

## POLICY IN LIGHT OF *IN RE PHOENIX H.*

Effective immediately, the Fifth District Court of Appeal will no longer accept for filing letters from court-appointed counsel in juvenile dependency appeals stating no opening brief will be filed pursuant to *In re Sade C.* (1996) 13 Cal.4th 952. Pursuant to *In re Phoenix H.* (2009) 47 Cal.4th 835, when court-appointed counsel find no arguable issue to be pursued on appeal, they should so inform the court, file a brief setting out the applicable facts, procedure and law (*Phoenix H.* brief), and provide a copy of the *Phoenix H.* brief to the appellant with a proof of service to this court. Court-appointed counsel may submit a *Phoenix H.* brief in letter format; compliance with California Rules of Court, rule 8.360 (a) is not mandatory with this court when court-appointed counsel find no arguable issue to be pursued on appeal.

Once a *Phoenix H.* brief is filed, it shall be the appellant's burden to personally make a good cause showing that an arguable issue does exist. Court-appointed counsel are urged to so inform their appellant-clients. Upon the filing of a *Phoenix H.* brief, this court will extend 30-days leave for appellant to personally file, with this court, a letter stating a good cause showing that an arguable issue does exist.

No formal motion or other pleading will be required of the appellant, except that appellant must attach a proof of service of the letter upon the superior court clerk, trial counsel for the child(ren), appellant's counsel, and counsel for respondent. If the appellant does not file such a letter within the time permitted or otherwise does not making a good cause showing that an arguable issue does exist, the appeal shall be dismissed as abandoned.