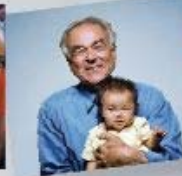




ASSOCIATION OF  
FAMILY AND  
CONCILIATION COURTS



**eNEWS**

August 2017

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## AFCC-AAML Conference Registration

*Advanced Issues in Child Custody:  
Evaluation, Litigation and Settlement*  
September 14-16, 2017  
Westin San Diego

Join AFCC and the American Academy of Matrimonial Lawyers in sunny California for the 2017 Conference on Advanced Issues in Child Custody.

Don't miss out on this exceptional, advanced-level training



**Save the Date**  
[AFCC-AAML](#)  
[Conference](#)

Advanced Issues in Child Custody: Evaluation,

opportunity. [Register now!](#) Make sure you [book](#) a hotel room, only a few rooms remain.

[Read the brochure](#)

## Ask the Experts: Top 10 Examples of Cognitive Bias

*Philip M. Stahl, PhD, ABPP (Forensic) and Robert A. Simon, PhD*

Cognitive bias is a phenomenon resulting from how the human brain is designed, how it is wired and how it functions. The brain is an amazing and awesome organ but, like anything else, it isn't perfect and some of the aspects of design and function that result in the wonders of brain functioning also lay the foundation for cognitive bias. The key ingredient is that the cognitive bias influences the evaluator in forming conclusions by interfering with the necessary complex assessment and analysis of all data. Human brains are designed to oversimplify complex data, and this is where the risk of cognitive bias influencing conclusions occurs.

[Read more](#)

## AFCC Regional Conference

**Register today for the AFCC Regional Conference, *Beneath the Surface of High Conflict and Troubled Families*, November 2-4, 2017, at the Hyatt Regency Milwaukee, in Milwaukee, Wisconsin. The [program brochure](#) is available, with over 40 sessions and up to 16.5 hours of continuing education. You can register online today, the early bird discounted rate ends **October 2**.**

### Conference Scholarships

AFCC is offering a limited number of scholarships to the Regional Conference. Scholarships include a pre-conference institute registration, a full conference registration, welcome reception, luncheon, access to the

Litigation and Settlement  
September 14-16, 2017  
Westin San Diego  
San Diego, California

### [AFCC Regional Conference](#)

*Beneath the Surface of High Conflict and Troubled Families*  
November 2-4, 2017  
Hyatt Regency Milwaukee  
Milwaukee, Wisconsin

### [AFCC Chapter Conferences](#)

#### [Florida Chapter Annual Conference](#)

September 25-27, 2017  
The Florida Hotel & Conference Center at the FL Mall  
Orlando, Florida

#### [Indiana Chapter Annual Conference](#)

September 29, 2017  
Chateau Thomas Winery  
Plainfield, Indiana

#### [Colorado Chapter Annual Conference](#)

October 13-15, 2017  
Breckenridge, Colorado

#### [Ontario Chapter Annual Conference](#)

October 19-20, 2017  
Toronto Reference Library  
Toronto, Ontario

#### [Arizona Chapter Annual Conference](#)

January 26-28, 2018  
Hilton Sedona Resort  
Sedona, Arizona

hospitality suite, and a certificate of attendance. Recipients are responsible for funding any additional expenses. The deadline to [apply](#) is **September 8, 2017**.

### Hotel Information

The Hyatt Regency Milwaukee is offering a special rate of \$139/night for single or double occupancy. To make your reservation, [click here](#). Rooms frequently sell out before the room block is released. The special rate will no longer be offered after October 7.

### Advertising and Exhibit Opportunities

To view exhibit and advertising opportunities, [click here](#). For all questions, please contact AFCC Program Coordinator, [Corinne Bennett](#).

[Register Today](#)

### December Trainings

Dates and topics have been announced for the December training programs sponsored by AFCC and the University of Baltimore School of Law.

#### Parenting Coordination: Essential Tools for Conflict Resolution

*Debra Carter, PhD*

December 4-5, 2017

University of Baltimore School of Law  
Baltimore, Maryland

#### Advanced Topics for Custody Evaluators: Interviewing, Report Writing and Testifying

*David A. Martindale, PhD, ABPP*

December 6-7, 2017

University of Baltimore School of Law  
Baltimore, Maryland

[More Information](#)

### Tech Talk

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Pardon our dust! Thank you for your patience as we have undergone a major database conversion. As a result, we would like you to update your information. When you login to your account, you now need to enter your email address (the address to which this email was sent) and a password. If you haven't already, please [reset your password](#). If you encounter any trouble, please call the AFCC office, 608-664-3750.

## Member News

AFCC member, **Forrest S. Mosten**, has co-authored a new book published by the American Bar Association. *Unbundled Legal Services* is written with Elizabeth Potter Scully and is [available](#).

AFCC's Faculty Administrative Editor for the Family Court Review, **Matthew Kiernan**, has been named Associate Dean for Academic Operations. He formally served as Director of Policy and Planning for Hofstra's Center for Children, Families and the Law. Congratulations Matt!

