

PRO SE LITIGANTS  
IN  
CHILD WELFARE COURTS  
AND THE DANGERS THEY CAN CREATE FOR  
THE BEST INTEREST OF CHILDREN

JAMES C. TIEL  
Associate Judge 323rd District Court, Tarrant County  
2701 Kimbo Rd.  
Fort Worth, Texas 76111  
(817) 838-4620  
jctiel@tarrantcounty.com

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Previous CPS litigation  
Final order

- Examples
- PMC to Mother with limited access by Biological Father
- PMC to Relative/Fictive Kin with limited access by parents

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YELLOW MARKER MOMENT

- Previous final order
- Protects children from abusive/neglectful parents
- Managing Conservator was selected based on their protective capacities
- Limitations re: possession/access by parents hopefully well reasoned
- Does Previously named MC have wherewithal to continue to adequately protect the children

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Prior Final Order  
Built in Protections

- Year long adversarial process
- Prosecuting attorneys
- AGAL for children
- Attorneys for parents
- CASA
- CPS workers

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THE COURT COORDINATOR

- Must play a role
- See Attachment 1
- Consider weekly docket checks

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Judicial Code of Conduct  
Canon 3

- No ex parte communications allowed
- Exceptions: Ex Parte Communications expressly authorized by law

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Pieces of the Court File  
Expressly Authorized Ex Parte

- Supporting Affidavit –Original Petition (Tx Fam Code 262.101; 262.106 (b)—great “storyline starter”
- Status Review Documents-(Tx Fam Code 263.101; 263.105) Ct can review, court must approve or disapprove of service plans filed with court, court must make the service plans an order of the court
- Permanency Plans, Permanency Hearing Reports, Service Plan Evaluations (Tx Fam Code 263.3025,263.303,263.306) Required to be filed with Court 10 days before Perm Rev. Hearing, Court required by law to review and to assess the parents’ progress or lack thereof.

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Documents are not evidence, but.....

- Removal Affidavit tells the story of abuse/neglect
- Status Review Docs explain what the game plan was to reduce abuse/neglect
- Perm Review Docs explain the progress made by parents, explain needs/circumstances of children
- Gives Judge a great starting point as to what to be looking for in the upcoming pro se litigation; at to best interest of the children

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APPOINT AN AMICUS

- Tx Fam Code 107.001-appointed by the court in a suit, other than a suit filed by a governmental entity, whose role is to provide legal services to assist the court in protecting a child’s best interests rather than to provide legal services to the child
- Tx Fam Code 107.003 lists numerous duties of the amicus, including:
- Interviewing the children, the parents, and anyone who has a history of the child’s history and condition

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Amicus

- Pro Se Litigant is not entitled to free representation: Nothing prevents court from requiring the movant/litigant to pay for the amicus as a cost for moving forward with his/her request
- (see attachment 2)
- See your court qualified appointment list—ask for a favor

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Scheduling Orders

- See attachment 3
- Allows court to discuss in open court, with all litigants, the matters intended to be litigated (w/o violating Judicial Canon 3)
- Helps refine procedural issues
- Gives court a better feel for need for an amicus
- Have coordinator set the trial date, set scheduling order 11 days before trial date: i) 201.005 10 days to object to Associate Judge ii) Tx Rules Civ Pro 216 (30 days)

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CPS REFERRAL

- Tx Fam Code 261.101 If a professional has cause to believe that a child has been abused or neglected, **or may be abused or neglected** (reporting is required)
- [www.dfps.state.tx.us](http://www.dfps.state.tx.us)
- Why not just rely on yourself, to insure that the children are protected from abuse or neglect?
- Once an investigation is generated, require the CPS investigator to report to the court on the date of the hearing.

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## Summary

- Recognize the importance of pro se litigation
- Review all materials which are not prohibited ex parte communications
- Consider the use of an amicus
- Consider scheduling orders
- Report to CPS if necessary

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