

APPEALING FOR THE BEST INTERESTS OF CHILDREN

Law is a powerful tool in our fight to ensure children have a solid foundation of family, health and education. The law’s power, however, often depends upon its interpretation. Children’s Law Center’s appellate team, launched by Allen Snyder in 2011, works hard to guarantee that trial and appellate judges’ interpretation of the law protects DC children. Snyder honed his strategic capacity over several decades as a Hogan & Hartson (now Hogan Lovells) litigator and also brings to CLC the wisdom he gained from serving as a foster parent to more than a dozen children.

The appellate team has three chief roles:

- 1 representing clients in appellate proceedings,
- 2 providing strategic support to lawyers at the trial level, and
- 3 developing long-term strategies to address key legal issues that impact our clients.

WHEN VAGUE LAWS FALL SHORT

One legal issue CLC has worked hard to address is how much a parent’s preference should influence a court’s decision about who a child’s permanent caregiver should be. When children live with capable, engaged parents, the U.S. Constitution and local law reflect the belief that parents should have great discretion about how to raise their children. And when a parent is unable to care for their child, the DC Court of Appeals often continues to give significant deference to the parent’s preference about their child’s caregiver; this is what the law calls “weighty consideration.”



CLC staff practicing arguments before getting to the podium at the DC Court of Appeals.

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I’ve been lucky to handle two appeals through Children’s Law Center—one was an en banc appeal with fascinating, high-profile legal issues and the other gave me a chance to represent a client and participate in oral argument. The support from CLC’s appellate team was outstanding and both experiences were personally rewarding.

Ilana Gelfman
Partner, Jones Day

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Until recently, however, the case law on “weighty consideration” did not provide much guidance about when a parent’s preference should no longer be so heavily weighed by a court. Without clear guidance, some trial judges felt obligated to give “weighty consideration” to all parents, including those who had not seen their children for years.

CLARIFYING THE LAW

The law’s vagueness led to decisions that harmed children and created confusion for families. This led CLC to search for an opportunity to raise the issue with the Court of Appeals. We spent years watching for a case through which we could advocate for a new standard—one that would lead to the best outcomes for children in need of stable families. Eventually, the Court of Appeals did hear a case in which “weighty consideration” was a key issue. Our team leapt at the opportunity to advocate for a standard that would provide clarity and focus on what is in a child’s best interests.

In an amicus brief, we urged the Court of Appeals to limit the heavy weight given to parental preference to situations in which a parent has the necessary context to make an informed decision about what’s best for the child and is legally competent to do so. When the court ruled, they adopted our newly proposed standard virtually word for word. With it, we were able to refocus the law back on the best interests of the child for all future cases.

