NEWSLETTER

Association of Family and Conciliation Courts

An international association of judges, counselors, court evaluators, mediators, and lawyers

Volume 13, Number 2 Spring 1994 Editor: Peter Salem

AFCC is Island Bound! May 11-14, 1994

While the weather in four-season climates alternates between April showers, alluring, but infrequent, spring temperatures and the threat of a spring snowstorm, is it any wonder that many AFCC members are turning their thoughts to Wailea, Maui, Hawaii?

But those attending AFCC's thirty-first annual conference will enjoy more than a beautiful climate. Conference Coordinator Hon. Doug McNish has planned a stimulating and diverse program in a fabulous setting with just the right mix of activities for a terrific island experience.

The Program

Special Institutes will take place during the day on Wednesday, May 11. Topics include Advanced Issues in Mediation, Models of Post-Divorce Parenting for the 21st Century, Interviewing Children, Traditional Hawaiian Family Dispute Resolution Methods and Custody Jurisdiction and Parental Abduction. Over 35 provocative workshops and plenary sessions have been planned. Special events include the AWARDS LUNCH on Thursday and the AFCC BANQUET at the Maui Tropical Plantation on Friday night.

Location, Location

The Inter-Continental Resort is located on 22 acres of beach front property. Conference planners recommend casual attire. Temperatures are expected to be in the 80's during the day with evening temperatures in the 70's.

Conference Materials Packing List

For before and after conference activities, don't forget to pack your bathing suit, shorts, sun tan lotion, fins, mask, snorkel, camera, dramamine (as needed), sunglasses, tennis racket, reading materials (for the beach), boogie board, binoculars and . . . oh yes, your spouse or significant other.

See you in Maui!

Maui Conference to Feature Authors

The 1994 Annual Conference in Maui, Hawaii, May 11-14, will feature an impressive array of presenters. Among the talented presenters will be authors of several books on family and divorce.

☐ Representative Patricia Schroeder, Dean of the Colorado Congressional Delegation; Past Chair, Select Committee on Youth and Families; author, *Champion of the Great American Family*.

Using the story of her own family, Rep. Schroeder offers a comprehensive analysis of the problems facing American families, covering issues such as the need to work, parental leave, child care, family health care, adoption, family planning, changing life cycles, family economics, and family illnesses.

(continued on page 2)





Presidential Message

by Robert Tompkins Hartford, Connecticut

t is with mixed emotions that I reflect upon my year as President of the Association of Family and Conciliation Courts. I am heartened by the growth and change I have seen this year and that which lies ahead for AFCC. In this past year we have celebrated the growth of membership, products, conference attendance, revenues, and staff. As AFCC moves swiftly into the future. I have been forced to slow down just a bit to remember our modest beginnings. I am saddened to learn of the recent passing of two of AFCC's oldest and dearest friends. Meyer Elkin and Hon. Irwin Cantor. It is because of the influence of AFCC members and leaders such as Mike and Irwin that AFCC has evolved to where it is today.

Those present at the birth of AFCC 31 years ago would barely recognize the off-spring today. The annual conference has

grown from a small, informal gathering to the celebration of AFCC's 30th Anniversary Conference in New Orleans which attracted a record 700 registrants and many new members.

The growth and development of the Association was punctuated by the award of a major grant from the Hewlett Foundation. This grant will enable us to launch our Professional Development and Technical Assistance activities and to expand our administrative capacity to match the pace of our growth. In March, AFCC's Professional Development and Technical Assistance Task Force convened in a "think tank" manner to explore the options and to recommend a strategic plan for future efforts in this area.

Planning is also underway for AFCC's two major Professional Development and Technical Assistance events in 1994: the First International Congress on Parent Education Programs (Chicago, September 29-October 1) and the First International Symposium on Custody Evaluations (Tucson, November 5-7). If the amount of interest expressed thus far is any indication, these programs will appear on AFCC's menu for many years to come.

We have long counted on the remarkable

volunteer efforts of the membership and the Board of Directors to produce the high quality programming and products associated with AFCC. The Hewlett grant will help us to strategically plan our future so that we may make the best use of leadership within the association and staff capacity. As a first step, President-Elect Doug McNish, Vice President Joel Shawn, and Executive Director Ann Milne participated in a workshop on leadership development and organizational planning conducted by the American Society of Association Executives.

My personal transition, from President to Past-President, is one of mixed emotions. I have enjoyed — and will miss — serving as AFCC President. It has been both a privilege and an honor. At the same time, I am pleased to turn over the Presidency to Hon. Douglas McNish, who has been a leader for AFCC and the family court. He will provide the guidance needed to help us reach our enormous potential as an organization.

Finally, I would like to thank those of you — too numerous to list — who have helped to make this a landmark year for AFCC. Your interest, your enthusiasm and your professional dedication will provide me with the luxury of looking back on my year as AFCC President with great fondness.

