ASSIGNED APPELLATE COUNSEL PLAN
ADMINISTRATIVE HANDBOOK

STATE OF NEW YORK
SUPREME COURT, APPELLATE DIVISION
THIRD JUDICIAL DEPARTMENT

HON. KAREN K. PETERS,
PRESIDING JUSTICE

HON. WILLIAM E. MCCARTHY

HON. ELIZABETH A. GARRY

HON. JOHN C. EGAN JR.

HON. MICHAEL C. LYNCH

HON. ROBERT S. ROSE

HON. EUGENE P. DEVINE

HON. CHRISTINE M. CLARK

HON. ROBERT C. MULVEY

HON. SHARON A.M. AARONS,
ASSOCIATE JUSTICES

ROBERT D. MAYBERGER,
CLERK OF THE COURT

www.nycourts.gov/ad3

Table of Contents

Page

Introduction 1
Statutes Governing Assignment of Counsel. 2
Compensation 3
Requirements of Plan Participation. 4
Rules of the Court Regarding Assigned Cases 5
Additional Requirements Pertaining to Assigned Counsel 7
Contact Information. 9
Attachments:

A - Sample Criminal Brief Outline
B - Sample Family Court (Civil) Brief Outline
C - Sample Criminal Record
D - Sample Family Court (Civil) Record
E - Instructions To Appellants Regarding Pro Se Supplemental Briefs

Additional forms are available on the Court's Internet site at www.nycourts.gov/ad3 under "Forms" tab.

ASSIGNED APPELLATE COUNSEL PLAN
SUPREME COURT - APPELLATE DIVISION
THIRD DEPARTMENT

The Assigned Appellate Counsel Plan (Plan) administered by the Appellate Division, Third Department functions to provide quality and professional appellate representation to those persons who qualify for assignment of counsel. Each assigned case is monitored to ensure that every recipient of Plan services is fairly and appropriately represented and that appeals are timely and expeditiously perfected, objectives that are considered essential to the Plan's success. As part of its commitment to the above, the Plan's administrative staff is always available to attorney participants to assist in responding to specific questions or problems.

The Plan's administrative staff also responds to numerous daily inquiries from members of the public (most often prospective or present appellants) in an effort to provide a readily available resource to assist in applying for poor person status and assignment of counsel, as well as answer inquiries or address concerns once an assignment has been made.

STATUTES GOVERNING ASSIGNMENT OF APPELLATE COUNSEL

The bulk of all assignments under the plan are made pursuant to section 722 of the County Law, the pertinent provisions of which are as follows:

> Upon an appeal in a criminal action, and on any appeal described in section eleven hundred twenty of the family court act, article six-C of the correction law or section four hundred seven of the surrogate's court procedure act, wherein the party is financially unable to obtain counsel, the appellate court shall assign counsel . . . .

In addition to the above, an assignment for purposes of an appeal may be made pursuant to section 35 (1) (a) and (b) of the Judiciary Law in an appeal taken from an order:

> 1. a. . . . in a proceeding upon a writ of habeas corpus to inquire into the cause of detention of a person in a state institution, or when [the trial court] orders a hearing in a civil proceeding to commit or transfer a person to or retain him in a state institution when such person is alleged to be mentally ill, mentally defective or a narcotic addict, or when it orders a hearing for the commitment of the guardianship and custody of a child to an authorized agency by reason of the mental illness or mental retardation of a parent or when it orders a hearing to determine whether consent to the adoption of a child shall be required of a parent who is alleged to be mentally ill or mentally retarded, or when it orders a hearing to determine the best interests of a child when the parent of the child revokes a consent to the adoption of such child when such revocation is opposed or in any adoption or custody proceeding if it determines that assignment of counsel in such cases is mandated by the constitution of this state or of the United States . . . .
>
> b. Upon an appeal in a criminal action or in a proceeding in the family court or surrogate's court wherein the defendant or person entitled to counsel pursuant to the family court act or surrogate's court procedure act, is financially unable to obtain counsel, the court of appeals or the appellate division of the supreme court may assign counsel other than in the manner as is prescribed in section seven hundred twenty-two of the county law only when it is satisfied that special circumstances require such assignment.

The Court may also assign counsel pursuant to CPLR sections 1101 and 1102.

