

**Minutes - Family Law Council, Family Law Section**  
**Family Law Section Meeting, Saturday, December 5, 2009**  
**Location: Doubletree Hotel, Novi, MI**

**Attendance :**

- ° **Council Members Present:** Anne Argiroff, Carol Breitmeyer, Neil Colman; Lorne Gold, Hon. Richard Halloran, Jules Hanslovsky, James J. Harrington, III; Barbara Kelly; Donna Mobilia; Philip Navarre, Antoinette Raheem; Traci Rink; Kristen Robinson, Erica Salerno, Liisa Speaker, Connie Thacker; Robert Treat, Elizabeth Kitchen-Troop; Kent Weichmann; Amy Yu.
- ° **Ex Officio & prior Council members:** Carlo Martina, Edward Gold, Elizabeth Sadowski, Ross Stancati
- ° **Guests:** Zanel Brown, William Kandler, Hon. Joan Young, Christopher Harrington, Pat Oulette, Sahera House, Rebecca DeCoster.

**I. Administrative matters:**

A. Call to Order: 9:45 a.m. Introduction of Council Members & Guests.

B. Chairperson Person Report - **Barbara Kelly:**

1. The Council may be sending one or more representatives, including B. Kelly & K. Weichmann, to the Tuscola County Bar Association meeting on January 8, 2010, weather permitting.

2. Cooley Law School may have a Sections Fair, and we may send member(s) to attend, if there is sufficient interest. Furnishing high-lighters is popular and appreciated. By Motion & 2<sup>nd</sup>, Council unanimously voted 20-0 to approve \$250.00 to support the Cooley Fair.

3. B. Kelly will be appearing on H. Gornbein's "Practical Law" program. (Congrats Barb !)

4. There will be the opportunity for the Executive Board to attend a special session of "Dealing With The Media" in Farmington Hills.

C. Recording Secretary report:

**James J. Harrington, III:** By Motion, with second, the November 7, 2009 minutes were unanimously approved, 20-0.

D. Special Guest & Report: **Hon. Joan Young.** Judge Young, Oakland County Family Court is Chair of the Rules Committee of the Michigan Judges Association. Two years ago the MJA made a proposal regarding revisions to

the Default Judgment Court Rule. However, what evolved and circulated from Lansing regarding the proposed changes to the Court Rule did **not** accurately set forth the position of the MJA, and in some respects the MJA opposes the current proposal. It is important that the Court Rule specifically deal with the unique needs of Divorces/Family Law and that there be a task force/working group with representatives from all interested groups, including the MJA, and the Family Law Council. J. Harrington and A. Argiroff, Court Rules & Ethics Committee, agreed to meet with Judge Young to further discuss the task force/work group approach.

**Judge Young:** also discussed “forms” and how they can be very helpful to in pro per litigants if they are on a website.

**E. Gold:** many, many years ago we attempted to place an Asset Restraining Order on the face of the Summons itself.

**C. Martina:** There should be a presumption of irreparable harm in Family Law cases.

E. Treasurer’s Report:

**Connie Thacker:** No formal reports available, but recent recaps indicate receipts of \$103,000.00 and expenditures of \$36,000.00 with an account balance of \$178,000.00.

## II. Standing Committee Reports:

A. **Adoption: Liisa Speaker.**

No report.

B. **Alternative Dispute Resolution:** The comprehensive ADR Report was reviewed and accepted by Council, and also summarized the November 23, 2009 extensive telephone conference.

1. **Antoinette Raheem:** There is a Regional competition that has requested our support. It will involve something like Moot Court, and include advocates, parties, and mediators. By Motion and 2<sup>nd</sup>, Council unanimously approved \$500.00 be allocated to support the Regional competition. We will also be named an official sponsor of the competition.
2. **Proposed Court Rule on Confidentiality in Mediation.** Discussion regarding the pros and cons of strict confidentiality in Mediation. J. Harrington requested that Council members provide feedback and input to the Court Rules/Ethics Committee. Time urgency here, so immediately referred to CR/E Committee, with recommendations and a Motion by way of Electronic Voting in time for the deadline for comment, and prior to the mid-Winter meeting.

C. **Alternative Family: Carol Breitmeyer:** No meeting in year, but we are working on establishing a consensus on “goals”. We want our final product to be something tangible. We are concerned and interested in the property rights of unmarried persons. Ken Burns has some bills introduced on these

issues.

**R. Halloran.** There are some issues with these concepts, such as “it’s against public policy for children to have 2 fathers.”

