DRAFT MINUTES
SFLAC MEETING
RADISSON HOTEL, PORTLAND OREGON
SEPTEMBER 9, 2005
(10:00 am TO 3:30 pm)

Judge Brownhill called the meeting to order at 10:15 a.m.

Members Present: Cynthia Chinnock, Stephen Adams, Hon. Paula Brownhill, Lauren MacNeil, Robin Selig, Jim Adams, David Hakanson, Edward Vien, Hon. Robert Selander, Hon. Maureen McKnight, Hon. Terry Leggett, Linda Scher

Members Absent: Ernest Mazorol, Ramona Foley, William Howe

Guests present for all or part of the meeting: Katherine McLaughlin, Chris Walls, Alison Taylor, Dan Dennehy, Erin Ruff

Staff: BeaLisa Sydlik, Maria Hinton

CONSENT CALENDAR

Minutes from the June 3, 2005 were reviewed. A correction was made to page 5 of the Domestic Violence Subcommittee report, paragraph four, clarifying that it was "Linda Scher" and not "Robin Selig" who distributed a summary of recommendations for changes to the "Guidelines for Developing DV Protocols." The Committee approved the minutes with this change.

POLICY CONCERNS & DEVELOPMENTS

1. Charter

The SFLAC discussed suggestions made by Chief Justice Wallace P. Carson and State Court Administrator Kingsley Click and voted to incorporate these into the charter. Jim Adams moved to modify paragraph #3 regarding the main purpose of the annual meeting to read: "The SFLAC shall meet with the Chief Justice of the Supreme Court and the State Court Administrator once a year to discuss and advise on family law matters." The motion passed. Jim Adams stated that he is willing to work with Kingsley on the language and will report any additional changes to Judge Brownhill and Bealisa. The Charter was approved with these changes.

There was a brief discussion concerning Chief Justice Carson's announcement of his retirement. It was agreed that our work is meaningful, but it has little value without support from the top and the Chief has been supportive. SFLAC members want to honor the Chief Justice before he retires. It was decided to honor him at the Family Law Conference in April 2006. Bealisa will contact the Chief and Kingsley to see if they will attend April SFLAC meeting and Family Law Conference.

2. Chief Justice Order Re: Final Court-Connected Mediator Qualifications (CCMQ) Rules

Erin Ruff, Court Programs and Services Division - Mediation and Education Analyst, thanked SFLAC members for their input. She said the Chief Justice personally reviewed each of the SFLAC suggestions, and she presented a written and oral summary of SFLAC suggestions and their outcome.

- Grandfather clause was not adopted
- Presiding judge may remove a mediator at his or her discretion
- JD or Masters degree is not required; bachelor's degree will suffice
- Civil mediators must have 12 hours of continuing education every two years
- Domestic relations mediators must have 24 hours of continuing education every two years
- "Pro se" was changed to "Self-represented."

Each court must approve its mediators' continuing education requirements (CE). Erin reported that an internet database has been designed to track mediator CE hours. Courts may enter the data or the mediators can enter it themselves. She is building an education calendar for mediators and would like to include publicity for the family law conference. The definition of "continuing education" was broadened to include videos, individual reading with supervisor participation, etc. and not just classroom time. Jim Adams complimented Erin on the professional manner in which this topic was handled. He said this is one of the best processes he's seen; SFLAC input was solicited, Erin listened and was receptive to our comments, and she came back to explain the outcome.

3. Senate Interim Task Force on Parental and Family Abductions

BeaLisa Sydlik reported and distributed copies of letters to and from the State Court Administrator's Office and the legislature, in particular Peter Courtney, President of the Senate, and Co-Chairs of the Public Safety Subcommittee, Senator Gordley and Representative Richardson.

OJD has made commitments in which the SFLAC will have a prominent role:

a. The SCA has committed "to sponsor education for judges and court staff about the problem of parental abduction and its impact on children."

b. The SCA has asked the SFLAC "to specifically consider the issues and concerns raised in the Task Force report and make recommendations regarding further steps that might be taken by the bench and bar to address the continuing problems of parental alienation and abductions."

c. A portion of the SFLAC annual conference will be dedicated to this topic, "with specialized training for judges and court staff in understanding the issue, as well as utilizing the current statutory provisions relating to the prosecution of the crime of custodial interference and the enforcement of PT agreements and orders to prevent and ameliorate such abductions."

