

**MINUTES**  
**STATE FAMILY LAW ADVISORY COMMITTEE**  
**September 11, 2009**  
**12:30 p.m. to 4:30 p.m.**

**Gevurtz, Menashe, Larson & Howe Law Offices**  
**Portland, Oregon**

**Members Present:** Hon. Paula Brownhill, Hon. Keith Raines, Linda Scher, Hon. Maureen McKnight, Rebecca Orf (telephonic), Hon. Robert Selander, Russell Lipetzky, Bill Howe, Stephen Adams, Jean Fogarty, Margaret Olney

**Members Absent:** Chris Walls, Jim Adams, Robin Selig, Ernie Mazorol, Lauren MacNeill, Dr. Ed Vien

**Guests:** Hon. Jenefer Grant, Alison Taylor

**Staff:** None

Congratulations on appointment and welcome to our new members: Jean Fogarty and Margaret Olney.

**SFLAC Suspension Discussion**

Bill Howe reported on his meeting with Chief Justice De Muniz on September 8, 2009. After his review of the SFLAC continuity plan, the Chief agreed to reinstate the SFLAC, and he acknowledged the excellent work SFLAC has accomplished, and continues to accomplish. The Chief made it clear that OJD could, pending additional funding, provide limited technical assistance with the website but otherwise could provide no staffing or other support. Bill Howe, on behalf of the SFLAC, assured the Chief that the SFLAC membership understood and accepted these conditions.

He also agreed to appoint new members Jean Fogarty and Margaret Olney and to reappoint Judge Brownhill, Judge McKnight, Stephen Adams, and Ernie Mazorol, whose terms were due to expire on 12-31-09. The Chief Justice Order appointing new members and reinstating the SFLAC was signed prior to this meeting.

OSCA family law staff is gone, and OJD has no money to fill the vacancies. The trial courts are just beginning to realize how much they relied on Maria Hinton, BeLisa Sydlik and Erin Ruff. The family law bar doesn't know yet that OSCA has no staff. A lot of presiding judges don't know. The situation is especially difficult for trial court domestic relations staff and family law facilitators/specialists. No one is available to answer their questions, update forms, or share information with them. SFLAC offered to cover some basic needs in the continuity plan. Members are encouraged to continue to think creatively about how we can help meet the needs.

Margaret moved and it was seconded and unanimously approved that the minutes of the last meeting at the first paragraph of page 3 be amended to add "CSP is considering

ways to provide calculated support for non-IV-D funded families.”

Stephen moved and it was seconded and unanimously agreed that, as amended, the minutes of the June 5, 2009 meeting were approved.

### **Qualifications and Guidelines Status**

Judge Brownhill forwarded the approved Qualifications and Guidelines for Appointment of Custody Evaluators, Parent Coordinators and Parenting Time Supervisors to State Court Administrator Kingsley Click. Kingsley would like to distribute the guidelines to the trial courts for comment. Comments will come to Judge Brownhill. Deadline for comments is October 9, 2009. If guidelines are approved, they may be posted to the SFLAC website (which doesn't currently exist. See website discussion later in the minutes).

Committee reports:

### **Parenting Plan Outreach Workgroup (PPOW) – Linda Scher**

Linda reported that the primary concerns are the new Confidential Information Form (CIF) and legislative updates. Without OSCA staff, the subcommittee cannot review new legislation and update the parenting plans. They are able to continue to do outreach, and Linda and Lauren MacNeill will attend the Family Law Conference in October at their own expense.

Judge McKnight pointed out that this highlights the need for OSCA staff. She will share summaries of the 2009 legislative changes with Linda.

Discussion followed regarding what parenting plan information should be available to the public in eCourt. Should a child's full name and date of birth be included in parenting plans? Judge McKnight said there have been discussions about putting parenting plans in a separate document that is not accessible to the public. Child's school, times of exchange and other private information could be included without worry about strangers accessing the information. She would like SFLAC input to report back to the eCourt Standardization Committee. The Standardization Committee discussed whether schools should have access to parenting plans on-line. Occasionally school staff will want access to parenting plans to enforce the terms. Linda said it is not the court's responsibility to make court records available to schools. Margaret Olney suggested that we have different levels of access; perhaps give law enforcement more access than schools. Judge Raines said we could make parenting plans part of the judgment, and then the judgment access rules would apply. Linda disagreed; parenting plan forms include identifying information that should not be available to the general public. Russ Lipetzky favors exclusion; he said people other than the parents probably won't be interested in the parenting plans, and parents may provide copies to the schools. Judge Raines would like courts/judges to have access to parenting plans on-line. Rebecca Orf favored keeping parenting plans separate from judgments and restricting access on-line. She suggested we develop different categories of users with different rights to access. Parties and attorneys should have access; government entities could be treated differently. Judge Selander supported public access.