D. **Amicus: Liisa Speaker.**

We should get our Amicus policy on the website. Sandy Barger should be contacted for assistance in this regard. The Amicus Committee report submitted to Council was discussed and accepted by Council, including (1) an update on *Vylatel-Rivard v Rivard* (2) discussion of the current status of *VonOpel v VonOpel*. By Motion & 2<sup>nd</sup>, Council voted unanimously **not** to file an *amicus* brief on this case. (3) discussion regarding the *Tkachik* case and by Motion and 2<sup>nd</sup>, Council unanimously voted 20-0 to request Judith Curtis draft an amicus brief. (4) *Foster v Wolfowitz* has been contacted by the appealing party but has not received a formal amicus request. No Council action taken here.

E. **Annual Meeting:** No report.

F. **CLE/ICLE:** Shel Stark: final report not completed yet, but even in today’s economy, attendance was only down slightly, approximately 7%. Attendance from area Counties varied: Oakland County: down; Wayne County: up; Kent County - up. Judges attendance went from 36 to 25. Final report to issue shortly.

G. **Court Rules/Ethics Committee:** The extensive CR/E report was discussed and accepted by Council. **J. Harrington:**

1. The Court Rules & Ethics Committee will review and make recommendations on the extensive Court Rule Amendments that would essentially repeal the Cooper decision, make non-refundable retainers illegal, require written notification to clients prior to any IOLTA withdrawal illegal, and also make “bonus” payments in divorce cases illegal. Further discussion include: **C. Martina:** it has been the long standing position of Council that Justice Kelley’s Order on the Cooper Grievance is correct. Further, there should be some “middle ground” between the respective positions set forth in the proposals before the Supreme Court. **Neil Colman:** 98% of attorneys support Cooper.
2. Court Rules & Ethics will continue its consideration of an effective strategy to maximize chances of success in front of the Representative Assembly on the “trolling” issues. Extensive discussion and comments regarding “trolling”: **L. Sadowski:** This not just an Oakland County problem. We have received some response (but not a lot) from the list serv. **J. Harrington:** If this is a major priority for Council, then each Council member should consider obtaining 3 letters from clients, Judges, or other sources on this issue. **Ed Gold.** In New York all files are sealed. A solution may

be to limit access to records. **R. Halloran:** Recommends that we seek input and assistance from the State Bar Domestic Violence Committee. **K Weichmann:** While there may be Constitutional concerns, the very narrow restriction here limits the constitutional exposure here.

3. Court Rules & Ethics will consider, discuss, and make a proposal for an interim electronic vote on both the Mediation/Confidentiality Court Rule, as well as the Default Judgment Court Rule, and schedule an electronic vote, and communicate Council position prior to the scheduled deadlines of January 31, 2010.

H. **Domestic Violence:** No Report.

I. **Family Court Forum:** No Report.

J. **Family Law Journal:** No Report.

K. **Family Support:**

L. **Journal Advertising:** No Report.

M. **Legislation:** **Kent Weichmann:** We are seeking legislative support for limited standing of biological fathers in paternity cases.

N. **Membership/Mentor Roundtables:** No report.

O. **Midwinter/MidSummer Meetings:**

MidWinter Seminar. There will be 27 attorneys and 48 total, attorneys and spouses. It is sold out and we are all looking forward to St. Johns in Januaary.

MidSummer. Continuing to work on it, and will have suggestions/options for the next Council meeting.

P. **Political Action Committee: Neil M. Colman.** Keep the \$\$\$\$ coming ! You know where to send the checks. You know who you are !

Q. **QDRO/Taxation.** Robert Treat. We will continue to assist with training of Legal Aid Clinic attorneys.

R. **Technology:** E. Sadowski: Our technology committee is interested in input from Council members on issues that we can assist with. **K. Weichmann:** how difficult is it to get things on our website? Discussion re: a Council-wide Calendar, which could possibly be put on the website. Sandy Barger at State Bar could probably furnish valuable information here. There is terrific new technology, particularly the State Bar Journal prior issues which are now available "On Line".

### III. Ad Hoc Committees

- A. **Resource Allocation.** No report; previous allocations of \$250 to the Cooley Law School and \$500 to the Mediation competition affirmed.
- B. **Parenting Coordination. Richard Halloran.** There will be a meeting on January 23, 2010 with Dr. P. Ludolph; K. Weichmann will also be at the meeting.

**IV. New Business**

**C. Breitmeyer:** Attorneys need to be extremely careful regarding Internet scams involving attorneys being retained to handle unknown clients from foreign Countries. She just received a solicitation for \$800,000.00. **L. Gold.** The Feds just intercepted a check for \$275,000.00. This is very very serious stuff. Be careful !

By Motion & 2<sup>nd</sup> , the December 5, 2009 meeting concluded at 11:30 a.m.

The Next Family Law Council meeting is scheduled for Saturday, February 6, 2009 at the Webers Hotel in Ann Arbor, Michigan. Breakfast at 9:30 a.m. and breakfast immediately thereafter at 9:30 a.m.

James J. Harrington, III  
Recording Secretary

December 5, 2009