

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

6
7 Attorney for (MOTHER), MOTHER

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF X
10 SITTING AS THE JUVENILE COURT

11 In the matter of:) CASE NO.
12 (Child))
13) NOTICE OF MOTION FOR
14) APPOINTMENT OF EXPERT WITNESS;
15) POINTS AND AUTHORITIES
16) [EVIDENCE CODE §730]
17)
18) DATE:
19) TIME:
20) DEPT.:
21)
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23)
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27 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

28 PLEASE TAKE NOTICE that on _____ at _____ in
Department of the County Juvenile Court located at _____, the mother, (Mother), will move
the court pursuant to Evidence Code Section 730 for an order appointing an expert
witness to perform a bonding assessment on the mother and the child, (Minor) to render
a report to the court relative to the issue of the strength of the bond between the child
and the mother and whether or not it would be detrimental to the minor to terminate the
mother's parental rights. This motion will be made on the grounds that there is a
significant bond between the child and the mother, (Mother). The Court has
now set a Welfare and Institutions Code Section 366.26 hearing to consider whether

27 In Re: (Minor)

28 Case No.

Notice of Motion for Appointment of
Expert Witness; Points & Authorities
X, 2005

1 adoption is the appropriate permanent plan. However, this court has also heard
2 testimony from (child) that he wishes to live with his mother, to be returned to her care,
3 and wants an ongoing relationship with her. Courts have recognized that in assessing
4 whether it is in the best interest of the minor to pursue a plan of adoption and whether it
5 would be detrimental to that minor if parent's rights were terminated, an inquiry into the
6 strength of the bond between the parent and the child is relevant and necessary to that
7 assessment. It is believed that due to the strength and nature of the bond between
8 (child) and his mother as well as his desire not to be adopted and to return to her care,
9 that a bonding assessment will be necessary in order to determine his best permanent
10 plan.

11 The motion will be made based on this notice, the pleadings, records, and papers
12 on file herein, and the affidavit of X, served and filed herewith.

13 **II.**

14 **POINTS AND AUTHORITIES**

15 Evidence Code Section 730 states as follows:

16 When it appears to the court at any time before or during the trial of an
17 action, that expert evidence is or may be required by the court or by any
18 party to the action, the court on its own motion or on motion of any party
19 may appoint one or more experts to investigate, to render a report as may
20 be ordered by the court, and to testify as an expert at the trial of the action
relevant to the fact or matter as to which the
expert evidence is or may be required.

21
22 In the instant case, the mother believes that there is such a bond between herself
23 and (Minor) that a bonding assessment needs to occur in order to determine whether it
24 would be detrimental to (child) to terminate her parental rights. This question can only
25 satisfactorily be answered by receiving the input of an expert after an evaluation of
26 these issues.

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Dated: _____

Attorney for MOTHER

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PROOF OF SERVICE

Case Name: IN RE: (MINOR)
Court: COUNTY 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. My business address is. 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 ____, 2005, I served the following document(s):

- 1. **NOTICE OF MOTION FOR APPOINTMENT OF EXPERT WITNESS; POINTS AND AUTHORITIES**
- 2. **AFFIDAVIT OF X IN SUPPORT OF MOTION FOR APPOINTMENT OF EXPERT WITNESS**

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, California, addressed as set forth below. (CCP §1012, 1013, & 1013(a))

COUNTY COUNSEL

ATTORNEY AT LAW

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

ATTORNEY AT LAW

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on _____, 2005 at _____, California.

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X, 2005

1 a. Pursuant to Welfare & Institutions Code §366.26(c)(1)(B), the Court
2 cannot terminate parental rights if it finds a compelling reason for
3 determining that termination would be detrimental to the child due to
4 the following circumstance.

5 i. The parent or guardian has maintained regular visitation and
6 contact with the child and the child would benefit from continuing
7 the relationship. In addressing this issue, Courts have recognized
8 that a relevant inquiry as to the nature and strength of the bond is
9 necessary in order to determine what the most appropriate
10 permanent plan is and whether adoption can go forward.

11 b. Currently a Welfare and Institutions Code Section 366.26 hearing in
12 this Court on X, 2005 at 8:30 a.m. in Department X.

13 c. At the hearing to consider whether the guardianship should be
14 terminated the Court heard testimony from (child) that he loved his
15 mother, wished to be returned to her care, wished to live with her, and
16 insisted on maintaining an ongoing relationship with her.

17 3. It is believed that a bonding assessment performed on the child and
18 the mother will provide the court valuable information with regard to
19 whether or not the bonded that exists between the child and his
20 mother is significant such that it would be detrimental to him for his
21 mother's parental rights to be terminated.

22 I declare under the penalty of perjury under the laws of the State of California
23 that the foregoing is true and correct and that this declaration was signed in , California.

24 Dated: _____
25 _____
26 Attorney for MOTHER

27 In Re: (Minor)

Affidavit of In Support
28 Motion for Appointment of Expert Witness
X, 2005

Case No.