

## AMENDED MINUTES - FAMILY LAW COUNCIL, FAMILY LAW SECTION

Date: January 28, 2012

Place: East Lansing, MI

### Attendance:

○ **Council Members Present:** Anne Argiroff, Elizabeth Bransdorfer, Carol Breitmeyer, Chris Harrington, James Harrington, III, Elizabeth Kitchen-Troop, Matthew Kobliska, Donna Mobilia, Toni Raheem, Steven Reinheimer, Traci Rink, Kristen Robinson, Erika Salerno, Rebecca Shiemke, Connie Thacker, Gail Towne, Stacy Van Dyken, Kent Weichmann

○ **Absent:** Neil Colman, Richard Halloran, Ross Stancati

○ Guests: Lori Herr, \_\_\_\_\_, Joan Young, Matt Smith, Bill Kandler, Jan Otto, Liisa Speaker, \_\_\_\_\_, Lori Pourzan, Sahera Housey, Patricia Ouelette

○ **Ex-Officio:** Elizabeth Sadowski, Meri Anne Stowe

### I. Administrative Matters

A. Call to Order: The meeting was called to order at approximately 9:30 AM.

B. President:

- House Bills
- Update on the status
- Ex-Officios

C. **Treasurer:** Treasurer's report is passed - unanimous; suggested change re: the receivables; go directly to State Bar

D. **Recording Secretary:** Minutes are approved as revised - unanimous

### II. Standing Committee Reports:

A. **Legislation.** Kent Weichmann

● HB 4778 - \_\_\_\_\_ physical custody worse then prior because now it doesn't matter where parents are living, far away, close doesn't matter unless "until"; recommendation: motion to approve; unanimous (18)

● SB-167 - second parent adoption; slight differences from prior HB; they will look into this; married to or filing a petition; recommendation: support bill in \_\_\_\_\_, but we like HB better; recommendation: passed unanimously (18 commitments); tabled the balance didnt

B. **Court Rules.** Carol Breitmeyer.

● 2012-01 - Supreme Court Appointment to the Court Reporting and Recording Board of Review; issued: 2/01/12; term: completion of a term to end March 31, 2013

● 2004-55 - Amendment of Rule 3.211 of the Michigan Court Rules; issued 2/01/12; effective 5/01/12

● 2010-15 - Amendment of Rule 6.005 of the Michigan Court Rules; issued: 2/01/12; effective 5/01/12

● 2011-30 - Proposed Amendment of Rules 5.801, 7.120, 7.103, 7.108 and Rule 7.109 of the Michigan Court Rules; issued: 2/01/12; comment period expiration: 5/01/12

- 2012-05 - Adoption of Rule 3.616 of the Michigan Court Rules; issued: 2/01/12; effective: 4/01/12; comment period expiration: 5/01/12

- Regarding the proposed Default rule at 3.210; this proposal was thoroughly discussed and worked on last year. Jim Harrington and others worked with Judge Young and Judge Feeney. It turns out they (and MJA) did not adopt our exact recommendation. The “offensive” language “not otherwise admissible” was included. Recommend a letter to go out gently stating the same and suggesting that they have our support if the rule is reconfigured as per our initial proposal. Jim Harrington has had many follow-up emails with the Judges regarding the default amendment. We will support or original position and write letter regarding same. Unanimous support.

- Domestic relations/arbitration. We did not like this proposal at all. While we acknowledge time guidelines are essential, we feel this unduly burdens arbitrators by heavy use of sanctions, broadens responsibility to include (potentially) motions and drafting of Judgments of Divorce. Judge Young may be available to address this. Time frames could be unrealistic and not fashioned to specific cases and problems, i.e. delay often the parties’ fault or based on complexity. We ask that the proposal be withdrawn. Just set it aside and set up a work group willing to serve. Motion to oppose. Also recommend we solicit Ron Bookholder and Toni Raheem for some input since it is ADR.

- Solicitation issue: 7.3: letters are coming in, keep it up. No opposition yet.

- Standards of practice. This was a big decision. My motion was to recommend a letter stating that we like the aspiration nature, but are concerned re: burdens and liability on the mediators.

C. **Adoption.** No Report

D. **Alternative Dispute Resolution.**

- mediation is better, faster, cheaper

E. **Alternative Family.** No Report

F. **Amicus.** 12 months to six month time period reduction; appellate law section; may seek the Supreme Court to look again at this

- (Liisa Speaker) “Final Order” Rule:

- Speaker gave the history of the 6 month rule

- She wants us to consider supporting 6-12 month rule extension (delayed application)

- Publication issues/who can request

- Want the ability to have state bar organizations to request publication

G. **Annual Meeting.**

H. **CLE/ICLE.** No Report

I. **Domestic Violence.** Short report

J. **Family Court Forum.** No report

K. **Family Law Journal.** No report; let Kristin /Ken if ideas about advertisers

L. **Family Support.** No report.

M. **Membership/Mentor Roundtables.** Ongoing discussion re: mock trial at Cooley

- N. **Midwinter/Midsummer Seminars.** Homestead will be the venue, July 19-22; Liz B will volunteer to help; Sahara H will volunteer to help
- O. **Political Action Committee.** No report
- P. **QDRO/Taxation.** No report
- Q. **Technology.** Remind re: ABA tech show in Chicago
- III. Ad Hoc Committees
  - A. **Resource Allocation Committee.** No report
  - B. **Parenting Coordination.** Looking
  - C. **Unauthorized Practice of Law Committee.** No report
  - D. **Equal Justice.** No report
- IV. New Business.
- V. Old Business. Legal aid available. One response so far. They sent it all across state.
- VI. Judge Young and Meri Anne Stowe
  - A. Access to court records, been working for years; new proposed rules for how to file/access court records. Concerns re: confidentiality re: kids - domestic relations cases
  - B. Digital issues
  - C. Concerns re: petitions being reviewed by public
  - D. Supreme Court work group formed to address the sensitive issues re: privacy/confidentiality to protect children

Judge Young: "Access to Records Com" initially started out to define terms, etc.

ADM (206-47) look at them. Family Law Judges Association is looking at them. Chapter of MJA. They then looked at statutory changes that might be wise. Proposal: 600.1427 (22) "all family records will be non-public"

with children

2<sup>nd</sup> work group exists

- to protect permanency for children

Joan Young believes that the time has come to say these records need to be non-public.

Young is deeply concerned about id theft and third parties accessing your private information

Looks at the balancing act...how to determine what should be private versus public

She wants the discussion

Another issue: OCCC Local Court Rule; upshot: get these issues on the court rule, legislation and tech committees

- General feeling should be provided to Judge Young (re: open files versus safety for children)
  - Let Judge Young know if thoughts on these
  - Think re: "Record of Actions" versus all documents in the file
- VII. Contributions re: Jon Ferrier and Mike Lay
- Seeking donation in memory of Jon Ferrer; move for \$750 to Western Michigan Legal Aid; 17 in favor
  - \$250 in memory of Mike Levy to Hospice; 17 in favor
- New Business:**
- In Re Mays - just came down
  - "I parent doctrine"
  - Affirm and reverse in part
  - Support Legal Aid!

Meeting adjourned at \_\_\_\_\_. Next Meeting: **Saturday, March 3, 2012** at Amway Grand, Grand Rapids, Michigan. Breakfast is available at 9:00 a.m. and meeting at 9:30 a.m.

Respectfully submitted,

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Carol F. Breitmeyer  
Recording Secretary

DATED: February 9, 2012