

May 24, 2002

CONFIDENTIAL MAIL

Ward Cleaver  
1234 Haskell Street  
Middletown, CA 95001

Re: *DFCS v. Ward Cleaver*, H012345

Mr. Cleaver:

The Court of Appeal is permitting you to represent yourself on appeal in the case concerning your sons, Wally and “the Beaver.” Enclosed is the official record in your appeal. The first step in representing yourself is to file an opening brief in the court of appeal.

Your brief must be typed, or it must be printed from a computer. The cover should be a green piece of paper and should appear like the model enclosed. There are eight parts to the brief: Table of Contents, Table of Authorities, Statement of Appealability, Statement of Facts and Case, Argument, Conclusion, Certificate of Word Count, and Proof of Service. Use normal 8½ by 11 inch white paper. The left and right margins must be 1½ inches wide, and the top and bottom margins must be 1 inch wide. The brief should be double spaced or at least 1½ spaced. If you use a computer, the print must be 12 or 13 point type.

You should do the Table of Contents and Table of Authorities last. In the “Statement of Appealability” you only state the following magic words: “This appeal is from a judgment terminating parental rights pursuant to Welfare and Institutions Code section 366.26 and is authorized by Welfare and Institutions Code sections 366.26, subdivision (*I*) and 395.”

The Statement of Facts and Case is a description of all of the important facts of the case and events in the juvenile court. Every factual point made must be supported by a reference to the official record. The official record consists of a “clerk’s transcript” (which includes the social

worker reports and the court's orders), and the "reporter's transcript" (which includes a verbatim account of what was said in court at the last hearing). For example, if you are referring to something in a social worker report on page 40 of the clerk's transcript, you can say it is at CT 40 (or RT 40 for page 40 of the reporter's transcript). In order to protect your privacy and the privacy of the child in official court documents, you should not use your last name or the last name of the child or any other family members. Instead, refer to people by their first names, sometimes with the initial of the last name, such as Ward or Ward C.

In the Argument, you give whatever reasons you believe why the Court of Appeal should reverse the juvenile court's decision to terminate your parental rights. You should provide any legal cases or statutes that support your position and explain from the facts in the official record why you believe the court made the wrong decision.

The Conclusion can be very short, stating that you ask the Court of Appeal to reverse the decision of the juvenile court to terminate your parental rights.

After you have finished writing your brief, prepare the Table of Contents and the Table of Authorities. The Table of Authorities usually consists of two or three lists. First, you list the statutes in alphabetical and numerical order and the page in the brief where a statute is mentioned; for example, Family Code section 8, Family Code section 1025, Welfare and Institutions Code section 300. Then, you list in alphabetical order the cases and the page number in your brief where the case is mentioned. The tables are placed in the front of the brief after the front cover.

If you type your brief, it cannot be longer than 75 pages. If you use a computer, most word processing programs count the number of words you use. The brief can be no longer than 25,500 words, not including the cover, table of contents, table of authorities, or the proof of service. You need to state under penalty of perjury that the brief is not longer than the limit (of course, most briefs are much shorter). On a page entitled "Certificate of Word Count" (or page count), you state: "I, Ward C., certify that the attached APPELLANT'S OPENING BRIEF contains \_\_\_ words (or pages). Executed under penalty of perjury at \_\_\_\_\_, California, on \_\_\_\_\_, 200\_." Then you sign it. The Certificate of Word Count is the second to last page of the brief.

The Proof of Service is the last page of the brief. It is a signed declaration under penalty of perjury that you mailed a copy of the brief by first class mail to each of the following: county counsel (representing CPS), the district attorney (representing the minor), and the juvenile court. In the proof of service, you state: "I declare that I am over the age of 18, my address is \_\_\_\_\_. On the date shown below, I served APPELLANT'S OPENING BRIEF to the following parties hereinafter named by placing a true copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Santa Clara, California, addressed as follows:" List the names and addresses. "I declare under penalty of perjury the foregoing is true and correct. Executed this \_\_\_ day of \_\_\_\_\_ 200\_ at \_\_\_\_\_, California." You then sign it.

The addresses of county counsel and the district attorney are listed on the cover of the clerk's transcript. The address of the juvenile court is at CT 1. You need to send a copy of your brief to

each of them. You should mail the original and four copies to the Court of Appeal at 333 West Santa Clara Street, San Jose, CA 95113. If you send to the Court of Appeal an extra copy with a stamped, self-addressed manila envelope, the court will return the extra brief to you with a “filed” stamp on it, so you will be sure the court received it.

Your brief must arrive at the Court of Appeal on or before the deadline. You can deliver the brief in person if you wish. If you mail the brief on the day of the deadline certified mail or overnight express, the brief is considered to be filed on time.

Once you file your opening brief, you do not need to do anything else. After you file your brief, county counsel will file a “respondent’s brief” explaining to the court why it believes CPS should prevail. You can, if you wish, file a “reply brief” within 20 days after respondent’s brief is filed. The reply brief has a tan cover and requires a proof of service. Again, you need to include a Table of Contents, a Table of Authority, Certificate of Word Count, and Proof of Service. It must be filed and sent to all of the parties in the same manner as the opening brief. Otherwise, there are no special requirements for a reply brief.

It is very important that you establish an address where you constantly check your mail so that the court and the parties can communicate with you. If you have any questions, do not hesitate to call me.

Sincerely,

Jonathan Grossman  
Staff Attorney

Enclosures

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

In the Matter of WALLY C., et al.	)	Court of Appeal No.
Minors Coming Under the Juvenile Court Law.	)	H012345
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SANTA CLARA COUNTY DEPARTMENT OF	)	(Santa Clara County
FAMILY AND CHILDREN'S SERVICES,	)	Juvenile Court No.
Plaintiff and Respondent,	)	JD12345.)
	)	
v.	)	
	)	
WARD C.,	)	
Defendant and Appellant.	)	
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APPELLANT'S OPENING BRIEF

APPEAL FROM A JUDGMENT  
BY THE SANTA CLARA COUNTY SUPERIOR COURT,  
THE HONORABLE [put the judge's name here], JUDGE

[Put your name, address, and telephone number here]