

Minutes - Family Law Council, Family Law Section
Family Law Section Meeting, Saturday, May 1, 2010
Location: Double Tree Hotel, Novi MI

Attendance:

- ° **Council Members Present:** Anne Argiroff, Carol Breitmeyer, Neil Colman; Lorne Gold, Hon. Richard Halloran, James J. Harrington, III; Barbara Kelly; Donna Mobilia; Phillip Navarre; Antoinette Raheem; Traci Rink; Kristen Robinson, Erika Salerno, Rebecca Shiemke, Liisa Speaker, Connie Thacker; Robert Treat, Kent Weichmann; Amy Yu. (19) Council members present.
- ° **Ex Officio & prior Council members:** Carlo J. Martina; Judith O'Donnell; Elizabeth Sadowski;
- ° **Guests:** Patricia Oulette; William Kandler;

I. Administrative matters:

- A. **Call to Order:** 9:40 a.m. Introduction of Council Members & Guests.
- B. **Chairperson Person Report - Barbara Kelly:**
 - 1. **Calendar on Family Law Section Website:** We have received the o.k. from the State Bar; all Council members encouraged to check it out. Should be up within a couple of weeks. Will have to still decide who has access to posting meetings; possibly committee chairs.
 - 2. **Expense Reimbursements:** Council members encouraged to submit their input to B. Kelly or Amy Yu.
 - 3. **Ballot proposal.** Will be presented at the June meeting.
 - 4. **Annual Committee Reports.** The State Bar requires these reports. Will need prior to June meeting.
- C. **Recording Secretary report: - James J. Harrington, III:**
By Motion, with second, the minutes from the April 10, 2010 meeting were approved 19-0.
- D. **Treasurer's Report: Connie Thacker.** The report from the Treasurer, Connie Thacker, April 13, 2010 was accepted and approved by Council. Thanks, Connie!

II. Standing Committee Reports (reverse order):

- A. **Technology - E. Sadowski:** Discussion regarding Texas litigation directly challenging the mandatory e-filing; possible RICO liability; all Council members urged to continue to submit letters to the Supreme Court regarding e-filing.

- B. QDRO/Taxation - J. Cunningham:** The five hour QDRO training on April 29, 2010 went very well. Many many thanks to R. Schiemke, M. Aid, R. Treat, Nancy Keppelman, and Jackie Roessler and the others whose time and energy made this a terrific success and learning experience for the 25 trainees in Ann Arbor, MI.
- C. Political Action Committee: Neil M. Colman.** Keep the \$\$\$\$ coming ! You know where to send the checks. You know who you are !
- D. Midwinter/MidSummer Meetings:**
MidWinter Seminar. J. O'Donnell: we are "good to go" for Antigua. We have six (6) new persons expressing interest. It is a great networking opportunity. We negotiated for 35% off the usual prices.
MidSummer. T. Rink. We are all looking forward to a great time at the Homestead Resort in Glen Arbor, MI. We are also looking for volunteer speakers. Please let us know if you are interested in speaking. The Brochure for MidSummer looks terrific !
- E. Membership/Mentor Roundtables:** No report.
- F. Legislation: Kent Weichmann:** No report (who'd a thunk?).
- G. Journal Advertising: N. Colman.** No report.
- H. Family Support.** No report
- I. Family Law Journal.** No report.
- J. Family Court Forum - B. Kelly:** Great turnout expected. Up to 185 acceptances now. Because of the tremendous interest in the FCF the policy is to limit attendances to three years in a row, and while this is difficult it is necessary to keep a fresh and active mix of participants.
- K. Domestic Violence:** No report.
- L. Court Rules/Ethics - J. Harrington:**
1. **ADM 2010-08:** Extensive discussion regarding the proposed Case Flow Management guidelines. C. Martina furnished detailed background on the prior committee and recommendations, and the change from "98% of cases" to "100%" of cases contained in the proposed guidelines. C. Martina and many Council members strongly urged loosening the "100%" of cases to a moderately more flexible 98% of cases.
- Council voted unanimously, 18-0 to support and adopt the recommendation of the CR/E committee, subject to the correction in the 1st underlined section, attached, to read "courts I, thereby". A copy of the Report containing the specific language endorsed by Council is attached and incorporated in these Minutes.

