

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

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:

12 M. MINORS

) CASE NO.

) NOTICE OF MOTION FOR
) APPOINTMENT OF EXPERT WITNESS;
) POINTS AND AUTHORITIES
) [EVIDENCE CODE §730]

13)
14)
15)
16) DATE:
TIME: 8:30 a.m.
DEPT.:
)

17
18 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

19 PLEASE TAKE NOTICE that on January _____, 2004, at 8:30 a.m. in
20 Department of the County Juvenile Court located at _____, California, the mother,
21 (Mother), will move the court pursuant to Evidence Code Section 730 for an order
22 authorizing a hematology and metabolic work-up on the child, (Minor). This motion will
23 be made on the grounds that it is believed that there is a strong medical possibility that
24 the child (Minor) suffers from a metabolic disorder, which has resulted in a false
25 assessment of child abuse.

26 In preparation for the up coming trial in this case (Firm) has consulted with a
27
28

1 medical doctor whose expertise includes, child abuse referrals and evaluations and
2 consultations. This medical doctor has reviewed all of the medical records, which are
3 currently available in this case. At this time it is his assessment that additional medical
4 records are necessary and, furthermore, a hematology and metabolic work-up is
5 necessary to rule out a metabolic disorder such as glutaric asiduria, more commonly
6 known as GA1. The hematology and metabolic work-up would require a blood and
7 urine sample from the child, (Minor).

8 The motion will be made based on this notice, the pleadings, records, and
9 papers on file herein, and the affidavit of _____ served and filed herewith.

10 **II.**

11 **POINTS AND AUTHORITIES**

12 Evidence Code Section 730 states as follows:

13 When it appears to the court at any time before or during the trial of an
14 action, that expert evidence is or may be required by the court or by any
15 party to the action, the court on its own motion or on motion of any party
16 may appoint one or more experts to investigate, to render a report as may
17 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.

18 In the instant case, the child, (Minor) has been evaluated by _____. It is clear that
19 _____ does not have the experience in evaluating child abuse that a facility such as
20 Medical Center does. Consequently Dr. C. of Medical Center has been consulted in this
21 case. Unfortunately his assessment is that he needs more information in order to
22 assess this case. As indicated in the attached affidavit, (Firm) has consulted with an
23 expert on child abuse who likewise indicates that there is a need for further information
24 and specifically a need to rule out a metabolic disorder, which could mimic conditions
25 typically indicative of child abuse. A metabolic disorder could be ruled out by full
26 metabolic and hematological work-up.

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Dated: _____

NAME
Attorney for MOTHER

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3 **PROOF OF SERVICE**

4 **Case Name: IN RE: M. MINORS**

5 **Court: COUNTY SUPERIOR COURT; JUVENILE DIVISION**

6 **Case No.:**

7 I am a resident of the United States and of the State of California. I am employed in the
8 County of _____. My business address is _____. My business telephone number is _____; fax
9 number is _____. I am over the age of eighteen years. I am not a party to the within action or
10 proceeding. On _____, 2004, I served the following document(s):

- 11 **1) NOTICE OF MOTION FOR APPOINTMENT OF EXPERT WITNESS; POINTS AND**
12 **AUTHORITIES [EVIDENCE CODE §730]**
13 **2) AFFIDAVIT OF _____ IN SUPPORT OF MOTION FOR APPOINTMENT OF EXPERT**
14 **WITNESS**

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

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

22 **ADDRESS**

23 by personally delivering, or causing to be delivered, a true copy thereof to the person(s)
24 at the addresses set forth below. (CCP §1011)

25 **ADDRESS**

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

28 **ADDRESS**

I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct. Executed on _____, 2004 at _____, California.

NAME

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

6 **Attorney for (MOTHER), MOTHER**

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

10 **In the matter of:**) **CASE NO.**
11 **M. MINORS**) **AFFIDAVIT OF**
12) **IN SUPPORT OF MOTION FOR**
13) **APPOINTMENT**
14) **OF EXPERT WITNESS**

15 I, _____, state and declare the following:

- 16 1. I am an attorney licensed to practice law in the State of California.
17 2. I am the attorney for the mother, (Mother), in the above-referenced matter.

18 This declaration is in support of Mrs. M's motion for an order appointing an
19 expert pursuant to Evidence Code Section 730 to perform a metabolic and
20 hematological work-up on the child in order to rule out a metabolic disorder.

21 These tests should be ordered in this case for the following reasons.:

- 22 a. (Firm) has consulted with an expert medical doctor who specializes in
23 child abuse referral and evaluation, and child abuse consultations.
24 This doctor has reviewed all of the records in this case including the
25 available medical records and the jurisdictional report and feels that
26 there is a medical possibility that this child suffers from a metabolic
27 disorder, which can only be ruled out by a metabolic and hematological
28 work-up.

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2 b. Dr. C. from the _____ was consulted in this case and has indicated
3 that he cannot complete a full assessment and evaluation prior to
4 reviewing more medical records in this case. Consequently the
5 assessment of child abuse in this case is based on the opinions of
6 physicians at _____. It is believed that these physicians do not have
7 the requisite degree of experience in assessing cases of child abuse to
8 render a reliable opinion in this case and furthermore that several
9 necessary tests to rule out other conditions have not been performed,
10 such as a metabolic and hematological work-up.

11 3. The requested work-ups would require a blood and urine sample from the
12 minor. It is believed that these medical tests would provide this court with
13 valuable information with regard to whether or not this is a case involving
14 child abuse.

15 I declare under the penalty of perjury under the laws of the State of California
16 that the foregoing is true and correct and that this declaration was signed in _____,
17 California.

18 Dated: _____

19 _____
20 NAME
21 Attorney for MOTHER