

**MINUTES - FAMILY LAW COUNCIL
COUNCIL MEETING
Date: April 11, 2015
Place: Doubletree Hilton Hotel, Novi**

I. Administrative Matters

A. Chair Elect Carol Breitmeyer called Council to order.
18 council members were present: Carol Breitmeyer, Dick Halloran, Kent Weichmann, Robert Treat, Elizabeth Bransdorfer, J. Matthew Catchik, Jr., Sahera Housey, Mathew Kobliska, Peter Kulas, Colleen Markou, Anthea Papista, Kristen Robinson, Amy Spilman, Randall Velzen, Gail Towne, Steven Reinheimer, Daniel Bates, Tina Johnson (Yost), Vanessa Moss-Wilson

Absent: Rebecca Shiemke, Christopher Harrington, Colleen Markou

Ex-Officios & Former Council Members: Elizabeth Sadowski, Jim Harrington, Amy Yu, Ross Stancati, Anne Argiroff

Guests: Rio Vale, Bill Kandler, James Chryssikos, Andrew Littman, Rachel Gruetzner, Lisa Geherin, Robert Hack, Ellen Paynter, Rep. Tim Greimel

B. All attendees introduced themselves

C. Chair Report –

Chair-elect Carol Breitmeyer announced that the fall meeting would be September 12, 2015, in Novi.

D. Recording Secretary: Bob Treat moved that the March 7, 2014 minutes be approved. Steven Reinheimer noted an amendment needed in the Membership section. A motion to approve the minutes, with such amendment, passed 18-0.

E. Treasurer's Report – Chair Halloran moved that the monthly SBM financial report/trial balance be accepted, and the motion passed 18-0.

II. Key Committees

A. Amicus –

Gail Towne reported that the committee filed the brief in the Helton v Beaman case with the Michigan Supreme Court.

Gail also reported that work continues in the case of *In re Glaubius*, SC No. 150206 (December 23, 2014), as the 3-31-15 deadline has been extended.

B. Court Rules – Co-Chair Mathew Kobliska

ADM File No. 2014-09 - Proposed Amendment of Rule 7.215 of the Michigan Court Rules. (Unpublished opinions disfavored). The State Bar has requested our position statement by April 14, 2015. Co-Chair Chris Harrington will inform the State Bar as to our vote held at the March meeting.

ADM File No. 2014-45 - Proposed Adoption of Rule 5.731a of the Michigan Court Rules. The proposal is for a new court rule, which is reproduced in its entirety with Staff Comment) as follows: Rule 5.731a Clinical Certificates “A clinical certificate shall be marked and filed as confidential. Only persons who are determined by the court to have a legitimate interest may be allowed access to the confidential document. In determining whether a person has a legitimate interest, the court shall consider the nature of the proceedings, the welfare and safety of the public, the interest of the respondent, and restriction(s) imposed by state or federal law.” *Staff Comment:* The proposed rule would require clinical certificates to be marked and filed as confidential and would allow only persons who have been found by the court to have a legitimate interest in the confidential documents to be granted access. Per the committee’s recommendation, the council is taking no action on this proposal.

An issue was discussed on the listserv regarding *Funk v. Funk* (unpublished opinion of the Michigan Court of Appeal No. 319467, April 2, 2015) suggested in dicta that the general civil rules apply to determine venue in a divorce case. “Further, plaintiff’s assertion that the general venue provision in MCL 600.1621 should not apply to divorce cases because it does not expressly mention divorce is without merit. MCL 600.1621 provides in pertinent part as follows: Except for actions provided for in sections 1605 [real actions, replevin], 1611 [action on probate bond], 1615 [action against governmental units], and 1629 [tort and product liability actions], venue is determined as follows: (a) The county in which a defendant resides, has a place of business, or conducts business, or in which the registered office of a defendant corporation is located, is a proper county in which to commence and try an action. . . .” The COA affirmed sanctions against the plaintiff, even though she followed the 10 day rule. No action was taken at this council meeting, but the committee will monitor the situation as it unfolds and more information is obtained.

ADM File No.2014-49 - Amendments provide clarification and procedural provisions (prompted by Decision in *In re Sanders*, 495 Mich 394 [2014]). This rule has been adopted by the MSC, but is still subject to comment and a hearing. The committee recommended the Council defer to the Amicus committee and the Children’s Law Section, and the recommendation was approved.