2. Abuse of Subpoena's / Record Production.

Council initially adopted the proposal by L. Sadowski, 18-0, that an Amendment to *MCR 2.310(D)(2)*, include the additional language:

"A copy must be served contemporaneously on the other party".

Upon further discussion, and suggestion by L. Gold, that we would be well advised to work together with other possibly interested Sections, the matter was tabled pending further input from the Litigation Section and Negligence Law Section of the State Bar.

- M. CLE/ICLE** - The Family Law Institute in November is coming along very well. The proposed Course Schedule for the Institute [draft 4/23/2010] was circulated and reviewed by Council.
- N. Annual Meeting.** No report.
- O. Amicus - L. Speaker:** No report. Oral arguments were heard on the Friend case in April.
- P. Alternative Family - C. Breitmeyer:** Judge K. McCarthy, Wayne County, issued an excellent opinion on a same sex case, *Harmon v Davis*, which will be circulated to Council members after the meeting. (Thanks Carol !)
- Q. Alternate Dispute Resolution - A. Raheem:** D. Berecz, A. Raheem, V. Liem, R. Pitler, and K. Weichmann are continuing to work on the *Uniform Collaborative Law Act*. A number of ADR Council committee members met at the April 22, 2010 meeting of the Family Mediation Council event, including R. Bookholder, N. Abrams, V Liem, Z. Zumetta, and A. Raheem. (Thanks to all !)
- R. Adoption.** No report.

III. Ad Hoc Committees

- A. Parenting Coordination-Richard Halloran:** has met with Judge J. Alexander, Oakland County Circuit Court; there may be support from the Michigan Judges Association.

IV. New Business - By Law Amendments

- 1. By Law Committee- K. Weichmann & J. Harrington & Traci Rink.** Council considered and accepted the Report of the By Law Committee regarding revisions to the elections procedures. The proposed changes involved (1) clarifying the method of election to Council seats (2) limiting Council members who had been removed from Council to election to the remainder of their unexpired term and (3) setting forth the specific order for election to the Executive Board.

2. After extensive discussion, a consensus was reached regarding proposed language which would amend the bylaws. In accord with the By Laws of the Family Law Section a written application was signed and formally submitted to Council by 14 Council members. Thereafter the following By Law Amendments, attached to these minutes and incorporated by reference, were formally approved 19-0.
3. Council authorized and directed publication of these proposed Amendments in the Family Law Journal, for consideration for formal adoption at the Annual Meeting on September 30, 2010.

By Motion & 2nd , the May 1, 2010 meeting concluded at 10:45 a.m.

The Next Family Law Council meeting is scheduled for Saturday, June 5, 2010 at the Weber's Inn, Ann Arbor, MI; Breakfast at 9:00 a.m. and the meeting immediately thereafter at 9:30 a.m.

James J. Harrington, III
Recording Secretary

May 1, 2010

Court Rules & Ethics Committee

REPORT TO FAMILY LAW COUNCIL

To: FAMILY LAW COUNCIL
From: James J. Harrington, III
Date: May 1, 2010

A teleconference of the Court Rules and Ethics Committee was held on April 26, 2010 with participants Carlo Martina, Kent Weichmann, Liz Sadowski, Carol Breitmeyer and Jim Harrington.

The final scheduled CR/E teleconference will be on Tuesday, June 1, 2010 at 1:00 p.m. As always, the call in number is: 1 800 270-1153 ext 123930#

A. ADM 2010-08; proposed Admin Order 2010-X [deadline for public comment, July 1, 2010].

The Committee considered both the proposal (Exhibit A) and the Committee Report of November 23, 2009 (Exhibit B). The time deadlines in the Committee Report actually exceeded the guidelines in 2010-X. Likewise significant is the change from the language of the Committee Report which referred to "98%" of the cases being concluded within the deadline period, versus the "100%" figure contained in the 2010-X.

Carlo Martina made excellent suggestions regarding incorporating the 98% language within the body of the proposal in 2010-X, including insertion of the term "may" with respect to examples of "good cause" as well as adding the term "interlocutory appeals".

