

**MINUTES – FAMILY LAW SECTION
COUNCIL MEETING**

Date: April 9, 2016

Place: Weber's Inn, Ann Arbor

I. Administrative matters

A. Call to Order and Welcome

Chair Carol Breitmeyer welcomed everyone and called the meeting to order at 9:30 am. Twenty council members were present: Dan Bates, Liz Bransdorfer, Carol Breitmeyer, Matt Catchick, Jim Chryssikos, Shon Cook, Dick Halloran, Chris Harrington, Sahera Housey, Matt Kobliska, Peter Kulas, Vanessa Moss-Wilson, Anthea Papista, Steve Reinheimer, Kristen Robinson, Gail Towne, Bob Treat, Randy Velzen, Kent Weichmann and Tina Yost.

Ex-Officio and former council members: Amy Yu, Anne Argiroff, Barb Kelley and Carlo Martina.

Guests: Lisa Geherin, ICLE; Stephanie Benedict; Hon. Douglas Dossen; and Bill Kandler, KRKM.

B. Chair Report

Carol reported how impressed she continues to be with the large amount of work that the section is getting done – particularly through its committees – and expressed her appreciation to the Council and section members. She highlighted The Domestic Violence group meeting in Ann Arbor; increasing membership, especially among young attorneys; results oriented fee enhancement; and the possibility of Court Rules for collaborative cases.

C. Approval of Minutes

Liz Bransdorfer moved for approval of the minutes of the March, 2016, meeting as circulated, with the date correction for the Domestic Violence meeting in Ann Arbor to April 14, as noted by Sahera Housey. Dick Halloran seconded and the minutes were approved.

D. Treasurer's Report/Finance Committee

Kent Weichmann noted that we have not received any updated reports from the State Bar, so there is no detailed treasurer's report this month. The Section appears to remain solvent.

II. Key Committee Reports

A. Legislation

Kent Weichmann moved, Dick Halloran seconded the motion to oppose **SB 858**, as recommended by the Committee. SB 858 amends the Revocation of Paternity Act to allow a woman who can prove by clear and convincing evidence that her child was conceived as a result of first, second or third degree CSC to revoke the paternity of the offending father. This would allow the rapist to escape any further obligation for child support. The committee did not think this was appropriate, particularly if the child is supported in whole or in part by public assistance. After discussion the motion carried 14-3-2.

Kent Weichmann moved, Randy Velzen seconded the motion to oppose **HB 5520**, as recommended by the Committee. HB 5520 eliminates the requirement that a judgment of divorce extinguish dower. This is the House version of SB 559, which has already passed the Senate over our late objections. Dower requires the wife to be given notice of any transaction regarding the husband's real estate. Council's position has been that when dower is eliminated it should be replaced by a gender neutral notice procedure to protect both spouses. This bill does not do that. The motion carried 19-0.

Council also considered two drafts of bills:

Divorce Confidentiality would create a new statute, MCL 552.22a, which would make the record of a divorce proceeding confidential, and criminalize any disclosure of the record without a court order. This would ensure the secrecy of all divorce proceedings. Even the parties would need a court order to disclose any part of the record.

Council recognized that some information has been inappropriately placed into the record by pro se parties or misguided counsel, and that several well respected support strict confidentiality, but agreed with the Committee rationale that this proposal was far too broad. Keeping court records public is a safeguard against bias and corruption, and making divorce records secret will cast suspicion on the court. Kent Weichmann moved, Dick Halloran seconded the motion to adopt the Committee recommendation that Council oppose this bill, but volunteer to work on a proposal to keep improper material out of the record. The motion carried 20-0.

Post judgment arbitration. The committee revisited our support of the suggested amendment to the DRAA to allow a divorce judgment to include a provision to arbitrate personal property of the parties, while retaining its status as a final judgment, appealable as of right. Kent Weichmann moved, Dick Halloran seconded the motion to support the proposal. The motion carried 19-0-1.

B. Court Rules

ADM File No. 2014-09: Matt Kobliska reported that the Supreme Court adopted an amendment to MCR 2.119, 7.212 and 7.215, requiring a party citing an unpublished decision to explain the reason for using the unpublished decision and how it is relevant.

ADM File No. 2014-03: Anti-nepotism policy to limit superior/subordinate family relationships within the courts. This is not a family law issue, so no one moved to take a position on the matter.