Judge Selander asked if we will be using a pure definition of parental abduction. Sometimes the court doesn't know if a true parental abduction has occurred or the litigants are using court resources inappropriately. He felt that judges are being asked to make long-term decisions with serious consequences in ever shorter periods of time on an emergency basis. Judge McKnight noted that the issue is driven by a few horrendous cases. She said some lawyers are not familiar with applicable laws and so do not apply them properly. Perhaps we could educate the bar on existing law. The definition of "parental abduction" was determined to mean a "long term abduction and retention status, possibly a change of identity." A significant component of remedies for "parental abduction" include operation of the Federal Parent Locate Service. One of the leading causes of "parental abduction" was identified by the Task Force as a failure on the part of courts to enforce parenting time orders and agreements.

Dr. Ed Vien said there is a continuum of cases, but the headline cases get the most attention.

SFLAC designated a new "Parental Abductions Subcommittee" charged with:
1) reviewing the Task Force report and SB 1041, 2) identifying existing law, issues and concerns, 3) making recommendations to the State Court Administrator, and 4) developing a workshop for the family law conference. Potential members were identified as:

Edward Vien
Laura Sebastian
Hon. Maureen McKnight
Hon. Terry Leggert
Marshall Spector
Robin Selig
BeaLisa Sydlik

Judge Brownhill agreed to serve on the committee if Judge Leggert is unable or unwilling to serve.

SUBCOMMITTEE REPORTS

Annual Family Law Conference: The annual Family Law Conference will take place at the Riverhouse in Bend, Oregon on April 7 and 8, 2006. SFLAC determined that the 2006 Conference would focus on "self-represented" issues and the ramifications of the increasing number of litigants without attorneys in the courts.

SFLAC agreed that the format of the conference would remain the same, with a couple of plenary sessions and several workshops. Members agreed that sessions will not be tape-recorded due to the high cost of taping and lack of demand for tapes. They will schedule six to eight workshops, three to four on Saturday morning and three to four on Saturday afternoon.

After discussion of possible keynote presenters, SFLAC requested that Bealisa ask Richard Zorza to be the keynote speaker. Bealisa will also contact the Oregon Circuit Court Judges Association to explore the possibility that they would have Mr. Zorza speak at their conference as well, and to share expenses with the SFLAC for his appearance at both events.

SFLAC members agreed that we should not merely complain about problems with self-represented litigants; we should provide practical solutions if possible. Judge McKnight said the more visibility, the better, but on a planned track to solutions. What are effective ways to deal with self-represented litigants? Presentations might address court operations, judicial ethics, impartiality vs. meaningful hearings.

Bealisa explained that our conference is tied to the Circuit Judges' Association conference. The CJA conference is focusing on evidentiary issues, including how to deal with self-represented litigants who do not know how to introduce evidence. Mollie Croisan, OJD education manager wants to work with SFLAC so she does not duplicate information presented at the Family Law Conference. Jim Adams said the Circuit Judges Association conference would create a nice link with the Family Law Conference. We could address innovations across the country.

Judge Selander suggested there are broader issues for the Family Law Conference. Participants are not just judges; they are mediators, facilitators, and court staff. Facilitators who practice law are not helpful, and they have a ripple effect on the system. Stephen Adams said self-represented litigants could be the major theme of the conference, and the keynote by Richard Zorza could address evidence issues, cases with a lawyer on one side and a self-represented litigant on the other, drafting orders and judgments. We could follow up with a reactive panel.

There are two topics we must cover: Parental Abductions and SB 424/FAPA changes. We also must include a JCIP workshop if JCIP donates money and is a co-sponsor. Bealisa pointed out that it is not necessary to tie everything to one topic. We need an exciting keynote speaker, but we can have workshops on a variety of topics. The two mandatory topics could be addressed in one workshop on legislative mandates. Other topics could be combined in the Five Most Important Cases.