The Committee unanimously recommends to Council that the Family Law case deadlines in Admin Order 2010-X be the subject of our support subject to:

- (1) The deadlines will refer to 98% of cases; and
- (2) The actual language be amended to include the following **BOLD TYPE** additions:

"Trial courts are directed to report caseload management statistics and data to enable the State Court administrative Office to assist trial courts in improving caseload"

1. THK2007

management. The State Court Administrative Office does not intend to use these data in a punitive fashion or to publish these data for public review.

On further order of the Court, the following time guidelines for case processing are provided as goals for the administration of court caseloads. These are only guidelines and are not intended to supersede procedural requirements in court rules or statutes for specific cases, or to supersede reporting requirements in court rules or statutes. The Court does not encourage or condone the practice of trial courts dismissing cases for the sole reason that the case is likely to exceed the guideline. In addition, notwithstanding the maximum period recommended for adjudication set forth below, these guidelines do not supplant judicial discretion if, for good cause shown, a specific case of any type requires a time line that extends beyond the maximum permitted under these guidelines. Factors constituting good cause for Domestic Relations Proceedings may include the complexity of the case, the circumstances of the parties and children involved, and the degree to which the parties are actively and productively involved in good faith settlement negotiations, interlocutory appeals, and/or alternative dispute resolution.

B. Abuse of Subpoenas / Record Production.

The Committee Members discussed concerns raised by Liz Sadowski regarding problems caused by Subpoenas for record production not being served contemporaneously on the other party.

By unanimous recommendation, 4-0 the Committee recommended an Amendment to MCR 2.310(D)(2) requiring that a subpoena be served contemporaneously on the other parties. raised the issue of problems associated with failure of attorneys


- James J. Harrington, III

Section 3.8 Council Vacancies. If a Council seat becomes vacant, after reasonable notice to Section members, the vacancy for that seat shall be filled by a majority vote of Council members at a regularly scheduled monthly meeting, until the next Annual meeting. At the annual Council meeting there shall be a single election for all open Council seats. The highest vote recipients, in descending order from highest to lowest, shall be elected first to the open three (3) year seats, and thereafter open two (2) year seats and thereafter the open one (1) year seats. However, a Council member who has resigned or been removed from Council may only be elected to finish out the remaining term of that Council seat, and may not be elected to any other open Council seat at that election.

ARTICLE IV

ELECTION OF OFFICERS

SECTION 4.1. Except as provided in 4.3, the officers of the Section shall be elected by the Council from among its elected members in the following Order: (1) Recording Secretary (2) Corresponding Secretary (3) Treasurer (4) Chair-person Elect. No officer shall serve in their elected position for more than one full year or longer than the Annual meeting.

Section 3.8 Council Vacancies. ~~If a Council position seat becomes vacant, after reasonable notice to Section members, because of a resignation or removal of a Council member, the vacancy for that position seat shall be filled by a majority vote of Council members at a regularly scheduled monthly meeting, until the next Annual meeting. At the next Annual meeting, a Council member who has resigned or been removed from Council may be elected to finish out the remaining term of that Council seat, and may not be elected to any other open Council seat at that election. At the annual Council meeting there shall be a single election for all open Council positionsseats, with the highest vote recipients, in descending order from highest to lowest, being shall be elected first to the open three (3) year positionsseats, and thereafter open two (2) years seats and thereafter the open one (1) year positionseats. However, a Council member who has resigned or been removed from Council may only be elected to finish out the remaining term of that Council seat, and may not be elected to any other open Council seat at that election.~~

~~except that in the event that one or more additional Council positions shall be open by reason of resignation or removal, the highest vote recipients (in descending Order) shall be elected to those positions.~~

ARTICLE IV

ELECTION OF OFFICERS

SECTION 4.1. Except as provided in 4.3, the officers of the Section shall be elected by the Council from among its elected members and shall consist of a Chairperson, a Chairperson-Elect, a Recording Secretary, a Corresponding Secretary and a Treasurer. ~~No person shall serve as Chairperson, Chairperson-Elect, Recording Secretary, Corresponding Secretary or Treasurer for more than one (1) year, and no person shall serves as Recording Secretary, Corresponding Secretary or Treasurer for more than two (2) consecutive years. In the following Order: (1) Recording Secretary (2) Corresponding Secretary (3) Treasurer (4) Chair-person Elect. No officer shall serve in their elected position for more than one full year or longer than the Annual meeting.~~