COMPENSATION

Fees are awarded by order of the Court upon completion of an assignment[1]. The rate of compensation is $75 per hour for all cases assigned after January 1, 2004, subject to a statutory cap of $4,400. A fee in excess of the cap may be paid upon approval of the Court after a showing of "extraordinary circumstances" based on counsel's affidavit. All requests for payment must be submitted within sixty (60) days of the completion date of the assignment, utilizing Court approved voucher forms (samples of which are available for downloading on the Court's website) and must be supported by an itemization of hours and proof of payment for all expenditures sought in excess of authorized routine expenditures as more specifically set forth below. Vouchers are processed in the order they are received although final approval may vary dependant upon the review process.

The following rules govern reimbursable expenditures.[2]

1. Copying costs will be reimbursed at the maximum rate of $.15 per page whether outsourced or done in-house, except that if the outsourced cost is less, then only the amount actually paid may be claimed. Time actually expended in copying or going to and from a copy center is considered overhead and not reimbursable.

2. Necessarily incurred mileage will be reimbursed at the prevailing IRS approved rate; tolls are reimbursable with receipts; parking is reimbursable up to the sum of $5.00 without a receipt; otherwise a receipt is required. Lodging and food expenses are not generally reimbursable and in no event unless prior approval is sought and received.

3. Miscellaneous expenses, such as postage costs totaling less than $15.00, will be paid without the need of a receipt. Expenses in excess of such amount will be reimbursed upon presentation of a receipt.

4. Under certain circumstances, an interim payment of disbursements can be sought when counsel is required to provide a set of transcripts to the client as more particularly explained on page 7 of this pamphlet.

5. If total disbursements are anticipated to exceed $350, advance written permission is required.

---

[1] Generally, an assignment is deemed completed in a criminal case upon the rendering of a decision in the appeal or an application for leave to appeal to the Court of Appeals pursuant to Rule 821.2 (b) or, in the case of appeals from an order of the Family Court, upon the filing of a notice of appeal or motion for leave to appeal to the Court of Appeals. However, an assignment may also be deemed completed if the attorney is, for good cause, relieved from such.

[2] Reimbursable expenses are the usual "out-of-pocket" costs incurred in handling an appeal and do not include office overhead costs such as computerized research (e.g., Westlaw and Lexis) or fax costs. Long distance calls are reimbursable only to the extent they constitute an extra charge over and above your basic telephone service, i.e., if your service package includes long-distance calling, then reimbursement is unnecessary.

REQUIREMENTS OF PLAN PARTICIPATION

In order to participate in the assigned appellate counsel plan, the following requirements must be met:

1. You must be a member in good standing of the New York State Bar;

2. You must have either a residence or place of business within the Third Department;[1]

3. You must complete the application to the assigned counsel panel which can be found at www.nycourts.gov/ad3/AssignedCounsel under the "forms" tab. The completed application together with your resume and writing sample should be returned to the Assigned Appellate Counsel Program at the Court's address;

4. You are not disqualified by Court rule 822.1 (b) (revised 2009), which precludes assignments to attorneys who may have a legal or ethical conflict of interest.

Please note that these are considered to be continuing requirements and compliance with them together with demonstrated ability to professionally and expeditiously perfect appeals in accordance with the Court's rules is expected.

---

[1] An exception to this requirement may be granted when the person to be assigned is recommended by an 18-B Plan administrator in a county within the Third Department, or when the person to be assigned has been a participant in the Plan since the year 2000, or for other good cause shown, in the discretion of the Court.

RULES OF THE COURT REGARDING ASSIGNED CASES

While participants in the Plan should thoroughly familiarize themselves with this Court's Rules of Practice (22 NYCRR part 800) regarding perfection of assigned appeals and the duties of assigned counsel, the following summary will provide a useful starting point.

1. Rule 800.1 (a) provides that unless otherwise directed by order to show cause, all motions are returnable on a Monday whether or not court is actually in session (except when Monday is a holiday then the next business day) and shall be upon notice prescribed by CPLR 2214. Usually that means the motion will be returnable on the Monday following at least thirteen (13) days service by mail (8 days notice, plus 5 for mailing), or eight (8) days personal service.

