CHANGING LIVES: LAWYERS FIGHTING FOR CHILDREN

CHAPTER ONE

Fighting the Odds Speaking for Infants and Toddlers in the Child Welfare System

By Shari F. Shink and Diane Baird

PART 1: GRACE'S STORY

It was December when an attorney with the Support Center for Child Advocates in Philadelphia, Pennsylvania, received a court appointment to represent four-day-old Grace. Grace's birth mother had been involved with the county children and youth agency two years earlier, when she tested positive for cocaine and then gave birth to her first child. After the child's birth, the mother underwent a year of drug and alcohol treatment, as well as mental health treatment. The mother voluntarily relinquished her parental rights to the child, who was subsequently adopted.

Grace's mother was exhibiting mental health issues at the time of Grace's birth. Although she had been on three psychotropic medications, she had stopped taking them during her pregnancy. There were reports of extreme anger and physical altercations. Her erratic behavior led to her eviction from the public shelter system.

At the initial hearing, which the mother attended, all agreed that the goal should be to reunify Grace with her mother. In the meantime, Grace was placed with a foster parent, and her mother was referred to Behavioral Health Services.

Grace's attorney immediately contacted the new foster parent to arrange an initial visit and find out more about the household that baby Grace had joined. During the call, the attorney learned that the foster mother was a single woman who had been a foster parent for a decade and enjoyed taking care of young children. Indeed, the foster mother already had four children under the age of six in her home—a five-year-old developmentally delayed child who was in her permanent custody, and three foster children, two-year-old and three-year-old toddlers and a nine-month-old infant with special medical needs. Baby Grace became the fifth child to join the household. The number and ages of the children in the foster parent's home raised

concerns for Grace's attorney. Grace's entry into the foster care system at four days of age should have sounded the alarm for the county children and youth agency to begin concurrent permanency planning. Grace's mother presented with particularly high risks, including long-standing mental health and substance abuse problems, as well as a previous termination of parental rights. Grace's placement, ideally, would have been with a family that could potentially offer permanence.

Grace's attorney quickly called the private foster care agency that had found the placement for Grace. The attorney questioned the number of children in the home, especially given their young ages and special needs, and the home's appropriateness for Grace. The agency representative stated that this foster mother was one of the agency's best and was "on top of everything for the children before being asked." Within a week, Grace's attorney made a home visit. She was concerned about this foster mother because, although loving, she appeared advanced in age. (The attorney later learned that the foster mother was in her mid-seventies.) The permanency goal was reunification with Grace's birth mother, and Grace's attorney remained hopeful that the child would experience only one move before she could return to her birth mother. But Grace's attorney knew that they needed to develop an alternative plan for Grace in case reunification was not possible. Thus, Grace's attorney requested that the county children and youth caseworker attempt to identify and locate the family who had adopted Grace's half brother, to explore whether they might be interested in assuming care of Grace as well. Additionally, she asked that the agency locate the siblings of the man whom the mother had identified as Grace's father, and explore possible placement with them.

Over the next few months, the mother's mental health issues spiraled out of control. She was aggressive and verbally abusive to workers and the foster mother, who took Grace to her supervised visits with her mother. At one visit, the supervising worker heard the mother shouting "I don't want no drugs around!" and "We need security!" The mother also held baby Grace by her feet, tilting her down so that her head almost hit the floor. The visit was immediately stopped.

Grace's attorney advocated for and received an earlier court date to review the matter. While the date was pending, Grace's mother missed three visits with the baby. The mother also filed a missing-persons report on baby Grace; she seemingly was unable to grasp the fact that her child was in foster care, despite the children and youth caseworker's explanations to her. Soon after, the court ordered that all visits stop until Grace's mother could document that she was

engaging in mental health treatment. During this same time, the man earlier identified as Grace's possible father was ruled out by paternity testing.