Cynthia Chinnock discussed ways we serve a diverse audience: a good theme, an exciting plenary speaker with a panel to follow up, focused workshops that will appeal to therapists, state agency personnel, courts, lawyers, mediators. She recommended we give general advice to the conference planning committee and let the committee decide the details.

Dave Hakanson researched potential keynote speakers, and he shared their biographical information. Ernie Mazorol and Hugh McIsaac provided some of the names, and Dave said all are excellent presenters. He said it may be better for the conference committee members to peruse the information. Stephen Adams strongly supported referral back to the conference committee because the committee has proven itself in the past.

Bealisa was concerned about timelines for nailing down the plenary speakers. She would like to call Richard Zorza on Monday. Hugh recommended we contact Kathryn Kuehnle, a national speaker on child sex abuse allegations in child custody cases. Judge Leggert pointed out that child abuse links with parental abductions so she might be a good choice.

Bealisa proposed that Richard Zorza be our number one choice for keynote speaker. Everyone agreed. Stephen Adams again suggested that the recommendations go back to the conference committee for decisions. SLFAC agreed that Bealisa and Judge Selander would talk after the

meeting so Bealisa would know whom to contact on Monday. Bealisa will send out requests for proposals once the subcommittee decides on general topics.

Futures Subcommittee (Family Law Strategic Plan): Cynthia Chinnock provided an overview of a draft version of the family law strategic plan. The plan potentially will be used for resource allocation, and it is a best attempt to capture areas of focus from the retreat. SFLAC members provided feedback on the plan, which will be revised and submitted to the State Court Administrator's office for additional review. It was noted that the SFLAC's assistance was particularly needed to help define Performance Measure #10 - Quality Pro Se Resources.

The plan: 1) reaffirms core values for the SFLAC. Stephen Adams explained that the subcommittee did not start from scratch. They were asked at the retreat to start formulating key ideas for our primary areas of focus. Have they captured our intent? While they were working on it, they realized that it cannot all be done now. Bealisa reminded them of the staff limitations. So what are the priorities? What is too much to take on? We want to move in areas that have promise, but we can still dream. This is nowhere near a final draft. Some of the items may not be fashionable. Maybe we need to look at some things in an entirely new way.

Bealisa said all of the items coincide with performance measures but #1: Create SFLAC Task Force to research and make recommendations re: alternative methods, in lieu of traditional court actions, of resolving family law matters. Jim Adams gave a brief summary of the Performance Measures Advisory Committee's (PMAC) work. They tried for a balanced approach using five basic values of the Oregon Judicial Department. Performance measures fall into three general categories: 1) Those that are done or nearly done, 2) Works in progress, and 3) Place holders. PMAC will create actual outcome-based performance measures for the place holders. Jim explained that performance measures are intended to be indicators of how we are progressing and are tied to our core values and Justice 2020 goals.

Bealisa asked if we want to suggest a facilitation performance measure for the November 18, 2005 PMAC meeting. Jim said 2007 is the target date for facilitation, maybe with an implementation date of July 1, 2007. He does not want to rush us. Cynthia Chinnock asked if we can reallocate resources so we can address these performance measures. Ernie Mazorol previously phrased it this way: "What do we stop doing so we can start doing this?" Elder law is an example. SFLAC identified it as a priority, but what do we stop doing so we can focus on it?

Linda Scher asked how to distribute scarce facilitation resources fairly. Pose it as an issue; make it a question rather than a conclusion. There were questions about the meaning of an objective investigative report in #1, subsection 3: Research and recommend to SCA whether, in expedited enforcement of parenting time proceedings, an objective investigative report must be filed with the court before hearing. Judge Leggert said that may just need word-smithing. The issue is how to get objective information in an expedited enforcement hearing.

On the elder abuse and elder law strategies, Judge Leggert explained that the legislature tried to duplicate the FAPA forms and procedures to fit elder abuse, but sometimes they involve different issues. Courts need staff to handle the elder law/elder abuse cases. Sometimes they are closely related to probate issues. Alison Taylor said the Oregon Family Institute applied for a

grant for elder abuse start-up money to design new methods of dispute resolution in these cases. It would help families make their own decisions without going to court.