Authors Present in Maui (continued from page 1)

☐ Constance Ahrons, Divorced Families: A Multi-disciplinary Developmental View

Based on the Binuclear Family Study, this book identifies divorced spouses as "perfect pals," "cooperative colleagues," "angry associates," and "fiery foes." Factors causing difficulty in divorce and elements of a functional divorce are examined

☐ Joel Edelman, The Tao of Negotiation: How to Prevent, Resolve and Transcend Conflict in Work and Everyday Life

This book shows readers how to assess conflict and employ techniques designed to minimize the impact of disagreements in virtually all relationships.

☐ Lois Gold, Between Love and Hate: A Guide to Civilized Divorce

This comprehensive "how to" guide offers advice on conducting a divorce as painlessly as possible. Ms. Gold covers issues such as trial separation, parenting, reestablishing oneself as single and coping with an ex-spouse.

☐ Beverly James, Treating Traumatized Children

This handbook provides specific guidance and tools for treating children who have been traumatized by physical and sexual abuse, disaster, divorce or witnessing violent events. Art, play, and drama techniques are presented.

☐ Janet Johnston, *Impasses of Divorce*

The authors use case materials from high conflict families to explore the powerful psychological and social forces underlying divorce conflicts and present a model for mediating these conflicts.

☐ Joan Kelly, Surviving the Breakup

Based on a study of sixty families over the first five years post-divorce, this book looks at the immediate and long-range effects of divorce on children.

☐ Isolina Ricci, Mom's House, Dad's House

In this practical and systematic guide for divorcing parents, Dr. Ricci presents a recipe for the "two home" approach to post-divorce parenting.

☐ Richard Warshack, The Custody Revolution

This book draws on original research to present a blueprint for custody decisions. Dr. Warshack questions the practice of routinely awarding custody to mothers and shows why children often fare best in the care of the same-sex parent.

☐ Bill Wear, Recovering from Divorce . . . And The Horse You Rode In On

This book is written to help clients to recover from the impact of stress, conflict and divorce. The book suggests specific strategies which offer clients and professionals the opportunity to emotionally and spiritually heal from past relationship wounds.

Top ten reasons to attend the AFCC Maui Conference

(with apologies to David Letterman and his writers)

- 10. It's Maui, who needs ten reasons?
- 9. Location, location, location!
- Sick and tired of long lines for the tanning booth at the health club.
- 7. A great place to bring the family ... you are bringing the family, right?
- To sit all day inside while everyone else is playing on the beach.
- 5. Hope to see Jack Lord, Don Ho or Tom Selleck.
- Haven't lost a nice expensive pair of sunglasses on the beach since last summer.
- Finally have an excuse to wear that Hawaiian shirt in the back of the closet.
- Earn enough frequent flyer miles to get to Montreal for 1995 Annual Conference.
- How often do you get the chance to eat three of those scrumptious airline meals in a single day?

IN MEMORY OF MEYER ELKIN

On March 17, 1994, Meyer Elkin, a founding member of AFCC and the first Editor of the *Review*, passed away. He is survived by his children and his wife, Ruth Elkin. Condolences may be sent to Ruth at 1217 Shadybrook Drive, Beverly Hills, CA 90210. Memorials may be sent to the American Lung Association or the American Heart Association. Below, two of Meyer Elkin's friends pay their respects.

A Personal Note: Meyer "Mike" Elkin

Submitted by Stan Cohen

Traipsing over my orchards this morning, the phone call came to mind. It was about two weeks ago on a Thursday evening. Ruth Elkin called to tell me that Mike had died that morning. Many thoughts about Mike have crossed my mind since the phone call.

That Mike was influential in my career and life would understate our relationship. As Director of the Los Angeles County Conciliation Court, he hired me as a conciliation counselor in 1963. I doubt my career would have focused on court-connected services had I not met Mike. Later, we became close enough friends that I was Mike's best man when he and Ruth married. After my move to Oregon, we always kept in touch.

More importantly, Mike's major legacy to all of you reading this note was his idea about developing an association composed of counselors, attorneys and judges. In 1963, he and Judge Roger Alton Pfaff put together such a group for a one day conference in Los Angeles. That was the beginning of what we all now know as AFCC.

But Mike had so many creative ideas that now are common practices in the conciliation and mediation work we do. Early on, he started a small semi-annual publication that addressed court-connected issues. We all know it as the **Conciliation Courts Review**. Mike was it's editor from 1963 through 1986. I could go on and on. Jay Folberg's comments in the forthcoming **Review** spells out his many other contributions.

In summary, Mike was someone very special to me. He was an innovative practitioner, an excellent mentor and a dear friend. Without meeting Mike, I would not have met so many AFCC members who have become friends and colleagues. He will be sorely missed, by me and those AFCC members who directly or indirectly crossed paths with him.

Stan Cohen is former Co-Editor of the **Review**, and a former Executive Director of AFCC.

Submitted by Hugh McIsaac

Emerson once said, "An institution is the lengthened shadow of one man . . . ". The shadow of AFCC has passed from us. Meyer Elkin, the first director of the Conciliation Court in Los Angeles, passed away Thursday, March 17th. Mike, as those of us who worked for him called him, had been disabled for many years, but his mind was always clear until the very end.