2. Rule 800.4 (c) relates to appeals in which poor person status has been granted and provides for the prosecution by the appendix method. Counsel should note that while this rule ostensibly makes such procedure an option, such is not the case, since Rule 800.13 (Appeals from Family Court) and Rule 800.14 (Appeals in criminal cases) mandate use of the appendix method. This same rule provides that in poor person cases, only seven (7) copies of the brief and appendix need be filed, with proof of service of an additional copy on each adversary.

Finally, it is this rule that requires the Clerk of the Court from which the appeal is taken, upon presentation of an order of assignment, to provide assigned counsel with one copy of the stenographic transcript of trial or hearing minutes and one copy of any other paper or document on file in that office relevant to the appeal. (In some counties the County Clerk will perform this function in criminal cases and the Clerk of the Family Court will perform this function in Family Court cases. Accordingly, counsel should make certain the assignment order is submitted to the appropriate office.)

3. Rule 800.7 (b) sets forth the requirements regarding stipulation to the single copy of the record on appeal in a case where the appendix method is used and is normally the rule that applies in all assigned cases. Counsel's attention is particularly directed to that portion of this rule regarding a twenty (20) day certification of the record, and is advised that the record certification process may be significantly expedited by including such notice with the stipulation. It should be noted that in cases where an attorney for the child is involved, the stipulation process must include the attorney for the child.

4. Rule 800.8 delineates the form and content of the brief and appendix, as well as the page limitations. It should be noted that these limitations cannot be exceeded, except upon specific permission of the Court, which request should be made upon the filing of your brief.

5. Rule 800.12 (appeals and proceedings deemed abandoned) is not applicable to criminal appeals but is critical to the perfection of civil appeals (including the appeal of an order in a Sex Offender Registration Act case). Stated simply, it requires that a civil appeal be perfected within nine (9) months from the date of the notice of appeal and that any record or brief filed after that time will be rejected unless there is a court order allowing late filing.

6. Rule 800.14 sets forth requirements specific to criminal appeals. **Of particular importance is the requirement that immediately upon receipt of the respondent's brief, counsel must forward a copy to the client. While not currently a part of our rules, we also require that counsel file an affidavit of service with the Court showing such service.** Counsel's specific attention to subparagraph "c" (enlargement of time) is strongly suggested in light of the case monitoring by the Court.

Paragraph "g" sets forth special rules when the only question to be raised is the legality, propriety or excessiveness of the sentence imposed. Basically, this rule allows a shortened record consisting of only a statement pursuant to CPLR 5531, the notice of appeal, sentencing minutes, plea minutes, if appellant pleaded, and a copy of the indictment or other accusatory instrument (even though, once again, this is not mentioned in the rule).

Please note that, pursuant to Rule 800.14 (j), criminal appeals are deemed abandoned "where the appellant shall fail to apply for permission to proceed as a poor person and/or for assignment of counsel, or shall fail to file and serve the brief or brief and appendix within twenty-four months after the date of the notice of appeal."

7. Rule 821.1 (b) provides: "It shall be the duty of counsel assigned to prosecute an appeal on behalf of an indigent defendant to accept said assignment and to prosecute the appeal until entry of an order of the appellate court terminating the appeal, and to comply with the provisions of subdivision (b) of section 821.2 hereof, after which his [or her] duties as assigned counsel shall be ended." (NOTE: This rule only applies in criminal matters.)

8. Rule 821.2 (b) requires that immediately upon entry of an order affirming the judgment or order being appealed, assigned counsel must advise the client of the right to appeal, or to seek permission to appeal, as the case may be, and in the event such person wishes to do so, to timely file the necessary notice or application for leave. (NOTE: This rule only applies in criminal matters.)

ADDITIONAL REQUIREMENTS PERTAINING TO ASSIGNED COUNSEL

The Court considers the prompt perfection of assigned appeals to be a matter of professional responsibility. Assigned counsel should be thoroughly familiar with the following policies:

1. Upon being assigned, counsel should immediately write the client acknowledging the representation, briefly explaining the appellate process and requesting input.

2. Counsel must provide the client with periodic status reports regarding the appeal. **Failure to communicate is the single largest cause of complaints made to the Court about assigned counsel.**

3. Counsel must promptly take all steps necessary to obtain the transcripts of the lower court proceedings, as well as the contents of the Court Clerk's or the County Clerk's file. Any difficulties experienced in obtaining the above within a reasonable amount of time following his or her request should be brought to the attention of this office. Counsel should note that copies of the minutes of grand jury proceedings are confidential and normally not available to appellate counsel, which is also true of the transcripts of Lincoln hearings. These minutes may, however, be reviewed by this Court in camera.

