

# CAFL NEWS

Volume 1, Issue 1

March 2017

## WELCOME TO THE FIRST CAFL NEWSLETTER!

Dear CAFL News Readers,

We are excited to unveil our newest CAFL Newsletter. This monthly publication will provide news, information, training notices and much more. It is our hope that this newsletter helps support your practice and the work you do for children and families throughout the state. We invite you to send in comments, notices or contributions to the newsletter via email to [cafltraining@publiccounsel.net](mailto:cafltraining@publiccounsel.net).

Thank you for the great work that you do on behalf of CAFL clients.

Michael Dsida

CAFL Deputy Chief Counsel

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Message from Nancy Baratta, CAFL Managing Attorney, and Carol Rosensweig, CAFL Trial Panel Director

We want to use the launching (or re-launching) of the CAFL Newsletter to take this opportunity to thank all of you, both private panel and staff, for the work you do every day in the trenches to protect the rights of indigent families throughout the Commonwealth. We've heard your requests for a newsletter and are excited that the CAFL Training Unit has spearheaded the project to bring it back! You may also want to take another look at our website - it improves every day. (<https://www.publiccounsel.net/cafl>). We hope these supports will make your practice a little bit easier.

You work so hard under such challenging conditions to hold the government accountable when it interferes in family integrity. Your zealous advocacy makes a difference in so many ways for so many litigants affected by state intervention, sometimes, the only difference. Your efforts do not go unnoticed or unappreciated.

Thank you and let's hope this year is easier than the last couple,

Nancy Baratta & Carol Rosensweig

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*"The Arc of the Moral Universe Is Long, But It Bends  
Toward Justice"—  
Martin Luther King Jr. (quoting Theodore Parker)*

## Training Notices

### “Motion Practice Training: Requesting Court Ordered Visitation”

March 7, 2017

1:00 - 3:00 pm

Worcester Law Library, Room 504, 184 Main St., Worcester

Please RSVP to Resource Attorney William Comeau at [wcomeau@verizon.net](mailto:wcomeau@verizon.net) as space is limited and materials will be provided prior to training

Approved for 2 CLE credits

### “Motion Practice Training: Requesting Court Ordered Visitation”

March 8, 2017

2:00 PM- 4:00 PM

Salem Juvenile Court, 56 Federal Street, Salem

Please RSVP to Resource Attorney Frances J. Weiner at [fweiner@bradleymoorelaw.com](mailto:fweiner@bradleymoorelaw.com)

Approved for 2 CLE credits

### Motion Practice Training: Requesting Court Ordered Visitation

March 13, 2017

2:00-4:00 PM

Fall River Juvenile Court, 289 Rock Street, 4th floor

Please RSVP in advance to Resource Attorney Jim Harrington

@ [jpharringtonlaw@verizon.net](mailto:jpharringtonlaw@verizon.net) as space is limited and materials will be provided in advance of the training.

Approved for 2 CLE credits

### Advanced Evidence for the CAFL Lawyer: Discussions, Debate, and a Dollop of Rage

Presenter: Andrew Cohen, Director of Appellate Panel, CAFL

March 23, 2017

2:00-4:00 PM

Massachusetts School of Law, Andover (Room TBA)

Please RSVP to: Frances J. Weiner, Esq. and John Haroian, Esq., Co-hosts at [fweiner@bradleymoorelaw.com](mailto:fweiner@bradleymoorelaw.com).

Approved for 2 CLE credits

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## Training Notices cont.

