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Via eMail (Comments.Mailbox@njcourts.gov)

Administrative Director Glenn A. Grant
Administrative Office of the Courts
Attn: Rules Comments
Hughes Justice Complex; P.O. Box 037
Trenton, New Jersey 08625-0037

Re: Division of Law's Comments on the Supreme Court's
Civil Practice Committee's 2022 Proposed
Amendments to Rules 2:6-1 and 2:6-2

Dear Judge Grant:

The Division of Law (DOL), on behalf of the Office of the New Jersey Attorney General, thanks the Court for the opportunity to offer its comments and questions on the 2022 Report of the Supreme Court Civil Practice Committee.

Rule 2:6-1

The proposed amendments to Rule 2:6-1 appear to require all parties in all appeals to confer and agree upon the contents of a joint appendix. The DOL echoes the concerns expressed by members of the Committee's minority that the amendment may have the unintended consequence of delaying the resolution of appeals in cases involving highly-contentious or difficult-to-reach litigants. By way of illustration, the DOL defended the Department of Corrections and the Parole Board in over 150 appeals involving inmates in each calendar year 2020 and 2021, the vast majority of which involved a pro se appellant. Due to practical limitations,



a conference with an inmate-appellant to discuss and agree upon the contents of a joint appendix is not feasible. The same is true in other cases where the appellant is confined or is otherwise unreachable.

The proposed amendment likewise presents logistical problems in Children in Court (CIC) appeals, in particular, those involving termination of parental rights (TPR), that may result in unintended delays. The proposed changes to the rule require an appellant to serve on the respondent(s) a list of items to be included in a joint appendix and a statement of issues for review within 14 days after receipt of transcripts. In TPR appeals, AOC Directives require that at the trial level, judgments of guardianship include “all trial dates, the names of all witnesses who testified, the dates on which they testified and by whom they were called [and] an attachment listing all exhibits introduced into evidence during trial, by party.” Revised CIC Standards, AOC Directive 03-21, Standard 16(c) (January 20, 2021). This protocol largely eliminates guesswork when it comes to preparing an appellant’s appendix and minimizes the need for corrections or an additional respondent’s appendix except in rare circumstances.

Requiring parties to finalize the contents of a joint appendix so shortly after filing will only introduce the potential for delay in cases where timely resolution is of the utmost importance. Records of TPR appeals routinely comprise thousands of pages and several volumes of appendices. Within the DOL, the attorneys who handle these appeals are often not the same attorneys who tried the case. Because they are unfamiliar with the trial record and are not assigned to the matter until the appellants’ briefs are filed, becoming familiar with and reviewing the proposed appendix within 14 days of receipt is not feasible and is likely to necessitate motions for extensions. Moreover, each of these cases has an agency respondent (the Division of Child Protection & Permanency) and a respondent representing the minor children which introduces additional parties with whom joint agreement would be required. By introducing a new element to the pre-briefing process, the delays certain to flow from this proposed amendment would undermine the purpose of Rule 2:4-1(a)(1), which expedites TPR appeals in recognition of the importance of finalizing permanency for the minor children involved.

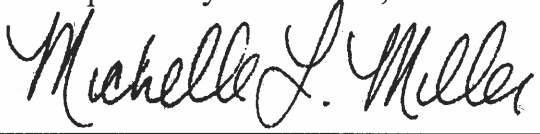
Therefore, the DOL requests clarification on whether exceptions to the proposed rule will be permitted when conferring with an adverse party is impractical or unlikely to be productive, or, as in the case of TPR appeals, may result in delay of the resolution of the appeal.

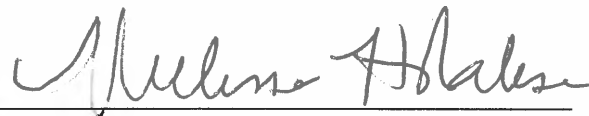
Rule 2:6-2

The proposed amendments to Rule 2:6-2 would eliminate the use of letter briefs on the merits. The DOL encourages the Committee to consider allowing respondents an option to continue filing letter merits briefs where the total page count would not exceed fifteen pages. As a high-volume filer, the DOL prepares and submits over 200 letter briefs per year on behalf of clients such as the Department of Corrections, the Board of Review, the Civil Service Commission, the Division of Medical Assistance & Health Services, the Division of Family Development, the Parole Board, the Motor Vehicle Commission, and the Pensions Boards. Because many of those letter briefs are already under twenty pages, converting such submissions to formal briefs would result in final documents that are longer than the substance would normally require. In addition, the letter brief option encourages more succinct and concise briefing.

DOL appreciates the Court's consideration of its comments.

Respectfully submitted,

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By: 
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