

STATE OF MICHIGAN

COURT OF APPEALS

IN THE MATTER OF:

ALYSSA ANNE KEAST and
AMBER MARIE KEAST,

Minors.

Court of Appeals No. 277354

Lower Court No. 05-06388-NA

Shon A. Cook (P51452)
Susan M. Franklin (P66047)
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**APPELLEES' RESPONSE TO THE APPELLANT'S SECOND MOTION
FOR IMMEDIATE CONSIDERATION BEFORE THIS COURT BASED
ON AN ORDER ENTERED ON MARCH 5, 2007.**

NOW COME Appellees, by and through their attorney of record, Shon A. Cook of Williams, Hughes & Cook, PLLC, and hereby responds to the Motion for Immediate Consideration to consider the corresponding Motion to Waive Michigan Court Rule 7.209. The Appellees wish to incorporate Appellees' response to Appellant's similar request for immediate consideration for Application for Leave to Appeal. The same facts, law and exhibits are relevant to the Court's determination of this current motion.

In addition to the information provided to the Court in the Appellees' response to the first Appellant's first Motion for Immediate Consideration, the following should be considered by this Court. The Appellant filed its second Motion for Immediate Consideration and Motion to Waive Michigan Court Rule 7.209 on April 16, 2007. The same was personally delivered to

Appellees' counsel's office at approximately 3:30 p.m. on April 16, 2007. Appellees' attorney was in Court in the County of Muskegon on a divorce trial before the Honorable Gregory G. Pittman. That matter was completed at 4:30 p.m. and Appellees' counsel returned to her office at 4:45 p.m. Upon checking with staff, the Court of Appeals had not called or provided any deadline for the response for Appellees. Upon checking the web-site at the Court of Appeals, the docketing statement indicated that the response to the Motion for Immediate Consideration was due by April 30, 2007 and that the response to the Application for Leave to Appeal was due by April 23, 2007.

Appellees' counsel attended a family law seminar conducted by ICLE on the morning of April 17, 2007 from 9:00 a.m. until 12:00 noon. The Appellees' attorney is mandated to attend this seminar, to complete the Family Law Certificate Program and for CLE credits that are required in the State of Iowa. Appellees' counsel attended the seminar via web-cast, but the seminar required that questions are answered periodically throughout the seminar without notice and that credit codes must be entered as the seminar proceeds.

At 11:00 a.m., Appellees' counsel had still not heard from the Court of Appeals regarding the latest round of Motions filed by the Appellant and the timelines for response. Attorney Cook then called the Court of Appeals on break from the seminar, and asked if Appellees had complied with the filing date for our response to the original motions. Appellee's counsel was then advised that a response to the most recent filings was due by 1:00 pm on April 17, 2007, or as soon thereafter as Appellees' counsel could respond, but definitely by the early afternoon. Appellees' counsel spoke directly with the District Commissioner's Assistant, Mr. Mark McElwee.

In addition to the volume of material, case law, statutes and court rules that have been supplied to this Court by Appellees in this matter, Appellees wish the Court to consider the abuse of process that has been engaged in by the Appellants in this matter. Despite an Order being entered in this matter on March 5, 2007, that specifically stated the Court's directive on the placement of the minor children, the Appellants waited until April 13, 2007 to file their request for Application for Leave to Appeal. Further, they waited until April 16th, to file their second round of motions that could have been included in the filings on April 13, 2007. Every move by the Appellants is calculated to back the Appellees into a corner with only hours to provide a reasoned response to this Court. The most recent motion filed by the Appellants asks this Court to ignore the rules of procedure drafted by the Supreme Court of Michigan, and codified by the Michigan Court Rules. The Appellants again provide minimal notice of their requests to the Appellees and entirely dismiss the role of the trial Court, due process and civil procedure in proceeding in this manner. To date, the actions of the Appellants in the last five days have resulted in Appellees owing greater than \$10,000.00 in fees to their counsel.

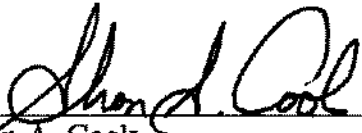
The Appellant appeals from an Order entered on March 5, 2007, and a subsequent order entered on March 17, 2007 denying the Appellant's request for reconsideration of the March 5, 2007 Order. The Appellant did not appeal the entry of the March 5, 2007 Order. The Order stated the following:

- a. The children's commitment to the Department of Human Services for permanency planning, supervision, care and placement under MCL 400.203 is terminated.
- b. The court continues its jurisdiction over the children.

- c. Subject to that continuing jurisdiction, the court does place the children with their maternal grandparents, Timothy and Barbara Atwood by virtue of their petitions to adopt.
- d. Recognizing the placement for the purposes of adoption can occur up to 18 months before the adoption can be finalized and in deference to the Department of Human Services concerns, the court does request the Department to care for and supervise this placement as a matter of courtesy.
- e. The next post termination review hearing will be held within 90 days from the date of this Order.

Other than the Order denying reconsideration of this Order, no other Orders have been entered in this matter. The original terms of the Order of March 5, 2007 have not been altered or changed. The Court has only indicated that the Appellant no longer has the luxury of dragging its heels in implementing the Court's order. There is no emergency or crisis created, and no unique circumstances that demand this Court's review or further time on this matter.

Dated: April 17, 2007.



Shon A. Cook,
Attorney for Appellees