ATTACHMENT NO. 4

[NON-EMERGENCY PETITION]

IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA
Division No. 2

IN THE INTEREST OF:

CD,	dob: 10/23/94	Case No. 08-JA-____
SD,	dob: 12/30/95	Case No. 08-JA-____
KD,	dob: 04/11/98	Case No. 08-JA-____
AD,	dob: 08/22/00	Case No. 08-JA-____
RD,	dob: 05/28/02	Case No. 08-JA-____
SD,	dob: 11/14/03	Case No. 08-JA-____
WD,	dob: 05/07/08	Case No. 08-JA-____

ADULT RESPONDENT(S): TJB, biological mother
RD, biological father

PETITION FOR OF CUSTODY OF MINOR CHILDREN
BELIEVED TO BE NEGLECTED OR ABUSED
(W.Va. Code §49-6-1)

1. The West Virginia Department of Health and Human Resources, by Child Protective Services Worker_____, hereby requests custody of the above-named children due to facts and information showing that the above-named children are abused or neglected by one or both of their parents.

2. The parents of the children are TJB and RD. The address of the family residence is _____, Westover, WV 26505.

3. The most recent referral of suspected child abuse or neglect in this matter was received by the DHHR at or around the time of the birth of the youngest child, WD, on May 7, 2008.

4. The referral stated that TJB had delivered the baby at 36 weeks gestation and that the infant was being cared for in the neo-natal intensive care unit at Ruby Hospital. Ms. B had tested

positive for cocaine, opiates and propoxyphene (darvan) at the baby's birth. The baby was positive for propoxyphene, opiates and cocaine. The hospital reported that the positive opiate results included codone at 539 ng, hydrocodone at 44 ng and oxycodone at 49 ng.

5. When the Petitioner interviewed Ms. B she stated that she had "snorted" a line of cocaine in April before the baby's birth and had tested positive for the drug at a pre-natal exam.

6. Ms. B also informed the Petitioner that she had obtained a vicadin 75 mg prescription from her dentist in March because she had reported tooth pain. When the Petitioner obtained Ms. B's records from the dentist, Dr. R, it showed that she had been prescribed 15 tablets of Lortab for tooth pain on 3/18/08. On 3/20/08 she was prescribed 12 additional tablets of Lortab at her request. Again on 3/24/08 at Ms. B's request, 15 more tablets were prescribed. On 3/28/08 Ms. B was given another prescription of 20 tablets with one refill permitted. On 4/4/08 Ms. B obtained another 15 tablets of Lortab from Dr. R. There was a note in her file stating that Ms. B had called and requested more tablets on numerous other occasions but had been refused after 4/4/08 due to the quantity previously prescribed. On the medical form which Ms. B completed at the dentist's office on 3/18/08, she stated that she was not pregnant.

7. During WD's stay at Ruby Hospital between May 7 and May 20, 2008, the contact between Ms. B and the Petitioner resulted in Ms. B entering into a protection plan that would allow WD to be discharged to the Respondents and avoid the Department's petition for immediate removal of the infant, and potentially all of the children, from parental custody based upon the very high levels of drugs in the baby's system. The safety plan required certain specific actions by Ms. B, including immediate assessment for substance abuse counseling and immediate follow-up with recommendations arising from the assessment.

8. WD was released from hospital care to RD on May 20, 2008. The baby was discharged with an apnea monitor.

9. Shortly after WD's discharge from the hospital Ms. B advised the Petitioner that she had entered the Valley Health Care Systems crisis unit for immediate attention to her drug abuse.

10. The Department is following up in its child protective services actions with this petition due to the fact that the Department has received multiple referrals of child abuse or neglect regarding this family dating back to 1997. Three of the early referrals were substantiated resulting in a CPS case being opened on November 15, 1997. The case had been substantiated for inadequate or unsafe shelter for the children. It was closed on August 10, 1998 because Ms. B had completed the recommended services and the Department had received no new referrals before closure of the case.

11. A CPS case was opened again on October 26, 1999, for a substantiated referral of alcohol abuse by Ms. B. She had been involved in a car wreck while driving under the influence of alcohol with two of her children in her car at the time of the wreck. The case was closed in July 2000 because Ms. B and the children had moved out of state.

12. The Department received a referral in May 2002, regarding Ms. B's drug usage while she was pregnant with Rachel. Although Ms. B admitted that she had used cocaine while pregnant with RD she stated that she had used the drug prior to learning of the pregnancy. Because RD tested negative for drugs at the time of her birth, the referral was not substantiated nor was the case reopened.

13. TB has consistently advised the Petitioner that she has not had an open child protective services case in any other location than Monongalia County. However, the Department has learned that, while Ms. B and the children were living in Stanley County in

North Carolina, there was a substantiation of her drug abuse and child neglect. A protective services case was opened in that county. The children were turned over to Mr. D, who returned with the children to Monongalia County. Ms. B agreed to follow with services in Stanley County, but left there after several days to also return to Monongalia County.

14. Because Ms. B has had open CPS cases in 1997 and 1999 in Monongalia County, West Virginia, and in Stanley County, North Carolina in 2007, inspite of her denial of the North Carolina case, and because Ms. B and WD were positive for multiple controlled substances at the time of WD's birth, the Department has a good faith belief that the children are at risk of neglect due to significant drug abuse by Ms. B. The Department further has a reasonable belief that Ms. B requires court intervention in order for her to remedy her long- term substance abuse problem. It is known that Ms. B currently also takes strong prescription medications that can render her unable to provide adequate care and attention to not only WD, but the other young children in the home.

15. Although Ms. B and Mr. D have made statements to the Department that Mr. D does not reside in the home on a full-time basis, the Department has a reasonable belief that RD does live in the home on a full-time basis. However, the Department is aware that Mr. D also takes strong prescription medications that can also render him unable to provide fully for the needs of very young children on a constant basis without the assistance of another sober and capable adult.

16. For the reasons stated, the Department hereby petitions the Court for custody of the above-named children in order to ensure the safety of all of the children either inside or outside of the home.

17. The Department further requests that the Court schedule an adjudication hearing to allow for the full development of the facts and circumstances set forth in this petition and to provide the Court with an opportunity to judge the merits of the allegations and issue a ruling in the best interests of the children.

The Respondents are hereby notified that pursuant to West Virginia Code §49-7-5, the Court will make a determination whether, and at what financial level, child support will be required for any children who are placed out of the home. Financial disclosure by the Respondents will be required to assist the Court in reaching the determination.

_____
Petitioner

STATE OF WEST VIRGINIA
COUNTY OF MONONGALIA, to-wit:

_____, a reputable person and the Petitioner named in the foregoing Petition, states that the facts and allegations contained therein are true insofar as they are based upon your Petitioner's own knowledge and observations. Insofar as they are based upon information, your Petitioner verily believes them to be true.

_____
Petitioner

Taken, subscribed and sworn to before me this 23rd day of May 2008.

My Commission expires: May 25, 2013

_____
Notary