Given that the path to reunification was looking less viable, Grace's attorney focused on Grace's current placement to determine its likely permanence and appropriateness. The attorney again raised concerns about the foster mother as a permanent placement because of her age, but the children and youth caseworker believed that requesting a new home for now four-month-old Grace would be age discrimination. At first, Grace's attorney was ambivalent about pressing the issue. The foster mother was a nice, caring woman who seemed to genuinely love Grace. Over several home visits, the attorney noted affection and good care; the children were provided with good food and shelter, and they all attended timely medical appointments. Yet Grace's attorney did not observe any books, toys, or games, nor did she hear about walks to the park or other outside activities. On most visits, regardless of the time of day, all of the children were still in pajamas. Grace's attorney wanted more for Grace. She wanted play and stimulation; songs and outside activities; opportunities for growth and curiosity. She wanted a loving, active family for Grace.

The children and youth agency scheduled a meeting to set goals and objectives for Grace's case. Meanwhile, more troubling behavior by Grace's mom was observed. In the waiting room, she engaged in a conversation with no one else present. During the meeting, she was aggressive and seemingly out of touch with reality. She angrily claimed to have never given birth to a son who was adopted. She refused to attend drug and alcohol treatment but said she would go to mental health counseling. She agreed she needed medication.

When Grace's attorney next called the foster mother to schedule a visit with Grace, the foster mother told her that both the county children and youth caseworker and the private foster care agency worker had informed her that Grace's attorney wanted Grace removed from her home because of the foster mother's age. Apparently they also shared with the foster mother that they did not agree with Grace's attorney. At the visit, the attorney told the foster parent that while she respected her and appreciated all she was doing for the children in her care, she represented only Grace, now six months old, and her duty was to Grace. Grace's attorney explained that she did not want Grace to lose her birth mother, and then possibly lose an adoptive mom at a young age, which might throw her back into the children and youth system. The foster mother responded that she would be devastated to lose Grace.

In the months before this visit, an appellate case in Pennsylvania indicated that a trial court was not prohibited from allowing one coparenting adult, who did not reside with the biological parent and child, to adopt a child for good cause.[1] Grace's attorney proposed the idea of the foster mother's 50-year-old daughter, who did not live in the home, taking on this coparenting role. When Grace was nine months old, the court raised its own concern over the age of the foster mother and the number of young children in her home. In the next few months, the adult daughter vacillated about whether she was interested in coadopting. Finally, the court gave her two weeks to make a decision, or Grace would be moved. The foster care agency finally reported to the parties that the adult daughter was interested in coadopting; however, the adult daughter had not directly expressed this interest to anyone else involved in the case. Grace's attorney needed to hear it directly from the adult daughter herself.

Consequently, Grace's attorney requested a meeting with everyone to discuss the permanency plan. The agency refused to initiate the meeting, so Grace's attorney took the lead and set a meeting for a Saturday morning in the foster mother's home, when the adult daughter was also available. (The foster care worker failed to show up, despite having agreed to the date and time.) At the meeting, Grace's attorney observed a loving relationship between the foster mother's daughter and all of the children and saw their affectionate responses to her. However, it became clear to Grace's attorney that the daughter was ambivalent about the coparenting proposal. She sent mixed messages about her commitment to parenting Grace, such as stating, "I am doing this to save my mother from a broken heart." Moreover, there were concerns that Grace was developmentally slow for her age cohort. Indeed, shortly after this meeting, Grace's pediatrician referred her for an evaluation for language development and motor skills. This was a red flag for Grace's attorney because, based on her many home visits, she knew that Grace lacked appropriate stimulation in the home.

When Grace was fourteen months old, her birth mother's parental rights were finally terminated, a position that Grace's attorney supported, and her permanency goal was changed to adoption. Soon after, another caseworker reported concerns about one of the other children in Grace's foster home. These concerns included inappropriate discipline and a lack of supervision. Subsequently, there was another report, this one concerning Grace, that included neglect and a

[1] *See In re Adoption of J.M.*, 991 A.2d 321 (Pa. Super. Ct. 2010).

lack of supervision. Also at this time, the children and youth agency determined that the adult daughter was not really interested in the responsibilities of coparenting Grace. It would only be a co-adoption on paper. Grace's attorney also learned that the family who had, adopted Grace's brother was not interested in adopting Grace. Thus, Grace would need to move to a new family for adoption.