Judge McKnight will email Linda Scher within two days of each eCourt Domestic Relations Subcommittee meeting if parenting plans are discussed.

**Domestic Violence Subcommittee** – *Judge Brownhill for Robin Selig*

Judge Brownhill reported that the DV subcommittee has not met recently due to the SFLAC suspension and lack of staff (Maria Hinton was staff for the committee). Rebecca Orf said OJD applied for a VAWA STOP Recovery Act grant. If awarded the grant, Rebecca will work half-time on domestic violence/stalking/FAPA/EPPDAPA. She may be able to help staff Robin's committee. They will find out about the grant next week. She mentioned that Brian DeMarco is on a limited duration two-month assignment to update family law forms to include CIF warnings and to comply with legislative changes. He will work at OSCA through the end of October.

**Court/Child Support Agency Child Support Coordination** – *Judge Maureen McKnight and Jean Fogarty*

The subcommittee is working on four general topics.

- 1) Child support calculation assistance for self-represented litigants remains problematic. This issue was sidelined to work on guideline revisions and emergency measures, and it remains a problem. Various members of the subcommittee have come up with suggestions. The California Justice Corps approach uses volunteers to assist self-represented litigants, a program Oregon could model. Another suggestion is to expand certain IV-D functions. The subcommittee will continue to work on this issue.
- 2) Guideline revision process is underway. Judges and lawyers are welcome to join teleconference meetings to discuss proposed revisions.
- 3) Confidential Information Form (CIF) has implementation issues, and the subcommittee is looking at those and continuing discussions with Department of Justice. A new committee will be formed to clarify CIF issues.
- 4) Technology eCourt piece continues to be a discussion topic. Currently the discussion is on forms and particularly model/sample forms versus mandated forms. Forms in eCourt would be scanned and made available digitally with a wrapper or cover sheet for filing. SFLAC should determine what data to include on the wrappers so we can give a list of elements to the wrapper designers. Judge McKnight suggested we plan for future needs.

Judge Orf said family courts need family identifiers so files can be bundled appropriately. OJIN does not identify related files. Linda Scher asked if the cover would identify the document/case. It needs to include appropriate information for data entry purposes and to give courts the ability to pull data out later. Stephen Adams pointed out that this is very important work. California had wrappers in 1972, and they were used for quality control, collection of data to support judicial budget requests, social issues, comparing judicial districts and identifying needs of the litigants. This is an immediate policy decision that will affect the entire field of family law. We should plan very carefully. He said mandated forms are part of the wrapper discussion. Judge Selander asked about reliability of the data; will self-represented litigants fill out the forms correctly? Russ Lipetzky said other

places use wrappers, and they do it reliably. Jean Fogarty mentioned that DOJ imaging allows search by content, and they do not have to identify the requested data in advance. Maybe this system will work similarly. Margaret Olney said standardization helps with accuracy. Judge Grant said the Columbia County Court wanted to determine how many custody evaluations they do and how many are requested in a time period. They had to go through files manually because there is no way to draw out the data electronically.

Judge Orf asked if there have been further developments on the Uniform Support Affidavit. SFLAC submitted a proposal to the Uniform Trial Court Rules Committee that would treat the USA as an exhibit rather than a filing. Carl Stecker is leading the effort to revise the USA, and he also will submit a proposal to the UTCR Committee. Robin Selig has been in touch with him.

Linda Scher asked to have eCourt added to all SFLAC meeting agendas as we work through implementation issues.

Jean Fogarty reported that DOJ has piloted a program in Multnomah Circuit Court to provide IV-D matching funds for the court's child support functions. A percentage of the court costs are paid by federal matching funds. Court must track its time and account for the time spent on child support enforcement. DOJ is considering an expansion of the program to include other courts. It does not have the resources to help all 36 counties, but it could expand to include some other courts. It is interested especially in problem-solving courts. Judge McKnight and BeaLisa Sydlík worked on this for a very long time, and it may be possible to access matching funds for an OSCA position, although that will take additional planning.

