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COURTS

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April 27, 2011

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Honorable Charles Johnson
Washington State Supreme Court
P.O. Box 40929
Olympia, WA

RE: Rule of Appellate Procedure 18.13A (RAP 18.13A)

Dear Justice Johnson,

As president of the Superior Court Judges' Association (SCJA) I am writing to comment on draft rule of appellate procedure (RAP) 18.13A. The rule applies an automatic stay on adoption proceedings if an appeal on the underlying termination is pending. The SCJA Board carefully discussed the proposed rule at our meetings in March and April and opposes the rule as written.

This rule was proposed to avoid bad legislation and presumably would assist a small number of dependency cases while delaying permanency for the remaining population of children awaiting adoption. The SCJA strongly opposes the intent of the rule.

The rule also includes various technical changes that the SCJA opposes. The appellate court decides the stay, not the trial court. The stay is on the cause number for termination but not adoption. There is no standard identified, and if the rule were to be consistent with all other dependency actions, it should be specified to be "best interest of the child". The rule needs clarification on the responsibility of trial court and Court of Appeals and include instruction to the appellate court to expedite the appeal if there is a stay on the adoption proceeding.

Thank you for the opportunity to comment on the proposed rule that has practical implications for how courts business is managed. We are committed to serving families, and continue our unwavering advocacy for permanency for dependent children.

Sincerely,

Stephen Warning
SCJA President Judge

cc: Board of Trustees
Ms. Nan Sullins

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