When she was 17 months old, Grace was placed with a family newly approved for adoption. Soon, Grace began to thrive and to talk. The observations of Grace's attorney during home visits with the new pre-adoptive family were in sharp contrast to those from visits in the prior foster home. Grace was always dressed in "outside" clothes, not pajamas. There were books and toys. Grace's attorney observed Grace taking a book to the pre-adoptive mom and climbing in her lap to be read to. Grace was enrolled in a preschool program twice a week, so that she could play with other children. Grace smiled and laughed.

Within days of placing Grace with this couple, however, the children and youth agency proposed a move for Grace to yet another home. The agency claimed that the pre-adoptive home was only supposed to be a respite home. The couple, however, wanted to keep Grace. And Grace's attorney saw how well the child was adjusting and wanted to minimize moves. At the next court hearing, Grace's attorney requested and received a court order that required that the child not be moved absent an order of the court. Grace's attorney began preparing for a contested "best interests" hearing, while at the same time advocating her position with supervisory agency personnel. Finally, all issues of disagreement were resolved; Grace was not move again and was adopted by the preadoptive family when she was two years old, after spending her entire life to date in foster care.

One month after Grace's adoption was finalized, Grace's attorney learned that Grace's birth mother had given birth to another baby, out of state. Grace's adoptive family was interested in caring for and ultimately adopting Grace's sibling. Grace's attorney contacted the sibling's out-of-state child advocate and gave him background and identifying information for Grace's family. An interstate compact to pursue adoption in Grace's new home was put in process for her new sibling. This sibling is currently living with Grace and her new family, as is a third child later born to Grace's biological mother.

PART II: THE CHILD WELFARE SYSTEM

Infants and toddlers represent a distinctive subset of the child welfare population. They have service needs, developmental vulnerabilities, and strengths that distinguish them from other children in out-of-home care.[2] Every year, almost 200,000 children from birth to three years of age come into contact with the child welfare system.[3] More than one-third of them are removed from their parents' care,[4] making infants and toddlers the largest single group of children entering foster care.[5] Infants who enter care at less than three months of age are in foster care 50 percent longer than older children and are much more likely to be adopted than reunified with their birth parents.[6]

These young children are at a critical point developmentally. It is during the first years of life that their brains develop at life-altering rates, and they acquire the abilities to think, speak, learn, and reason. Early experiences, both positive and negative, have a decisive effect on how the brain is wired, and it is crucial that we recognize the special vulnerabilities of these young children to developmental harm.[7]

The first relationships that a child forms with adults have the strongest influence on social and emotional development. Indeed, an overarching principle of infant mental health intervention is that relationships are the conduit for change in the young children and families served.[8] Infants and toddlers in foster care face two major problems: the lack of ongoing parent-child contact and, often, multiple moves. Maintaining or healing an attachment with parents is critical for young children but can be difficult, or impossible, while the child is in placement.

Multiple moves while in foster care are a particular concern for infants and toddlers. Transitioning toddlers involves a number of psychological and emotional risks that are specific to this developmental stage. Even very young babies grieve when their relationships are

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[2] Fred Wulczyn, Michelle Ernst & Philip fisher, *Who Are the Infants in Out-of-Home Care? An Epidemiological and Developmental Snapshot,* CHAPIN HALL ISSUE BRIEF, May 2011, at 1.

[3] Julie Cohen, Patricia Cole & Jaclyn Szrom, *A Call to Action on Behalf of Maltreated Infants and Toddlers,* ZERO TO THREE (2011), http://www.zerotothree.org/public-policy/federal-policy/childwelfareweb.pdf hereinafter *A Call to Action*, at 2.

[4] *Id.*

[5] *Id*.

[6] Fred Wulczyn et al., *The Foster Care Baby Boom Revisited: What Do the Numbers Tell Us?*, ZERO TO THREE, 31, no. 3 (2-11): 4-10, 15 4.

[7] *A Call to Action, supra note* 3, at 3.