His last poem published in the April 1994 issue of the *Family and Conciliation Courts Review* presaged his passing for Mike was very much in touch with what was going on within and around him. We will miss the poems and the laughter.

Every three or four months, when I was in Los Angeles, I would have lunch with Mike and his wife Ruth. Mike was one of the few persons who could really understand the issues I wished to discuss, and I valued his wise counsel. Those lunches will be no more, but I will remember them, and they will last through our own actions, shaped by their wisdom and thought.

Mike was a visionary. He spoke of parents sharing custody, of parents being forever, of the need to find a better language for parenting following divorce. He was a pioneer in the field and the list of firsts is long. He was always willing to try new things, sometimes with a little prodding, but always with enthusiasm and an inherent sense of fun. I will miss those moments at conferences in the lounge when a group of us would talk and share experiences. Mike was always there, sharing with us his infectious laughter.

We all need to take time out of our busy lives to remember Mike and what his life has told us. For then, through our own actions, his time and influence will continue.

Hugh McIsaac is Editor of the **Review** and a Past President of AFCC.

Earthquake Can't Deter AFCC's California Chapter

AFCC's California Chapter members began 1994 with a demonstration of their mettle, their professional responsibility and their devotion to AFCC. Just three days after Southern California experienced a major earthquake, 170 people participated in the California Chapter's 1994 conference, Building Bridges, January 21-23 in Newport Beach, CA.

The opening plenary featured Hon. Vance W. Raye, Hon. Peter Espinoza, and Isolina Ricci, Ph.D., discussing the future of the courts and the report of California's 2020 Commission. The report looks ahead 30 years to propose a multi-dimensional court system revolving around a variety of alternative dispute resolution options. Other conference highlights included programs on

professional ethical dilemmas, move aways, and bridging the communication gap between professionals.

The Conference Committee was chaired by Jan Shaw, Director of Orange County Mediation and Investigative Services. Ms. Shaw noted the extraordinary efforts of Conference Committee members Rita Berlin, Diane Hartmann, Sherrie Kibler, Stephanie MacNeille, Holly Magana, Prisca Gloor-Maung, Gerri Olin, Karen Raiford, Charlotte Saito, Mary Swenson, Tess Wright and Commissioner Thomas Schulte.

Planning is already underway for the 1995 California Chapter Conference which will take place January 28-29, 1995 at the Sonoma Mission Inn, in Sonoma, CA, located in the heart of the Napa Valley. This

popular location sold out within one month for the 1993 conference so make your reservations early. For additional information contact Jeanne Ames, (415) 928-2079.

AFCC Newsletter Advertising Rates

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AFCC 329 W. Wilson St. Madison, WI 53703

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Massachusetts Passes Parent Education Legislation

Massachusetts has joined the increasing number of states passing legislation designed to facilitate the implementation of parent education programs. Section 107 of chapter 460 of the Acts of 1993 was signed by Massachusetts Governor William Weld on January 13, 1994. The legislation authorizes the chief justice of probate and family court to inaugurate pilot parent education programs.

The court is also authorized to mandate participation in parent education programs for any case involving visitation, custody or support of minor children. Programs are to educate parents on the needs of minor children and the roles and responsibilities of parents who do not live together, including the legal responsibility to provide child support.

Connecticut Mandates Education Programs for Divorcing Parents

he Connecticut Superior Court Family Division has established what is believed to be the first statewide mandatory parent education program. Public Act 93-319 requires all parents involved in cases in the family division of the court to attend a six hour program. The Family Division has contracted with seventeen service providers throughout the state, including not-for-profit, private and educational institutions. Parents may choose to attend either a three session two-hour program or a two session threehour program. Sessions are held both evenings and weekends. The cost is \$100 per person. Judges may waive fees for those unable to pay.

According to Diana Preice, Manager for Family Services, the legislation was passed at the urging of a number of child advocacy groups, including the Connecticut General Assembly Commission on Children. Family Division staff assisted the legislature in focusing the content of the mandated programs to meet the needs of the divorcing population. The required curriculum includes educating parents about:

 how to help children handle changes in their family;

- how to help children adjust to their parent's separation;
- how to cooperate and resolve parental disputes;
- how to establish appropriate visitation schedules;
- · how to reduce stress for children; and,
- how to adjust to a child's age-related changing needs.

Family Division staff working on the parent education programs include Tim Salius, Bob Tompkins, Greg Halzak and Diana Preice. "It's exciting to see a program that includes *all* divorcing parents," said Ms. Preice. "We are interested to see how the information is received by the participants." The programs will be evaluated by parents, service providers and Family Division staff.

The Connecticut program will be one of the divorce education programs represented at AFCC's First International Congress on Parent Education Programs, September 29-October 1, 1994 in Chicago, IL. If you are interested in participating or would like more information, contact AFCC, 329 W. Wilson St., Madison, WI 53703, (608) 251-4001, FAX (608) 251-2231.

