

(Firm)  
BY: (Attorney) CSB#  
Address XXXXXXX  
Phone XXXXXXX  
Fax XXXXXXX

Attorney for (FATHER), FATHER

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF X  
JUVENILE DIVISION

In re the Matter of:

(MINOR)

DOB:

) Case No.:

)  
) MOTION FOR SANCTIONS  
) (C.C.P. 177.5); POINTS AND  
) AUTHORITIES; DECLARATION

)  
) DATE: X, 2005  
) TIME: 8:30 A.M.  
) DEPT:  
)

To Attorney, :

NOTICE IS HEREBY GIVEN that on X, 2005 at 8:30 a.m. or as soon thereafter as the matter may be heard, in Department of this Court, located at, \_\_\_\_ attorney for the father, (Father), will move for an order pursuant to Code of Civil Procedure Section 177.5 imposing monetary sanctions against \_\_\_\_, for a violation of the Court's order dated X, 2005. Specifically, on X, 2005 the honorable ordered \_\_\_\_ and all counsel to be present the following Monday, X, 2005 at 1:30 p.m. in Department for the commencement of trial. \_\_\_\_ did not advise the court of the fact that she had another

1 court appearance at the same date and time. \_\_\_\_ failed to abide by the Court's order  
2 and attended another court appearance in another County at the time scheduled for  
3 this trial. \_\_\_\_ showed up at approximately 3:15 p.m. significantly inconveniencing the  
4 court, parties and attorneys.  
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8 Respectfully submitted,  
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10 DATED: \_\_\_\_\_  
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12 Attorney for (FATHER)  
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1 (Firm)  
2 BY: (Attorney) CSB#  
3 Address XXXXXXX  
4 Phone XXXXXXX  
5 Fax XXXXXXX

6 Attorney for (FATHER), FATHER

7  
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 (MINOR) )  
13 ) DECLARATION OF  
14 ) IN SUPPORT OF MOTION  
15 ) FOR SANCTIONS  
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I, \_\_, state and declare the following:

1. I am an attorney at law, licensed to practice in all courts in the State of California. I am knowledgeable about the facts and issues herein and could and would testify competently thereto.
2. On X, 2005, four months past the original trial setting, the matter was continued to X, 2005 due to Ms. W. being ill. On February 17, 2005 the matter was again continued to X, 2005. On X, 2005, \_\_\_\_ failed to call the court to advise of her inability to attend the trial that day; no representative from \_\_\_\_ office was sent to the court, no appearance by

1           \_\_\_ or the mother was made, and no different dates were proposed to the  
2 court. Consequently the court went forward with the trial.

3       3.     \_\_\_ later filed a motion for reconsideration asking the court to set aside  
4 the court's prior orders. In support of \_\_\_ motion, she alleged that she  
5 was led to believe that the matter had been continued to X, 2005 and that  
6 is why she failed to appear on X, 2005. Over the objection of counsel for  
7 the father and County Counsel, the Court granted \_\_\_'s motion and  
8 selected a new trial date.

9  
10    4.     The first day of trial was eventually set for X, 2005. However due to the  
11 unavailability of witnesses the matter was continued to X, 2005.

12    5.     On X, 2005, when this matter was reset for X, 2005 the Court ordered all  
13 parties and attorneys to be present on X, 2005 at 1:30 p.m. to commence  
14 the trial. All counsel and parties agreed that they were available and  
15 would be ready to start the trial on that date, at 1:30 p.m. in Department.  
16 No mention was made by \_\_\_ of another court appearance in a different  
17 county.

18    6.     On the morning of X, 2005, \_\_\_ contacted Department and advised them  
19 that she had a brief appearance in another County and would be at court  
20 in Department at about 2:30 p.m. On X, 2005, \_\_\_ did not appear in court  
21 until approximately 3:15 p.m. All counsel waited for \_\_\_ to appear.

