

**STATE BAR OF MICHIGAN
FAMILY LAW SECTION
MEETING MINUTES**

DATE: March 8, 2008

PLACE: The University Club, East Lansing

TIME: 9:30 am

Administrative Matters

A. Call to order:

The meeting was called to order by the Chairperson

B. Recording Secretary's Report:

The Recording Secretary reported that the February minutes will be presented for approval at the April meeting.

C. Treasurer's Report:

The Treasurer reported that the section income and expenses are on track to match last year's income and expenses.

D. Committee Reports:

Adoption Committee: No report.

ADR Committee Report:

The Committee indicated that they are attempting to collaborate with the ADR and the Family Law Section with respect to our annual meeting. As a result, subsequent to our annual meeting, there will be a presentation regarding practical skills, training with respect to ADR which will be a collaborative presentation between our two sections.

Alternative Family Committee:

The Committee reported that they are continuing their discussions regarding ideas and position papers regarding blood testing and similar topics dealing with more cost efficient mechanisms to establish parentage at birth.

Amicus Committee:

The Amicus Committee reported that there was no action necessary at this time regarding the Zimmerman case as the Committee is on hold seeking additional information from the Adoption Committee. Further, the Amicus Committee has not reached a final decision regarding its position with respect to the issues presented in the Zimmerman matter.

Annual Meeting:

The Annual Meeting Committee indicated that the Council business meeting will be held on **September 18, 2008**, and our dinner will be held on Wednesday, **September 17**, in Dearborn.

ICLE:

Court Rules:

The Committee reported that they conducted a meeting on February 12. The following items were considered and they are as follows:

1. **Agenda #1**--The Committee continued to consider Arizona Rule No. 43(45 day suppression of certain domestic relations files). The Committee concurred that there were serious problems presented by attorney's free access to public case filings and direct solicitations of clients who may not be represented, or even know that a divorce had been filed. However, the "Arizona 45 Day Rule" could be very problematic in terms of implementation administration because of (1) unknown but probably substantial costs; (2) the length of time, 45 days, is greater than necessary, and (3) possible constitutional issues associated with restricted access to public files.

Action: The Committee will draft a proposed modification of the MRPCs to address the improper solicitation issue and present same to Council for consideration at a future Council meeting.

2. **Agenda #2**—Asset-Liability Exchange – SCAO Form. The Committee agreed that a proposed SCAO Form regarding a mandatory exchange of asset-liabilities within a specified period of time after filing of a Complaint in a contested divorce case merits consideration and evaluation. There is wide variation between the various County Courts in this regard. A statewide form would assist in this process.

Action: The Committee will further investigate, evaluate, and prepare a proposed draft SCAO form for consideration by Council.

3. **Agenda #3**—Court Rule 5.215. Clarifies that parents are “interested persons” for purposes of notice when a petition for Guardianship is filed whether or not the alleged incapacitated individual has existing adult children. This Court Rule was adopted virtually immediately by the Michigan Supreme Court, but was referred by Council to the Committee for recommendations.

Action: The Committee unanimously recommends that Council express its support for the Amendment to 5.215 and so report to the SCAO and the Supreme Court.

4. **Agenda #4**—ADM 2006-10 (Default Judgments). This was referred to the Committee for consideration, but this Amendment to MCR 2.006-10 does not involve Family Law cases and does not appear to require further investigation or evaluation. This proposed Court Rule addresses whether negotiable instruments must be filed with the Clerk for cancellation when applying for a Default Judgment.

Action: The Committee recommends no further action be taken by the Committee or Council on this matter.

Agenda #5—Frivolous lawsuit sanctions: This matter was referred to the Committee for discussion and consideration, but this Amendment is within the purview of the Legislative Committee which has already made recommendations to Council, which have been previously considered.

Action: The Committee recommends no further action be taken.

Agenda #6—Proposed Model Act on representation of children in abuse, neglect and custody cases. (NCCUSSL Act). There is a vigorous discussion pro and con to issues associated with a proposed Model Act regarding representation of children. The Committee agreed that insofar as there is no pending legislation pending in Michigan which would address these issues or the Model Act, it is premature to become involved in detailed analysis of these issues.

Action: The Committee recommends Council take no action at this time.