[8] Brenda Jones Harden, *Infants in the Child Welfare System: Implications for Brain Development* (2012), *webinar available at* http://www.zerotothree.org/public-policy/webinars-conference-calls/jones-harden-website-slides-for-november-17th-webinar.pdf (last visited Sept. 20, 2013).

disrupted, and this sadness affects their development. Multiple moves place children at an increased risk for poor outcomes with regard to social-emotional health and the ability to develop healthy attachments.[9] For example, a child's development in the second year of life is driven by the need to explore and master, in concert with the drive to psychologically separate from the dependency of the first year, while maintaining a relationship with the caregiver/parent. Loss of the primary attachment figure during this stage of development is perceived by the child as rejection. This affects the child's sense of safety and confidence in caregivers and the world.[10] The child's developing capacity to regulate emotions, his/her developing sense of self, and his/her capacity to form intimate relationships may all be compromised, temporarily or in the long term.[11]

Research confirms that the early years present an unparalleled window of opportunity to effectively intervene with at-risk children.[12] To be effective, interventions must begin early and be designed with the characteristics and experiences of these infants and toddlers in mind.[13] Child welfare practices must focus on child safety and be structured to promote healthy development and the formation of a secure attachment.[14] Thus, every child welfare decision and service should have a goal of enhancing the well-being of the infant or toddler and his/her family to set the child on a more promising developmental path.[15]

Safety, permanency, and well-being are the three major goals in the Adoption and Safe Families Act of 1997 (42 U.S.C. § 675 et seq.), which is designed to improve outcomes for children in the welfare system. These are the performance measures that child welfare agencies use to measure their own performance and the standards by which the federal government assesses state performance. Because courts in child welfare (dependency) cases are responsible for ensuring that the state is providing proper care to children in its custody, courts need to

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[9] Yvon Gauthier, Gilles Fortin & Gloria Jeliu, *Clinical Application of Attachment Theory in Permanency Planning for Children in Foster Care: The Importance of Continuity of Care*, 25 INFANT MENTAL HEALTH J. 379 (2004).

[10] ALICIA F. LIEBERMAN, THE EMOTIONAL LIFE OF THE TODDLER 149-54 (1995).

[11] Roger Kobak, *The Emotional Dynamics of Disruptions in Attachment Relationships, in* THE HANDBOOK OF ATTACHMENT THEORY, RESEARCH, AND CLINICAL APPLICATIONS 21 (Jude Cassidy & Philip R. Shaver eds., 2d ed. 1999).

[12] *A Call to Action, supra* note 3, at 6.

[13] Harden, *supra* note 8.

[14] *A Call to Action, supra* note 3, at 6.

[15] *Id.*

consider whether these children are physically and emotionally healthy, have permanent relationships, and have families with the capacity to provide for the children's needs.[16]

Grace's case well illustrates that infants and toddlers need strong and vigilant advocates. In the child welfare system, where workers often take the path of least resistance, what is best for a child, especially a nonverbal child, can take a back seat to what is easier for the worker. In Grace's case, the workers advocated for what was best for them as workers—to have Grace stay with a 76-year-old foster mother who appeared to take relatively good care of the child, including taking her for doctor's appointments. Grace may have had adequate care, but not the loving, individualized, and special care she needed to flourish.

Nor did she have a path to permanence with this foster parent in case reunification with the birth mother was not feasible. While Grace's foster mother loved her, she could not provide optimal care or the promise of permanency to Grace. Grace thus built an attachment relationship with an impermanent figure, setting her up for significant loss. Loss affects young children in the same ways that trauma does; it diminishes their trust in the world, their capacity to explore, and their capacity to regulate powerful emotions. The myth that babies forget and recover is false. In fact, their psychological development is shaped by early experience, both positive and negative.[17]

Attorneys owe their allegiance only to the child, not the bureaucratic agencies charged with their care. Children need a lawyer who will advocate zealously only for them; will advocate for their right to be with siblings if possible, no matter how inconvenient; and will push for the best family situation when the child cannot be returned to birth parents. (See Box 1, "Practice Tips for Advocates," and Box 2, "Advocacy at Hearings.")