22  
23    7.     According to County Counsel, \_\_\_ set a Pitchess Motion in a criminal  
24 case. This motion was set for X, 2005. According to, County Counsel was  
25 not properly noticed for the motion and consequently did not appear at the

1 X, 2005 hearing. \_\_\_\_ had a hearing scheduled for X, 2005 when she  
2 knew she was ordered to be in Department on that same date and time.  
3

4 I, declare under penalty of perjury under the laws of the State of  
5 California, that the foregoing is true and correct to the best of my knowledge and  
6 that this declaration was signed in , California.  
7

8  
9 Respectfully Submitted:

10  
11 DATED: \_\_\_\_\_  
12 \_\_\_\_\_

13 Attorney for (FATHER)  
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(Firm)  
BY: (Attorney) CSB#  
Address XXXXXXXX  
Phone XXXXXXXX  
Fax XXXXXXXX

Attorney for (FATHER), FATHER

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF X  
JUVENILE DIVISION

In re the Matter of:

(MINOR)

DOB:

) Case No.:

)  
) POINTS & AUTHORITIES IN SUPPORT  
) OF MOTION FOR SANCTIONS  
) (C.C.P. 177.5)

)  
) DATE: X, 2005  
) TIME: 8:30 A.M.  
) DEPT:

I.

STATEMENT OF THE FACTS

On X, 2005, the above-referenced matter came on for a contested hearing pursuant to Welfare and Institutions Code Section 366.21(e) and (f). This matter first came on calendar for a hearing pursuant to Welfare and Institutions Code Section 366.21(e), on X, 2004. On X, 2004 the matter was set for trial by counsel for the mother, \_\_\_\_\_. The trial date was originally set for X, 2004. The matter was continued due to illness and jury duty of minor's counsel to X, 2005. On X, 2005 the matter was continued at the request of \_\_\_\_\_ because she allegedly had a cracked molar. On X,

1 2005 the matter was continued because the Court was involved in an ongoing trial. On  
2 X, 2005 the matter was again continued due to \_\_\_\_ reportedly being ill. The matter was  
3 continued to X, 2005 in Department. The matter was continued again to X, 2005, as  
4 \_\_\_\_ was reportedly still ill. On X, 2005 \_\_\_\_ did not call in to the Court to advise the court  
5 of her inability to attend the trial that day. No representative was sent from \_\_\_\_ office.  
6 No appearance was made by the mother and no different dates were proposed by \_\_\_\_.  
7 Consequently, the Court went forward with the proceedings without \_\_\_\_\_. \_\_\_\_ later filed  
8 a motion for reconsideration asking the court to set aside its prior orders. In support of  
9 her motion, \_\_\_\_ alleged that she was led to believe that the matter had been continued  
10 to X, 2005 and that is why she failed to appear on X, 2005. Over the objection of  
11 counsel for the father, and County Counsel, the Court granted \_\_\_\_'s motion for  
12 reconsideration and selected a new trial date.  
13

14 The first day of the re-set trial was X, 2005. Due to the unavailability of  
15 witnesses this matter was continued to X, 2005. On X, 2005, when this matter was  
16 reset, the Court ordered all parties and attorney's to be present on X, 2005 and ready  
17 to commence the trial. All counsel agreed that they were available on that date. No  
18 mention was made by \_\_\_\_ of another court appearance in a different county.  
19

20 On the morning of X, 2005 \_\_\_\_ contacted Department and advised them that  
21 she had a brief appearance in another court and would be at court in Department at  
22 about 2:30 p.m. On X, 2005 \_\_\_\_ did not appear in Department until approximately 3:15  
23 p.m. All counsel and the court waited for \_\_\_\_ to appear. According to County Counsel,  
24 \_\_\_\_ set a Pitchess motion in a criminal case for the same date at 1:00 p.m.. According  
25 to X, County Counsel was not properly noticed for the motion and consequently did not

1 appear at the hearing. In any event, \_\_\_\_ was not present in Department when the Court  
2 ordered all counsel to appear on X, 2005 at 1:30 p.m.

3  
4 **II.**

5 **LAW AND ARGUMENT**

6 **THE COURT HAS AUTHORITY TO IMPOSE REASONABLE SANCTIONS**

7 California Code of Civil Procedure Section 177.5 sets forth the authority of a judicial  
8 officer to impose sanctions for the violation of a lawful order. California Code of Civil  
9 Procedure Section 177.5 states as follows:

10 A judicial officer shall have the power to impose reasonable money sanctions,  
11 not to exceed fifteen hundred dollars (\$1500.00), notwithstanding any other  
12 provision or law, payable to the County in which the judicial officer is located, for  
13 any violation of a lawful court order by a person, done without good cause or  
substantial justification. This power shall not apply to advocacy of counsel  
before the court. For the purposes of this section, the term "person" includes a  
witness, a party, a party's attorney, or both.

