**STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE**

**DISTRICT COURT DIVISION**

**COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ FILE NO.: \_\_\_\_\_\_\_\_\_**

**)**

**IN THE MATTER OF ) MOTION TO ALLOW**

**) REMOTE TESTIMONY VIA**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ) ELECTRONIC MEANS OR**

**) TELEPHONE**

**NOW COMES**, the undersigned counsel, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, on behalf of the Respondent Mother/Father, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and moves the Court for an Order permitting the testimony of the Respondent [OR ANOTHER WITNESS] via electronic means or via telephone. In support of this motion, counsel for Respondent states the following:

1. The Petitioner filed a Petition on [DATE], seeking to terminate the parental rights of the Respondent Mother/Father \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
2. That Respondent Mother/Father is [DESCRIBE CIRCUMSTANCES PREVENTING PRESENCE, SUCH AS THE FOLLOWING]:

* Incarcerated at a federal facility located at \_\_\_\_\_\_\_\_\_\_\_
* Respondent suffers from the following developmental disability or mental retardation [DESCRIBE] and N.C. Rule of Evidence 616 allows alternate participation for such a witness.
* Respondent Mother/Father resides [X] miles away from the courthouse and lacks transportation and funds to travel to court.
* Respondent Mother/Father has received services through [ORGANIZATION] located in the State of [NAME], which testimony is essential for purposes of a defense.
* *Other circumstances (be specific!)*.

1. That the Respondent Mother/Father has no practical means of transportation given the nature of her/his unavailability and the distance required to travel. [OR The witness(es) are located out of state (or some distance away) and the Respondent lacks the funds to compensate them for their time and travel to attend the hearing in person and they are not subject to a N.C. subpoena.]
2. That a hearing on the termination petition [or other hearing] has been scheduled for [DATE] at [LOCATION OF COURTHOUSE AND COURTROOM].
3. That the Respondent Mother/Father [or WITNESS treating the biological mother/father] of the minor child has the requisite personal knowledge and information relevant to this case.
4. That the testimony of the Respondent Mother/Father [or WITNESS] is essential in determining the termination of her/his parental rights to the minor child.
5. That the Respondent will be prejudiced without the ability to present her/his testimony at this proceeding when s/he is the only person with the direct knowledge of certain facts critical to her/his defense of this case.
6. [Use if applicable] That juvenile proceedings are subject to the Uniform Child Custody Jurisdiction Enforcement Act (UCCJEA) which allows for out-of-state participants to appear by electronic means. N.C. Gen. Stat. §50A-111.
7. The N.C. Administrative Office of the Courts provides both video and phone conference rooms for court personnel through Webex, which could be set up by the Juvenile Clerk.
8. That the Respondent requests that this Court enter an Order permitting the testimony of the Respondent/[WITNESS] via electronic means or via telephone from the [FACILITY NAME] in [LOCATION FROM WHICH CLIENT OR WITNESS WILL PROVIDE TESTIMONY].

**WHEREFORE**, Respondent, through counsel, moves this Court to permit the testimony of the Respondent/[WITNESS] via electronic means or via telephone and for such other and further relief as the Court may deem just and proper.

This the \_\_\_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 201\_\_.

**By:**

Counsel Name

State Bar No.

Address

Telephone

Attorney for the Respondent

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing MOTION TO ALLOW REMOTE TESTIMONY VIA ELECTRONIC MEANS OR TELEPHONE has been served on the parties listed below by:

( ) depositing said notice in a postpaid, properly addressed wrapper in a Post Office or official depository under the exclusive care and custody of the United States Post Office Department.

**[*Insert name and address of attorney or party served in this manner]***

( ) hand-delivery to the attorney or party by leaving it at the attorney's office with a partner or employee.

***[Insert name of attorney served in this manner]***

( ) sending it to the attorney's office by a confirmed telefacsimile transmittal for receipt by 5:00 P.M. Eastern Time.

**[*Insert name and fax number of attorney served in this manner]***

THIS the \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**[Name]**

Attorney at Law

**[Address]**

**[Telephone #]**

**STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE**

**DISTRICT COURT DIVISION**

**COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ FILE NO.: \_\_\_\_\_\_\_\_\_**

**)**

**IN THE MATTER OF ) ORDER GRANTING**

**) MOTION TO ALLOW**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ) REMOTE TESTIMONY**

**)**

THIS CAUSE coming on for hearing before the undersigned District Court Judge upon motion of counsel for the Respondent for an Order granting Respondent’s motion to allow remote testimony via telephone or electronic means; and

IT APPEARS TO THE COURT that present in the Court were: [list all attorneys and parties they represent];

AND IT APPEARING TO THE COURT (or the Court finds that) [copy and paste #1-10 from motion as appropriate]

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that upon the Respondent’s Motion and after hearing the arguments of counsel, the Respondent’s Motion to allow electronic testimony is hereby granted and the Respondent/ [WITNESS] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is permitted to testify through electronic means such as video-conferencing, Skype, or telephone. [If the Court specifies the manner, please ensure it is included here. Consider leaving telephone as a backup in the event of technology failures or impossibilities.] The hearing on this matter is scheduled for [DATE] at [TIME].

This the \_\_\_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2017.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DISTRICT COURT JUDGE PRESIDING

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing ORDER has been served on the parties listed below by:

( ) depositing said notice in a postpaid, properly addressed wrapper in a Post Office or official depository under the exclusive care and custody of the United States Post Office Department.

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( ) sending it to the attorney's office by a confirmed telefacsimile transmittal for receipt by 5:00 P.M. Eastern Time.

**[*Insert name and fax number of attorney served in this manner]***

THIS the \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**[Name]**

Attorney at Law

**[Address]**

**[Telephone #]**