

STATE BAR OF MICHIGAN FAMILY LAW
COUNCIL

MINUTES [CORRECTED 5 March 2022]

Date: 9 October 2021
Location: Park Place Hotel, Traverse City, Michigan
Time: 9:30 a.m.

I. Administrative Matters

- A. Chair Chris Harrington called the meeting to Order at 9:32 a.m. A Quorum was present, with 15 Council Members in attendance.
- B. Introductions of Attendees:
 - 1. Council Members Present: Shelley Kester (Chair-Elect), Liisa Speaker (Corresponding Secretary), Kristen Robinson (Treasurer), Don Wheaton (Recording Secretary), Matt Catchick, Steve Reinheimer, Peter Kulas-Dominguez, Kristen Wolfram, Alicia Storm, Randy Velzen, Randy Pitler, Jenny Johnsen, Steve Heisler, Josh Pease, and The Hon. Tina Yost-Johnson.
 - 2. Council Members Absent: Viola King, Anthea Papista, Amy Spilman, and Gail Towne.
 - 3. Council Members Excused: Jim Chryssikos and Sean Blume (COVID-19-related).
 - 4. Ex-Officio, Former Council Members, Liaison, Non-Council Member Committee Chairs, and Lobbyists present: James J. Harrington III (former Chair), Stephanie Johnson (Lobbyist), and Liz Bransdorfer (former Chair).
 - 5. Guests: Erin Magley (Ottawa Co. Referee), and Keela Johnson.
- C. Chair Report – Chris Harrington
 - 1. Creation of an *Ad Hoc* Committee: Another shared parenting/50-50 Bill is in the works. Chris is establishing an *ad hoc* committee to deal with the proposal that comes out, and if that bill dies the committee will continue to work to a conclusion if it determines that the statutes should be modified (and how they should be modified). The issue isn't going away, and Chris wants a constructive response and actual language for a counter-proposal. Shelley Kester will Chair the *ad hoc* committee, and it will have a limited roster of membership. Recommendations will be brought from that *ad hoc* committee to Council for consideration.
 - 2. New "Excused" Absence in the Attendance Policy: In addition to excused absences for Council Members doing other State Bar business on the day of a Council Meeting, anyone who is quarantined or quarantining because of COVID-19 will also be excused.
 - 3. Reimbursement Increase: The Council will follow the same policies for reimbursements, but the maximum amount to be paid back to a Council Member will be capped at \$900. Lodging will be reimbursed up to and including the amount for the rooms reserved as part of the block.

Motion: Steve Heisler moved to adopt Chris's recommendation to increase the reimbursement limit, and Tina Yost-Johnson seconded. Discussion included what our Council's expenses have been in the past 18 months; participation by Zoom/broadcast on Zoom even though in person; committee work is where most of the activity and

- participation in Section business occurs (and those are on Zoom or by teleconference); in-person interaction is significantly more valuable (body language, know who's listening in, communicate more clearly and effectively, caucus/discussion between members, etc.); the quality of the decisions made is markedly better when meeting in person; and the connections made during the in-person meetings are invaluable. And we still have the option to switch to Zoom for safety reasons (e.g., snowstorm). Other suggestions for incorporating Zoom were made and discussed. **Vote: 15-0-0**
4. Bob Treat Memorial Luncheon: Chris announced that on December 4 at Weber's Inn following the Council Meeting, the Section will honor Bob Treat (former Chair who recently passed away). Liz Sadowski and Joe Cunningham, in conjunction with Chris, have been in discussion with Bob's family to try to set this up. **Motion:** Shelley Kester moved and Liisa Speaker seconded to have the Memorial luncheon following the 4 December 2021 Council Meeting, to include an expenditure of about \$20/person for food service and a \$100 e-blast to all Section members. Discussion: We are already allowed to extend 1.5 hours on our current reservation at Weber's Inn; potential change to a Continental Breakfast before the 4 December meeting and have a brunch instead to help reduce the overall costs; those who want to attend the luncheon pay the \$20, to alleviate any financial concerns; precedent set; potential future honorees; and further potential underwriting of/contribution to the costs. **Vote 15-0-0.**
 5. Parliamentarian: Ross Stancati has resigned from the role of Parliamentarian. Contact Chris Harrington if you are interested in filling that role.
- D. Recording Secretary Report: The Minutes from the 18 September 2021 Annual Meeting and 18 September Council Meeting had been circulated. **Motion:** Don Wheaton moved their approval and Kristen Robinson seconded. **Vote: 15-0-0**
- E. Corresponding Secretary Report: Liisa will write a thank you to Ross and get something from American Spoon Foods.
- F. Treasurer's Report: Kristen has not yet received anything from the State Bar. Kristen requested that if anyone has reimbursement requests relative to the meeting in Traverse City, that they submit them at their earliest opportunity.