## Chapter News

The race to gain new members for a big cash prize is on! The AFCC chapter that gains the greatest percentage of AFCC members (of the parent organization) in their locale (state, province, or country in the case of Australia) between July 1, 2017 and May 31, 2018 will be awarded a check in the amount of \$5000 at the AFCC annual Conference in Washington, DC, June 6-9, 2018. Official figures will be maintained by the AFCC office.

## AFCC Webinar Corner



Register now for next month's webinar:  
**Interviewing Children: How to Talk and How to Listen**  
Mindy F. Mitnick, EdM, MA  
September 19, 2017 1:00pm Eastern

[Register now](#)

If you missed this month's webinar, Stepfamily Dynamics, members may access the recording for free through the [Member Center](#) of the AFCC website.

[Webinar Archives](#)

## Introducing the 2017-2018 AFCC Fellows

AFCC is pleased to welcome **Robin Belcher-Timme**, PsyD and **Daniel Nau** as the AFCC Fellows for 2017-2018. Building off the E2M (early to mid career) program, Robin and Dan will have the opportunity to attend board meetings, participate in committee work, present at conferences, and get to know AFCC from the inside out. Robin is the Chief Psychologist at Connections Community Support Programs, he also operates an independent practice in clinical and forensic evaluation. Daniel is a Family ADR Case Manager with the Multi-Door Dispute Resolution Division of the District of Columbia Superior Court, where he was selected to mediate cases with instances of high intimate partner violence as part of a National Institute of Justice grant through Indiana University.

## Submit a Proposal to Present at the 55th Annual Conference

*Compassionate Family Court Systems: The Role of Trauma-Informed Jurisprudence*

June 6-9, 2018

Washington Hilton DC, Washington, DC

AFCC is accepting proposals for 90-minute workshop sessions through October 2, 2017. The conference theme will explore ways to balance upholding the rule of law and exercising compassion in the family court system.

[View the Call for Proposals](#)

**Association of Family and Conciliation Courts (AFCC)**

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(608) 664-3750

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## Ask the Experts: Top 10 Examples of Cognitive Bias

*Philip M. Stahl, PhD, ABPP (Forensic) and Robert A. Simon, PhD*

Cognitive bias is a phenomenon resulting from how the human brain is designed, how it is wired and how it functions. The brain is an amazing and awesome organ but, like anything else, it isn't perfect and some of the aspects of design and function that result in the wonders of brain functioning also lay the foundation for cognitive bias. The key ingredient is that the cognitive bias influences the evaluator in forming conclusions by interfering with the necessary complex assessment and analysis of all data. Human brains are designed to oversimplify complex data, and this is where the risk of cognitive bias influencing conclusions occurs. Examples of cognitive bias are primacy and Recency bias (placing inappropriate weight on what was learned first or learned last), availability bias (placing inappropriate weight on information which is more easily obtained or more readily available) and confirmatory bias (reaching conclusions before all the data is gathered and then searching for data that confirms the inappropriately reached conclusion or filtering what is learned through the inappropriately reached conclusion).

Cognitive bias is not the same as prejudicial bias (for example favoring mothers versus fathers, having a preconceived notion that relocation is always bad for children, or believing that very young children belong in the care of their mother). Instead, cognitive biases are often unknown to the person with the bias. Such biases reflect errors in logical reasoning and logical thinking. We believe that cognitive is the greatest threat to the validity of forensic expert work products and is something we all need to be aware of so that we can educate ourselves about the various types of bias and how to control for them. We also note that the need to identify and control for bias is specified in the AFCC Model Standards, the APA Ethical Principles and Code of Conduct, the APA's Child Custody Guidelines and the APA's Specialty Guidelines for Forensic Psychology to name a few. Below are the top 10 examples of cognitive bias, examples which are tied to the AFCC's Model Standards for Child Custody Evaluation and drawn from our review work of custody evaluations.

1) **AFCC Model Standard 5.4** identifies a need to have a balanced process (or note to explain if they are imbalanced). Evidence of such bias includes when the evaluator does not list amount of time spent with each interviewee in report and/or lists

significantly different amounts of time on each side. This is furthered when parents bring journals to the evaluator, and some are easier to read because they are typewritten whereas the others are more challenging as they are handwritten. In the report, the evaluator quotes from father's journal extensively but does not quote from mother's journals at all. Potential biases evidenced reflect availability bias, anchoring to Father's journal entries, and unbalanced procedures leading to confirmatory bias.

2) **AFCC Model Standard 4.5** identifies that evaluators need to avoid interim recommendations. Evidence of potential bias exists when an evaluator makes interim recommendations without sufficient data to have done so, and then the final recommendations are consistent with those interim recommendations. For example, in a relocation case, the interim recommendation is that the child attend school in one parent's neighborhood. In the final report, the evaluator recommends that the child remain in the same school and with the same parent, noting that continuity is important for the child. This is evidence of potential Recency and Confirmatory Bias.