FIRST INTERNATIONAL

Congress on Parent Education Programs

Presented by the Association of Family and Conciliation Courts and The Family Law Section of the American Bar Association.

September 29 - October 1, 1994 · Chicago, Illinois

Hyatt Regency, \$99 single/double

AFCC is proud to announce the First International Congress on Parent Education Programs. The Congress is designed for administrators, program coordinators, service providers and anyone with an interest in programs for divorcing parents. Preliminary workshops topics include:

- Nuts and Bolts: Getting a Program Started Funding a Program Recruiting and Training Program Presenters Working with Community Resources
- Content and Curriculum: Developmental Needs of Children Conflict Management Skills for Parents Relationships with Family Members and Others What to Tell Parents About the Law
- **Professional Issues:** Administrative and Structural Issues Is There a Need for Program Standards? Program Evaluation & Research Issues
- **Skill Development:** Developing Your Educational Objectives Facilitation Skills for Group Leaders Developing Your Presentation Skills How to Read & Lead a Crowd



Call for Presenters: If you are interested in participating in this Congress, please send a one page description/outline of your proposed presentation; include length of presentation and a resume. Send to: AFCC, 329 West Wilson Street, Madison, WI 53703. (608) 251-4001, FAX (608) 251-2231

Conference Calendar Update

Dates Set for First International Congress on Parent Education Programs

A FCC's First International Congress on Parent Education Programs will take place September 29–October 1, 1994 at the Hyatt Regency, in downtown Chicago. AFCC has secured a conference rate of \$99 per night, single or double. The hotel is easily accessible by shuttle or taxi from both Midway and O'Hare airports.

The Congress will feature a variety of workshops and presentations on:

□ Nuts and Bolts:

Getting a Program Started Funding a Program Recruiting and Training Program Presenters Working with Community Resources

□ Content and Curriculum:

Developmental Needs of Children Conflict Management Skills for Parents Relationships with Family Members and Others

What to Tell Parents About the Law

□ Professional Issues:

Administrative and Structural Issues Is There a Need for Program Standards?

Program Evaluation & Research Issues

☐ Skill Development:

Developing Your Educational Objectives

Facilitation Skills for Group Leaders Developing Your Presentation Skills How to Read & Lead a Crowd

Networking breakfasts and breaks will be scheduled so that participants have the opportunity to informally discuss areas of mutual interest.

The Congress is designed for judges, administrators and service providers interested in starting a parent education program and learning from others.

Representatives of programs from throughout North America will be on hand to share information and a variety of videotapes and printed materials will be on display in the Resource Center.

The Congress will begin Thursday evening and conclude Saturday Noon. Special institutes on presentation skills, adult learning theory, and children's groups will take place on Thursday and Saturday afternoons.

AFCC Looks to Montreal in 1995

The AFCC Conference Planning Committee is pleased to announce that next year's AFCC ANNUAL CONFERENCE will be held in Montreal, Quebec, May 17-20, 1995 at Le Centre Sheraton. The hotel is located in the heart of downtown Montreal, just steps away from Mount Royal and a quick Metro ride to Old Montreal, the sidewalk cafes of Rue St. Denis, the cathedral Notre Dame, and the site of the 1976 Summer Olympic Games.

The conference theme is **Gender Issues** in **Family Law**. The conference will focus on the impact of gender in divorce, judicial decision-making, mediation, custody evaluation, child support, parenting styles, and other areas.

After the conference, participants will have the option of post-conference tours to Budapest, France, or a jaunt to Quebec City, just three hours from Montreal by train.

If you are interested in making a presentation at the 1995 Annual Conference, please submit a one page workshop proposal and resume to:

AFCC 329 W. Wilson Street Madison, WI 53703 (608) 251-4001 FAX (608) 251-2231

AFCC Welcomes Massachusetts Chapter

A FCC's new Massachusetts Chapter is off to a flying start after over 70 participants attended the First Annual Membership Meeting, March 15, 1994 in Westborough, Massachusetts. Following the adoption of by-laws and election of officers, Massachusetts members heard from Hon. Sean Dunphy and Elizabeth Austin, Ph.D. of Hampshire County (MA) on the Commonwealth's first mandatory divorce education program for parents.

Elected officers of the Massachusetts Chapter are:

President: Hon. Arline S. Rotman President-Elect: Steven Nisenbaum, Ph.D., J.D.

Vice-President: Rita Pollak, Esq. Treasurer: Robert Lian, Esq.

Clerk-Secretary: Joseph McGill, LICSW

Elected to the Board of Directors are:
Hon. Sheila E. McGovern, Hon. Susan D.
Ricci, Hon. Beverly Weinger Boorstein,
Kenneth Herman, Ph.D., J.D., Ruth-Arlene
Howe, Esq., Bruce Clarkin, Esq., Hon.
Eileen M. Shaevel, Thomas Grisso, Ph.D.,
Sopie O'Brien, Ruth Budd, Esq., Mary Ferriter, Esq., Hon. Martha P. Grace, Geri
Fuhrman, Ph.D., Thomas Carr, LICSW,
Lyn DeAmicis, Ph.D., J.D., and Macey
Goldman, Esq.