### **“Motion Practice Training: Requesting Court Ordered Visitation”**

**March 23rd, 2017**

**1:00-3:00 PM**

**Springfield Juvenile Court, Courtroom I**

Please RSVP to Resource Attorney Micahel Greenberg at [michael@greenberglawma.com](mailto:michael@greenberglawma.com)  
Approved for 2 CLE credits

### **“Motion Practice Training: Requesting Court Ordered Visitation”**

**March 30th, 2017**

**1:00-3:00 PM**

**Plymouth Public Library, 132 South St, Plymouth, MA**

Please RSVP to Resource Attorney Deborah Cassell at [deborahcassell\\_atty@hotmail.com](mailto:deborahcassell_atty@hotmail.com)  
Approved for 2 CLE credits

For more information about these or other upcoming trainings, visit the CAFL Training Website at [www.publiccounsel.net/cafl/training/](http://www.publiccounsel.net/cafl/training/).

## Announcements

### DCF Proposes New Regulations

DCF is in the process of rewriting its regulations. In total, the agency plans on submitting 19 proposed sets of new or amended CMR's. CPCS will be submitting comments on the proposed changes and the private bar is encouraged to do the same. We are posting the proposed changes to the regulations on the CPCS website at [DCF REGULATIONS](#).

### Welcome to the New Social Work Coordinator

We are excited to announce that CAFL has received federal grant monies to fund a Social Work Coordinator to work with the private CAFL bar. Meg Grant comes to this position with experience as a court investigator, GAL, and social work expert. She hopes to provide information regarding the benefits of and how to work with expert social workers hired under the Indigent Court Costs Act. She will look to recruit more social work experts so attorneys will have a larger pool from which to draw when considering retaining social work experts. To this end, she will be asking you if you know any social workers, either from court investigations and/or GAL work who might be a good fit for our list; former DCF social workers might be a good match for our work. Meg will also be available for consultation about the type of services clients may need and how to access them. We hope that having Meg on board will provide a piece that has been missing for private attorneys doing this work. Please feel free to contact her with any questions. She can be reached at [mgrant@publiccounsel.net](mailto:mgrant@publiccounsel.net) or 617-910-5839.

## Announcements cont.

### CAFL Accepting Applications for Appellate Panel

We are now accepting applications for the May CAFL appellate certificate training. The application deadline is April 7, 2017. For additional information and a link to the application, please visit the CAFL Training page of our website. ([Click here to view CAFL Appellate Panel Applications](#))

### CAFL Expanding Resources Available on MyGideon Website

The training unit is building a CAFL page on MyGideon.org. MyGideon is a national, member only resource website for public defense professionals. The CAFL page will feature training materials, sample motions and memos, practice tools, and more. We are in the process of creating membership accounts for all CAFL practitioners. Stay tuned for more information.

### One Can Help Provides Resources to Families in Need

The Middlesex based non-profit organization "One Can Help" is expanding to provide critical resources to families in need throughout the state. Court appointed officials, including attorneys, can apply for resources to obtain food, rent, activities, transportation or more for their clients online at [onecanhelp.org](http://onecanhelp.org).

### Free Tax Clinics for Clients

[Free tax clinics](#) are being held at Boston Medical Center, Boston Children's at Martha Eliot Health Center, South End Community Health Center and St. Mary's Center for Women and Children.

## Self Care Tips

Any professional who works directly with traumatized clients is at risk of secondary traumatic stress. Secondary traumatic stress, sometimes called "compassion fatigue," is the emotional duress that results when an individual hears about the firsthand trauma experiences of another. Its symptoms mimic those of post-traumatic stress disorder (PTSD). Part of being trauma-informed is recognizing this and taking the necessary steps to keep healthy so you can continue to help your clients. Each month in this newsletter we will highlight a "self care tip."

For more information about secondary trauma visit the National Child Traumatic Stress Network at <http://www.nctsn.org/resources/topics/secondary-traumatic-stress>.

This month's tip comes from Worcester based CAFL social worker, Rachel Hypolite: Be Kind to Yourself.

## Self Care Tips cont.

### 5 Ways to Be Kind to Yourself

#### 1. Invest in yourself.

Spend 15-30 minutes in the morning or evening doing something you enjoy. Read a chapter of your favorite book while enjoying your cup of coffee. Listen to your favorite music while taking a shower. Go for a walk to catch the sunset. Do something that allows you to forget about your responsibilities and just enjoy yourself.