PLEASE TAKE SPECIAL NOTE: Pre-sentence and psychological reports, if any, while available to appellate counsel, are confidential in nature and should not be included in the record but rather noted in the record index and the index to the appendix and submitted separately in an envelope marked "CONFIDENTIAL."

4. Counsel must timely apply by formal written motion, with proof of service on both the respondent and appellant, for extensions of time to perfect an appeal. Sample motion forms are available on our website for downloading.

5. Counsel must promptly respond to inquiries made by the client or by the Court.

6. On-site visits in criminal appeals with a client/inmate are not generally required and if one is deemed necessary by counsel, prior approval through our office must be obtained.

7. Collateral matters such as motions pursuant to CPL article 440, stays pursuant to CPL 460.50, parole or immigration matters, or Family Court appearances, are not normally part of the responsibilities of the assigned counsel and counsel will not be reimbursed for time or expenses related to these matters, unless prior approval is obtained through our office. In Family Court appeals, however, counsel may be assigned to attend a pre-calendar conference pursuant to 22 NYCRR 800.24-b and will be paid in accordance with the regular assigned counsel fee schedule.

8. New York law provides for two free copies of the transcripts, one for the Court and the other for assigned counsel. In the event your client wants to file a pro se supplemental brief, you may be directed by the Court to provide that client with a complete set of the transcripts of the lower court proceedings. If doing so requires you to make out-of-pocket disbursements, you may file an interim voucher seeking reimbursement of all expenses you have incurred to date. In the alternative, you may provide your own set thereby saving the expense of duplication, but be aware that your client will not be required to return those transcripts upon completion of his or her pro se brief.

9. Every reasonable effort should be made to identify and present non-frivolous issues and only if, after careful review of the record, counsel determines there exist no non-frivolous issues, should he or she elect to file an Anders brief.

CONTACT INFORMATION

Regular Mail Address

State of New York
Supreme Court, Appellate Division
Third Judicial Department
P.O. Box 7288, Capitol Station
Albany, New York 12224-0288

Express Mail/Shipping Address

State of New York
Supreme Court, Appellate Division
Third Judicial Department
Empire State Plaza
Robert Abrams Building for Law and Justice
State Street, Room 511
Albany, New York 12223

Telephone Number: 518-471-4779

Facsimile: 518-471-4747

Web page: www.nycourts.gov/ad3/AssignedCounsel/Index.html

email: AD3AssignedCounsel@nycourts.gov

Index To Attachments

A - Sample Criminal Brief Outline
B - Sample Family Court (Civil) Brief Outline
C - Sample Criminal Record
D - Sample Family Court (Civil) Record
E - Instructions To Appellants Regarding Pro Se Supplemental Briefs

Revised: November 2, 2016

A

107100

SAMPLE CRIMINAL BRIEF OUTLINE

(To be submitted)
or
(To be argued by _____)
Time Requested: _____

STATE OF NEW YORK
SUPREME COURT

APPELLATE DIVISION
THIRD DEPARTMENT

THE PEOPLE OF THE STATE OF NEW YORK,
Respondent,

v

AD Case #xxxxx

JOHN DOE,
Appellant.

APPELLANT'S BRIEF AND APPENDIX

ASSIGNED COUNSEL, ESQ.
Attorney for Appellant John Doe
700 Someplace Avenue,
Somewhere-in-the-3rd, New York 11111
(xxx)xxx-xxxx

TABLE OF CONTENTS TO APPELLANT'S BRIEF

Page

Table of Authorities (Not required by rule but preferred by Court). ii
Table of Contents to Appendix. iii
Questions Presented iv
Preliminary Statement. 1
Statement of Facts. 2
Argument:
Point I X
(Here the heading for Point I should be set forth, e.g.)
THE TRIAL COURT ERRED IN REFUSING TO
TO GIVE A MISSING WITNESS CHARGE
Point II. X
(Heading)

Point III. X
(Heading)

Conclusion. X

TABLE OF AUTHORITIES

(*Here, even though not required by rule, all cases and statutes referenced in the brief should be listed along with the page where they appear, e.g.)*

Cases

People v Plaisted, 1 AD3d 805 (year). 6, 10

Statutes

Criminal Procedure Law § 400.21. 8

TABLE OF CONTENTS TO APPENDIX[1]

The required contents of the appendix are set forth in this Court's Rule 800.8(b) and 800.13(Family Court) and 800.14(Criminal appeals). Below is an example of the table of contents of an appendix in a criminal appeal.