For further information about the Massachusetts chapter and upcoming events, contact Hon. Arline Rotman at (508) 756-2441, ext. 262, or Robert Lian at (708) 799-4461.



GUIDANCE CENTERS DIVORCE SERVICES

columbus, ohio presents

DIVORCE EDUCATION PROGRAMS FOR PARENTS:

A Training Workshop

Date: May 20, 1994
Time: 9:00 A.M. - 4:30 P.M.
Location: Children's Hospital
Education Center
Columbus, Ohio
Cost: \$100.00

- Workshop designed to facilitate the development of court-sponsored educational seminars for divorcing parents.
- Based on the "Helping Children Succeed After Divorce" seminar.
- Workshop will be of special interest to domestic relations judges, court staff and community professionals interested in establishing a divorce education program.

For further information, call program presenters Susan Steinman, DSW, and Virginia Petersen, MSW, at 614-794-2145.

The Advantages of Having Mediators Conduct Custody Evaluations

Submitted by Doneldon Dennis, Supervisor, Hennepin County, Minnesota, Family Court Services.

ed and Janet Howe's nine-vear marriage was ending. They entered mediation looking for assistance in making major decisions about their children. They were unable to come to an agreement in mediation and with the permission of both parents, their mediator agreed to conduct a custody evaluation. The Howes reasoned that their mediator already had much information about them and they did not want to incur the pain and cost of repeating their stories to another professional. They trusted their mediator's fairness and objectivity. Ted and Janet expected that the custody evaluation would facilitate an economical, timely and fair resolution of the custody dispute.

Others felt differently. Janet's sister said the mediator might use mediation information against her. Her attorney said, "You shouldn't make big decisions like this without consulting me first, especially under pressure from the mediator." Ted's new girlfriend feared that their relationship, which was disclosed to Janet during mediation, would now be a factor in the evaluation.

Janet and Ted discussed these concerns. Neither had anything to hide, but both confessed they would have done anything to gain an advantage if the case went to trial. Ted found it easier to reveal his new relationship with the mediator's help. Janet was not happy about the girlfriend, but

appreciated hearing about her directly from Ted, and both parents recognized that an evaluator would have likely discovered this relationship. Janet was upset that her attorney did not trust her to make her own decisions. Ted and Janet agreed to stay with their decision to use their mediator as their evaluator. As Ted commented, "Who knows what we'd get if we changed. Besides, the people telling us to change have never tried using the mediator as an evaluator." Janet agreed. "They just don't have personal experience," she said.

The Howe's experience was typical of most who consider allowing their mediator to perform a custody evaluation. They did not wish to repeat painful, personal information to yet another stranger. They knew their mediator could complete the study faster, saving them time and money. Both recognized that information each had about the other, whether known before mediation or obtained later, could be used in court if things got ugly. Janet resented her attorney's paternalistic attitude. Neither reported feeling pressured by their mediator and both understood that those criticizing their decision lacked personal experience. As a result of the recommendation by the mediator/ evaluator, a settlement was reached. Ted and Janet now successfully share joint custody of their children.

The Howe's experience demonstrates that mediators can evaluate, but there are criteria that must be met for that to happen. Specifically, Janet and Ted were not asked to involve their mediator as evaluator until after mediation ended. Both had to give permission. They had freedom to decline without consequences. Their mediator was sophisticated about both mediation and evaluation and had participated in self-awareness training. This enabled the mediator to withdraw from the study if objectivity had been compromised during mediation.

The mediator's role was to help both Ted and Janet, not advocate for one or the other. There was no pre-existing personal loyalty or therapeutic relationship with Janet or Ted. Most importantly, the Howes were working with a mediator/evaluator who respected them and who was committed to empowering them to make decisions for themselves.

The question of the mediator becoming the evaluator is a complicated one. There is support and criticism of the practice. The answer however, is not blanket permission or prohibition of the practice. Rather, programs must conduct a thoughtful and comprehensive cost-benefit analysis of the impact of having one person fill both roles.

Supervised Visitation Network Spreads the Word

Submitted by Tim Ballew, Manager, Family Dissolution Program, Indianapolis, IN.

istorically, information on the subject of supervised visitation has been difficult to obtain. Until recently there was no coordinated effort to centralize information about existing programs and nothing was written about the subject. Thanks to the efforts of the Supervised Visitation Network (SVN), things are beginning to change. SVN has begun two initiatives to make information on supervised visitation readily available.

The first initiative is an information clearinghouse for supervised visitation information. The clearinghouse was set up to provide hard copy on many existing supervised visitation programs. It will also make available a bibliography of articles pertaining to supervised visitation issues.

The second initiative undertaken by SVN is a computer Bulletin Board System (BBS). The on-line service has the capacity to provide information instantaneously, as well as facilitating discussion and debate among its users. Services that are provided by BBS include:

Information on existing programs including forms, guidelines,
client contracts for service, etc. Individuals interested in begin-
ning a new program, improving an existing program, or curi-
ous about the nature of supervised visitation services can view
any of the documents provided on-line.