### **Legislative Subcommittee**

Russ Lipetzky asked what SFLAC will do about legislative concepts and pending legislation without OSCA staff. Judge Orf opined that each OSCA staff person will be assigned bills by Nori Cross and Kingsley Click. She does not know the timelines for 2011 legislative concepts. Russ asked that OSCA forward bills to SFLAC for our review and comment. SFLAC may need to follow up in writing with an offer to help review legislation for the OJD.

### **Forms Review Subcommittee – Judge Paula Brownhill**

Brian DeMarco is working on family law forms revisions for the OJD. He is trying to get through as many forms as possible during his two-month limited duration assignment. He would like the SFLAC Forms Review Subcommittee to assist him. Judge Orf noted that the turn-around times will be very short. They will need immediate feedback as they move quickly through the forms. The emphasis will be on CIF updates and legislative changes. Russ Lipetzky and Robin Selig serve on this subcommittee with Judge Brownhill. Judge McKnight and Judge Raines volunteered to help Brian with the current form revisions.

### **Self Representation Subcommittee – Judge Maureen McKnight**

Judge McKnight reported that, although SB 256 did not pass, it may be back in February

(this bill would have repealed the statute that authorizes SFLAC). If a new version passes, courts may be able to charge for facilitation services. The subcommittee will review proposed legislation and make recommendations as needed.

The subcommittee drafted a memo on the class approach to facilitation assistance. It went out to the courts, and she has received some questions. They will continue to assist with questions and issues on facilitation classes.

Judge McKnight has been working with Kay Pulliam of the Oregon State Bar on a joint bench/bar task force that would help with family law issues. She approached Kingsley Click about the concept, and Kingsley seemed positive. OSB has agreed to staff the task force and may cover the basic expenses. It would be organized somewhat like the former Legal Services Commission to look at ways to help self-represented litigants. OSB is interested in helping with forms. It may help move the courts to interactive forms, which OJD cannot afford at this time. The subcommittee will produce a draft document, forward it to SFLAC for approval, and send it to Kingsley and the Chief Justice. Once Kingsley and the Chief approve, the subcommittee will work out details with OSB. Linda Scher feels mediators are excluded by the "bench/bar" designation. Judge McKnight explained that the group will be multi-disciplinary, and she will provide a way for mediators and others to be included, but the primary structure will be bench and bar.

#### **Discussion of SFLAC Priorities and Work**

Bill Howe led the discussion by suggesting that we keep a little powder dry when contemplating ways SFLAC can help OJD. If the tax increase is voted down, state budgets will see further cuts, and we may need to add duties in February. Margaret Olney encouraged SFLAC to stay positive. The tax increase makes many programs possible, and Oregonians value these services.

The SFLAC continuity plan offers to help answer family law questions from OSCA staff. It was agreed that those questions should be directed to Judge Brownhill, and she will forward them to the SFLAC for answers. Judge McKnight is on the facilitator listserv. She responds to a few questions if she can give a clear legal answer. The bulk of the questions deal with OJIN codes, data entry and other technical issues; those need to be answered by someone at OSCA with OJIN expertise. Russ Lipetzky pointed out that if we do not give an authoritative response, the most vocal person may respond with incorrect information. Judge Orf sees questions and answers on the facilitator listserv; she could email questions to the SFLAC judges. Judge McKnight said she may give a range of options to some questions. Facilitators need to go through their own court's administrative channels for some answers.

The Family Law Benchbook needs to be updated annually. Updates were the responsibility of the Judicial Conference Family Law Committee chaired by Judge Deanne Darling. The Chief Justice discontinued the committee so SFLAC took over the Benchbook. Judge Raines mentioned that Judge Darling had talked about forming a new committee. Judge McKnight will let Judge Raines know how to get on the facilitator listserv.

Margaret Olney asked if it would be helpful for her office to update the Family Law Benchbook child support chapter. She and Judge McKnight will discuss it further.

The LFLAC liaison list needs to be updated. Judge Brownhill will send the list out to SFLAC members and will update the list as needed.

SFLAC members feel it would be helpful to see an updated list of OSCA duties related to SFLAC business. SFLAC will continue to work according to the continuity plan, and SFLAC subcommittees will continue to meet. We will keep the Chief Justice advised of our progress.

