



# Commission On Child Protection

## State of Connecticut

Office of the Chief Child Protection Attorney

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CHIEF CHILD PROTECTION ATTORNEY

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### Appeal Process for Child Protection Cases

#### Trial Attorney Finds Ground for Appeal:

After a trial or the issuance of an appealable decision, if the client wishes to appeal and the trial attorney agrees there is a ground for appeal, the trial attorney may keep the appeal or notify CCPA and request that CCPA assign an appeal attorney to handle the review and/or appeal.<sup>1</sup>

If the trial attorney requests the assignment of an appellate attorney, the trial attorney shall file the Motion for Extension of Time and for Expedited Transcripts<sup>2</sup>, **but is not required to withdraw from the underlying case**. The appeal review attorney will file an "in addition to" appearance.

#### Trial Attorney does not Find Ground for Appeal:

If the trial attorney does not believe that there is a meritorious ground for appeal, they shall advise their client of such and that the client can seek a second review with an attorney that specializes in appeals. If the client wishes a second review, then the trial attorney will notify CCPA of the need to assign an appellate review attorney. The trial attorney shall file the Motion for Extension of Time and for Expedited Transcripts, **but is not required to withdraw from the underlying case**. The appeal review attorney will file an "in addition to" appearance.

#### Withdrawal from Underlying Case:

If for some reason the trial attorney can not remain on the underlying case in the local court, the attorney shall notify CCPA immediately. CCPA will attempt to assign the appeal review to a local juvenile contract/appellate attorney and request that that attorney file an "in lieu of" appearance for the entire matter. If this can not be accomplished and the underlying case will be active, a new attorney from among the local juvenile court contract attorneys will be assigned to handle any proceedings continuing on the underlying case.

#### Expectations of Counsel for Children:

Attorneys for children are expected to take appeals or preserve appellate rights on behalf of their child clients when appropriate. If counsel for the child determines that an appeal should be filed on behalf of the child, counsel may take the appeal or request that a separate appellate attorney be assigned to review and/or take the appeal. The same procedures outlined above shall apply.

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<sup>1</sup> Juvenile Contract Attorneys should be aware that the Appellate Contract Attorneys are available for consultation during and after trial regarding preservation issues and identifying appealable issues.

<sup>2</sup> Submit the Pre-Approval form for transcripts when filing a Motion for Transcripts to [James.Bischoff@jud.ct.gov](mailto:James.Bischoff@jud.ct.gov) and put the name and email of the Monitor; CCPA will forward the Pre-Approval directly to the monitor and copy the trial attorney and the appeal attorney being assigned.

If an appeal is filed by another party, counsel for the child shall determine whether or not the child's position is contrary to the appellant's and the child's interests would be adversely affected if the appellant prevailed. In that instance, counsel may remain on the case or request separate appellate counsel to protect the child's interests on appeal. If an appellate attorney had previously been appointed to review the case for purposes of taking an appeal, the reviewing attorney shall make the above determination and shall remain on the case to represent the child as appellee and file a brief in opposition to the appellant.

If the appellant's position is consistent with the child's position and interests, counsel for child may file a brief in support of the appellant, but shall not delay the appellate process by requesting an extension of time to file said brief. If a timely brief cannot be filed, then a position statement adopting the appellant's brief should be submitted.

If an appellee brief is filed on behalf of the child, counsel for the child shall coordinate with the party who shares the same position to ensure that the arguments in the briefs are consistent, that only issues being appealed are briefed and that time is reserved for child's counsel to provide argument before the appellate court on behalf of the child's position.

#### Appeal Preparation:

Attorneys handling appeals pursuant to their contract with the CCPA shall forward a copy of their brief upon filing and briefs of other parties upon receipt to the CCPA.<sup>3</sup>

Once oral argument is scheduled counsel shall notify the CCPA of the date and time of oral argument.

Counsel shall also provide dates of availability for a moot argument during the two week period prior to argument before the court. Once volunteers from the juvenile contract attorneys and a mutually agreeable date for a moot argument are selected, counsel will be notified and shall prepare for the moot. Contract attorneys on opposite sides of the appeal will not be mooted together. If counsel has filed a brief in support of the state's position and participates in a moot held by the Attorney General's Office, they will not be required to moot with the CCPA.

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<sup>3</sup> Costs of copying the other parties' briefs may be billed to the CCPA as are the costs of filing a brief.