□ Legislative updates.

_ (Open forums f	for participants	to	pose	questions	and	sponse	or
(debate on area	as of interest.						

- ☐ On-line conferences on various aspects of supervised visitation, hosted by some of the leaders in the field.
- Electronic mail services for message exchange between participants.

The cost for participation is \$25 per year and includes communication and technical support. For information about SVN's on-line services contact Tim Ballew at (317) 351-2761. For information about the SVN clearinghouse contact Gail Beauregard at (602) 792-1785.

A Mediator Can't Have it Both Ways

Submitted by Corrine Levitz, J.D., Mediator, Cook County Marriage and Family Counseling Services, Chicago, IL.

The manner in which family mediation is conducted differs from court to court. Some jurisdictions espouse the advantages of having the mediator conduct the custody evaluation when there is no mediated agreement. However, careful consideration of the pros and cons suggests that both the role of custody evaluator and that of the mediator are compromised by having the same person perform both functions on the same case.

To preserve the integrity of mediation and the custody evaluation, mediators should not conduct subsequent child custody evaluations when parties do not reach a mediated agreement. The role of the mediator must remain separate and distinct from the role of the custody evaluator.

Parental self-determinism: A basic premise of mediation is that the mediator does not make decisions for the parents. Parents make their own decisions rather than "strangers" such as judges, attorneys, social workers, etc. Mediators often remind parties that they need not convince the mediator about who is right or wrong, or who is telling the truth, because the parents will be making the final decisions.

The mediator is not acting as a fact-finder and parties are not required to reach an agreement. Therefore, parents are free to have open discussion without fear that communications will be shared by the mediator or anyone else in subsequent court hearings. If, however, parties think that there is a possibility that their mediator could subsequently conduct an evaluation, they are more likely to present information which will impress upon the mediator that they are the better parent. Competition rather than cooperation is promoted. It is the knowledge that the mediator will *not* make a recommendation which allows parents to let their guard down and more fully explore their options.

Neutrality: Mediation is a neutral process and the mediator neither takes sides nor advocates for either parent. The perception of neutrality is as important as maintaining neutrality. For a mediator to switch from a neutral role to an investigator, fact-finder and evaluator counters the notion of an unbiased mediator.

Parties will likely believe that a mediator who may subsequently conduct an evaluation will be influenced by what parents are saying about themselves and one another in mediation. If parents know that the mediator may serve as an evaluator, human nature dictates that parties will put their best foot forward to help bring the mediator over to their side. In essence, parties will try to persuade the mediator to abandon the role of the neutral.

Public Perception: Family mediation remains a relatively recent innovation. Many in the profession make diligent efforts to promote public education about mediation to the general public, the legal and mental health communities, and others. Combining mediation with custody evaluation blurs the distinction between these processes in

the eyes of the uninitiated. Even when a mediator/evaluator maintains the distinction, the perception of mediation could be jeopardized.

Confidentiality: Most family mediators promise that what is shared during mediation will remain confidential with limited exceptions (e.g., threat of imminent harm). Again, this allows the parties to be open without fear that the information will come back to haunt them. Information initially shared in confidence will almost certainly become a part of a custody evaluator's report. Even with the appropriate releases, both the notion and perception of confidentiality in mediation will be undermined.

The integrity and reputation of mediation: Although a mediator may develop a strong bond of trust and rapport with both parents, once she or he takes on the role of evaluator (even with permission) and "takes sides" with one parent or the other, the "nonfavored" parent's view of the entire process may change. The distinction between mediation and evaluation may no longer be clear in the eyes of a hurt, angry or resentful parent. Those who are dissatisfied may then disparage the process and damage the reputation of mediation. This may be the case even when such dissatisfaction stems from misconceptions about the process.

Even though the dual roles of mediator and evaluator may be competently undertaken by someone experienced in both processes, the potential misconceptions and misunderstandings are not worth the risk. Sufficient safeguards do not exist to adequately protect the integrity of the mediation process.



THE SUPERVISED VISITATION NETWORK

is an international association of agencies and individuals involved with supervised visitation or "access" services. SVN mem bers include direct service providers, judges, attorneys, mediators, guardians, and other agencies and individuals who refer clients for services. SVN convenes annual membership conferences. For information on services or membership contact

Gail Beauregard, Resource Mgr. Supervised Visitation Network Office 347 E. Speedway Blvd. Tucson, AZ. 85705 Phone: 602-792-1785



School is Never Out for AFCC Pennsylvania Member Jennifer Mastrofski



or Pennsylvania member Jennifer Mastrofski, family and school seem to go hand in hand. Jennifer is on the faculty at Pennsylvania State University's Department of Health, Policy and Administration. She was raised in the heart of North Carolina's research triangle and her career in research and teaching has focused primarily on family issues. To top it all off, she is married to an academician and both of her children arrived while she was a student. All of this makes Jennifer a natural for her appointment as co-chair of the AFCC Academic and Research Committee.

