

CAUSE NO. \_\_\_\_\_

IN THE INTEREST OF

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IN THE DISTRICT COURT

OF MCLENNAN COUNTY, TEXAS

CHILD(REN)

474<sup>TH</sup> JUDICIAL DISTRICT

### **DISCOVERY CONTROL PLAN ORDER**

The court makes this order on its own initiative. The court has tailored this order to the circumstances of this specific suit. The permissible methods of discovery under Texas Rule of Procedure 192.1 are restricted by this court order as described below. The Court finds that the burden and expense of proposed additional discovery outside the scope of this order would outweigh its likely benefit, taking into consideration the factors under Rule 192.4(b). In addition, in making this order, the court has taken a variety of relevant factors into consideration, including but not limited to: 1) the best interest of the child or children, 2) the rights of the parent or parents, 3) the significant amount of disclosure routinely made through statutorily- required court reports and review hearings; 4) the publicly-funded nature of this special statutory litigation, which involves the Texas Department of Family and Protective Services; 5) the frequency of applicable statutorily mandated hearings; and 6) the numerous documents filed with the District Clerk's office in cases of this nature.

This order shall not apply to any cases where the trial schedule has been accelerated due to the Department's request for aggravated circumstances.

### **DISCOVERY**

A party or ad litem for a child (hereinafter ad litem) may undertake whatever investigation they deem appropriate and whatever formal discovery is authorized by this order. In addition, the court shall carefully consider motions for discovery beyond that provided by this order as the need arises. However, the court encourages cooperation to ensure full disclosure without costly and time-consuming formal discovery.

### **Interrogatories**

Except with leave of court, a party or ad litem for a child (hereinafter ad litem) may not serve interrogatories. In lieu of interrogatories, this order provides for certain standard disclosure upon request.

### **Depositions**

Except with leave of court, a party or ad litem may not take oral or written depositions. Upon a parent's or ad litem's request, CPS shall make available for an interview any CPS personnel with relevant information.

### **Production**

Except as provided by this order with leave of court, a party may not serve a request for production.

Upon the request of any party or ad litem, made in writing to the assistant district attorney assigned the case, CPS shall produce a copy of the deidentified case record, within 45 days of the request. A "deidentified case record" is a complete case record with any confidential information redacted. After a record is produced, CPS shall supplement the record at least 30 days before trial on the merits. CPS shall make available for review all videos, audios, and photographs relevant to the case within 30 days of a written request in the office of the Department or District Attorney's office. Copies of photographs shall be provided and if the requesting party provides a flash drive or means of duplicating any videos or audios, then the Department or its attorney shall copy them and provide to the requesting attorney. CPS shall make available for review any written policies or guidelines relevant to the case within 30 days of a request of a parent or ad litem. A parent, guardian, or intervenor seeking conservatorship shall sign a release of information for all medical, psychological, or psychiatric records, and for all treatment records, including for drug or alcohol abuse within ten days of a written request of CPS or an ad litem.

### **Standard Disclosure**

Recognizing that Rule 194 permits a wide variety of disclosure requests, the Court finds it necessary, based on the reasons stated above, to specifically limit this disclosure as follows. Upon request at least 60 days before the initial Final Trial setting (not the combined Second Permanency Hearing/Final Hearing), a party shall disclose at least thirty days before trial:

1. Each fact witness that may be called, their name, address, and telephone number, and a brief statement of their connection with the case.
2. Each expert witness that may be called, their name, address, and telephone number, a brief statement of their qualifications, a brief statement of the subject matter of their testimony, and the gist of their opinions.
3. All documentary evidence in the possession of CPS or the ADA assigned the case not found in the case record that may be offered into evidence. Such evidence that comes into the possession of CPS or the ADA assigned the case after thirty days before the trial shall be disclosed when obtained.

4. A list of all videos, audios, and photographs that may be offered into evidence. All such videos, audios, and photographs shall be made available for inspection.

5. A list of any physical evidence that may be offered into evidence. All such physical evidence shall be made available for inspection.

If requested, at least twenty days before trial, the attorney ad litem for the child or children shall disclose any item required by 1 - 5 above that may be part of the attorney ad litem's case and that has not been previously disclosed by a party.

At least fifteen days before trial, any party required to make a thirty-day disclosure may make a supplemental disclosure in response to another party's or ad litem's disclosure.

#### **DEADLINES**

All pleadings must be amended or supplemented at least ten days before trial. All discovery must be completed at least thirty days before trial. All parties must be named and served at least seventy-five days before the second permanency/final setting. This case shall be tried on or before the dismissal date set.

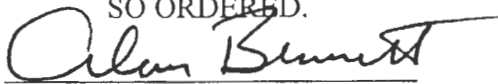
#### **SERVICE**

All persons who do not have a lawyer shall maintain a current address on file with the Clerk. Pursuant to Texas Rule of Civil Procedure 21a, notice to a person without a lawyer shall be made by notice in open court, or personal service, or service to the current address on file with the clerk by sending notice both certified and first-class mail. Parties without a lawyer are warned that the court will proceed upon such notice, and that they should therefore keep a current address on file with the Clerk.

#### **DURATION OF ORDER**

The terms of this Discovery Control Plan Order remain in effect for as long as the Texas Department of Family and Protective Services remains a party in the case. This includes after the completion of a trial or rendition of a final order if the Texas Department of Family and Protective Services remains a party in the case.

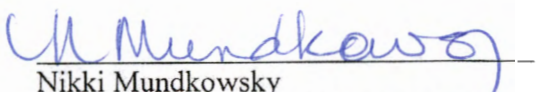
SO ORDERED.



Alan Bennett  
474<sup>th</sup> Judicial District Court Judge  
McLennan County Texas

2/21/2023

Date



Nikki Mundkowsky  
Associate Judge – 474<sup>th</sup> Judicial District  
McLennan County Texas

Feb 21, 2023

Date