

MINUTES – FAMILY LAW COUNCIL, FAMILY LAW SECTION

Saturday, May 7, 2011
University Club, East Lansing, MI

Attendance:

- o **Council Members Present (19):** Elizabeth Bransdorfer, Carol Breitmeyer, Neil Colman, Richard Halloran, James Harrington III, Elizabeth Kitchen-Troop, Donna Mobilia, Philip Navarre, Antoinette Raheem, Traci Rink, Kristen Robinson, Erika Salerno, Rebecca Shiemke, Liisa Speaker, Connie Thacker, Gail Towne, Kent Weichmann, Stacy Van Dyken, Amy Yu
- o **Ex Officio & past Council Members:** Todd Selin, Jules Hanslovsky, Ross Stancati
- o **Guests:** Katherine Sharkey, Chris Harrington, Bill Kandler

I. Administrative Matters

- A. **Call to Order:** The meeting was called to order at 9:30 a.m.
- B. **Chairperson's Report – Amy Yu:**
 - 1. During introductions, each council member reported that at the chair's request they contacted their state representatives either by email, phone or in person. Nearly everyone present had. Next step may involve a second contact regarding a specific issue.
 - 2. Call for nominations. Any council member whose term is ending and wishes to run again must contact the Chair in order to be added to the ballot. For new applicants, the Chair will send a summary of the responsibilities of council membership.
 - 3. Oakland County E-Filing Committee. A. Yu reported that she shared concerns raised by council with the committee. Council voted unanimously that council advise the committee of council concerns, specifically: 1) cost issues and the process should be revenue neutral, and 2) special circumstances should be addressed, such as the need for a true copy of a QDRO. An ad hoc committee was formed – A. Yu, J. Harrington, P. Navarre, L. Sadowski.
 - 4. All committee chairs will need to prepare an annual report and summary of procedures before the next meeting. J. Harrington will circulate templates to the chairs.
- C. **Recording Secretary Report** – Minutes from the April 2, 2011 meeting were unanimously adopted.
- D. **Treasurer's Report** – The Treasurer's report was unanimously adopted.

II. Standing Committee Reports:

- A. **Adoption.** No report.
- B. **Alternative Dispute Resolution.** A written report was submitted describing the committee's plan to convene focus groups to develop committee projects.
- C. **Alternative Family.** No report.
- D. **Amicus.** Council voted 17-2 authorizing the committee to draft a Supreme Court amicus brief in *In re Mays* challenging the one-parent doctrine in parental termination cases and addressing the impact the doctrine has on custody cases.

- E. **Annual Meeting.** No report.
- F. **CLE/ICLE.** No report.
- G. **Court Rules.**

