**IMPOUNDED**

**COMMONWEALTH OF MASSACHUSETTS**

**APPEALS COURT**

 **, ss. DOCKET NO. 2014-P-**

**DEPARTMENT OF CHILDREN AND FAMILIES,**

**APPELLEE**

**vs.**

**APPELLANT**

**JOINT AGREEMENT REGARDING BRIEFING OF CROSS APPEALS**

Now come the parties to the above-captioned appeals and request this Honorable Court approve the parties’ briefing agreement.

As grounds therefore, the parties state that this case involves cross appeals by all parties. On March 1, 2013, a judge of the Juvenile Court entered an order terminating the parental rights of the father, (“Father”) and ordering the adoptive family to develop a visitation plan to enable paternal uncle to visit with the subject child (“Child”).

On March 29, 2013, Father timely filed his Notice of Appeal from the judgment terminating his parental rights.[[1]](#footnote-1) On or about April 4, 2013, the Department of Children and Families (the “Department”) filed its Notice of Appeal from the trial judge’s order for post-adoption visitation.[[2]](#footnote-2) On December 31, 2013, the Child’s Petition for Leave to File Late Notice of Appeal from the post-adoption visitation order was allowed by the Single Justice (Hanlon, J.). On January 6, 2014, the Child filed her Notice of Appeal from the trial judge’s order for post-adoption visitation, as well as the trial judge’s July 30, 2013, denial of the Department’s motion for reconsideration of that order.

Pursuant to Mass. R. A. P. 16(i), the Department would ordinarily be deemed the appellant for purposes of briefing. However, under the circumstances of this case, where the Department and Child are only appealing a discrete portion of the judgment, the parties have agreed that Father shall be the appellant.

Further, the parties have agreed upon the following:

1. Father will file a blue brief in which he challenges termination but supports the visitation order;[[3]](#footnote-3)
2. Thirty (30) days after receipt of Father’s blue brief, the Child and the Department will file red briefs in which they support the termination but challenge the visitation order;
3. Fourteen (14) days after receipt of the Child’s and Department’s red briefs, Father may elect to file a reply brief in which he addresses both termination and visitation;
4. Pursuant to Mass. R. A. P. 16(c), fourteen (14) days after receipt of Father’s reply brief, the Child and Department, as appellees who have cross-appealed, may elect to file reply briefs, on the visitation issue only, in which they answer any argument or statement on that issue presented by Father’s reply brief;
5. At oral argument, pursuant to Mass. R. A. P. 22(d), the parties will proceed as follows: Father as appellant (15 minutes), the Department and Child as appellees (to divide their time as agreed at the time of argument).

Respectfully Submitted

FOR THE FATHER:

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FOR THE DEPARTMENT:

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

FOR THE CHILD:

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

Dated: June 10, 2014

1. Father filed and served his Motion to Waive Docketing Fee and Enter Appeal, along with a Motion to Late File said motion, on February 20, 2014. To date, Father’s appeal has not been entered. [↑](#footnote-ref-1)
2. The Department erroneously mailed its Notice of Appeal to the Probate and Family Court, so it was not docketed in the Juvenile Court until May 8, 2013. On February 14, 2014, the Department filed a Motion to Accept as Timely Filed the Notice of Appeal, which this Court allowed, nunc pro tunc, on February 21, 2014 (No. 2014-J- ). [↑](#footnote-ref-2)
3. The filing date for Father’s brief cannot yet be determined, as Father has this day requested a stay to enable him to order a missing transcript of trial testimony. [↑](#footnote-ref-3)