II. Key Committee Reports

- A. *Legislative:* Randy Velzen presented for the committee, as Jim was unable to be present because he was in quarantine. The Committee had its usual vigorous discussion, including:
 1. considerations of amending the State Constitution to include language that the "best interests of the child are paramount to the parent." The Committee recommended Council oppose the resolution for many different reasons, including constitutional concerns, that different best interests standards exist (and those can be amended by the Legislature), and the language is parent-focused and not child-focused. **Motion:** Don Wheaton moved for the Council to oppose the resolution, and Alicia Storm seconded. Discussion on the motion included that the Council should explain why it opposes such language when it voices its opposition. **Vote: 15-0-0.**
 2. A bill introduced on 6 October 2021 recommendation that all State court records and hearings be open to the public and must not redact any individual's date of birth. "All records" could include Verified Statements that include Social Security Numbers.

Motion: Randy Velzen moved for the Council to oppose this bill, unless Family Court, Probate Court, PPOs, and Juvenile Court records are excluded, and Josh Pease seconded. Discussion on the motion included what constitutes protected information and the struggle the Courts have had implementing earlier legislative changes regarding including/not including birth dates. The business community apparently is up in arms because they can't skip trace as easily, and they want to preserve the status quo. **Vote: 15-0-0.**

3. A group of bills have been introduced to make language gender-neutral for foreign marriage, secret marriage, and UCCJEA (from H to spouse, e.g.). **Motion:** Randy Velzen moved for Council to support these bills, and Kristen seconded. **Vote: 15-0-0**
 4. Randy reported on the creation of the Uniform Pre- and Post-Nuptial Agreement subcommittee and he invited and welcomed participation.
 5. Randy reported that Liz Sadowski's and Dion Roddy's hard work is resulting in a soon-to-be-introduced bipartisan and bicameral set of bills for legalization of surrogacy in Michigan.
 6. Randy touched on the new bills to be introduced 50/50 presumptions, etc., and that the Legislative Committee will be happy to hand this topic and discussion to the new *ad hoc* committee Chris Harrington created. Stephanie Johnson explained that shared parenting groups are insisting on a presumption of 50/50 and a clear and convincing standard to overcome the presumption. This group seems better organized and ready to push on the Legislature, and they are trying to dress up their proposal as *not* Runestead's bill (even though it really is). The current two sponsors say they are open to discussion. We must be mindful of statistical manipulations, too. Domestic Violence and Poverty Law groups have used and updated this Council's "skinny bill" (endorsed a couple of years ago), with the exception that the only Parenting Time plan to be recognized is the State-approved one that emphasizes no presumptions and no one-size-fits-all parenting time plans. Further discussion included how terminology matters, reframing the question/flipping the focus, and cleaning up the language in forms and court rules.
- B. *Amicus*: Finalizing the Amicus Brief in *Versalle* and likely will be submitted next week. *Foster* and *Versalle* are on for oral argument the same day, after our November Council meeting.
- C. *Court Rules*: ADM File 2020-08 – the Committee had some technical concerns with the proposed amendments, especially sequestration of witnesses and children, and to encourage/require Courts to be explicit in clarifying what their policies are about using Zoom “to the largest extent possible” and how it applies for litigants and attorneys. The Committee recommended and **Motion:** Jenny moved for the Council to support the amendments/ADM 2020-08 with clearing up the sequestration issue in 2.407(G), and Tina Yost-Johnson seconded. Discussion on the motion included the ironic observation that COVID-19 increased access to justice. Additional extensive discussion and recapitulation of the pros/cons of in-person and Zoom virtual hearings. **Vote: 15-0-0**
- D. *Dedicated Family Law*: This Committee's report was shared via email before the meeting.
1. State-Level Councils and Workgroups: Our applicants for the Supreme Court's new Judicial Council were not selected. Tina met with Justices Clement and Cavanagh regarding this. Tina is now therefore chairing the Juvenile Justice Law Group, getting our foot in the door because we have no representative on the Judicial Council. Josh Pease is on a workgroup for the Governor's Task Force, along with three Referees we

- recommended, and another family law Judge. We are trying to emphasize and get the Supreme Court not to bifurcate family law issues, to get a true family law workgroup. Liisa is releasing a book soon with case studies that hopefully will assist in showing how necessary a dedicated family law bench is. An intern from Albion College has been identified to analyze data about family law Judges and their prior practice history, prior training, and how many times they have been overturned, etc. The Committee urges family lawyers to apply for work groups, task forces, etc. at the State level – eventually we'll get more people on them.
2. Shared parenting time bills: The Committee's position is that the law isn't broken, the results families get are because we truly don't have one family, one court, and that we don't have particularly well-trained family law judges, so the law gets misapplied far too often. The solution is to endorse emphatically the Dedicated Family Law Bench. We don't want the wrong Judges in the wrong place. If you have the right Judges applying the right law the results will be better and more consistent. We acknowledge we must grandfather the Judges already appointed (who may want to shift off a family bench), but Chief Judges have to be absolutely transparent that a position that is opening is a dedicated family law position or something else. Too many times a position is advertised as a general position and then immediately "converts" to a dedicated family law judge spot. Stephanie is concerned that the proposed legislation is "here and now" and at the ready, and the Committee's work needs to be done and approved by Council within the next month. Tina pledged for that to happen, and Liz B. said she has found "the thing that needs to be changed" at SCAO to help achieve this committee's objectives.