In Grace's case, the attorney advocated for a number of goals that are all crucial to pursuing a good outcome for an infant or toddler in the child welfare system. These included access to family services for Grace's birth mother; visitation between the mother and baby Grace; quality foster care; stability for Grace; the placement of Grace with her siblings; and the legal permanence of adoption. The attorney wisely pursued multiple courses—or concurrent planning– in the event that reunification with the birth mother did not work out. Finally, the attorney knew when to reject reunification as a viable permanency option.

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[16] Nora E. Sydow & Victor E. Flango, *Physical and Emotional Well-Being: Court Performance Measures for Children and Youth in Foster Care*, JUV. & FAM. CT. J., Fall 2012, at 1.

[17] *A Call to Action, supra* note 3, at 3.

Access to Family Services

Zealous attorneys for children investigate resources that might benefit the birth family as additions or alternatives to those identified by the child welfare agency. Private community-based agencies, volunteer or donated services, and mentors are options to consider. Mentoring, especially by mothers previously involved in the system who successfully had their children returned to them, may be particularly effective. In Grace's case, her mother's mental health issues left the mother with little capacity to engage in or follow through with needed treatment. In other situations, services might make a critical difference for reunification.

Visitation

Visitation for infants and toddlers should be as frequent as possible (e.g., daily or multiple times per week) and be conducted in homelike settings that are familiar to the child.[18] Typical child welfare agency policy dictates once-per-week visits between parent and child. In Grace's case, her mother was incapable of meaningful visitation and even presented a dangerous risk, which appropriately led to the temporary cessation of visits. (See Box 3, "Possible Motions in Dependency Court.") Attorneys must be vigilant in staying current with parent-child activities and act when necessary to reduce, change, enhance, or stop visits, as the situation warrants.

> **Practice Tip**: If visits pose a risk to the child, the attorney can file a Motion to Terminate Visitations, and attach affidavits. Conversely, if visitation is inappropriately denied, an attorney can file a Motion to Increase Visits.

Unless parental visitation is determined to be detrimental to the child, the visitation plan should specify the frequency and type of contact by the parents, as appropriate. At a minimum, the visitation plan should facilitate and support the following interests and needs of the child:

- the growth and development of the child
- the child's adjustment to the placement
- the foster parent's ability to meet the child's needs
- the child's contacts with parents, siblings, and other family members
- the child's permanency plan

[18] Harden, *supra* note 8.

Quality of Foster Home Placement

Grace's attorney had to balance competing concerns—the quality of the foster care placement versus Grace's need for stability. She was vigilant about visiting her client frequently to continually assess whether and how well Grace's needs were being met. She did not leave that job to the agency. Grace's attorney raised questions about the number of children in the home and the age of the foster mother. She observed activities and patterns, and engaged in many conversations to learn about her client and the care she was receiving. When she began to identify Grace's unmet needs, she moved quickly to determine alternative long-term options for Grace. She explored—and urged the agency to investigate—such options as coparenting by the foster mother's adult daughter and possible placement with Grace's brother's adoptive family.

Stability

Stability is a critical aspect of permanency and well-being. Ensuring stability targets the continuity of a child's relationships, as well as her environment. Generally, any action that disrupts or threatens to disrupt stability should be discouraged and challenged.

Stability is especially critical for babies and toddlers. One of the guiding principles that Grace's attorney followed in her advocacy was that Grace's only move ideally should be a return to her birth mother or to an adoptive family, if the foster mother could not provide permanence. Grace's attorney explored the innovative coparenting idea as a way to maintain stability with a family who was already caring for her. When this option and adoption by Grace's brother's adoptive family were determined to be unavailable for Grace, her attorney pursued an adoptive family. A family was found, a transition took place to ease Grace into the new home, and Grace adjusted well and thrived.