ADM File No. 2014-34: regarding service of documents on prisoners. The Dep't of Corrections vigorous opposition to this proposal reportedly means it is not going to be adopted.

State Bar Representative Assembly proposal to modify MCR 8.119, making it easier to seal materials contained within a file using MCR 2.302's protective order process. This will be discussed and up for a vote at the April 30 meeting. Matt Kobliska moved that the Section support the Committee's recommendation and support the proposal. Tina Yost seconded and the motion carried 20-0.

State Bar Representative Assembly proposal to modify MRPC 7.2 to require lawyers advertising on billboards and websites to include the name of the firm and/or attorney. This will also be discussed and up for a vote at the April 30 meeting. Matt Kobliska moved that the Section support the Committee's recommendation and support the proposal. Dick Halloran seconded and the motion carried 17-1-1.

State Bar Representative Assembly proposal to modify MCR 5.125 regarding guardians ad litem in probate cases. Noting that this does not apply to family division GAL's Matt Kobliska moved that we take no position. Dick Halloran seconded and the motion carried.

Liz Bransdorfer will be attending the Representative Assembly meeting (as a representative of the 17th Circuit) and will let the Assembly know of the Section's position on the two items we voted to support.

C. Amicus

Anne Argiroff reported that the oral argument in Allard, in which the Section filed an amicus brief, went well. The Justices seemed interested in the issues we raised, especially the question of a party's ability to waive the court's authority.

III. Standing Committee Reports

A. Adoption

Stephanie Benedict reported that Herb Brail and Judge Kathleen Feeney testified in support of legislation to “correct” the problem underlying the decision in In re: AJR, about involuntary termination of parental rights for no contact/no support, but where the parties share joint legal custody.

There was discussion about the standard now necessary to successfully appeal MCI review decisions in foster care adoptions prevent any appeals from being successful, and the need to find a sponsor for legislation and/or connections at DHS to help.

B. Alternative Dispute Resolution

Randy Velzen reported that there is a lot of activity. There is an April 15 meeting with SCAO on court rules for collaborative cases; a meeting with SCAO on getting more ADR available through the Friend of the Court offices; work to try to get the State Bar ADR Committee to allow us into the process of discussing new policies for virtually automatic ADR; and work to remind all participants of the confidentiality rules regarding ADR.

C. Alternative Family

Peter Kulas reported that there has not been a meeting of the Committee, but he is following up with Peter Cunningham about the status of legislative corrections. Dick Halloran noted that there is interest in forming an LGBTQ Section of the State Bar and passed around a sign-up sheet for anyone interested in seeing that formed. The State Bar Board of Commissioners can approve the new Section at their July meeting if at least 50 State Bar members request it.

D. Annual Meeting

The 2016 Annual Meeting will be in Grand Rapids, with dinner on Wednesday night (9/21) at a location to be determined, probably at the Amway Grand Plaza Hotel and meetings and election on Thursday morning (9/22) at the DeVos Place Convention Center. For advanced planners, the 2017 annual meeting will be at the Cobo Center in Detroit on Thursday and Friday, September 27 and 28; [and 2018 back in Grand Rapids; and 2019 at the Suburban Collection Showplace in Novi.]

E. CLE/ICLE

Lisa Geherin reported that planning for the Family Law Institute is almost complete. It will be November 10 and 11, 2016 at the Suburban Collection

Showplace in Novi. There are still a couple of spots for speakers. The section was asked to sponsor the new lawyer pricing again, offering reduced rates of \$95 instead of \$195 for 50 new lawyers. The sponsorship costs \$2,500. Liz Bransdorfer moved to sponsor. Randy Velzen seconded and the motion carried 20-0.

F. Domestic Violence

Dan Bates reported that the Batterer Intervention Standards group is meeting in Ann Arbor on April 26. They hope to get proposed legislation to our Legislative Committee for assistance.

G. Family Court Forum

Bark Kelly reported that the 2016 forum will be June 10. The topic is unmarried (never married) families. Invitations are starting to go out.

H. Family Law Journal

Anthea Papista reported that the April edition is being edited. She noted that Judge Dossen, who was in attendance, has an article in this edition. She also raised the issue of people who don't know how to access the Journal, perhaps aren't reading it now that it is electronic rather than print. Council discussed ways to disseminate information about the Journal to encourage more members to read and use it.

