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7 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
8 **IN AND FOR THE COUNTY OF XXX**  
9 **JUVENILE DIVISION**

10 In the Matter of J., Minor.

) No.: X

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11 ) Motion in Limine to Strike Allegations In  
12 ) Order To Narrow the Issues for Trial  
13 )

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15 **Introduction**

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17 On X, 2003, the County Counsel submitted the Social Worker's report and addendum  
18 dated X, 2003. Based on that report, the matter was set for a contested hearing. This is a motion  
19 to strike all allegations not supported by evidence in order to narrow the issues for trial.

20 **Allegations to Strike from Petition**

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22 The following are allegations that must be eliminated from the petition. The Social  
23 Worker's report includes no attachments. Rather, it includes only a series of double and  
24 sometimes triple hearsay statements. The report *does not include* any medical records, police  
25 reports, notes from a psychiatrist, or any admissible evidence in support of the following  
26 allegations:  
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b-1

As to allegation b-1, the statements used to support this allegation are double and sometimes triple hearsay not within an enumerated exception available under Welfare and Institutions Code Section 355(c). There is no evidence to support the allegation that Mother is currently prescribed medication, or that mother even has a history of mental disability. The Social Worker has not attached any documents supporting that Mother has a mental health history or a mental health diagnosis. No letter from her treating psychiatrist is attached; no prescription for medication is attached; no police records or mental health evaluations are attached. There is no evidence to support that even if Mother were on medication, that this medication would “prevent” (line 8, page 5) or “hamper” (line 15, page 6) her ability to care for her child. Also, in the allegation itself, the Social Worker states that this medication “prevents the mother from providing adequate care to the child” (line 8-9, page 5). This is a conclusion, not a statement of fact. On Page 6, line 4-6, the report states, “With her mental disability and substance abuse history, there is a great risk to J’s health, safety and well being.” Not only is this statement not supported by evidence, it is also conclusory. For these reasons, allegation b-1 should be struck in its entirety.

b-3

As to allegation b-3, the statements used to support this allegation are double hearsay not within an enumerated exception available under Welfare and Institutions Code Section 355 (c). Ms. A. is referred to as a manager. Ms. A. reports Mother’s acting out behavior. Ms. A. reports Mother as, “having sex with different men, abusing alcohol and drugs in the other home.” (lines 11-13, page 6) There is no evidence to support any of these allegations. Ms. A. is not an

1 acceptable hearsay declarant. There are no police reports or logs attached to support Ms. A's  
2 statements. For these reasons, allegation b-3 should be struck in its entirety.

3 b-4

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5 As to allegation b-4, the statements used to support this allegation are double hearsay not  
6 within an enumerated exception available under Welfare and Institutions Code Section 355 (c).  
7 Again, Ms. A. does not meet the requirements for an exception under the hearsay rules. Also,  
8 Ms. G. is mentioned as a further manager who also does not meet the requirements for an  
9 exception under the hearsay rules even if she prepared and submitted a report. There is no  
10 evidence to support that "Mother was unable to keep her psychiatrist appointments" (lines 22-23,  
11 page 6), or that "Ms. G. remembered very clearly that she has to remind Mother about her  
12 psychiatrist appointments." (lines 22-24, page 6). There are no any reports or logs attached to  
13 the social worker's report that would indicate that Mother is unable to keep appointments. There  
14 are not attached medical records, police reports or logs from the Board and Care facility to  
15 indicate that Ms. G. remembered "very clearly" that she had to remind Mother of appointments.  
16 Based on this lack of evidence, allegation b-4 should be struck in its entirety.

17 b-5

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19 As to allegation b-5, the statements used to support this allegation are double hearsay not  
20 within an enumerated exception available under Welfare and Institutions Code Section 355 (c).  
21 In the allegation itself, the Social Worker states that, "J's mother has a record of leaving the  
22 boarding home for several days without taking her medication, the boarding home has to contact  
23 her case manager to locate her; this shows the mother's inability to provide regular care for  
24 herself and the child." There are no reports or logs attached to the report to indicate Mother has  
25 a "record" of leaving the board and care home. Other supporting statements are by Ms. G. Ms.  
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1 G. is the hearsay declarant and does not fall within an enumerated exception even if she prepared  
2 a written report. Page 6, line 26 which states that, “this shows the mother’s ability to provide  
3 regular care for herself and the child” is a conclusion, not supported by admissible factual  
4 statements. Furthermore, on page 7, lines 2-5 which state, “Although Mother was usually  
5 returned to the home, this reflects that Mother’s inability in providing regular care for herself,  
6 and it will be very dangerous for her to take care of a newborn baby who must totally rely on a  
7 responsible adult to take care of him/her” is a conclusion. Any admissible factual statements do  
8 not support the above statement. The Social Worker is stating the allegation again as proof of  
9 the allegation. Again, the Social Worker fails to provide records, reports or attached evidence to  
10 support the allegations. For these reasons, allegation b-5 should be struck in its entirety.

13 b-6

14 As to allegation b-6, the statements used to support this allegation are double hearsay not  
15 within an enumerated exception available under Welfare and Institutions Code Section 355 (c).  
16 Again, the Social Worker writes that Ms. G. said, “that she has to remind Mother about her  
17 psychiatric appointment with her psychiatrist, Dr. T. According to Ms. G., there was a record  
18 that when she did not remind her, Mother did not show up for her doctor appointment.” (lines 8-  
19 11, page 7) Further, the Social Worker states that there is a “record” of when the mother missed  
20 her appointments. He fails to provide proof of the record, or even its existence. The Social  
21 Worker provides no attachments in the form of medical records for Mother’s missed  
22 appointments or even a letter from her psychiatrist stating that mother has missed appointments.  
23 For these reasons, allegation b-6 should be struck in its entirety.  
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b-7

Allegation b-7 states, “Mother is living in a licensed board and care home which does not allow infants to reside in the facility.” For his support, the Social Worker provides one sentence. “The licensed board and care home that Mother is now residing in does not allow infants to reside in the facility.” (lines 13-15, page 7) There is no further evidence to support this allegation. The Social Worker literally reiterated the allegation as support for the allegation. The Social Worker does not attach any documents to the report stating the rules and procedures for the board and care home, nor does the social worker attach any information as to why Mother does not qualify for a board and care home where children are allowed. Therefore, allegation b-7 should be struck in its entirety.

### **Conclusion**

The Court must strike allegations b-1, b-3, b-4, b-5, b-6 and b-7. These allegations are not supported by any admissible evidence. The Social Worker has failed to provide sufficient evidence to support these allegations by a preponderance of the evidence.

We will be fully prepared to go forward on the contested matter on the b-2 allegation.

Dated: \_\_\_\_\_

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X  
Attorney for Mother