

MINUTES
STATE FAMILY LAW ADVISORY COMMITTEE
December 6, 2013
12:30 pm – 4:30 pm
Department of Justice
1515 SW Fifth, Suite 415
Portland, Oregon

Members Present: Stephen Adams, Amy Bonkosky, Hon. Paula Brownhill, Colleen Carter-Cox, Janice Garceau, Laurie Hart, William J. Howe III, Lauren MacNeill, Rebecca Orf, Hon Keith R. Raines, Kate Richardson, Linda Scher, Robin Selig

Members Absent: Justice David Brewer, Hon. Maureen McKnight, Linda Hukari

Guests: Forrest “Woody” Mosten

Chair: Vice-chair Bill Howe called the meeting to order at 12:35 pm. Chair Hon. Paula Brownhill was delayed in transit because of inclement weather.

Minutes: The minutes from September 13, 2013 were approved without correction.

COMMITTEE REPORTS

Domestic Violence – Robin Selig

The DV Subcommittee met once since September, 2013. The sub approved the model forms for name change in address confidentiality cases.

Court/Child Support Agency Coordination - Kate Richardson & Hon. Keith Raines

The Child Support Subcommittee meets quarterly and last met in November, 2013.

The interactive parenting plan forms are momentarily stalled as there is a determination regarding Intellectual property rights between Tyler, TurboCourt, and OJD and how that might affect the federal grant, and as DOJ and OJD determine the best pathway to a contractual relationship with TurboCourt for building the forms.

The subcommittee discussed the proposal of the federal child support agency to initiate parenting time orders coincident with child support orders. The district attorneys’ representative expressed concern over this direction. The sub determined that ALJs are not properly equipped to create parenting plans between parents. As part of its parenting plan federal grant, DOJ will provide information and referral to mediators for parents to enter into parenting plans. Even agreed plans will not be incorporated into administrative support orders; parents will be informed that, in order to have an enforceable order, the agreement must be converted to a judgment.

Donna Brann, head of child support ALJs, passed word on that the Office of Administrative Hearings conversion to electronic record and evidence keeping is on track, with all new cases being filed electronically and storage of exhibits managed electronically. Paper exhibits are destroyed, not returned, but are available from the DA or AG. Ms. Brann further advised that there has not been a new Chief ALJ appointed yet, so work on videos to inform parties about the law and hearings is on hold.

Self Representation – Judge Maureen McKnight was excused and no report was circulated.

Parental Involvement - Linda Scher

Janice Garceau and Lauren McNeill will co-chair the committee moving forward. Linda Scher agreed to continue to serve.

Janice Garceau reported that Multnomah County Conciliation Services has completed a handbook on parenting time from ages birth to 3. The contents are not unanimously accepted by the mental health community, but the precepts are important for discussion and consideration.

ACTION ITEM: Janice Garceau will supply copies of the parenting time handbook to SFLAC members. She will also advise when the handbook goes on line.

ACTION ITEM: Hon. Keith Raines will circulate the availability of this information to the Circuit Court Judges when Janice notifies SFLAC that the material is available online.

Futures – Bill Howe, Stephen Adams

The subcommittee met before the SFLAC meeting and had a productive session.

The subcommittee recommended that it add only one new project to its agenda at this time. SFLAC accepted that recommendation.

The subcommittee identified three projects:

- (1) Promoting unbundled legal services in an effective way.
- (2) Divorce by registration
- (3) Family Resource Centers.

The sub recommended that it undertake a limited design of the unbundled legal services project at this time and SFLAC agreed with that recommendation. The sub did not prioritize the other two projects and may consider other projects equally as proposed once this project has been addressed.

Unbundling services has gone on since the beginning of practice. The issue is getting the client and the unbundled services together.

The discussion was held pending a teleconference with Forrest “Woody” Mosten
The author of the minutes completes the discussion of the issue rather than placing them after the other reports for the benefit of the readers.

Woody Mosten proposed that the single greatest tool assisting California lawyers in performing unbundled services is a form which describes what services the lawyer will provide to the client (see attachment California FL-950), which is filed with the Court in every litigation. While judges don’t particularly like it, they accept it and don’t require lawyers to provide services beyond the agreement.

Mr Mosten proposed that lawyers could be encouraged to provide unbundled services with:

- bonus MCLE credits
- docket priority for limited scope attorneys
- improved prospects of attorney fee awards

Statistically, over ½ of those individuals who seek unbundled services could afford traditional legal services; many start with unbundled services but then see the wisdom of full representation.

Maricopa County AZ launched a consumer friendly self-represented system, which includes unbundled services, but the rest of the state did not pick it up.

California law allows for attorney fee awards premised upon reasonableness of positions and offers. Using unbundled services is a factor in that consideration.

Colorado and Florida require that ghost authors reveal their identity.

Stephen Adams proposed that the success of unbundling starts with judicial promotion rather than OSB encouragement.

Colleen Carter-Cox advised that Lane County has a list of lawyers willing to provide unbundled services. The list is available at the Family Court Assistance Office and is updated on an annual basis. Lane Circuit Court set up information sessions for lawyers who wanted to be on the list. There is not a formal brochure or SLR about unbundled services, but the list contains a brief explanation. Lawyers must talk to Colleen to have their names placed on the list. The court sends articles, forms, and other information to lawyers on the list.

ACTION ITEM: Colleen Carter-Cox will email Lane’s materials to SFLAC members.

Our action should be in concert with the OSB; the OSB is contending with proposed legislation for legal technicians which may dominate their concerns.

Janice Garceau pointed out that the Gateway Center for Domestic Violence Services in Portland provides unbundled legal services. She added that Judge McKnight is involved in an effort to link law libraries and mediators to provide self represented individuals with more support.

