**SUPERIOR COURT OF WASHINGTON**

**COUNTY OF \_\_\_\_\_\_\_\_\_\_\_**

**JUVENILE DIVISION**

|  |  |
| --- | --- |
| In re Dependency of:  | No. MOTION for an order quashing subpoena |

COME NOW \_\_\_\_\_\_\_\_\_, a dependent child of this action by and through their attorney of record, ­\_\_\_\_\_\_\_\_\_\_\_\_\_ and moves the Court for an order quashing the Subpoena issued by counsel for Mother/Father, \_\_\_\_\_\_\_\_\_\_\_.

This Motion is based on the annexed Memorandum of Law and the Declaration of \_\_\_\_\_\_\_\_\_\_\_\_\_in Opposition to Subpoena.

DATED: November \_\_\_\_\_\_, 2022.

NAME

Of Attorneys for:

**MEMORANDUM OF LAW**

“On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it: (i) subjects a person to undue burden.” CR 45(c)(3)(A). The child in this matter is subject to dependency which by nature is implemented to reduce further harm to the child and to ensure their health and safety.

Mother/Father’s counsel served a subpoena to require the child in this action be compelled to participate in a deposition. The purpose of this deposition is unknown given Mother/Father’s position in this matter to date and has caused substantial fear and anxiety to the child, given the allegations giving rise to this dependency. The allegations giving rise to this dependency are related to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Mother/Father repeatedly refused to acknowledge these allegations or believe the truth of them. Additionally, the following facts apply \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

This discovery demand to depose the child, is designed to intimidate and will likely cause further psychological trauma for no legitimate purpose. In dependency actions, the legislative intent makes it clear that the child’s rights (wellbeing, health, safety) are paramount and prevail over the rights of the parent. RCW [13.34.020](http://app.leg.wa.gov/RCW/default.aspx?cite=13.34.020).

There is currently no basis to conduct discovery at this time. This request is premature and inappropriate. Depositions are the most traumatic and invasive forms of discovery. Requiring the child of this action, who are already experiencing a traumatic event to undergo this invasive fishing expedition with no intended purpose is detrimental to their psychological and emotional wellbeing.

In criminal matters, depositions of child victims are only permitted if the witness is unavailable for the criminal trial or is unwilling to participate in interviews. In dependency proceedings, a child’s testimony is not the favored practice and the information provided to substantiate allegations is typically provided by the social worker. Again, this matter is not currently set for trial or fact finding and the state has not proffered the child as witnesses who will present testimony. While this is not a criminal matter, the standards of criminal practice are persuasive.

Further, “[a] resident of the state may be required to attend an examination . . . only in the county where the person resides or is employed or transacts business in person, or at such other convenient place as is fixed by an order of the court,” CR 45(e)(2). Counsel for Father/Mother has subpoenaed the child to appear at their office, in \_\_\_\_\_\_\_\_, which is \_\_\_ hours away from the child’s residence in \_\_\_\_\_\_\_\_County, and this action which is filed in \_\_\_\_\_ County. Requiring the child to be deposed in \_\_\_\_\_\_\_\_\_ where the child does not reside, is not employed nor conducts business, is improper. The only person that this location is convenient for, is Father/Mother’s counsel. The child is already at a disadvantage regarding their schooling, as the court is aware. To require they leave school and commute several hours to participate in a deposition in a different county, would be unduly burdensome and detrimental to their [mental health/academic endeavors].

Under CR 26(c), the court may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.” *Eugster v. City of Spokane*, 121 Wn. App. at 814-15. The deposition is a backdoor way for Mother/Father to engage in discovery for the purposes of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Additionally, were there allegations that are very likely to result in criminal charges, depositions in criminal matters are not permitted (except in rare circumstances) and in this case, highly inappropriate.

The issuance of a subpoena in this matter is without justification. The child, by and through counsel, requests the Court quash this highly improper, procedurally inadequate, and unduly burdensome subpoena and enter a protective order preventing any further discovery requests directed at the child.

 DATED: \_\_\_\_\_\_\_2022.

NAME

Attorney for: [