ADM File No. 2014-11 - Proposal would clarify that (for a change of name of a minor) the signature of the minor on the written consent document (not the

petition) is required in the presence of the judge. . The general consensus of the committee is that the proposed change is not necessary, and some members were concerned about requiring children to appear in open court, and that a notary or other certification on the signature seemed to accomplish much the same purpose. Also, there is no age threshold (or corresponding reference to statute) in the proposed court rule. There was brief discussion on the issue, but no action was taken at the council meeting.

Limited Appearances a/k/a “unbundling.” This was tabled last month to explore the status of the issue at the State Bar level. Committee Member (and Pro Tem State Bar President) Lori Buiteweg stated that a task force of random state bar members will be having its first meeting on the issue of unbundling of legal services on April 28th to begin discussion of this issue. Lori will explore ways in which our section might have a greater level of input, as unbundling affects the practice of family law in unique ways. Per the committee’s recommendation no action is taken at this time.

C. Legislation – Chair Kent Weichmann reporting.

House Minority Leader Tim Greimel thanked and commended the Family Law Section and its Council for its work on legislation, especially noting equality in marriage.

HJR L, SJR I propose an amendment to the Michigan Constitution to repeal the ban on same sex marriages, and that the repeal amendment be submitted for voter ratification. Council voted to support these resolutions 18-0.

HB 4374 and SB 227 eliminate the statutory prohibition on same sex marriages, and restructure the other statutory prohibitions. Council voted to support these bills 18-0.

HB 4375 and SB 229 amends the statute recognizing foreign marriages to eliminate the exceptions for same sex marriages. Council voted to support these bills 18-0.

HB 4376 and SB 228 amend the marriage without publicity statute to strike the restriction that the marriage must be a person of the opposite sex. Although there may be different reasons to request a non-public marriage for same sex couples, the committee felt that the statute should not discriminate. Council voted to support these bills 18-0.

SB 249 is a technical amendment of the statute placing statutory child support liens on the payer’s personal property. The amendments clarify the various set asides before the lien attaches to the remainder. The amendments do not change the substantive aspects of the statute. Council voted to support this bill 18-0.

HB 4411 is a reintroduction of a bill we supported last term. It prohibits discrimination in real estate transactions (which would include leases and rentals) against victims of domestic violence, sexual assault, or stalking. The bill cites the statutory definitions of these offenses. Victims need this protection because some landlords “don’t want trouble” and will refuse to lease to victims. Council voted to support this bill 18-0.

HB 4412 is a reintroduction of a bill we supported last term. A victim of domestic violence would not be prohibited from collecting unemployment benefits if they can establish that the reason for leaving their job was due to domestic violence, as defined in the bill. These benefits would not be charged to the account of the employer, but rather to the nonchargeable benefits account. States that have enacted similar legislation have found the economic impact to be negligible. This is an important protection for victims of domestic violence, because it gives them a safety net when they are fleeing abuse. Council voted to support this bill 16-0-4 (4 abstentions).

HB 4413 is a reintroduction of a bill we supported last term, with a proposed amendment. It sets up a program in the Attorney General’s office to provide to provide a means of receiving service for domestic violence victims without revealing their home address. For some victims, the usual alternative addresses, such as a relative or a post office box, are not feasible. We were concerned about the additional time that relaying pleadings would take, and recommend that the statute provide for an additional 5 days of notice if the agency is the designated address. Council voted to support this bill, with an amendment as to the mechanics of service and response, 18-0.

HB 4414 provides that if an employer offers sick leave to employees, and employee may use that sick leave for the purpose of providing or obtaining assistance regarding domestic violence affecting the employee or a member of their household. This does not place any greater burden on the employer, and will allow victims of domestic violence to get help. Council voted to support this bill 14-0-4 (4 abstentions).

Regarding Funk v. Funk (previously described above in the minutes for the Court Rules report) – the legislative committee will consider a response.

Bill Kandler announced that there was a Family Law Work Group to consider the origination of Bills.

III. Standing Committee Reports

A. Adoption – No Report

B. Alternative Dispute Resolution Chair Randy reported the past there are basically four issues to which the committee is allocating its attention this year.