MOTION: Stephen Adams moved that SFLAC adopt the Futures Committee recommendation that SFLAC undertake a project to promote the delivery of unbundled legal services. Motion seconded by Janice Garceau. **Motion passed.**

Legislative Subcommittee

We lack a chair for this sub. Ryan Carty of Salem, who is on the OSB Legislative Sub, was recommended to be added to SFLAC.

ACTION ITEM: Bill Howe will contact Ryan Carty and gauge his interest.

Spousal Support Guidelines Workgroup - Hon. Keith Raines

The Workgroup distributed its report to SFLAC previously. Essentially the Workgroup recommended adoption of its conclusions, which had been distributed to nearly 400 lawyers at the OSB Family Law Annual Meeting with a request for comment; no substantial disagreement was voiced. SFLAC unanimously approved the document, naming it “Report Re: Spousal Support Considerations” , to be renumbered, and with the following additions: “An award of spousal support must take into consideration the property each party is awarded, whether marital or non-marital. “ and “The Court must take into consideration the tax consequences to the spouse paying and the spouse receiving spousal support.”

Stephen Adams voiced his continuing belief that spousal support guidelines are appropriate and voted favorably for this report which he believes is a step in the correct direction. He was unsurprised by lawyers who disfavor guidelines because child support guidelines received a similar response.

Will “palimony” be on the radar screen for legislative consideration?

Salishan Conference – Bill Howe

Bill and Judge Bagley presented the Informal Domestic Relations Trial to the OSB Family Law Conference. It was well received and generated continuing interest. OSB has invited SFLAC to present at the 2014 conference. Bill advised that it is most practical to have only 1 or 2 speakers because time is so limited.

ACTION ITEM: Bill Howe will accept the invitation on behalf of SFLAC.

Linda Scher's Retirement.

Linda Scher's retirement was sadly recognized. She received a vase/plaque which commemorated her outstanding service to SFLAC and the people of the State of Oregon. She promised to remain available as a resource as needed on subcommittee work.

Linda expressed some concerns. She believes that SFLAC projects that serve the courts have some traction, but projects serving the court's customers do not. Creation of an Oregon chapter of the Association of Family and Conciliation Courts gives her hope that SFLAC can develop ideas and hand off projects to AFCC so the projects are not so court-centered. Linda said that OJD's CJ Carson enthusiastically supported SFLAC's work. CJ Balmer has evidenced strong support for SFLAC's work too, but it is concerning to Linda that SFLAC is dependent on the Chief Justice's personality.

Family Law Benchbook - Hon. Paula Brownhill

Until disbanded by past CJ DeMuniz, the Family Law Judge's Benchbook had been revised and maintained by the OJD Family Law Committee. Efforts to revive the committee under the Circuit Court Judge Association have not been successful. We will need to assign this task amongst SFLAC members to keep it moving forward. Kate Richardson advised that child support was revised in 2013.

ACTION ITEM: Laurie Hart scanned the entire 2013 benchbook. Judge Brownhill will forward the scanned benchbook to SFLAC members. Becky Orf and Robin Selig will update chapters on FAPA, Stalking, and Firearms. Hon. Keith Raines will update spousal support. Judge Brownhill will incorporate the updated Child Support Benchbook. Deadline for updates is May 1, 2014.

Membership - Hon. Paula Brownhill

Stephen Adams recommended that SFLAC review its purpose and how best to fulfill its mission. Should we take on the design and leave the implementation to others? What does it mean to be advisory to the Chief Justice? Should we schedule a full day or half-day retreat in the spring to address these issues?

We have five members whose terms have come up for renewal: Hon. David Brewer, Janice Garceau, Lauren McNeill, Hon Keith Raines, and Robin Selig. All have agreed to continue to serve.

We also have three or so openings. We should have ethnic and geographical diversity and a variety of family law experts. We probably should have no more than 4 trial judges. Hon. Wells Ashby has indicated his keen interest.

ACTION ITEMS: The following SFLAC members will contact these folk to determine their interest:

Linda Scher will contact Julie Gentili Armbrust, mediator from Eugene.

Linda Scher will contact Anita Engiles, mediator from Eugene.

Bill Howe will contact Jeff Harmon, counselor and custody evaluator from LaGrande.

Bill Howe will contact Ryan Carty, attorney from Salem.

Keith Raines will contact Dr. Adam Furchner, parent coordinator and evaluator from Portland.

Hon. Brownhill will need the results by December 18, 2013 so that she can forward recommendations to Chief Justice Balmer before the end of the year.

SFLAC further discussed its role as an advisory committee to the Chief Justice. All agreed that SFLAC could accomplish much more if OJD had a Family Law Department and all courts had facilitation programs.

Amy Bonkosky said that the trial courts relied heavily on family law services at OJD, which were terminated in 2009 due to budget constraints. She explained that Jefferson/Crook Circuit Courts have lost 20% of their staff in the last four years. It is a struggle to provide individualized services to customers. State Court Administrator Kingsley Click and the Chief have submitted Policy Option Packages for family law support every legislative session, but money has been tight and the Family Law POP has not been funded. There is hope that the financial situation will improve by the 2015 session.

Robin Selig reported that the Chief is going forward on interactive family law forms. Lauren MacNeill has been talking to Kingsley about the reduction in mediation funds on the local level and the effects on family court services.

Bill Howe suggested that SFLAC invite the Chief Justice to the March 2014 meeting.

Next Meeting

The next meeting will be on March 7, 2014 at the Department of Justice, 1515 SW 5th, Suite 415, Portland OR.

Respectfully submitted

Keith R. Raines
Secretary for this meeting