3) **AFCC Model Standard 5.3** identifies "Commitment to Accuracy". One of the challenges in evaluations occurs when an evaluator is sloppy in gathering data. Even worse, when the evaluator does not adequately weigh all the data and provide sufficient alternative hypotheses for all the data, "thoroughly and impartially". When an evaluator fails to consider all the data and various multiple hypotheses, the evaluator is at risk of Anchoring bias, Confirmatory bias, either Primacy or Recency bias, or other such biases that influence the ways in which the evaluator fails to adequately assess and weigh all data.

4) **AFCC Model Standard 4.6** identifies that custody evaluators are strongly encouraged to use peer-reviewed published research in their reports. However, when an evaluator simply says something like "the research shows ...", there is evidence of potential misuse of research. Research findings are group findings, and are always more nuanced than a black and white description. Often, research findings lead to multiple outcomes for groups, and application of those research data in individual cases is challenging. Citations allow for the court to understand the nuanced approach that is critical when considering the multiple hypotheses of a case.

5) **AFCC Model Standard 4.6** also identifies that evaluators are not to use research in a way that is misleading. Yet all too often, we have seen evaluators cite research that does not apply to the case, only cite studies that are outdated, or even cite studies that have been discredited, all to support findings and conclusions that other data does not support. This suggests that the evaluator has been influenced in some fashion, and selectively research data to give an appearance that the conclusions are in the child's best interests. This is most common in evaluations with questions of overnights for both parents versus one parent, and in relocation matters.

6) **AFCC Model Standard 5.2** identifies that evaluators are to assess factors that are statutorily defined or identified in case law. Bias is suggested when the evaluator brings in non-relevant factors to support a position, especially when such factors are not

relevant to the case. For example, when an evaluator in a relocation case recommends against the relocation of the children on the basis that children benefit from regular access to both parents, or recommends in favor of the relocation on the basis of “happy mom, happy kid” theories, there is a likelihood that the evaluator was influenced by preconceived beliefs, and hence Anchoring or Confirmatory bias, rather than gathering sufficient data and analyzing those data in a way that is neutral to the outcome.

7) **AFCC Model Standard Section 6** refers to psychological test usage - there is a significant risk of bias when an evaluator selectively picks data from a computer-generated report to support one’s conclusions. This is made worse when an evaluator is not a psychologist and gets a report from the psychologist and the evaluator takes sentences from the psychologist’s report to “bolster” conclusions. This is likely evidence of Confirmatory Bias.

8) **AFCC Model Standard Section 8.5** suggests that practitioners who are hired to review the work of a child custody evaluator shall avoid relationships with participants. it can always be somewhat difficult to avoid retention bias when hired as a consultant, but if one does take on the consultation role, one must not meet with a parent to avoid the further appearance of being biased by meetings with that parent. This is especially true if the parent hiring the reviewer only sees portions of the evaluator’s file “to save money”. Retention bias is impossible to avoid under such circumstances.

9) **AFCC Model Standard Section 11.4** identifies that evaluators shall be prepared to explain how different types of information were considered and weighted in formation of opinions. Evaluators who are not transparent in the analysis and simply make recommendations without identifying data that do not support their conclusions are at risk of being biased.

10) **AFCC Model Standard Section 1.2** identifies that evaluators need training in significance of culture in the lives of parties. Failure to do so can reflect both cognitive or implicit biases associated with culture and other traits of litigant parents.

Knowing about the risks of bias allows evaluators to take steps to reduce the risk of being influenced by such biases. The best ways to reduce risks of such influence include:

- Paying attention to and follow Model Standards and other such Guidelines or Rules of Court
- Recognize the complexities inherent in custody evaluation work and the risks of being influenced by one or more cognitive biases
- Remain curious and gather as much data as possible, especially about critical and relevant issues in the case
- Develop and consider multiple hypotheses throughout the data gathering process
- Avoid formulating conclusions until all data are gathered
- When presenting data, include data that do not support your conclusions as well as the data that do support your conclusions



- Provide a thorough and transparent analysis of the data
- Provide an analysis that clearly identifies the risks and benefits of different custodial options

*Philip M. Stahl, PhD, ABPP (Forensic) is a psychologist performing child custody evaluations and serving as a child custody consultant and expert witness, who speaks internationally and writes frequently about various child custody related matters, in particular on various types of bias in forensic work. He has been a member of AFCC, his professional family and home, for nearly 35 years. Along with Dr. Simon, he is co-author of Forensic Psychology Consultation in Child Custody Litigation: A Handbook for Work Product Review, Case Preparation, and Expert Testimony.*

*Robert A. Simon, Ph.D. is national leader in forensic psychology consulting in child custody matters. He is honored to serve on the Board of Directors of the AFCC and maintains an active consulting practice based in San Diego, CA and Maui HI.*

*Drs. Stahl and Simon will be presenting a full day pre-conference institute on Thursday, November 2 2017 at the AFCC Regional Conference in Milwaukee titled "How Our Brains Fool Us: Cognitive and Implicit Bias in Family Law Matters."*