III. Standing Committee Reports

- A. *Adoption*: Working with the Probate Judges Association to push for legislative changes to provisions of the Adoption Code, particularly Section 45.
- B. *ADR/Collaborative*: No report.
- C. *Annual Meeting*: If you have any thoughts about or suggestions for next year's location and date, shoot Shelley Kester a message.
- D. *CLE/ICLE*: Materials were due for FLI on 7 October, several Council members are speaking.
- E. *Domestic Violence*: No report.
- F. *Family Court Forum*: No report. The question was raised as to whether this will be rebooted, or whether it will be another casualty of COVID-19.
- G. *Family Law Journal*: No report. Chris Harrington urged everyone to submit articles and reminded Council members of their publication requirement (one article during your term is the minimum, and case summaries can serve as your "article").
- H. *Family Law Journal Advertising*: No report.
- I. *Family Support*: No report.

- J. *Member Education and Public Relations*: they will circulate when they are going to meet.
- K. *Membership*: No formal report. Steve discussed an appropriation for “swag (trinkets and trash).” **Motion**: Steve Reinheimer moved for \$500 authority for swag to be distributed at the Family Law Institute, and Shelley Kester seconded. **Vote: 14-0-0** (Jenny Johnsen had to leave)
- L. *Midwinter/Midsummer*: Liz Bransdorfer reported that the results are not finalized, yet Midsummer made a slight profit for the Section. Kristen Robinson reported that some time ago, there was a stipend for the Chair to attend the midwinter conference. Then the State Bar said, we couldn’t do that, but we could give a discount to the Chair. So, now, there’s a \$3,500 discount for the chair to attend the Midwinter Conference. There was no discount last year because of COVID-19, so **Motion**: Kristen Robinson moved for approval for Sahera Housey and Chris Harrington to receive discounts to attend the 2022 Midwinter Conference, and Don Wheaton supported. Peter Kulas-Dominguez and Kristen exchanged observations about the resort location and its welcoming nature or lack thereof, and this vote was distinguished as a vote for the discount versus a vote in favor of the location itself. **Vote: 11-1-2 (Storm, Pitler)**.
- M. *Political Action Committee*: Matt Catchick reported that one check was received today, and he urged more giving. Matt also will come up with a “creative” way to recognize donors.
- N. *QDRO/Taxation*: No report.
- O. *Technology/Social Media*: Our current Listserv host is “out” in 22 days. The Committee met with the current provider to develop a solution, which will cost less on a monthly basis but there will be some one-time charges to try to move the entirety of the listserv participants and archive to the new service. However, the new service requires a credit card payment, so someone will have to pay it and be reimbursed, hopefully annually over monthly. **Motion**: Steve Heisler moved to approve annual fees of \$561 for the new listserv and a one-time charge of up to \$725 to make the transition (godaddy is the domain, mailmanpost.com is the server), and Tina Yost-Johnson seconded. **Vote 14-0-0**.

IV. Ad Hoc Committees

- A. SCAO Child Support: No report
- B. SCAO Forms: No report
- C. Shared Parenting: (See above – Shelley will chair, Chris and Shelley will flesh this out)

V. Liaison Reports

- A. Children’s Law Section: Josh Pease is our new liaison, and the CLS just had its annual meeting.
- B. Committee on Civil Procedure and Courts: No report
- C. LGBTQA Section: Its new chair is Angie Martell, and she has an ambitious agenda.
- D. Probate and Estate Planning Section: No report
- E. State Bar Board of Commissioners: No report

VI. New Business

- A. Jim Harrington spoke about the IAP that is coming within the next year, and admonished all of us in private practice to get a succession plan in place. The Bar has forms available. Fees are to be imposed on private practitioners only, and the thought process is \$200,000-300,000 that will need to be raised to fund it.
- B. Tina Yost-Johnson is also on the Council for the Native American Law Section, and encouraged a liaison relationship with other Section Councils. For our Council to add liaisons from other sections that would become non-voting Council members, we will have to change the bylaws so plenty of advance notice will be required (by May of each year, so the proposals can be aired in time for voting in September at the Annual Meeting).
- C. Steve Reinheimer noted the woeful situation in the Wayne County Clerk's office, and asked for it to be added to the Agenda next month.

VII. Announcements

Chris Harrington informed that the Crowne Plaza Lansing West was not available for the November meeting of Council. Accordingly, we will be housed at the Courtyard by Marriott.

VIII. Adjournment

Tina Yost-Johnson moved to adjourn, and Josh Pease seconded. The meeting was adjourned at 12:19 p.m.