Jennifer was raised in Durham, North Carolina, home of Duke University and a stone's throw away from the University of North Carolina-Chapel Hill and North Carolina State University in Raleigh. Jennifer attended the University of North Carolina and earned a Bachelor's degree in English Literature.

Jennifer's academic interest in family issues began to evolve with a five-year stint as a research assistant/associate at the University of North Carolina's Frank Porter Graham Child Development Center. While conducting research on children during the day, she was also experiencing single parenthood with her daughter Melissa. But the University of North Carolina provided more than a job and an education. It gave her the opportunity to meet her second husband, Stephen, who was earning his doctorate there in the Political Science Department.

When Stephen accepted a faculty position at Penn State, Jennifer decided to return to graduate school there. She completed her Ph.D. in Community Systems Planning and Development in 1988, just in time to send Melissa to Penn State to carry on the family tradition. Jennifer proudly points out that for twenty years either she, Stephen or Melissa were studying at the university level.

After receiving a faculty appointment at Penn State, Jennifer continued her research

examining family courts. "I am interested at looking at how courts change, at the impetus behind the change and at how laws and policies reflect current research and what is known." Jennifer says. She also teaches a course on child custody issues, maintains a small private mediation practice, and is a faculty associate at Penn State's Hewlett Center for Research in Conflict and Negotiation.

In addition to Melissa (who now lives in San Francisco), Jennifer and Stephen have a 13 year old son named Eric, who was recently seen by his mother diving off their porch roof into the deep snow drifts. During her free time Jennifer enjoys walking, cross country skiing, picking fruit and puttering in the garden. An avid bed and breakfast hopper, she says she would like to own one in her next life, "but not have to deal with the business end."

AFCC plays an important role for Jennifer. "AFCC is very important because it helps me see first hand what the front line issues are for people working in the courts. AFCC members give me ideas for research design and for questions we should be asking when we are talking about what works. The AFCC contacts enhance my research and my teaching."

Child Access: It's Not Just for Parents Anymore Working Toward Grandparent's Rights

t's the age old story: Boy meets girl. Boy and girl decide to get married and raise a family. Then they divorce. The kids spend time at Mom's house and at Dad's house.

It used to be so simple. Parents were the only ones with a "claim" on access to their children. But that was before non-traditional, blended and extended families became popular. Petitioners in today's custody and access disputes may include step-parents, former partners in a non-marital relationship (both heterosexual and homosexual) and, of course, grandparents.

Those who think grandparent access is an issue for the family court of the nineties have the right decade but the wrong century. In 1894 a Louisiana grandmother first petitioned the court for access to her grandchild, according to Ethel Dunn, Co-President of the National Coalition of Grandparents. While Ms. Dunn acknowledges that grandparent access remains a relatively new area of law, she notes that statues

addressing this concern go back as far as the early 1970's. By the mid-1980's all fifty states in the U.S. had statutes addressing grandparent access. Washington, D.C. remains the lone holdout.

Ms. Dunn notes that in the past, disputes and legal remedies often focussed on grandparents as a part of the adult conflict related to separation or divorce. However, as grandparent access issues have evolved many states have amended their statues to recognize the importance of the grandparent-grandchild relationship. Changes range from protecting grandparent rights in cases of children from non-marital relationships to granting grandparents standing in court when their grandchildren's family is intact. These laws recognize that the grandparent may be the first to observe family problems such as abuse or neglect, according to Ms. Dunn.

"Our organization is not devoted to grandparents who can't get along with their grandchildren's parents" says Ms. Dunn. "The focus is always on the best interest of the child. Many grandparents play an important stabilizing role for their grandchildren during separation and divorce."

Ms. Dunn points to her organization's work with several child advocacy groups, including the Children's Defense Fund, to promote helpful and healthy family relationships. "What we want is for grandparents and grandchildren to have access to each other," she says. "I think the old myth about the meddlesome grandparent is slowly being dispelled."

The AFCC Newsletter is published four times a year in January, April, July and October. News items should be sent by the 15th of the month preceding publication to Newsletter Editor, Peter Salem, 329 W. Wilson St., Madison, WI 53703, (608) 251-4001.

Conversation Corner:

Researcher and Author Dr. Janet Johnston



r. Janet Johnston, a featured presenter at AFCC's 1994 Annual Conference in Maui, Hawaii, is a clinical social worker and sociologist. For the past fifteen years she has specialized in counseling and mediation with high-conflict divorcing couples and their children. She is Director of Research at the Center for the Family in Transition and a Consulting Associate Professor at Stanford University. She has published numerous book chapters and articles and is co-author (with Linda Campbell, Ph.D.) of the highly acclaimed book Impasses of Divorce. Dr. Johnston has worked with hundreds of families, implementing the impasse model of intervention, examining couples in abusive relationships and looking at risk factors for parental abduction of children.