Page

Notice of Appeal. 1
Certificate of Conviction. 2
Indictment 3
Notice of Readiness For Trial. 7
Stipulation In Lieu of Motions *(or Notice of Motion and Motion)*. 8
Bill of Particulars 11
Order dated December 24, 2004 18
Minutes of Sentencing *(see footnote "1" below)*. 20
Excerpts From Transcripts (Numbers preceded by "A" refer to the page of the Appendix. All stenographic minutes have been omitted from the Record pursuant to Rule 800.14.)[2]

Suppression Hearing of March 22, 2005
Witness David Doe - Direct. A-20
Witness David Doe - Cross.. . . . . A-21-22

Jury Selection (April 19, 2005) A-23
People's Opening. A-24
Etc.
Trial Exhibits:
People's Exhibit 1: List made by David Doe. A-102
People's Exhibit 2: Statement of John Doe A-103
Etc.

---

[1]*In preparing the Appendix, counsel should make certain that it only be comprised of materials that are properly part of the Record. The materials selected for inclusion in the Appendix (other than the required items) should be those portions of the Record that counsel intends to cite in the brief.* **Please be certain to always include a complete set of the sentencing minutes even though you may intend to cite only a portion thereof. Also, the presentence report should not be included as part of your Appendix but rather, should be treated as described on page "9" of this handbook.**

[2]*Rule 800.14 makes it unnecessary for assigned counsel to reproduce a full set of transcripts when the original assignment order directs the County or Court Clerk to file a complete set with the Court (which is usually the case where counsel is assigned). Stated otherwise, the Record will list (but not include reproduced copies) of the transcripts and the Appendix will only include reproduced copies of the pages deemed pertinent by counsel to the arguments being presented.*

QUESTIONS PRESENTED

1. Did the trial court err in refusing to give a missing witness charge?
   It is submitted such refusal constituted reversible error.

2. (Argument 2 in the form of a question.)

3. (Argument 3 in the form of a question.)

B

501100

SAMPLE FAMILY COURT (CIVIL) BRIEF OUTLINE

(To be submitted)
or
(To be argued by _____)
Time Requested: _____

STATE OF NEW YORK APPELLATE DIVISION
SUPREME COURT THIRD DEPARTMENT

In the Matter of **JULIE V.** and Others
Alleged to be Permanently Neglected Children.

ANYWHERE COUNTY DEPARTMENT OF SOCIAL SERVICES,

Respondent; AD Case #xxxxx

JANE V.

Appellant.

APPELLANT'S BRIEF AND APPENDIX

ASSIGNED COUNSEL, ESQ.
Attorney for Appellant Jane Doe
700 Someplace Avenue,
Somewhere-in-the-3rd, New York 11111
(xxx)xxx-xxxx

TABLE OF CONTENTS TO APPELLANT'S BRIEF

Page

Table of Authorities (Not required by rule but preferred by Court) ii
Table of Contents to Appendix iii
Questions Presented iv
Preliminary Statement. 1
Statement of Facts 2
Argument:
Point I. X
(Here the heading for Point I should be set forth, e.g.)
THE COURT ERRED IN FINDING THAT RESPONDENT HAD PERMANENTLY NEGLECTED THE CHILDREN
Point II. X
(Heading)

Point III. X
(Heading)

Conclusion. X

TABLE OF AUTHORITIES

(*Even though not required by rule, all cases and statutes referenced in the brief should be listed in alphabetical order and the page where they appear, designated, e.g.)*

Cases

Matter of Jeran, 6 AD3d 994 (2004). 6

Statutes

Social Service Law § 384-b (6) (a). 8

TABLE OF CONTENTS TO APPENDIX[3]

The required contents of the appendix are set forth in this Court's Rules of Practice rules 800.8 (b) and 800.13 (Family Court) and 800.14 (criminal appeals). Below is an example of the table of contents of an Appendix in a Family Court appeal.