### **SFLAC Web Page**

The SFLAC web page disappeared when OJD changed servers. Judge Brownhill mentioned this to Kingsley Click, who was aware of the problem. Kingsley hopes the problem will be solved soon. Bill Howe reported that the Chief Justice will send a letter to Judge Brownhill and will designate two or three people that SFLAC may use as contacts. He will include the name of a tech person to handle web page updates. If the names are not in the letter, we may need to follow up with the Chief. It was pointed out that SFLAC news is on the Family Court page on the OJD website; there is a notice about early registration for the 2008 Family Law Conference. Judge Brownhill would like SFLAC members to forward ideas to her for the SFLAC page, and she will follow up with the ETSD (formerly ITD) division. She asked each SFLAC member to check the web site occasionally and let her know if updates are needed. Linda Scher, on behalf of the PPOW Subcommittee, offered to take responsibility for parenting plan updates on the web site. Other subcommittee chairs will be responsible for postings related to their subcommittee work.

### **Parent Education Materials On-Line**

Don Gordon contacted OSCA and asked to have his parent education materials posted on the OJD website and offered as an alternative to in-person classes. Some trial courts accept the program as an alternative; others do not. Judge Raines said SFLAC should not endorse one commercial product. Stephen Adams said there is a broader issue for discussion: should parents participate in parent education classes individually at home or in group settings? He would like a discussion of this issue. He believes that bringing people together to discuss these issues is an important component. It is a policy issue that needs to be decided. Judge McKnight said we might frame the pros and cons for trial courts that are considering on-line classes. Linda Scher pointed out that some courts allow mediation orientation to be done individually. Alison Taylor said there is no other multi-disciplinary group that will discuss parent education. She added there is a great deal of research on the efficacy of parent education, and we may want to review the research before we decide. Bill Howe asked Alison to assemble some of the research for our members to review prior to the discussion. Linda Scher mentioned that Dr. Vien's Guidelines workgroup might be a good forum for continued discussion. Alison agreed to gather materials and forward them to Judge Brownhill before the December meeting. Judge Brownhill will send them to SFLAC members before that meeting. Judge Raines reminded the committee that Charlie Asher's Up to Parents program is

available for free on-line, and they are helpful materials.

**Other Business**

Jean Fogarty reported that DOJ is using grant funds to create a video on parenting plans that will be available at no charge.

Lawyers, court staff and law enforcement have many questions about UTCR 2.130. We would like Robin Selig to be present for the discussion. It will be an agenda item at the December SFLAC meeting. Topic also will be on the Court/Child Support Agency Child Support Coordination Subcommittee's next agenda.

Russ Lipetzky noted that Marion County's parenting time supervision program may go away because filing fee waivers have significantly reduced mediation funds that supported it. SFLAC previously made a recommendation to the Chief Justice and State Court Administrator that would change the number of fee waivers. That recommendation was not followed. Judge McKnight said the current rule came from a workgroup convened by the SCA or Chief Justice. She asked if we can send the issue back to the committee for further review. Judge Grant agreed that revenues are way down in Columbia County, and Presiding Judge Steve Reed believes the issue is being revisited. Russ asked if we can weigh in again. Judge McKnight will ask Multnomah County Trial Court Administrator Doug Bray if he knows the status. SFLAC would like to know if the issue is under discussion, by whom and at what level. Anyone with information should forward it to SFLAC members.

**Future Meeting Dates**

SFLAC selected the 2010 meeting dates. Judge Brownhill will try to reserve the Citizen Review Board conference room on NE 18<sup>th</sup> in Portland. If the conference room is not available, Bill Howe generously offered his conference room again.

Meeting adjourned at 4:15 p.m.

**Future SFLAC Meetings:**

<b>Friday, December 4, 2009</b>	<b>12:30 p.m. - 4:30 p.m.</b>	<b>CRB Portland Office</b>
<b>Friday, March 5, 2010</b>	<b>12:30 p.m. – 4:30 p.m.</b>	<b>CRB Portland Office</b>
<b>Friday, June 4, 2010</b>	<b>12:30 p.m. - 4:30 p.m.</b>	<b>CRB Portland Office</b>
<b>Friday, September 10, 2010</b>	<b>12:30 p.m. - 4:30 p.m.</b>	<b>OSCA Salem</b>
<b>Friday, December 3, 2010</b>	<b>12:30 p.m. - 4:30 p.m.</b>	<b>CRB Portland Office</b>