Yet Grace's stability was still at risk when the county children and youth agency threatened another move. Not satisfied with the vague reasons offered for the move, and having confirmed through her own investigation that Grace was doing well in the preadoptive family, Grace's attorney actively worked to stop the move. She then requested an evidentiary hearing to present evidence regarding Grace's best interests. The hearing became unnecessary when Grace's attorney successfully persuaded the children and youth agency to maintain Grace's placement with the adoptive family. However, absent the willingness of Grace's attorney to challenge the

arbitrary decision making, Grace's adoptive placement would have been disrupted, much to Grace's detriment.

A child should not be moved from one short-term emergency placement to another unless all reasonable efforts to return the child to his/her birth parent's home, or to place the child in a more permanent setting, have been exhausted and are documented.

Moves between levels of care require a court's findings of fact and must be scrutinized to ensure that the resulting placement is the least restrictive and the most appropriate. Once a child is facing a third move, the attorney for the child should request an evidentiary hearing and findings of fact to establish the reason for the move and how the move advances the child's permanency goal. The attorney should advocate for a clearly identified and realistic plan for permanency, and press the court to include the plan in its order.

Practice Tip: All moves should advance permanency. Those that do not must be challenged, and attorneys should request an emergency hearing. Attorneys should oppose administrative moves for licensing issues or agency rules; lateral moves within the same general level of care; and any temporary move from an initial placement, unless to a permanent home.

Placing Siblings Together

Grace's attorney appropriately explored a sibling placement which ultimately was not available to Grace. Her attorney went an additional mile by contacting the out-of-state attorney for a later-born sibling to suggest that Grace's adoptive family would be interested in the new baby as well. Sibling relationships can give children context and a sense of history, particularly when these relationships have been enduring.[19]

When to Reject Reunification as an Option

In Grace's case, reunification remained the permanency goal until Grace's mother demonstrated that she could not sufficiently overcome her substance abuse and mental health challenges. In rare circumstances—when there is a severe and chronic history of emotional or mental illness,

[19] David J. Whelan, *Using Attachment Theory When Placing Siblings in Foster Care*, 20 CHILD & ADOLESCENT Soc. WORK J. 21 (2003).

the previous death of a sibling, serious bodily injury, or pattern of habitual abuse—an attorney may want to urge the court to find "aggravated circumstances" early in the case and hold that the child welfare agency does not have to make "reasonable efforts" to reunify the family but may instead pursue another permanency goal for the child.[20] Such situations may present a persistent inability to parent, and therefore a reunification plan would only subject the child to needless delay, insecurity, and multiple moves.

Alternatively, an attorney could seek a reunification plan with intensive family and other services on a much shorter time line—for example, three months to make meaningful progress—and advocate for a concurrent plan for immediate placement of the child in a legal-risk home, that is, a foster home willing to parent temporarily, and adopt when the child is legally freed for adoption. This would give the parent the opportunity to demonstrate progress that was dramatically different from his/her past history while minimizing instability for the child.

Permanence

There is widespread and general acknowledgement among behavioral scientists, pediatricians, psychologists and others that emotional and cognitive disruptions in the early lives of children have the potential to impair brain development.[21] Paramount in the lives of children in foster care is their need for continuity in their relationships with their primary attachment figures and a sense of permanence. Expediting permanency requires a sense of urgency for young children (and their siblings), but all children need stability. As Chief Justice Michael Bender of the Colorado Supreme Court has stated, all children who have been removed from their homes are guaranteed a new home where they "can feel safe and secure, they will not arbitrarily be removed from those homes, and they can, if appropriate, confidently plan for their future."[22]

[20] ASFA allows states to define and clarify what acts by the birth parents constitute aggravated circumstances. 45 C.F.R. § 1356.21(b)(3) (2012).

[21] Roberta Hibbard *el al*., *Psychological Maltreatment*, PEDIATRICS 2012;130;372, available at http://pediatrics.aappublications.org/content/130/2/372.full.html.

[22] City of Northglenn v. Ibarra, 62 P.3d 151, 160 (Colo. 2003).