Council voted 19-0 to support the proposed amendment of MCR 3.707, which would clarify that a respondent may file a motion to modify or terminate an ex parte PPO or an ex parte order extending a PPO within 14 days after being served with the order. The proposal is intended to address the issue raised in *Gupton v Johnson*, docket no. 288847 (1/29/10) where respondent filed a motion to terminate a PPO within 14 days after the PPO was issued after a hearing at which respondent had an opportunity to be heard. The proposal would prohibit this “second bite at the apple” and prevent respondents, who the court has already determined pose a risk to petitioner, from filing repetitive motions. (See S Ct. Adm File 2010-17).
- H. **Domestic Violence.** Next committee meeting is May 23 to discuss plans for next year.
- I. **Family Court Forum.** No report.
- J. **Family Law Journal.** A. Yu will circulate the sign-up list for articles. B. Kelly is continuing to gather quotes for an electronic journal.
- K. **Family Support.** Next meeting with SCAO is May 12, 2011.
- L. **Journal Advertising.** The journal received a new 1-page ad from a QDRO provider, and QDRO Express will increase its ad to a full page. Discussed Springfield’s ad for R. Fancher’s child support program, which he gets for free and in exchange council gets a share of sales revenue. It looks like about \$100-\$300 twice in the past 6 months. Question whether council should be endorsing any program. Council voted unanimously to terminate the co-sponsor arrangement with Springfield, provided we aren’t contractually bound.
- M. **Legislation.** Council discussed the following proposals, although neither have been introduced:
 - 1. Council voted 19-0 to oppose “Shawn’s Bill” once it’s introduced. The bill would amend the Child Custody Act to require the court to give additional weight under best interest factors f (moral fitness), i (reasonable preference) and k (domestic violence) to a determination that a parent has “sexually, physically, mentally, or emotionally abused the child.” The bill would add a section allowing the court to interview a child to determine preference, and provides an extensive procedure to be followed if a child testifies in court, including the admission of deposition testimony in lieu of court testimony. The purpose of the bill is to ensure that the child’s best interests in this type of case are given more weight than the rights of parents. This bill would do more harm than good. Courts are already cautious when there is evidence of sexual abuse by a parent. The extensive procedure for having a child testify would make it difficult to prevent a bad parent from calling a child to testify in any case. Even with the best of protections, testifying in court is traumatic to most children and should not be encouraged. This testimony would also impede any criminal investigation. Forensic interviews of children now follow an exacting protocol designed to make sure the child’s statements are free of

intentional or unintentional influence. These protocols would be futile if the child has already been subjected to all of the pressures of previous court testimony. This bill might also encourage parents who are resisting a co-parenting arrangement to characterize the other parent as physically, mentally or emotionally abusive. This will lead to an increase in conflict in cases that are already difficult.

2. After a vote to call the question passed by a vote of 12-7, Council voted 14-5 to support the substitution of the Revocation of Paternity Act (“RPA”) for SB 256, with amendments. The RPA seeks to provide a comprehensive solution to the problem of misidentified fathers, including “presumed fathers” (child conceived or born during the marriage), “affiliated fathers” (through a paternity action), and “acknowledged fathers” (who signed an Acknowledgment of Parentage). The RPA allows “alleged fathers” standing to file for paternity under slightly different circumstances in each type of case. The RPA is a good opportunity to provide a comprehensive solution to a broad spectrum of misidentification cases and council supports with the following amendments: 1) Filings should be permitted until the child’s third birthday, rather than age four, as provided in the Act; 2) The exceptions to the time limit set out in Sec. 10 would swallow the rule, and need to be tightened; 3) Council supports the clear and convincing evidence standard for ignoring the biological relationship if it is against the best interests of the child; 4) The presumed father section should allow standing for alleged fathers if the child was conceived prior to marriage, and possibly in cases where the mother told the alleged father that she was not married.

N. **Membership/Mentor Roundtables.** A written report was submitted. Council voted unanimously to do the following to increase membership: 1) Chair will send a welcome letter to all new section members, which will be drafted by the committee, 2) Committee will work with ICLE to promote section membership at seminars by providing section applications and brochures and expanding section questions at Family Law Institute, and 3) Committee will work with the Bar to develop new applications and brochures to distribute and put up on the web.

O. **Midwinter/Midsummer Seminars.** Brochures are out and on the web for the midwinter seminar; brochures for the summer seminar will be out soon.

P. **Political Action Committee.** N. Colman reported 2 donations today.

Q. **QDRO/Taxation.** No report.

R. **Technology.** No report.

III. Ad Hoc Committees

A. **Resource Allocation Committee.** No report.

B. **Parenting Coordination.** R. Halloran will follow up with MJA to seek input.

C. **Unauthorized Practice of Law Committee.** J. Harrington shared copies of the State Bar Committee’s latest draft and is seeking comments. He hopes to have a proposal at the June meeting.

Meeting adjourned at 11:20 a.m. Next Meeting: Saturday, June 4, 2011 at Weber’s Inn, Ann Arbor, Michigan. Breakfast is available at 9:00 a.m. and meeting at 9:30 a.m.