#### 2. Be kinder towards others.

The way you think about and treat others is often the way you think about and treat yourself. Recognize a co-worker's strength, hold the door for a stranger, empathize with someone who is having a tough day.

#### 3. Give Yourself Recognition.

Often, we're quick to acknowledge the achievements of others, but slow to acknowledge our own. Although the large ones are hard to come by, recognize there are many small successes--embrace them and celebrate the hard work!

#### 4. Soothe Yourself.

Did you have a tough day? Did you get into an argument with a co-worker or a friend? Did you have a rough court appearance? Was it one of those days in which everything that could go wrong, did go wrong? Find a class in your area to sweat off the stress.

#### 5. Take a laugh-break.

Take 5-10 minutes in the middle or end of your day. Laughter is seriously the best medicine available.

## In the News

### Removals and the Opioid Crisis

On January 14, 2017, MassLive featured a special report focusing on the increase in DCF removals because of the opioid crisis. [Click here to read the article.](#)

### ABA Adopts Resolution Concerning Parents with Disabilities

In February 2017 the American Bar Association adopted Resolution 114, urging states to enact laws protecting the legal rights of parents with disabilities in child custody proceedings. For the text of the resolution and accompanying report, visit the ABA website at [Resolution 114.](#)

## Legal Updates

### New Federal Regulations and Guidance Govern ICWA Proceedings

Effective December 12, 2016, the Bureau of Indian Affairs (BIA) has issued new regulations to improve implementation of the Indian Child Welfare Act. They are designed to promote uniform application of ICWA and clarify the minimum federal standards established by the statute. For example, the regulations define and provide eleven examples of "active efforts." Additionally, the regulations require the court to ask each participant, at the beginning of each proceeding, if they know or have reason to know that the child is an Indian child. The BIA also updated its ICWA Guidelines. All CAFL attorneys should become familiar with the new regulations and guidelines. A detailed memorandum discussing the changes is available [here](#).

### New Federal Law Promotes School Stability for Foster Children

Effective December 10, 2016, the Every Student Succeeds Act (ESSA) mandates that all children in foster care have to right to remain in the school they are attending at the time of removal, or the school they are attending at the time DCF moves them to a new placement ("school of origin"). Transportation must be provided to the school of origin. If it is not in the child's best interests to remain in their school of origin, they must be enrolled immediately in the school in the town where they are living, even if records usually required for enrollment are not available. For more information about this important new law, visit the Children's Law Center of Massachusetts at: <http://www.clcm.org/schoolstability.html>.

### Recent Case Law: Adoption of Zak

On January 9, 2017, in Adoption of Zak the Appeals Court held that parents, whose parental rights had been terminated, retained standing to participate in a hearing on post-termination visitation after the matter was remanded. The Court reasoned that the hearing after remand was simply a continuation of the termination of parental rights proceeding in which the parents were already a party. Adoption of Zak, 90 Mass. App. Ct. 840 (2017). A full summary of the case can be found [here](#).

## Administrative Reminder

Attorneys appointed to a Care and Protection case must continue to represent both their parent and child clients when the court grants permanent custody to DCF. This rule does not apply when the court grants permanent custody to a parent or third party. A case is not considered concluded because there has been no recent court activity. If you have any questions about when it is appropriate to end your representation and close a NAC, contact your mentor, resource attorney, or the CAFL Trial Panel Support Unit. You may also consult CAFL Performance Standard 1.3, Scope of Representation [here](#).

## Legal Practice Tip: Advocating for Parent-Child Contact

This month's practice tip comes from Franklin/Hampshire Resource Attorney, Sarah Schooley:

Maintaining contact between a child and their family while the child is in foster care is critically important. Family contact affects everything from the child's well-being to the likelihood of reunification. Far too often a parents' ability to interact with their children is severely limited by DCF. Infrequent and short visits in artificial settings are far too commonplace.