Permanency must be considered at the earliest stages of a case. In promoting this goal, a child's attorney should expedite assessments of the child to determine unmet needs. To accomplish this, attorneys can

- file motions for medical and/or mental health evaluations and ensure implementation of treatment recommendations;
- ensure that the child is provided with a full medical examination (within two weeks of receiving appointment) and full dental examination (within eight weeks) and maintain regularly scheduled appointments as recommended;[23]
- seek other state or county funding sources if a medical, dental, or psychological evaluation is necessary and cannot be covered under Medicaid or third-party insurance;
- consider and explore trauma-informed treatment at the earliest stages;[24]
- advocate that any assessment, whether formal or informal, of families being considered as a permanent home should be completed in the earliest stages of the case.

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Representing infants and toddlers offers a unique opportunity to significantly impact the life and future of a child. Grace's case demonstrates the disastrous outcomes lying in wait for a child without zealous advocacy. Early intervention for positive outcomes sets the foundation for quality learning experiences, mental and physical health, nurturing relationships, and, ultimately, success in the world. As a society, we will share these children's success, and the impact will be felt for generations.

[23] *See*, *e.g.*, Colo. Dep't of Hum. Serv., Vol. 7, 7.304.62 (G).

[24] *See, e.g.,* Bruce D. Perry & Erin P. Hambrick, *The Neurosequential Model of Therapeutics*, RECLAIMNG CHILD. & YOUTH, Fall 2008, at 39.

Box 1: Practice Tips for Advocates

- First and foremost, know your client.
- Be bold and courageous. Imagine this child is your own.
- Do an independent investigation. For example, learn about felony convictions of foster/relative placements.
- Pursue placement alternatives for your client. It is not just the agency's job. Explore placements that will keep siblings together and keep children local. In many states, the court is not licensed, seek a court order or parental permission for the placement.
- Look to neighbors, teachers, and others with whom the child has a relationship, and seek foster care or kinship funding for these caregivers. Some states have sought and received federal waivers to use discretionary funding to support nonfamily placements to better serve children.
- Keep in mind that as the child's attorney, you have numerous opportunities to persuade the court to enter orders that may be different or unusual, but uniquely appropriate to your individual client and within the court's broad discretion.
- Once a child is facing a third move (more than the national average), advocate for extraordinary measures, such as weekly court reviews, to pressure the actors to find a permanent home.
- Engage experts to assist in ensuring the right outcome for your client as well as to educate the court. Experts can provide input by phone, by affidavit, or in person. Fly in a national expert when necessary. Many donors to nonprofit agencies willingly donate miles for air travel. Many hotels will eagerly donate a hotel room for a good cause.

Box 2: Advocacy at Hearings

- Convey a sense of urgency at every hearing; children grow quickly, developmental windows close, and opportunities end.
- Seek deadlines in the court orders for needed evaluations, treatment, and other services.
- Insist on accountability of all parties.
- Cite legal authority. Be ready to give the judge a copy of the case or statute.
- Quote the American Academy of Pediatrics and other national experts on child development.
- Quote experts from your own case (e.g., the mental health evaluator, counselor, parenting coordinator, early intervention specialist).
- Make offers of proof to avoid long hearings or delays, and use affidavits when appropriate.
- Request hearing on Saturdays or evenings to respond to emergencies.

Box 3: Possible Motions in Dependency Court

- Motion for Emergency Hearing: Appropriate when the child's attorney does not receive notice of and/or objects to a placement change.
- Motion to Return Child to Placement: Appropriate when a child is removed without notice to and/or consent of the child's attorney. The child's attorney also should seek an order to pay for immediate treatment to address trauma caused by the move. (In one jurisdiction, the court ordered the department to provide treatment for an 18-month-old child removed without a court order, and ordered that the treatment continue until his 18th birthday.
- Motion to Prevent Removal of Child Due to Attachment with Foster Family or Relative.
- Motion to Require Placement of Siblings Together.
- Motion for Visitation between Siblings (while separated).
- Motion to Evaluate Caregiver-Child Relationship.
- Motion for Immediate Trauma-Informed Treatment for Child.
- Motions for Normative Opportunities/Experiences to stabilize placement. These can include sports, recreational actives, artistic activities, and other extracurricular activities and should be considered in every case.