Linda Scher proposed that we assign an SFLAC member to work with other groups identified in the plan rather than swamp SFLAC with all of these issues. That way we could be involved and connected without being the lead. Judge Leggert agreed and suggested that we invite someone with expertise in elder law issues to come to the SFLAC. Judge McKnight said it would be politically advantageous to start with a liaison and expand to a subcommittee later if we have gained enough expertise and the need exists. Cynthia Chinnock clarified that a liaison would not just bring elder law issues back to SFLAC; it would also take SFLAC issues to the elder law group.

Cynthia Chinnock suggested that we invite someone from the elder law group to attend the next SFLAC meeting so we can learn what they are working on and tell them what we do. Judge Leggert said she can call people she knows. She proposed we select someone with expertise in elder law and send the name to the Chief Justice with a recommendation to appoint to SFLAC. Stephen Adams said we should ask Kingsley Click or the Chief for permission to add an elder law expert to SFLAC. If the position is created, we can set aside the elder law piece for now and revisit it after we've built the bridge.

Bealisa explained that this will expand the scope of SFLAC and increase her duties. Although she recognizes that a focus on elder law is missing (forms, visitor protocols, etc), if we go ahead with this recommendation, we will inherit the responsibility. She is concerned that OSCA does not have the capacity to take this on now nor does SFLAC. Linda Scher clarified that she was talking about an SFLAC member becoming the liaison. She said we could look at an elder law expert when an SFLAC vacancy occurs, but we don't need to add an elder law liaison at this time.

Proposals for change: on page three, change the title of the first box to Elder Abuse and Elder Law. Delete the second box altogether. We will continue to revise and maintain EPPDAPA forms. The time frame on this assignment should be changed to "ongoing." Keep #2 in the first box. Keep #3 in the first box, but Jim Adams will work on the language. Add #4 to the first box by moving Elder Law Mediation from page six. Judge Leggert and Linda Scher suggested deleting Elder Law Mediation altogether. Alison Taylor asked that we subsume it rather than delete it.

There was discussion about revisions to the model family law forms. Bealisa explained that we used to have a statewide revision committee, but it does not work to revise forms by committee. Now people send revision suggestions to Bealisa on an ad hoc basis, and Bealisa makes the changes. Linda Scher said some forms continue to be a problem. Maybe we should have a full review of specific forms at certain intervals or dates.

On page five, the objective is to reduce the time from case filing to case disposition. Linda Scher said some people need more time than others. We need to acknowledge this and should not move all cases through at the same fast pace. Jim Adams said there are a range of dates; for example, some percentage of civil cases must be completed in 180 days, some percentage in 360

days, and some percentage in two years. Linda added that courts give deadlines for completion, and perhaps we should consider a way to take time out when parties need more time. Stephen Adams said the subcommittee will deal with that issue.

On the data collection strategy in #4 on page 5, Judge McKnight mentioned that much of the post-judgment work in domestic relations cases is masked because it is not counted separately in OJD data reports. Bealisa explained this is an OJIN limitation. Jim Adams said it is good to be aspirational. He said he is going to a technology conference in Seattle and may get some ideas there.

In reference to #1 on page six, Bealisa mentioned that OJD is not providing training for low-cost custody and parenting time evaluation options, except maybe at the Family Law conference. Linda Scher suggested we combine #2 and #3 since they are just different examples.

On #1 on page seven, the Court/Child Support Agency Child Support Coordination subcommittee should be the lead responsibility. Judge McKnight mentioned adding federal financial participation and federal locate issues to the plan.

Cynthia Chinnock said the subcommittee will meet and review the suggestions and come back with revisions before the December meeting. SFLAC decided that a broad review by stakeholders outside of OJD should not take place until after the plan has been reviewed and approved by the State Court Administrator.

