Minor) is the mother's first child. The mother has had no prior CPS
4 involvement.

5 The Department of Health and Human Services filed dependency petitions
6 pursuant to §300(b) and (g) of the Welfare and Institutions Code. At the contested
7 jurisdiction hearing the court dismissed the (g-1) allegation, sustained the (b-1)
8 allegation wherein it states that the mother has a substance abuse problem from which
9 she has failed to rehabilitate which renders her incapable of providing care and
10 supervision of the child, in that she uses methamphetamines, marijuana, and alcohol on
11 a regular basis. The court did not find true, 1). That the mother was under the influence
12 of controlled substances when social worker, R., placed the child into protective custody
13 on X, 2003 and 2). That the mother did not have provisions for the child or medical
14 supplies in order to care for the child. The court sustained the (b-2) allegation wherein it
15 states that (Mother) appears to have emotional problems, the court did not find true that
16 it appeared that the mother had psychiatric problems. Additionally, the court sustained
17 the (b-3) allegation, which relates to the fathers substance abuse problem. Although
18 the court sustained the allegations, the court indicated that this was a very close
19 situation.
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23 On X, 2003 at the contested disposition hearing, the mother argued that W&I
24 Code Section 361.5(b-13) did not apply to this case, but even if the court found (b-13),
25 the (c) exception applies and the mother should be granted reunification services. The
26 court held that prior to hearing the mother's testimony the court had decided to order the
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1 Department of Health and Human Services to provide the mother with reunification
2 services, however, the court stated that after hearing the testimony of the mother the
3 court changed it's mind and adopted the recommendation by the Department of Health
4 and Human Services. The court asked county counsel if services could still be offered
5 to the mother despite the ruling of the court that (b-13) applied. The court invited the
6 mother to file a 388 Motion to modify the court order and encouraged the mother to
7 participate in services on her own.
8

9 On X, 2003, Judge had a conversation with the mother's attorney and indicated
10 that she felt that the ruling in this case was incorrect. Judge invited the mother's
11 attorney to prepare a Motion to Reconsider. After the discussion with the mother's
12 attorney, Judge had a discussion with the county counsel and the attorney for the child.
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15 III.

16 CONCLUSION

17 Based upon the facts of this case, the "close call" the court made in sustaining
18 jurisdiction, the mother's lack of prior CPS history, the mother's age, the fact that this is
19 the mother's only child, the lack of evidence concerning the mother's substance
20 abuse/intoxication while in the presence of her daughter, the lack of evidence
21 concerning abuse and/or neglect of the child, and the court's admission that a mistake
22 was made in denying the mother reunification services, the mother's counsel
23 respectfully requests that the court reconsider the prior order and grant the mother
24 reunification services.
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DATED: _____

Attorney for (MOTHER)

PROOF OF SERVICE

Case Name: IN RE: (MINOR)
Court: x SUPERIOR COURT; JUVENILE DIVISION
Case No.:

I am a resident of the United States and of the State of California. I am employed in the County of X. My business address is X, California X. My business telephone number is ; fax number is . I am over the age of eighteen years. I am not a party to the within action or proceeding. On _____, 2003, I served the following document(s):

- 1. NOTICE OF MOTION FOR RECONSIDERATION PURSUANT TO CODE OF CIVIL PROCEDURE §1008 (b)
- 2. DECLARATION OF X IN SUPPORT OF NOTICE OF MOTION FOR RECONSIDERATION PURSUANT TO CODE OF CIVIL PROCEDURE §1008 (b)

I am familiar with the practice of (firm) for the collection and processing of correspondence for mailing with the United States Postal Service. In accordance with the ordinary course of business, the above-mentioned document(s) would have been deposited with the United States Postal Service on the same day on which it was placed at (firm) for deposit

X by placing, or causing to be placed, a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Sacramento, California, addressed as set forth below. (CCP §1012, 1013, & 1013(a))

COUNTY COUNSEL
Address

X by personally delivering, or causing to be delivered, a true copy thereof to the person(s) at the Ridgeway Courthouse in the mailbox located in Room 101 of the mail distribution center.

Attorney
Address

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on _____, 2003 at, California.

name

1 **(Firm)**
2 **BY: (Attorney) CSB#**
3 **Address XXXXXXX**
4 **Phone XXXXXXX**
5 **Fax XXXXXXX**

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8 **Attorney for (MOTHER), MOTHER**

9 **SUPERIOR COURT OF CALIFORNIA**
10 **COUNTY OF**
11 **JUVENILE DIVISION**

12 **In re the Matter of:**

13 **(MINOR)**

) **Case No.:**

)
) **DECLARATION OF (Attorney)**
) **IN SUPPORT OF NOTICE OF MOTION**
) **FOR RECONSIDERATION PURSUANT**
) **TO CODE OF CIVIL PROCEDURE**
) **§1008(b)**

) **DATE:**

) **TIME:**

) **DEPT.:**
)

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20 I, (Attorney), state and declare the following:

- 21 1. I am the attorney of record for the mother, (Mother), in the above-entitled
22 action.
- 23 2. I am duly licensed to practice law in all state courts in the State of California.
- 24 3. On X, 2003 Judge asked me to approach the bench after calendar call.
- 25 4. Judge indicated that she felt she had made a mistake in her ruling in the G.
26 case.
27

28 In re the Matter of: (Minor)

Declaration of in Support of
Notice of Motion to Reconsider
August 4, 2008

Case No.

1 5. Judge indicated that she had intended to offer the mother reunification
2 services until she heard the mother's testimony. Judge indicated that she felt
3 her ruling may have been an emotional reaction to the mother's testimony.

4 6. Judge invited mother's counsel to file a motion to reconsider the ruling and
5 get this case back in front of her.
6

7
8 I, declare under penalty of perjury under the laws of the State of California, that the
9 foregoing is true and correct to the best of my knowledge and that this declaration was
10 signed at, California.
11

12
13 DATED: _____

14 Attorney for (MOTHER)
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