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NEW JERSEY STATE BAR ASSOCIATION

THOMAS HOFF PROL, PRESIDENT
Ladley Clark & Ryan, LLP
60 Blue Heron Road, Suite 300
Sparta, NJ 07871-2608
973-729-1880 • FAX: 973-729-1224
tprol@lclaw.com

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Hon. Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
Comments on Indigent Birth Parents in Adoptions
Hughes Justice Complex; P.O. Box 037
Trenton, New Jersey 08625-0037



Re: Report of the Family Practice Committee on Legal Representation for Indigent Birth Parents in Contested Adoptions

Dear Judge Grant:

Thank you for the opportunity to review and comment on the report and recommendations of the Family Practice Committee concerning legal representation for indigent birth parents in contested adoptions. The New Jersey State Bar Association (NJSBA) advocated in favor of representation being provided to indigent parents in such matters as addressed through In the Matter of the Adoption of a Child by J.E.V. and D.G.V., 226 N.J. 90 (2016), and applauds the work of the Committee aimed at ensuring parents are notified and provided adequate opportunity to assert them.

The NJSBA believes the notices proposed by the Family Practice Committee will generally address that important purpose. However, it is likely that many birth parents receiving these notices will not fully understand the procedure or what the potential final ramifications may be. To assist with the association, offers some suggested clarifications to the forms to make certain that they are clear, understandable and unambiguous.

As noted, birth parents may not fully understand the finality of adoption. There are several places in both proposed notices that include the phrase "terminate your parental rights" and "final and irrevocable." This language should be stronger and clearer, perhaps using the words "forever" and "not able to be changed."

In the notice concerning agency placements, there is reference to signing a "voluntary surrender." It should be clearly state that once signed, a surrender is final and forever. It should also be clear that after signing the surrender the parent will not receive any further notifications concerning the adoption of his/her child.

In the notice for an agency placement, there is a paragraph concerning "Denial of Parentage." It should be made clear that execution of the "Denial of Parentage" has the same consequences as a surrender. Specific language should be included to advise that, once signed, this surrender is

final and forever, that the court will rely on this Denial of Parentage in making a decision regarding the adoption, and that the parent will no longer receive any notices about the adoption and cannot later raise an objection to the adoption.

The form also seems to indicate that the "Denial of Parentage" language might apply to both a mother and a father by stating it applies if "you are a parent of this child..." Statutorily, however, denial of paternity only applies to an alleged father. See N.J.S.A. 2:#-41(e). If the language in the form is similarly intended to apply to fathers only, it should state that clearly.

Finally, the rule change proposes an ambiguous requirement that after the filing of the Complaint the proposed form that is to be completed by the birth parent(s) must be filed with the Court, but it does not indicate who should file the form. A plaintiff, whether it is the proposed adoptive parents or an adoption agency, has no control over the birth parent(s) and, in any case, should not be in the position of filing forms on behalf of the birth parent potentially objecting to the adoption. The rule allows proof of service to be filed, but only if the proposed form is not filed.

To clarify the adoptive parent's or agency's obligations, the NJSBA suggests that the rule be amended to require a copy of the notice with proof of service to be filed by the adoptive parent or agency, concurrent with the other documents. The NJSBA believes the language suggested by the New Jersey Academy of Adoption Attorneys will accomplish this.

Once again, the NJSBA applauds the Committee for its work, and believes that the proposed notices represent an important safeguard of one of the most cherished rights in our society – the rights of a parent to raise their children. The NJSBA believes the suggested clarifications will go a long way toward ensuring that birth parents fully understand their rights and their options in a contested adoption.

Thank you for your courtesies and consideration in allowing the NJSBA an opportunity to provide these comments. The NJSBA looks forward to continuing to work with the Court to make certain that all litigants are provided a fair and reasonable opportunity to have their voices heard.

Please do not hesitate to contact me if any additional information is necessary.

Sincerely,



Thomas H. Prol
President

/sab

cc: Robert B. Hille, Esq., NJSBA President-Elect
Angela C. Scheck, NJSBA Executive Director