When challenging the frequency or quality of DCF's visitation plan, look to existing case law that recognizes the clinical importance of child/parent contact. If DCF is failing to provide frequent and meaningful contact., you can wrap your arguments into an objection to DCF's lack of "reasonable efforts" towards reunifying the child. You should not wait until trial to object to DCF's lack of reasonable efforts; you must litigate that issue early. See *Adoption of Ilona*, 459 Mass. 53(2011), *Adoption of Gregory*, 435 Mass. 117 (2001).

The Supreme Judicial Court recognized the importance of visitation in the recent case, *L.B. v. the Chief Just. of the Prob. & Family Ct. Dept.*, 474 Mass. 231 (2016):

“Visitation, like custody, is at the core of a parent's relationship with a child; being physically present in a child's life, sharing time and experiences, and providing personal support are among the most intimate aspects of a parent-child relationship. For a parent who has lost (or willingly yielded) custody of a child temporarily to a guardian, visitation can be especially critical because it provides an opportunity to maintain a physical, emotional, and psychological bond with the child during the guardianship period, if that is in the child's best interest; and in cases where the parent aspires to regain custody at some point, it provides an opportunity to demonstrate the ability to properly care for the child. See generally L. Edwards, *Reasonable Efforts: A Judicial Perspective*, at 41-47 (2014); M. Smariga, American Bar Association Center on Children and the Law & ZERO TO THREE Policy Center, *Visitation with Infants and Toddlers in Foster Care: What Judges and Attorneys Need to Know* (2007).”

The CAFL Appeals Unit has created a model motion challenging the frequency and quality of visitation. Your Resource Attorneys will be able to forward you copies of all model motions. The visitation motion explains that courts have constitutional, statutory, and equitable authority to order a specific schedule of parent-child visitation. There will be a series of trainings throughout the state addressing that issue. Check out the "Upcoming Trainings" section of the newsletter each month to learn more.

## Monthly Book Review

The Spirit Catches You and You Fall Down: A Hmong Child, Her American Doctors, and the Collision of Two Cultures, by Anne Fadiman

The Spirit Catches You and You Fall Down, required reading for all incoming classes at Yale Medical School, chronicles the 8 years writer Anne Fadiman spent with Lia Lee, a Hmong girl, her family, her medical providers and her community.

The title of the book refers to the literal English translation of quad dab peg – the condition known in mainstream American medical practice as epilepsy. In traditional Hmong belief, epilepsy is spiritual in origin – seizures are believed to be the result of the soul becoming separated from the body. After being born healthy, Lia Lee experienced her first seizure at the age of three months, eventually leading to 110 hospitalizations and a difficult year in foster care at the age of 4-5. Lia's care was at times compromised due to the fears, frustrations and distrust of the many well intentioned adults involved in her life. Fadiman sympathetically reports on the clash between the family's traditional medical and spiritual practices intended to encourage Lia's soul to return to her body and their devotion and commitment to caring for her at home, and the practices of her American doctors designed to treat her symptoms and control her seizures through medical procedures and medication.

Fadiman also chronicles the history of the Hmong people and the journey of Lia's family as they fled rural Laos in 1975, walking for 26 days through Thailand and, after years in refugee camps, finally arrive in Merced, California in 1980.

There are lessons to be learned from Lia's case that can apply to our own advocacy on behalf of our child and parent clients. Due to her complicated medical issues, Lia would have benefited from a multidisciplinary approach to her care and a greater coordination among her many providers and advocates. The book highlights the necessity of understanding how the unique culture of each family and community can impact their interactions with the medical and legal systems. Fadiman also provides a compelling portrayal of the refugee experience and the universal longings for family and community.

Have you read a book lately that your fellow CAFL attorneys might appreciate? Submit a CAFL Book Club review to [ebroderick@publiccounsel.net](mailto:ebroderick@publiccounsel.net) for inclusion in upcoming newsletters.

### CAFL News Editor:

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