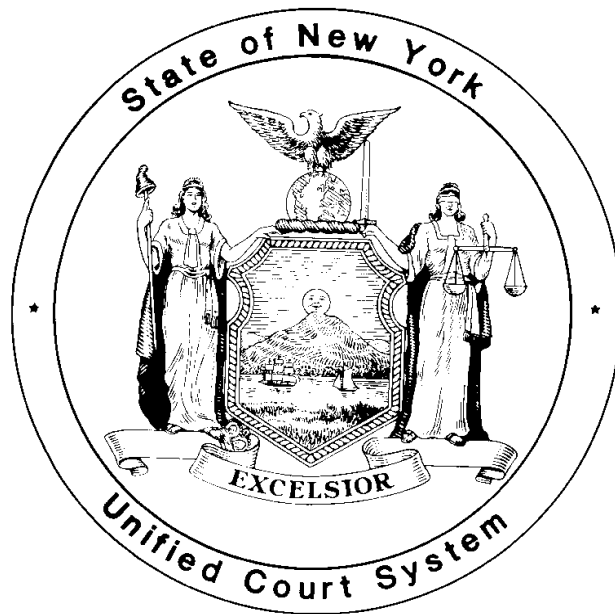


State of New York
Appellate Division, Supreme Court
Second Judicial Department

Attorneys for Children Program



FAMILY COURT APPELLATE HANDBOOK

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- c. Where the order of the Appellate Division grants or affirms the granting of a new trial or hearing, and the appellant stipulates that, upon affirmance, judgment absolute may be entered against him or her (CPLR 5601[c]).

2. Time Within Which to Seek Leave to Appeal

A motion for leave to appeal to the Court of Appeals must be made within 30 days after service of the order upon the unsuccessful party with notice of its entry (CPLR 5613[b]).

If a motion for leave to appeal to the Court of Appeals is made to the Appellate Division and is denied, a motion addressed to the Court of Appeals must be made within 30 days after service upon the unsuccessful party of the order of the Appellate Division denying leave, with notice of its entry (CPLR 5513[b]).

III. Counsel for the Successful Party in the Appellate Division

Upon learning of a favorable decision on an appeal to the Appellate Division, counsel for the successful party should:

- A. Send a letter informing his or her client of the favorable decision, and enclose a copy of it. The letter should note that an opponent may seek to appeal the decision to the Court of Appeals; and
- B. Serve a copy of the Appellate Division decision and order with notice of its entry upon the other parties to the appeal.

Upon receiving information that one or more of the unsuccessful parties is appealing the Appellate Division order as a matter of right, or has moved for leave to appeal, counsel should notify his or her client, in writing:

- A. That a notice of appeal to the Court of Appeals has been filed, or a leave application has been made;
- B. That the client has the right to retain counsel to defend the appeal or respond to the motion, or to proceed pro se; and
- C. That the client, if indigent, may make an application to either the Appellate Division or the Court of Appeals for the assignment of counsel to represent him or her on the appeal to the Court of Appeals. Upon timely written notice that the client wishes such an application to be made, counsel should make the application on his or her behalf.

