***-SAMPLE RULE 22(c) LETTER-***

**IMPOUNDED**

March 8, 2021

Joseph Stanton, Clerk
Appeals Court

John Adams Courthouse
One Pemberton Square
Boston, MA 02108

Re: *Adoption of Jane D.*Docket No. 2020-P-XXXX

Dear Mr. Stanton,

I am filing this letter pursuant to Rule 22(c) of the Massachusetts Rules of Appellate Procedure in response to questions asked by Justice Henry and Justice Ditkoff at oral argument on January 1, 2021. A motion for leave to file this letter has been filed contemporaneously with this Court.

First, Justice Henry asked whether DCF should have to convene a disclosure meeting if it does not consider the nominated permanency placement an option and whether DCF has an obligation to consider kinship placement.

The answers to each question is yes. I would first respectfully direct the panel to 110 CMR 7.101 (2), which states that the department must consider placing the child with family first. To effectuate this priority placement, G. L. c. 119, § 23(c) requires the department to “immediately commence a search to locate any relative of the child...”

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Next, Justice Ditkoff requested the citation to the DCF regulation that requires a disclosure meeting. In support of the proposition that DCF holds the information about the child’s needs and is required to share it, I would first direct the panel to DCF’s Permanency Planning Policy #2013-01, pages 38 and 39, which not only establishes the adoption social worker’s responsibility to schedule the disclosure meeting, but also to attend it.

Moreover, the required content of the disclosure is set forth in G. L. c. 119, §23(e ) – i.e. (i) a history of the child’s previous placements and reason for placement changes; (ii) a history of the child’s problem behaviors and mental and emotional problems; (iii) educational status and school related problem behaviors; and (iv) any other necessary psychological, educational, medical or health information.

Furthermore, G. L. c. 119, § 33B also speaks to the content of the disclosure and mandates that DCF not only disclose risks to a substitute caretaker, but also communicate the child’s behavioral history and adjudications, if any.

Accordingly, Mother posits that, in this case, DCF’s claim that Mother’s proposed caretakers were ill-informed is misplaced, because DCF, itself, holds the information about the child’s needs, is required to share it, but withheld it. Instead, the DCF adoption social worker should have held a disclosure meeting with the child’s aunts as part of the Department’s assessment of them as possible kinship resources. Had DCF followed statutory authority and their own policy and regulations, the kinship placements would have been adequately informed of the child’s needs at the time of trial.

I hereby certify that this letter has been served on all counsel and have attached a certificate of service. Please feel free to contact me at (617) 690-9589 if you have any questions.

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Very truly yours,

Dana Chenevert, Esq.

cc: Appellate Counsel

**Certificate of Service**

I, Dana Chenevert, do hereby state that on this date I did serve a copy of this Rule 22(c) letter and Motion for Leave to File the Rule 22(c) letter on all counsel of record by delivering the same through e-service on the Tyler portal.

Dated: January 1, 2021 /s/ Dana Chenevert

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