

CAFL Appellate Practice Tip

January 8, 2018

Impoundment is governed by SJC Rule 1:15 and also Massachusetts Rules of Appellate Procedure 16 and 18. For more information, click:

[https://
www.mass.gov/
service-details/
impoundment-
procedures-in-the-
massachusetts-
appellate-courts-an-
introduction](https://www.mass.gov/service-details/impoundment-procedures-in-the-massachusetts-appellate-courts-an-introduction)

The Appeals Court website has a helpful list of impoundment-related materials and resources:

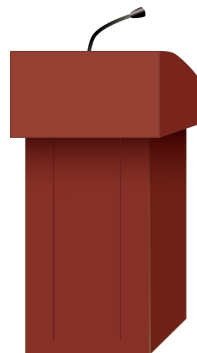
[https://
www.mass.gov/
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ments/2016/08/tp/
impoundment-
sources.pdf](https://www.mass.gov/files/documents/2016/08/tp/impoundment-sources.pdf)

Avoiding Names During Oral Argument

While most of us are comfortable omitting the last names of children and parents in briefs, it is harder to avoid names during oral argument, especially if the appeal concerns a sibling group. Up until a few years ago, most Appeals Court judges didn't care if you used first names, provided you avoided last names. But the judges now insist that you use no real names at all for the parents and children—you can still use them for collaterals and DCF personnel—and some judges get quite riled up if you use a child's first name even once. Avoiding first and last names at argument—and the scolding for doing so—is now especially important. As of January 2, 2019, recordings of all oral arguments are publically available on the Appeals Court website at:

<http://ma-appellatecourts.org/>.

What are the alternatives? The easiest option is to refer to the parties as “the child” or “the mother.” The Notes to the Massachusetts Rules of Appellate Procedure suggest using an initial, such as “Child G.” or “Child B.” This might be the best course if there are multiple children involved in the appeal. It also works well if there are multiple fathers (“Father G.” or “Father B.”). Alternatively, you can use terms like “older child,” “youngest sister,” or “the twins.” But don't use just initials; that's confusing. And don't refer to the parties as “appellant” or “appellee,” which is also confusing (and disfavored in the Rules). See Mass. R. App. P. 16(d).



When you practice your argument, try not using the parties' names. Omit them from your notes. Moot-court the argument with us, and we'll help you break the name habit. Moots are best when done about a week before your argument. We are generally able to travel to your office or your mentor's office (or meet halfway) to make it more convenient for you. When you moot an oral argument, you are eligible for 2 hours of CLE credits. (Alternatively, you can bill for the moot on your appellate case

NAC, but you can't also be paid for the 2 CLEs separately.) If you are interested in setting up a moot, just email us at Acohen@publiccounsel.net or Anarris@publiccounsel.net.