

## **COMMITTEE TO EXPEDITE CHILD PROTECTION APPEALS**

Tuesday April 27, 2010 @ 10:00 am, Appellate Court Conference Room, 75 Elm Street in Hartford.

### Attendance

Judge DiPentima, Chief Judge of the Appellate Court, Judge Keller, Chief Administrative Judge for Juvenile Matters, Judge Foley, Attorney Susan Pearlman, Attorney Carolyn Signorelli, Attorney Paul Hartan, Attorney Jill Begemann, and Attorney Cynthia Cunningham

### Materials Distributed

Agenda; Amended 3/25/10 Meeting Minutes

### Meeting Minutes

Chief Judge DiPentima introduced herself to the group and indicated that the Chief Justice appointed her to be the new chair of this committee, following Chief Judge Flynn's decision to take Senior Judge status.

The 3/25/10 meeting minutes were approved as amended.

The three subcommittees all met together on March 30, 2010. Notes from that meeting were distributed.

### Expedited Transcripts

CCPA policy requires attorneys to order expedited transcripts in cases that are being appealed. Attorney Signorelli reported that CCPA records indicate that in only 1/3 of those cases being appealed, was there a request for an expedited transcript. Attorney Signorelli has reissued the appellate procedures, requiring that expedited transcripts be requested, to all CCPA attorneys. They have also made an arrangement with the Court Monitor's Office so CCPA attorneys can request the transcript directly from the court monitor without pre-approval.

If DCF files the appeal, the AAG also has the authority to get an expedited transcript.

If a private attorney or a pro-se party files the appeal, those few cases may fall through the cracks, as there is no current rule addressing this situation.

If the Juvenile Judge issues an oral decision, he/she will order an expedited transcript for the file and Judicial will pay for it. Under current rules, it is the Appellant's obligation to get the oral decision, but the trial Judge has an obligation to sign it.

Judge Keller offered to review the meeting minutes for Justice Katz's Committee on Court Recording Monitors and Court Reporting, so we can coordinate with that committee, if appropriate.

Judge Keller will inform the Juvenile Judges that attorneys submitting fee waiver applications are expected under CCPA rules to order expedited transcripts and that CCPA will pay for them.

Most CP appeals should have expedited transcripts but there are a few possible exceptions: cases that originate in Probate Court; cases where there is no petition filed; appeals filed by private attorneys; appeals filed by pro-se parties.

#### Fee Waivers/Motions to Extend

Purpose of subcommittee: to explore how fee waivers and/or motions to extend time (MTE) might slow down the process.

The PB Rule allows an appeal to be filed within 20 days. If a MTE is filed and granted during that time, the attorney has 20 additional days to file. At the end of the extended filing period, if the attorney then files a fee waiver, they are allowed another additional 20 days for the fee waiver to be heard.

The Judges are granting fee waivers based on the assertions of the attorneys, sometimes without a sign-off from the client.

It was suggested that when the trial lawyer files a MTE, that they be required to file the fee waiver and request the expedited transcript at the same time. Maybe all of the loose ends can be wrapped up into one form that the client is required to sign.

The Appellate Court Rules Advisory Committee had some concerns with the amendments to PB Rule 63-3 proposed by Judge Flynn on behalf of this committee. The Appellate Advisory Committee was concerned with the burden on attorneys; if they can't find their client, but then the client shows up later, the attorney might get sued.

CCPA policy requires the trial attorney to handle these duties, but in reality the trial attorney and the appellate review attorney sometimes split these duties.

Can there be a presumption in favor of indigency, unless there is knowledge that financial circumstances have changed, thus eliminating the need to schedule a hearing on the fee waiver?

The 4/13/10 Law Journal contains proposed amendments to PB Rule 8-2 that impact the application for waiver of fees to file an appeal.

It was also noted that the attorneys need time to find their clients. Consolidating the process will mean that the attorneys only have 20 days to find their clients.

If a client goes missing during the course of an appeal, a good faith affidavit of diligent search could be filed.

## General Discussion

Education, management and rule changes are all necessary.

The CCPA procedures are not part of the PB Rules and therefore difficult to enforce if an attorney, who is an independent contractor, is following the current PB Rules.

Fee waiver hearings are currently required by rule but many trial court judges are not conducting the hearing.

TPR decisions – timeliness varies – the longer it takes for the decision the more likely to lose the client.

Some changes have already been implemented, such as motions to extend as to briefs are being immediately presented to Judge Alvord for ruling.

There is a need to educate in order to get changes made – we have to say, when we submit a rule change, that there is a problem that CT has to address now. We have to educate key personnel, AC Clerk's Office in addition to the Judges.

Maybe we should look at how others are doing it, creative ways to eliminate obstacles; internal operating procedures; stricter enforcement of existing rules; the notion of docketing cases to get to oral argument; more per curium decisions; the time it takes to get a written decision; AC is now putting ready juvenile cases on immediately.

Report to CJ that short term changes have already had a positive impact.

## Preparing the Final Report

1. The charge – committee composition, meetings, subcommittees.
2. Needs Assessment – compare our permanency and appeals statistics to other states, of all states submitting data CT is currently the slowest; current delay points.
3. Steps already taken – elaborate on success; Judge Flynn's changes; CCPA policies; trial court record policies.
4. Recommendations:
  - a. Need for education of staff and Judges
  - b. Wholesale consideration of PB Rules changes
  - c. Internal management/enforcement of existing rules
  - d. Coordinate with the Committee on Court Recording Monitors and Court Reporting
  - e. Formation of inclusive task force

*The full committee will meet on June 7, 2010.*