I. Family Law Journal Advertising

Kristen Robinson reported that part of the reason for Anthea's concern about people not reading the Journal was that she was hearing from advertisers that they are seeing a drop off in contacts they can trace to the Journal so are not renewing their ads. She joined the request that we try to come up with more ways to promote the Journal.

J. Family Support

Carlo Martina and Kent Weichmann reported that the new version of the Manual/Guidelines is about to be published.

K. Membership

Steve Reinheimer reported that the section has been asked to be a Gold Sponsor for the June 4, 2016, YLS Annual Summit in Novi. The cost is \$250. He moved to approve the sponsorship. Dick Halloran seconded and the motion carried. The date of the Summit conflicts with the June council meeting, so the By-laws have to be

consulted to determine if missing the council meeting to attend the Summit would be an excused absence.

L. Political Action Committee

Matt Catchick reported that there is \$26,783.87 in the PAC account. Carol asked if we could get something in writing explaining the parameters of allowable expenditures of PAC money (e.g., to whom and how much). She will ask Ross Stancati.

M. QDRO/Taxation

Bob Treat circulated a written report showing the number of cases assisted by the MI-LAPP QDRO program (52 currently open as of 1/21/16, which is at the upper end, but close to what has been done in prior years).

N. Technology/Social Media

No report. The weather prevented Liz Sadowski from getting to the meeting.

O. Mid-Winter/Mid-Summer Seminars

Kristen Robinson reported that she is pre-booking for the 2017 Mid-Winter, which will be February 4-11 at Zoetry Agua Punta Cana in the Dominican Republic. This is a 90 room, award winning all-inclusive resort. The cost will be only about \$6,400 for 2 people, with a direct flight to and from Detroit. Kristen moved to approve the necessary expenditure to reserve the resort (all of which will be repaid to the section by people attending). Dick Halloran seconded and the motion carried.

Liz Bransdorfer reported that the planning for the Mid-Summer is well along. We are working to get an additional reception sponsor and will have the final schedule and mailing out in early May as usual. The seminar is July 27-31, at the Grand Traverse Resort. You may book your rooms now. The Traverse City Film Festival is reportedly in town that weekend.

IV. Ad Hoc Committees

A. SCAO Forms Committee

SCAO is working on a new Verified Statement, with a more expanded application for IV-D services section, including provision for confidential addresses. Oakland County now has a 4-page application.

B. Comments from Rep Assembly, SBM/ICLE attendee

No report (Rep Assembly items addressed in Court Rules Committee report; ICLE update in CLE/ICLE report).

C. Ad Hoc Committees: PR Committee “Mandatory 50/50 Update

Because Liz Sadowski is not here, the PR Committee report is deferred. Kent, Randy and Liz were able to attend a reception for Representatives VanHuelen and Afendoulis hosted by Bill Kandler’s firm. They had good, productive conversations and it appears that there is not significant support in the Republican caucus to move the 50/50 bill this session. Material on the proposal, if it moves forward, is being compiled and will be shared with Council members.

V. Announcements

Randy asked if Council is permitted to endorse judicial candidates. The consensus answer was “no” but individual council members are allowed to.

Carlo reported that there will be Basic Collaborative Practice training in Novi and the Suburban Collection Showplace on April 19-21.

VI. Next Meeting [or Future Meetings]

Saturday, May 7, 2016, University Club, Lansing
Saturday, June 4, 2016, Weber’s Inn, Ann Arbor

2016-17 Council year tentative meeting schedule

September 21, 2016, annual dinner, Amway Grand Plaza, Grand Rapids
September 22, 2016, annual meeting and elections, brief council meeting, DeVos Place, Grand Rapids
October 8, 2016, Weber’s Inn, Ann Arbor
November 11, 2016, Suburban Collection Showplace, Novi (following FLI)
December 10, 2016, Doubletree, Novi
January 21, 2017, University Club, Lansing
February 4-11, 2017 Mid-winter, no council meeting
March 4, 2017, Doubletree, Novi
April 1, 2017, Amway Grand Plaza, Grand Rapids
May 6, 2017, Weber’s Inn, Ann Arbor
June 3, 2017, University Club, Lansing

VII. Adjournment

Respectfully submitted,

Liz Bransdorfer, Recording Secretary