

REMINDERS TO DEPENDENCY ATTORNEYS

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1. SHORTEN THE STATEMENT OF FACTS/PROCEDURAL HISTORY

In ADI's May 7, 2010, panel alert, ADI director Elaine Alexander noted that she recently met with justices and managing attorneys at Divisions Two and Three. She came back with reminders from the court about recurring matters. The first thing one justice mentioned was the need for shorter statement of facts. This is an old refrain (complaint), especially in dependency cases. Short, punchy statements that highlight the material facts, set a theme, and tell a story, eschewing unnecessary detail, are much more compelling than a tedious recitation of everything that witnesses said or every event that occurred in the case.

As the ADI Manual says, § 5.16: "The overall goal in presenting the facts is to start the job of persuading the court to reach the desired result. The facts offer a chance to tell a coherent story, to humanize the client, to set forth the basis for the legal arguments, and to build both counsel's and the client's credibility. In other words, a statement should not be a mechanical regurgitation of the record but part of the job of persuasion." This objective is especially critical in dependency appeals, which are heavily fact-intensive.

2. IDENTIFY THE CLIENT ON THE COVER OR FIRST PAGE

The cover – or first page if there is no cover – of documents filed should name the client and his/her title on whose behalf it is submitted. For example, if you represent a father in a dependency appeal, refer to him as "Name, appellant-father." (ADI Manual, § 5.3; rules 8.204(b)(10)(E), 8.360(a), 8.412(a), 8.416(a)(2).) This is especially important in multi-appellant or multi-respondent cases; readers faced with a file containing several green-covered briefs (or yellow if multiple respondents) need to know which brief goes with which client.

3. WHEN E-MAILING ADI ABOUT A CASE, INCLUDE CASE NUMBER IN TITLE

If you are communicating with a staff attorney about a case via e-mail, it is important to include the case number in the title of the e-mail (the same goes for phone messages or snail mail, for that matter). That information will help the staff attorney, and especially anyone covering in that person's absence, immediately to identify the case and locate our records about it.

4. ADDITIONAL AND REVISED DEPENDENCY FORMS NOW ON ADI'S WEBSITE

The dependency forms listed below are now on our website.

http://www.adi-sandiego.com/juvenile_form.html. All authorities cited in the forms and samples must be checked for current validity and proper citation. All samples should be adapted to apply to the facts of each particular case, adding or deleting relevant authorities accordingly.

- Abandonment
- Augment Request
- Calendar Preference
- Consolidate Multiple Cases
- Extension of Time Request
- Information for Clients about Their Appeal:
 - Introduction Letter (Spanish)
 - Understanding Your Appeal - Dependency
 - Understanding Your Appeal - Dependency [Spanish]
 - Sade C. Client Letter [English and Spanish]
- Judicial Council Forms
- Judicial Notice
- Late Filing of Brief
- Notice of Appeal:
 - Delinquency
 - Dependency
 - Family Code § 7800 et seq.
- Oversize Brief Request
- Petition For Review Information Forms:
 - Information for clients
 - Information for clients - Spanish
 - Guidance for attorneys
- Proof of Service
- Relief from Default for Failure To Timely File an Augment Request
- Relieved as Counsel
- Sade C.* Opening Brief
- Transmit Exhibits to Court of Appeal

Note that Judicial Council forms are now available in fillable form online.

5. SIGN UP FOR AUTOMATIC E-MAIL NOTIFICATION OF DEVELOPMENTS IN YOUR CASES AND TRACK YOUR CASES ONLINE

One resource freely and easily available is the appellate court website, with its online docket. <http://appellatecases.courtinfo.ca.gov/> One can track developments in all of one's cases.

One of the first things counsel should do after receiving a case is to look it up on the website and check for any prior events or rulings. At that same time, counsel should immediately sign up for automatic e-mail notification for that case.

6. FILE REPLY BRIEFS ROUTINELY

It is ADI policy that ordinarily a reply brief should be filed unless there are unusual reasons for not doing so. It is rare that one has nothing to say in response to the opposing brief. See Elaine Alexander's article on reply briefs at http://www.adi-sandiego.com/newsletters/2001_october.pdf and the discussion in our Criminal Appellate Practice Manual at § 5.58 et seq.

Follow-through with reply briefs and, where appropriate, oral argument, is a vital part of good advocacy. We monitor each attorney's compliance with our policy, and we may contact those who consistently fail to demonstrate adequate follow-through.