

XXXX XXXX
LAW OFFICES OF XXXX
X XXXXX XXX XXX.
XXX XXX XXX XXX, XXX X
XXXXX XXXX, XX XXXXX-XXXX
Telephone No. (XXX) XXX-XXXX

Attorney for A. XXXX , Child

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF XXX

IN THE MATTER OF:) Case Number: XXXX
A. ,)
A minor) EX PARTE REQUEST FOR
ORDER FOR FUNDS FOR
EXTRAORDINARY LITIGATION
EXPENSES, DECLARATION, POINTS &
AUTHORITIES, AND ORDER

Counsel for the child in this matter requests authorization to incur, and receive
reimbursement pursuant to Welf. & Inst. Code sections 317 and 218 for, the following necessary
litigation expenses:

1. X-ray and medical records copying costs;
2. Expert medical evaluation of the medical records pertaining to the child, A. (\$350
per hour);
3. Expert physical examination of the child, A. (\$150);
4. Consultation with expert, and potential witness fees for expert testimony.

This request is based upon the attached Declaration of Counsel, Points and Authorities in
Support of Request for Funds, and such other evidence and representations as the court may
receive upon consideration of this request.

DATED: February 14, 2002

Respectfully Submitted,

XXXX XXXX
Attorney for Child

///

///

///

///

///

///

///

///

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION OF COUNSEL
IN SUPPORT OF REQUEST FOR FUNDS

I, XXXX XXXX, hereby declare the following:

1. I am an attorney employed by and have been appointed pursuant to Welfare and Institutions Code section 317 to represent the child, A.

2. I have reviewed the documents filed in this matter and am familiar with the facts of this case.

3. A. was detained pursuant to a petition filed by the County Social Services Agency, who alleges that she is the victim of physical abuse due to the unreasonable or negligent acts of her mother.

4. The evidence indicates that the child's injuries could have been sustained either while in the care of her mother, or while in the care of a day care provider. Thus, the timing of the injuries is crucial. Furthermore, both the mother and the day care provider deny having ever striking the child. There are no known witnesses to the alleged abuse, and my client, due to her tender age, is incapable of providing me with any information regarding how she was injured.

5. I believe that in order to adequately represent my client, as well as to be able to make recommendations to the court concerning the child's welfare, it is necessary for me to obtain the services of an expert to review my client's medical records, physically examine the child if deemed necessary by said expert, and provide an expert opinion regarding the likely cause and timing of my client's injuries. Furthermore, an expert opinion would be helpful in determining what, if any, treatment or remedial services A. may require.

6. I have spoken with Deputy County Counsel XXXX, who represents the Agency in this matter, and he indicated that he has decided not to seek the services of an outside medical expert to review the child's medical records and provide an opinion.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this X day of X, 2002, at X, California.

XXXX XXXX
Attorney for Child

1	
2	
3	///
4	///
5	///
6	///
7	///
8	///
9	///
10	///
11	///
12	///
13	///
14	///
15	///
16	///
17	///
18	///
19	///
20	///
21	///
22	///
23	
24	
25	
26	
27	
28	

POINTS AND AUTHORITIES

IN SUPPORT OF REQUEST FOR FUNDS

Both statutory and case law support court authorization of funds to pay for necessary litigation expenses in juvenile cases. Welf. & Inst. Code section 218 provides:

In any case in which, pursuant to this chapter, the court appoints counsel to represent any person who desires but is unable to employ counsel, counsel shall receive a reasonable sum for compensation and for necessary expenses, the amount of which shall be determined by the court, to be paid out of the general fund of the county.

In *Johnny S. v. Superior Court* (1980) 90 Cal. App. 3d 826, the court held that in the context of a Welf. & Inst. Code section 602 proceeding, section 218 gives the trial court discretion to provide funds for investigative services. Section 602 is within the same chapter of the Welf. & Inst. Code as sections 300, 317, and 218, and since the right to parent is a fundamental right (see *In re B.G.* (1974) 11 Cal. 3d 679), there is no basis to deny funding for necessary litigation expenses in a dependency proceeding.

Furthermore, Welf. & Inst. Code section 317, subdivision e, requires counsel for the child to “make or cause to have made any further investigations that he or she deems in good faith to be reasonably necessary to ascertain the facts.”

Given that there are no known eyewitnesses to the event leading to the child’s injuries, and that during the time period when the child was likely injured, she spent time in the care of her mother and her day care provider, both of whom deny knowledge of how she was injured, the case against the mother will likely be decided solely upon medical evidence presented at the adjudication. In order to attempt to ascertain what and who caused the injuries to A., and whether her injuries were intentionally inflicted, it is imperative that counsel for the child be able to consult with and seek an opinion from a medical expert.

Therefore, counsel for the child respectfully requests that the court authorize reimbursement for the necessary expert’s fees and record copying costs.

Respectfully Submitted,

XXXX XXXX
Attorney for Child

XXXX XXXX, Esq.
LAW OFFICES OF XXXX
X XXXXX XX XXXX XX
XXX XXXX XXXX XXXX, XXX X
XXXXXX XXXX, XX XXXXX-XXXX
Telephone No. (XXX) XXX-XXXX

Attorney for: A. XXXX, Child

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF XXX

IN THE MATTER OF:

A. XXXX ,

A Minor.

) Case Number: XXXX

)
) AUTHORIZATION TO INCUR NECESSARY
) LITIGATION EXPENSES AND/OR ORDER
) FOR REIMBURSEMENT

GOOD CAUSE APPEARING, the Court hereby orders:

[] That counsel is authorized to incur for reimbursement the following litigation expenses:

1. Consultation with Dr. XXXX, a medical expert, including review of medical records and physical examination of A.;
2. Copying of medical records and x-rays if necessary;
3. Testimony of expert if necessary.

DATED: _____

Judge XXXX