1. Domestic Violence

This issue has made the most progress. The DV subcommittee is chaired by Mary Lovik. For anyone interested, the next meeting is April 22 at 8 AM. As you may recall, the goal of that subcommittee is to present a position paper to give to Doug VanEpps when he establishes a task force to look at the history of mediation in Michigan and make recommendations for the future. He has indicated he would be very interested in our committee's work regarding domestic violence being a part of the task force discussions. Our committee and most people involved with mediation, agree that the issue of domestic violence is not being appropriately handled. There is insufficient screening and insufficient knowledge as to what to do when there is evidence of domestic violence.

This is an extremely complicated issue. The problem is fairly easy to see, the solutions are very difficult to find. If anyone is interested in joining the committee please let me know.

2. Automatic Mediation

The ADR Committee is working with the ADR Section to decide whether to try to establish mediation in most every family law case. Obviously there are some cases where is not necessary. For example, if the parties have completed a Collaborative process and have a signed Judgment that is ready to be entered, there is no need for mediation.

It is worth noting that there is not a uniformity of opinion on automatic mediation on our ADR committee, but the ADR Section uniformly favors automatic mediation. However, it is the position of several of our members that there is some cases that should not go to mediation, one type is cases with domestic violence. Co-Chair, Gail Towne is taking the lead on that issue.

3. Parenting Time Coordination

Doug VanEpps is planning on establishing a Parenting Time Coordination task force to come up with training for this role, forms, and related issues. We hope to be part of that process.

4. Mediation Task Force

As mentioned above Doug VanEpps has said he is going to form a mediation task force for the history of mediation and recommendations for its future. We are hopeful that our committee will be asked for a seat at the table. As far as we know that task force has not yet been formed.

- C. Alternative Family – Peter Kulas reminded us that the Supreme Court would be deciding the DeBoer v. Snyder case and there will be a 4/28 hearing, which Rick Roane will attend.
- D. Annual Meeting – Bids are being sought.
- E. CLE/ICLE – Lisa Geherin gave an update on progress, the agenda and speakers.
- F. Domestic Violence – Dan Bates mentioned that Senator Warren had not input as yet regarding the recent Bills.
- G. Family Court Forum – no report
- H. Family Law Journal – Committee Chair Anthea Papista remarked how good the April special edition re child support is, for which Amy Spilman wrote.
- I. Family Law Journal Advertising – Committee Chair Kristin Robinson announced that the Great Lakes Honor Roll was down and advertising in general is also down slightly. She called for more advertisers, and suggested council members mention the benefits to those who might be interested. Kristin said she would work on a promotion in the journal to encourage advertising in the journal.
- J. Family Support – Kent Weichmann mentioned that Bill Bartels had not formed the committee as yet.
- K. Membership – Steve Reinheimer called for helpers to tend the Family Law Booth at the Young Lawyers Summit.
- L. Mid-Winter/Mid-Summer Seminars
 - a. Mid-Winter – No report. This seminar is all planned and set to go.
 - b. Mid-Summer – Co-Chair Liz Bransdorfer stated a brochure may be used.
- M. Political Action Committee – Committee Chair Ross Stancati reported we have 59 contributors so far this session. Ross put forth the idea of a possible raffle to raise funds. There were various views offered and discussion followed. Ross is going to follow up on the idea as to feasibility and propriety.
- N. QDRO/Taxation – No report
- O. Technology/Website – no report

IV. Ad Hoc Committees

- A. SCAO – Amy Yu stated there are lot of materials to review regarding substitution of counsel.

B. Judicial Recognition – Chair Dick Halloran moved that: (1) a streamer for the Judge's courtroom flag be given to judges with ten consecutive years of service in the Family Law Division, (2) that a plaque and recognition be given at the Annual Dinner for the Family Law Section for judges with 15 years of service in the section, as a one-time event, (3) there be establishment of an annual award, beginning this year, for outstanding service in Family Law but only if the Judge is also a member of the Family Law Section, (4) the judges honored per the above be recognized in the Family Law Journal. Dick noted that it is not yet resolved whether these awards should go to only full time judges serving in the Family Law Division or also to Judges who share Dockets. SCAO has been contacted and will be providing a list of judges within one week. It is undermined what the cost will be, but the council approved allocation of some amount to pay for streamers, plaques, etc. The motion passed 18-0.

VI. Future Council Meetings will begin at 9:30 a.m., with a breakfast buffet at 9:00.

May 2, 2015
June 6, 2015

Grand Rapids – Amway Hotel
Ann Arbor - Weber's Inn

VII. Adjournment

Respectfully submitted,
Robert Treat, Recording Secretary
April 11, 2015