

1                   **IN THE SUPREME COURT OF THE STATE OF NEW MEXICO**

2   **November 30, 2020**

3                   **NO. 20-8500-041**

4                   **IN THE MATTER OF COURT ORDERS**  
5                   **REQUIRING VISITATION BETWEEN**  
6                   **CHILDREN IN CUSTODY OF THE NEW MEXICO**  
7                   **CHILDREN, YOUTH AND FAMILIES DEPARTMENT AND**  
8                   **RESPONDENTS UNDER THE ABUSE AND NEGLECT ACT**  
9                   **DURING THE COVID-19 PUBLIC HEALTH EMERGENCY**

10   **ORDER**

11                   WHEREAS, on March 27, 2020, in the wake of the public health emergency  
12                   caused by the spread of COVID-19, this Court entered Order No. 20-8500-009 to  
13                   stay and amend court orders requiring in-person visits between children in custody  
14                   of the New Mexico Children, Youth, and Families Department (CYFD) and  
15                   respondents under the Abuse and Neglect Act in accordance with certain terms set  
16                   forth in said order;

17                   WHEREAS, the provisions in Order No. 20-8500-009 were to remain in  
18                   effect until April 26, 2020, unless extended, amended, or withdrawn by future  
19                   order of this Court;

20                   WHEREAS, on April 23, 2020, this Court entered Order No. 20-8500-014  
21                   extending Order No. 20-8500-009 until amended or withdrawn by future order of

1 this Court;

2 WHEREAS, on May 21, 2020, this Court entered Order No. 20-8500-018  
3 modifying Order Nos. 20-8500-009 and 20-8500-014;

4 WHEREAS, the Court's prior orders on this matter prescribed a process and  
5 procedure that enabled CYFD and all parties to develop individual visitation orders  
6 addressing the health and safety of all participants;

7 WHEREAS, CYFD has the legal obligation to establish policies for the  
8 safety and well-being of children in CYFD custody, NMSA 1978, § 32A-1-4(P)  
9 (2019), including an obligation to facilitate in-person visitation between children  
10 and parents in compliance with appropriate public health protocols;

11 WHEREAS, the Court does not believe the time for caution has passed,  
12 rather that the preceding emergency orders have accomplished their purpose to  
13 provide CYFD with the time necessary to develop pandemic-specific policies and  
14 procedures to balance protecting the health and well-being of children in CYFD  
15 custody and the fundamental liberty interests of respondents to have meaningful,  
16 in-person visitation with their children;

17 WHEREAS, the Court recognizes that it is the role of district court judges  
18 who hear individual family cases to address properly raised disputes regarding

1 family time and visitation, and to do so on an expedited basis to avoid delay in  
2 establishing appropriate and safe visitation arrangements; and

3 WHEREAS, in light of the foregoing and the Court being sufficiently  
4 advised, Chief Justice Michael E. Vigil, Justice Barbara J. Vigil, Justice Judith K.  
5 Nakamura, Justice C. Shannon Bacon, and Justice David K. Thomson concurring;

6 NOW, THEREFORE, IT IS ORDERED that effective December 31, 2020,  
7 New Mexico Supreme Court Orders Nos. 20-8500-009, 20-8500-014, and 20-  
8 8500-018 are withdrawn;

9 IT IS FURTHER ORDERED that all individual district court visitation  
10 orders in place on December 31, 2020, shall remain in place unless amended or  
11 withdrawn by further order of the district court;

12 IT IS FURTHER ORDERED that visitation shall be addressed in custody  
13 orders entered on or after the date of this order in accordance with the Abuse and  
14 Neglect Act, NMSA 1978, §§ 32A-4-1 through -35;

15 IT IS FURTHER ORDERED that, in determining all visitation orders during  
16 the public health emergency, the district court shall enter orders on visitation in  
17 accordance with the best interests of the child, taking into account public health  
18 risks, including the specific circumstances surrounding the health and residence of  
19 both the child and the respondent; and

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IT IS FURTHER ORDERED that this order shall remain in effect until amended or withdrawn by future order of this Court.

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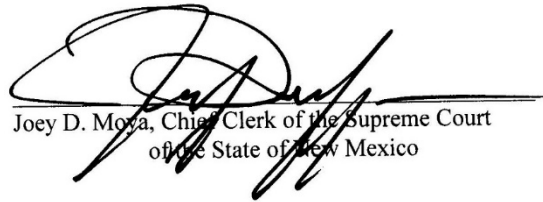
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IT IS SO ORDERED.

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WITNESS, the Honorable Michael E. Vigil, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 30th day of November, 2020.



Joey D. Moya, Chief Clerk of the Supreme Court  
of the State of New Mexico

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