



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

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Press Release

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For Immediate Release

**NEW YORK CITY LAW DEPARTMENT WINS VICTORY IN EMILIO R. ADOPTION
CASE**

***APPELLATE DIVISION GRANTS JOINT ADOPTION SOUGHT BY TWO COHABITING UNMARRIED PERSONS,
NEITHER OF WHOM IS THE CHILD'S BIOLOGICAL PARENT.***

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New York, May 13, 2002 -- In a case apparently of first impression in appellate courts in this jurisdiction, the Appellate Division, First Department last Thursday granted an unmarried cohabiting couple's joint petition to adopt a child who is not the biological child of either adoptive parent. The Appellate Division reversed a Bronx County Family Court order which had denied the joint adoption by the unmarried couple on the grounds that they lacked standing in the joint adoption under New York's adoption statute, Domestic Relations Law § 110, and that the child's best interests would not be promoted by the petitioners' voluntary, at-will relationship lacking legal status or protection.

In reversing the Family Court's order and granting the adoption petition, the Appellate Division held that under the Court of Appeals' ruling in *Matter of Jacob*, 86 N.Y.2d 651 (1995), the adoption statute is indeed broad enough to encompass adoption by an unmarried couple, which in this case would certainly be in the child's best interests. The Court said that D.R.L. § 110 does not prohibit a joint adoption by an unmarried couple, neither of whom is the child's biological parent. The Court considered other factors in this case in approving the adoption, noting the blood relationship of one of the adoptive parents to the child, leading to the couple's long-term foster care, and finding that the child's best interests would unquestionably be furthered by the adoptive parents' long-standing nurturing family setting and "good faith and exemplary parental performance."

"This is a significant victory for adoptive parents," said Leonard Koerner, Chief of the New York City Law Department's Appeals Division. "We are pleased with the Court's decision."

The New York City Law Department is one of the oldest, largest and most dynamic law offices in the world, ranking among the top three largest law offices in New York City and the top three largest public law offices in the country. Tracing its roots back to the 1600's, the Department's 650-plus lawyers handle more than 100,000 cases and transactions each year in 17 separate legal divisions. The Corporation Counsel heads the Law Department and acts as legal counsel for the Mayor, elected officials, the City and all its agencies. The Department's attorneys represent the City on a vast array of civil litigation, legislative and legal issues and in the criminal prosecution of juveniles. Its web site can be accessed through the City government home page at www.nyc.gov or via direct link at www.nyc.gov/html/law/home.html.

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