Page

Notice of Appeal. 1
Order of Disposition entered May 2, 2005. 2
Decision. 3
Petition. 7
Notice of Motion and Motion. 8

Excerpts From Transcripts
(Numbers preceded by "A" refer to the page of the Appendix. All steno-
graphic minutes have been omitted from the Record pursuant to Rule 800.13.)[4]

Fact Finding Hearing (April 19, 2005).. . . . . .
Petitioner's Opening. A-24
Respondent's Opening. A-27
Witness David Doe - Direct. A-30
Witness David Doe -Cross. A-40-42
Etc.

Hearing Exhibits:
Respondent's Exhibit A: List made by David Doe. . . . . (R4)-16; A-102
Respondent's Exhibit B: Photographs of injury to child. . . . . (R4)-17; A-103
Etc.

---

[3]*In preparing the appendix, counsel should make certain that it only be comprised of materials that are properly part of the Record. The materials selected for inclusion in the appendix (other than the required items) should be those portions of the Record that counsel intends to cite in the brief.*

[4]*Rule 800.13 makes it unnecessary for assigned counsel to reproduce a full set of transcripts when the original assignment order directs the Family Court Clerk to file a complete set with the court (which is usually the case where counsel is assigned). Stated otherwise, the Record will list (but not include reproduced copies) of the transcripts, and the Appendix will only include reproduced copies of the pages deemed pertinent by counsel to the arguments being presented.*

QUESTIONS PRESENTED

1. Did the trial court err in finding that Respondent had permanently neglected the children?
   It is respectfully submitted such constituted error.

2. (Argument 2 in the form of a question.)

3. (Argument 3 in the form of a question.)

C

107100

SAMPLE CRIMINAL RECORD

STATE OF NEW YORK
SUPREME COURT

APPELLATE DIVISION
THIRD DEPARTMENT

THE PEOPLE OF THE STATE OF NEW YORK,
Respondent,

v

AD Case #xxxxx

JOHN DOE,
Appellant.

RECORD ON APPEAL
(Volume I)

ASSIGNED COUNSEL, ESQ.
Attorney for Appellant John Doe
700 Someplace Avenue,
Somewhere-in-the-3rd, New York 11111
(xxx)xxx-xxxx

DISTRICT ATTORNEY, ESQ.
Anywhere County District Attorney
Anywhere County Courthouse
Somewhere-in-the-3rd, New York 11111
(xxx)xxx-xxxx

SAMPLE TABLE OF CONTENTS TO RECORD (CRIMINAL)

TABLE OF CONTENTS - Vol. 1 of X **Page(*)**

Statement Pursuant to CPLR 5531. 1
Notice of Appeal. 2
Indictment. 3
Notice of Readiness For Trial. 5
People's Demand For Discovery and Notice of Alibi. 7
Defendant's Omnibus Motion (or Stipulation in Lieu of Motions). 9
People's Reply to Omnibus Motion. 14
Decision and Order re: Omnibus Motion.. 20
Judgment of Conviction Being Appealed. 21
Stipulation Pursuant to CPLR 5532.. 25
Pre-sentence Investigation. . . . . (Confidential and filed separately with full record)

TABLE OF CONTENTS - Vol. II of VII[1]
Arraignment Conducted January 11, 20__ (omitted pursuant to Rule 800.14)[2]. . 1-4

TABLE OF CONTENTS - Vol. III of VII
Proceedings of April 19, 20__ (omitted pursuant to Rule 800.14). 1-12

TABLE OF CONTENTS - Vol. IV of VII
Sandoval hearing conducted April 23,20__ (omitted pursuant to Rule 800.14). 1-34

TABLE OF CONTENTS - Vol. V of VII
Jury selection and Trial on July 20, 20__ (omitted pursuant to Rule 800.14). . 1-357

TABLE OF CONTENTS - Vol. VI of VII
Conclusion of trial on July 25, 20__ (omitted pursuant to Rule 800.14). 1-162

TABLE OF CONTENTS - Vol. VII of VII
Sentencing conducted on August 1, 20__ (omitted pursuant to Rule 800.14). . 1-16

EXHIBITS

(Note: Exhibits not included in printed record will be handed up separately)

PEOPLE'S EXHIBITS

Marked Admitted

DEFENDANT'S EXHIBITS

Marked Admitted

---

[1] NOTE: Each transcript prepared by the stenographer contains an index to that volume and that index should always be included in the front of each such volume.

