

As a result of our meeting on March 30, 2015, with Andy Cohen (CPCS), Ann O'Connor (CPCS), Patricia Casey (DCF), and Julie Goldman (APC, Clerk's Office), the following is a general outline (initially prepared by Andy, with edits made by members of the Appeals Court Clerk's Office) of what the group thought made the most sense in the event of a "hybrid" situation arising in a Care & Protection case. While reviewing the summary below, please keep in mind that this outline in no way restricts the decision-making role of a particular judge who may encounter this situation (including Judge Hanlon), and that this guideline may change as necessary after we have some experience with the proposed procedure.

New Process Outline for children in Care and Protection cases who seek to appeal only part of the judgment:<sup>1</sup>

If counsel represents a child who is an appellee regarding the underlying termination decree (or some other custody decree appealable by final order), but who is an appellant regarding another aspect of the judgment (such as post-adoption visitation, sibling visitation, or adoption plan approval), counsel for that child may, prior to the filing of the blue briefs by the "pure appellants" (who may be parents or children):

- (1) file a motion to enlarge the child's briefing deadline until after the last "pure appellant" blue brief is filed; no more than 30 days should be requested. (Please note that there might be several "pure appellants" in a case.)<sup>2</sup>
- (2) title the motion "Appellant Child's Motion for Deferred Briefing";
- (3) explain in the motion to enlarge that the child (a) is an appellee with respect to the underlying termination/custody decree, but is an appellant with respect to some other aspect of the judgment; (b) needs additional time to review the appellant briefs

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<sup>1</sup> This process assumes that the child has filed a timely Notice of Appeal regarding the challenged portion of the judgment in the Juvenile Court and is designated as an appellant by timely entering his/her appeal.

<sup>2</sup> No further motion for enlargement should be anticipated beyond that 30 days.

and file a single brief that both supports the underlying termination/custody decree and challenges other aspects of the judgment; and (c) will file a single blue brief on or before the proposed deadline (e.g., 15 days after the appellant's brief is filed, which currently is April 15, 2015). That motion need not provide any other explanation of personal or professional reasons for the enlargement.

A child's timely-filed motion for deferred briefing in the "hybrid" brief context should be filed as early as practicable and will be handled as a routine request; counsel need not fear that his or her blue brief is late if the single justice has not yet acted on the motion by the time the final blue brief is filed by a "pure appellant." DCF (and any other "pure appellee") will file its red responsive brief, in the ordinary course, 30 days after the filing of the child's hybrid blue brief. All appellants - both "pure" and "hybrid" - may elect to file a reply brief within 14 days after the last appellee red brief is filed.