14 Sanctions pursuant to this section shall not be imposed except on notice  
15 contained in a party's moving or responding papers; or in the court's own motion  
16 after notice and an opportunity to be heard. An order imposing sanctions shall be  
17 in writing and shall recite in detail the conduct or circumstances justifying the  
order.

18 In the instant case, \_\_\_\_ was ordered on to appear on X, 2005 at 1:30 p.m. in  
19 Department for a trial that was originally set for X 2004 and which had previously been  
20 continued on at least two occasions due to the unavailability of \_\_\_\_\_. Furthermore, it was  
21 a case where the Court actually went forward and entered orders against \_\_\_\_ client  
22 because \_\_\_\_ failed to appear on the date of trial. This constitutes a violation of a lawful  
23 court order without good cause or substantial justification. This conduct is most  
24 egregious, particularly when considered in light of the numerous delays in this case,  
25



1 prior illnesses of \_\_\_\_, her failure to appear at a prior trial and her history of similar  
2 conduct<sup>1</sup>.

3 A case which is particularly on point is Seykora v. Superior Court of Los Angeles  
4 County (1991) 232 Cal.App.3<sup>rd</sup> 1075, 283 Cal.Rptr. 857. In Seykora, respondent court  
5 imposed sanctions upon a public defender pursuant to California Code of Civil  
6 Procedure Section 177.5 after the public defender disobeyed the Court's repeated  
7 orders for the public defender to remain in court. The public defender claimed that her  
8 departure was necessary due to a scheduled appearance in another court.  
9

10 In rejecting the public defender's writ challenging the imposition of sanctions, the  
11 Court of Appeal specifically rejected the public defender's contention that good cause  
12 existed for her violation of a court order as she was attending another hearing in a  
13 different court.

14  
15 In the instant case, \_\_\_\_ violated this court's order to be present at  
16 trial on X, 2005 at 1:30 p.m., \_\_\_\_ knew that this was a case that had been continued  
17 numerous times in the past and furthermore that witnesses were traveling from X.  
18 Counsel for the minor advised the court that the minor, a child afflicted with Down's  
19 syndrome, was visibly emotionally distraught at the prospect of having to testify. \_\_\_\_  
20 delay prolonged this child's suffering.

### 21 III.

### 22 CONCLUSION

23 \_\_\_\_\_  
24 <sup>1</sup> \_\_\_\_ has been sanctioned for the failure to appear in court and for violating Court orders. Please see  
25 Notice of Disciplinary Charges in the matter of \_\_\_\_ attached hereto and labeled Exhibit "A".

1 For the reasons set out above it is respectfully requested that this court impose  
2 sanctions on \_\_\_\_ in the amount to be determined by this court for a violation of this  
3 court's lawful order.  
4

5 Respectfully submitted,  
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8 DATED: \_\_\_\_\_  
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10 Attorney for (FATHER)  
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1 **PROOF OF SERVICE**

2 **Case Name: IN RE: (MINOR)**

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

4 **Case No.:**

5 I am a resident of the United States and of the State of California. I am employed in the  
6 County of. My business address is. My business telephone number is; fax number is . I am  
7 over the age of eighteen years. I am not a party to the within action or proceeding. On, X,  
8 2005, I served the following document(s):

9 **1. Motion for Sanctions**

10 **2. P & A in Support of Motion for Sanctions**

11 **3. Declaration of in Support of Motion for Sanctions**

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

16 X by causing a true copy thereof to be delivered to the person(s) at the addresses set  
17 forth below, by and/or through the services of:

18 1. X FAX (Followed by First Class Mail; Rules of Court §2009 and  
19 §2010) Pursuant to Rules of Court §2009(i)(3), this document was  
20 sent by facsimile transmission and this transmission was reported  
21 as complete and without error.

22 2.

23 **COUNTY COUNSEL**

24 **ATTORNEY AT LAW**

25 **Child's Counsel**

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