Legislative Planning: Judge Leggert and BeaLisa Sydlik reported. A handout was distributed summarizing selected new legislation regarding family law, domestic violence and elder abuse. The Elderly Persons and Persons With Disabilities Abuse Prevention Act (EPPDAPA) has been revised to add an additional ground of "financial abuse". The mandatory statewide EPPDAPA forms have already been revised by BeaLisa and are on the OJD Family Law Website. There also were changes to the Family Abuse Prevention Act (FAPA) and forms revision will be completed by the effective date of the bill (January 1, 2006).

Parenting Plan Outreach Workgroup: Linda Scher distributed copies of a Power Point presentation that had been created by the workgroup as part of their outreach efforts to publicize the availability of parenting plan materials on the OJD Family Law Website. Linda Scher requested comments and feedback from SFLAC. She also indicated a need for equipment to take the Power Point presentation "on the road," and BeaLisa stated she would check with OSCA to determine whether its equipment could be used for this purpose.

Stephen Adams moved to approve the power point presentation. Motion seconded and passed unanimously. Linda Scher was congratulated for her leadership and excellent work.

Bealisa reported that California has requested permission to copy portions of the Oregon Basic Parenting Plan Guide and will in exchange provide Oregon with information about forms they are developing that can be filled out on-line with document management software.

Court/Child Support Agency Child Support Coordination: Judge McKnight reported the subcommittee has met twice since June. The subcommittee is continuing its work on implementation of the Federal Parent Locate Services (FPLS) in custody and parenting time cases. The potential for liability and confidentiality issues continue to be concerns.

An agreement is being negotiated between OJD and the Child Support Program to create a pilot in Multnomah County Circuit Court whereby child support-related activities performed by court staff will be reimbursed with federal funds at 66%. There are political and practical issues to be worked out.

The subcommittee has discussed the new paternity disestablishment legislation. There are broad policy issues regarding child support, the federal push and incentives vs. joint agreements. What are good policies protecting children when the legal dad is not the biological father? There will be interim legislative activity, and the subcommittee will continue to be involved in this issue.

Judge McKnight explained that we are in the minority of states whose FAPA provisions do not provide for child support. Are we missing a need or is the program for DV survivors adequately meeting the need? The subcommittee also is working on other overarching issues of concern to the courts and the child support program.

Self-Represented Legal Services Subcommittee: Judge McKnight reported. The subcommittee is still struggling with the judicial ethics piece with respect to judicial support for pro-bono efforts. The subcommittee is also looking at developing judicial protocols for dealing with self-represented litigants in court, and guidelines for the creation of attorney assistance programs. The subcommittee has created a booklet for self-represented litigants when their cases are going to trial. SFLAC discussed the tremendous need for resource material such as this but expressed concern that perhaps it de-emphasized alternatives to trial, such as mediation. There was further feedback regarding suggestions for distribution and simplification of the language to a lower educational level. SFLAC agreed it would review the booklet and submit comments to Judge McKnight and BeaLisa by September 30, 2005. The subcommittee will continue to look at other resource materials and may eventually work on other pamphlets, but this one already existed.

Domestic Violence: Robin Selig reported on the July 7, 2005 meeting. The subcommittee is exploring new projects but they decided to wait until the end of the legislative session before they select or prioritize their projects. They have reviewed information on revised Elder Abuse forms and will work on new FAPA forms.

NEW BUSINESS

Meeting dates for the 2006 year were discussed and determined as follows:

Friday, April 7, 2006	**11 a.m. - 2:30 p.m.**	**The Riverhouse, Bend**
Friday, June 9, 2006	**12:30 p.m. - 4:30 p.m.**	**TBD**
Friday, Sept 15, 2006	**12:30 p.m. - 4:30 p.m.**	**TBD**
Friday, Dec 1, 2006	**12:30 p.m. - 4:30 p.m.**	**TBD**

BeaLisa will contact the Juvenile Justice Center to reserve the meeting room on these dates.

The next meeting of the SFLAC will be on Friday, December 2, 2005, from 12:30 - 4:30 p.m. at the Multnomah County Juvenile Justice Center.

The meeting was adjourned at 3:30 p.m.

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