[2] Please see footnote 2 on page E (iii) above.

D

501100

SAMPLE FAMILY COURT (CIVIL) RECORD

STATE OF NEW YORK
SUPREME COURT

APPELLATE DIVISION
THIRD DEPARTMENT

In the Matter of **JULIE V.** and Others,
Alleged to be Permanently Neglected Children.

ANYWHERE COUNTY DEPARTMENT OF SOCIAL SERVICES,

Respondent. AD Case # xxxxx

JANE V.

Appellant.

RECORD ON APPEAL

ASSIGNED COUNSEL, ESQ.
Attorney for Appellant Jane Doe
700 Someplace Avenue,
Somewhere-in-the-3rd, New York 11111
(xxx)xxx-xxxx

COUNTY COUNSEL, ESQ.
Attorney For Respondent
Anywhere County Department of
Social Services
Somewhere-in-the-3rd, New York 11111
(xxx)xxx-xxxx

Attorney for Child, ESQ.
Attorney For Children
300 Court Street
Somewhere-in-the-3rd, New York 11111
(xxx)xxx-xxxx

TABLE OF CONTENTS TO RECORD

Volume I of IV

Page

Statement Pursuant to CPLR 5531. 1
Notice of Appeal. 2
Order and Decision Appealed From. 3
Permanent Neglect Petition. 5
Answer (and Cross Petition if involved). 7
Attorney for Child Report. 9
Stipulation Pursuant to CPLR 5532 (or Rule 800.7 (b) notice, affirmation
and certification in lieu of signed stipulation);(All three must be filed). 12

Transcripts of Proceedings:

Volume II of IV

Preliminary Statement by Court.. 1
Opening Statement of Petitioner. 5
Opening Statement of Respondent.. 11
Motions. 23

Volume III of IV

Testimony: Petitioner's Witnesses:

David Doe - Direct. 36
David Doe - Cross.. 83
David Doe - Redirect. 120

Etc. Etc. - Direct. 156

Volume IV of IV

Testimony: Respondent's Witness

Jane Doe - Direct. 220
Jane Doe - Cross. 280
Jane Doe - Redirect.. 310

Exhibits: Petitioner: (Exhibits not included in printed record will be handed up separately)

1. List made by David Doe:
   Marked:. 45
   Admitted.. 46
2. Photograph of injury to child:
   Marked. 55
   Admitted.. 55

E
INSTRUCTIONS TO CRIMINAL APPELLANTS REGARDING PRO SE SUPPLEMENTAL BRIEFS

Where counsel has been assigned to represent a defendant on a criminal appeal, the defendant may file a pro se supplemental brief without application to the Court (22 NYCRR part 800). Pursuant to rule 800.14 (a), the pro se supplemental brief must be filed no later than 45 days after the assigned counsel has mailed to the defendant a copy of counsel's filed brief, unless an extension of time to file the pro se supplemental brief has been granted. This rule also states that one original and six copies of the pro se supplemental brief are required to be filed with the Court. The Court also requires that the defendant file proof of service of a copy of the pro se supplemental brief upon the District Attorney and the assigned counsel. Pursuant to rule 800.8 (a), the length of the pro se supplemental brief is limited to 25 printed or 35 typewritten pages.

The defendant may request that he or she be provided with a copy of the transcripts to assist in the preparation of the pro se supplemental brief, which request should be made to the Clerk's office as soon as possible, but within the 45-day time frame. If granted, the assigned counsel will be directed to provide the defendant with a copy of the transcripts.

The purpose of the pro se supplemental brief is just as its name suggests - to supplement the main brief filed by the assigned counsel. Permission is given by the Court as a courtesy to allow a defendant a means of bringing his or her concerns to the Court's attention. A defendant may simply advise the Court of issues that are not presented in the main brief, which he or she believes should be considered by the Court. Restating issues raised by the assigned counsel in the main brief is not allowed.

Please be advised that the submission of a pro se supplemental brief may delay the scheduling of the appeal.