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Attorney for MOTHER Melissa Diegel

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA, JUVENILE DIVISION

In Re the Matter of)	No.: JD28153
)	
HANNAH DIEGEL)	
DOB: 03/05/2004)	AFFIDAVIT OF ATTORNEY
)	
KAYLA DIEGEL)	
DOB: 12/11/2001)	
)	
Persons under 18 years of age)	<i>(The Honorable Cari Harrison)</i>

JENNIFER KUPISZEWSKI, being duly sworn, deposes as follows:

- I am former counsel for MOTHER, Melissa Diegel, in JD28153.
- On September 9, 2014 at approximately 4:15p.m., when I was then counsel for MOTHER, I received a phone call from the Court Appointed Special Advocate (“CASA”), Ms. Lisa Shipp. Ms. Shipp had served as CASA on this case since its inception five months ago.
- On the above date and time Ms. Shipp called my office. I had asked for her position on the Motion for ICPC. She called to report she decided to resign as CASA. She offered to provide me with her concerns about the children and DCS’s handling of the case. She reported that she had spent 130 hours on the case, kept notes and wrote emails, and had bonded well with the children. Ms. Shipp indicated that although this was a difficult decision for her, she resigned when concerns she had been raising had been rejected or ignored, and the case environment had grown increasingly hostile as a result of her advocacy on behalf of the children. Ms. Shipp indicated that she had raised concerns about Kayla's weight loss, the delay in restarting Kayla on her on

1 artificial feeding and the care and treatment of Kayla and Hannah in their current placement. Ms.
2 Shipp felt that DCS had tried to silence her because she did not agree with them.

3 4) Specifically, Ms. Shipp reported the following:

4 (a) Kayla appeared to have sustained a significant amount of weight loss since being
5 removed from her supplemental feeding and placed in her current foster placement.
6

7 (b) Ms. Shipp attended an examination of Kayla, performed by Dr. Emmanuel Siaw on
8 August 13, 2014. Dr. Siaw found Kayla had lost 14 pounds since being removed from her home
9 and placed into DCS custody.

10 (c) Dr. Siaw concluded that feeding via Kayla's feeding tube was necessary for her to have
11 sufficient nourishment and he ordered her to be placed on it for ten hours a day. Additionally,
12 Kayla was prescribed nutritional drinks either for her to drink, or if she wouldn't, to be put into
13 her feeding tube.
14

15 (d) Ms. Shipp acknowledged that Kayla had bruising on her forearms, shoulder and legs.

16 (e) Dr. Siaw indicated to her that the bruising was attributable to malnutrition because
17 Kayla had developed a vitamin deficiency.
18

19 (f) When Dr. Siaw ordered the reinstatement of Kayla's feeding via feeding tube, Kayla's
20 feeding tube supplies were not with the current Foster Mother. They had been left at her former
21 group home placement.

22 (g) Ms. Shipp was concerned when neither DCS nor the Foster Mother arranged to pick up
23 the feeding tube supplies from the group home and the prescription was taking a while to fill for
24 new supplies.
25

26 (i) Ms. Shipp grew increasingly concerned as the days passed and Kayla was still not
27 receiving her feeding through the feeding tube as ordered by Dr. Siaw.
28

(j) Ms. Shipp communicated these concerns to DCS but such concerns were ignored.

1 (k) Fearing for Kayla's health and frustrated by inaction, after 19 days had passed
2 following Dr. Siaw's orders, Ms. Shipp took it upon herself to retrieve the feeding tube supplies
3 for Kayla from the group home. She was then informed that the supplies had arrived at the foster
4 home that day.

5 (l) Ms. Shipp reported that the girls have not bonded with the Foster Mother; she felt she
6 lacked compassion for Kayla. For example, Kayla reported that Foster Mother gave her a
7 stomach ache when she put a nutritional supplement directly in the feeding tube too quickly, but
8 Foster Mother told Kayla that, "it's in her head."
9

10 (m) Ms. Shipp has heard the Foster Mother yelling at Hannah and Kayla when Ms. Shipp
11 speaks to the girls on the phone.
12

13 (o) Ms. Shipp was concerned that the foster mom was not equipped to deal with the
14 children's medical issues; this is her first placement.

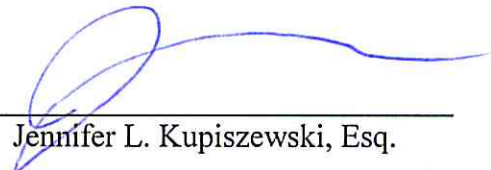
15 (p) The girls are in therapy but it is therapy for safety and stability in the foster home with
16 the foster parents present. Ms. Shipp advocated for individual safe-harbor therapy for the girls,
17 without Foster Mother present so that they could speak freely, but DCS declined.
18

19 5. Lastly, in accordance with my ethical duty I am unable to address matters outside the subject
20 matter of this affidavit -- namely the phone call from Ms. Shipp and her statements to me.


21 MOTHER, my former client, has given permission for me to disclose protected information
22 solely regarding my conversation with Ms. Shipp due to the urgency of Kayla's medical situation
23 and the quickset hearing on visitation. Furthermore, MOTHER has not given me permission to
24 waive the evidentiary attorney client privilege, work product protection or any other confidential
25 protections regarding any communications between me and my former client in relation to any
26 other matter I handled while representing her.
27
28

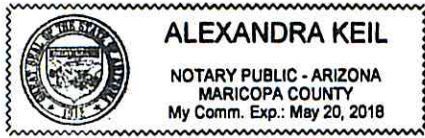
Dated: 9/29/14

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Jennifer L. Kupiszewski, Esq.

Sworn to before me this 29th day of September, 2014.


Notary Public



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1 ORIGINAL of the foregoing filed with the Court
2 this day of September, 2014.

3 Maricopa County Clerk of the Court
4 Durango Juvenile Division
5 3131 West Durango
6 Phoenix, AZ 85009

7 A COPY of the foregoing to be hand-delivered, emailed or mailed
8 the day of September, 2014 to:

9 Hon. Cari Harrison
10 Maricopa County Superior Court
11 Juvenile Division, Durango Facility
12 3131 West Durango
13 Phoenix, AZ 85009-6292

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28 Guardian ad Litem

Edward Johnson
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Attorney for Kayla Diegel

Katherine Schmidt, CASA via email
Court Appointed Special Advocate

By: _____
Tamera Cellarius