Agenda #7—Other matters. The Committee discussed possible issues associated with the Court rule involving post Judgment transfers of

Domestic Relations cases in a situation where adjacent counties were involved. (ADM 2006-04 – MCR 3.204 & 3.212). A majority of the Committee concurred that there is no perfect solution for all contingencies, and that no further action was required.

Action: The Committee recommends no further Council action at this time.

Domestic Violence:

The Committee reported that they conducted a monthly meeting. However, they did not have any action items for the Committee.

Family Court Forum:

The Forum Committee reported that the Forum be held in Ann Arbor on **June 6th**, and the topic will be “Questions to Other Professionals.”

Family Journal:

The Journal Committee reported that they are in need of Journal articles and reminded the Council members of their requirement to publish one article during Council members’ three year term.

Family Support: No report.

Journal Advertising: No report.

Legislation:

The Legislative Committee reported with respect to bills, HB No. 5761 and HB No. 4896, SB No. 592. HB No. 5761 proposes to prohibit a divorce in a case with minor children unless the plaintiff can prove by clear and convincing evidence, one of the following grounds for divorce:

1. Defendant’s adultery.
2. Defendant’s conviction of a felony and sentence for 5 years or more.
3. Defendant abandoned the marital residence for more than a year prior to the complaint despite plaintiff’s request for defendant’s return.
4. Defendant has physically or sexually abused plaintiff or a child of either party.

5. The parties have been living apart by mutual agreement for more than 2 years.
6. The parties have been legally separated for more than 18 months.

The Committee concluded that the Bill promotes bad marriages because it would make it almost impossible for a person with minor children to get out of a bad marriage without the consent of their spouse. The Committee also concluded that the Bill proposes to increase the burden of proof to clear and convincing evidence. The Legislative Committee recommended that the Council oppose the Bill. Subsequent to the discussion among the Council members, the Council voted unanimously to support the Committee's recommendation, and opposed the Bill.

HB No. 4896, SB 592, would give an adopted child the absolute right to their original birth certificate as soon as they reach the age of 21. Based upon the written report from the Committee as well as the discussion, the Legislation Committee recommended that the Council oppose the Bill. Subsequent to discussion among the Council members, the Council voted unanimously to adopt the recommendation of the Legislative Committee and opposed the Bill.

Bill Kandler reported that on 5/7/08, there will be a hearing regarding the joint custody bill. He also further reported that the bill has now received twice as many sponsors in favor of the bill. The Family Law Council has opposed and continues to oppose such legislation.

Membership/Mentor Roundtables:

The Committee reported that Kent County and Oakland Mentoring Roundtable lunch/breakfast meetings are up and running.

Mid-Winter/Mid-Summer Seminars:

The Committee reported that the winter seminar was excellent and material from the seminar remains available. The summer seminar is scheduled for **July 24-27** at the Homestead. The Committee is continuing to look for and receive ideas for seminar topics.

PAC:

The Committee requested that the Council members contribute to the PAC and reminded Council members that this year is an election year and contributions are important.

QDRO:

The QDRO Committee indicated that they are attempting to deal with the issue regarding social security numbers as it relates to QDROs and EDROs.

Technology:

The Committee indicated that they are continuing to meet and discuss methods of improvement for the website including the listing of family law section members by county.

E. Standing Committees:**FOC Advisory Committee:**

The Committee reported that there are a number of items, approximately 12, to be presented at the Friend of the Court meeting in May. The Committee indicated that it would present its position with respect to the action items at the April Council meeting in Novi.

F. New Business: No report.**H. Next Meeting:**

Saturday, April 5, 2008
Wyndham Garden, Novi
9:00 am Breakfast
9:30 Meeting

Attendance: Council meeting—3/08/08

Council Members:

Barb Kelly
Neil Colman
Karen Sendelbach
Connie Thacker
Donna Mobilia
Traci Rink
Erika Salerno
John T. Hammond
Jules Hanslovsky
Ross Stancati
Rebecca Shiemke
Lorne Gold
Todd Selin
Amy Yu
Kent Weichmann
Carlo J. Martina
Jim Harrington

Non-Members

Gail Towne
Katherine Barnhart
Toni Raheem
Bill Kandler