Originally from Brisbane, Queensland, Australia, Dr. Johnston came to the United States in 1970 to pursue graduate work at the University of Michigan. She went on to complete her Ph.D. in sociology at Stanford and a post-doctoral fellowship at University of California, Berkeley. Dr. Johnston's husband, Malcolm, is a geophysicist for the U.S. Geological Survey. Her daughter, Kathryn, is senior at Stanford University and her son, Benjamin, is a junior at the University of California, San Diego.

AFCC: Working in the field of divorce is challenging enough for most people. What is the attraction of immersing yourself in the impossible cases?

Janet Johnston: That's a good question. I think that some therapists hate this kind of work while others are really challenged by it. It is certainly painful but it is also enormously thought provoking. The high conflict families give me the opportunity to see the divorce process in a magnified form. Everything is happening at a more intense level and is more vivid. Any sense of civility about the relationship is stripped from people in high conflict families, so the raw emotion, the humiliation of the rejection and the pain

of the loss are extremely apparent. It is a rich laboratory in which to try to understand the processes of divorce, remarriage and child development.

It is also fascinating to see the interplay between the legal and mental health community. As a clinical social worker and a sociologist I am somewhat caught between sociology and psychology, as are the families we study. We see the interweaving of the individual psyche and family into the communities and the courts. We see how they affect one another.

AFCC: What is going on in these extremely difficult cases that makes them different from a typical divorce?

JJ: The elements of high conflict cases are present in many divorces, but in a far less intense and sustained form. There seem to be more buffering elements and protective factors in less difficult cases. These parents are able to recognize each others important achievements and their self-esteem and confidence are fundamentally more intact. Therefore, the initial failure of divorce is moderated by a more sustained sense of themselves as a good and worthwhile person. These same parents are more vulnerable at certain times such as significant dates and anniversaries, for example. High conflict parents are also less able to separate themselves from their children or the other parent. They have a hard time understanding that their children and ex-spouses have needs separate and apart from the family. To some extent the difference is a matter of degree. The high conflict families help us understand what is occurring in a much more subtle fashion at significant times with other families.

AFCC: What is the greatest challenge you face in working with the high conflict population?

JJ: Trying to create an environment that will allow the children in these families to break free of the fallout. When we wrote Impasses of Divorce we focused on the successful interventions. But we simply are not able to resolve the impasse in all families, especially the more severe ones. Sometimes, we must do our best to bypass the impasse; to put something together which will provide enough stability for the children so that the next generation has a chance. But everyone is aware of the psychological limitations and the vulnerability of the parents in these arrangements. My greatest fear is that if we are not successful, we will see a generation of people pass on their character disorders to the next generation.

AFCC: As a researcher you must maintain objectivity, but as a clinician your subjects

obviously become a great deal more than statistics. Does that create a problem for you?

JJ: I think in order to do this type of research the work needs to be both quantitative (empirical) and qualitative (clinical and observational). Doing the empirical studies without the clinical work is a disservice. I spend about one-third of my time doing the clinical work. This gives me the capacity and room to take the critical distance that the researcher in me needs. I can think about both the psychological issues and the social policy issues. It also allows me to work regularly with the people who are so likely to create burn-out. The countertransference in these cases is very draining.

AFCC: You have studied high conflict, litigious families, families with domestic violence, and families at risk of parental abduction. What is next?

JJ: These are all different subgroups of high conflict families and there are other areas I would like to examine. I would very much like to do a study on what happens in sexual abuse allegation cases. I am concerned about the manner in which the court system investigates these. These allegations cast a long shadow over the family and any chance of appropriate treatment seems to go out the door once an investigation begins. I have yet to see an intervention that brings these families back. I am also working on material for a book on the impact of high conflict families' separations and divorces on children, from a developmental perspective with my colleague, Vivienne Roseby. I'd also like to look at mental illness and alcohol and drug abuse issues in high conflict families.

What Are You Doing?

Have you or an AFCC colleague changed jobs, married, become a parent, spearheaded a project, been appointed to a committee, written a book, been elected to office, or had another major event occur in your life? The AFCC Newsletter would like to share your good fortune with the rest of the membership. Please send any **Member News** items to Peter Salem, AFCC, 329 W. Wilson Street, Madison, WI 53703, or FAX (608) 251-2231.



AFCC EARLY BIRD SPECIAL ANNOUNCEMENT

First International Congress on Parent Education Programs

September 29–October 1, 1994 Chicago, IL

Hyatt Regency Hotel (\$99 single/double)

Many courts and communities have contacted AFCC to inquire about the emergence of programs that are being established to provide parents with information about parenting children after divorce and as single parents. AFCC has agreed to serve as the convenor of the **First International Congress on Parent Education Programs** to provide a forum for the exchange of information about these programs. The Congress will

- provide for the exchange of information about how to establish a parent education program
- explore the purposes and objectives of these programs
- examine issues of quality and effectiveness, and
- offer an opportunity to develop and refine the skills and techniques of parent educators.

Thursday, Sept. 29 • 7:30–9:00 pm "The Emergence of Parent Education Programs"

Friday, Sept. 30 • 9:00 am-5:00 pm

"A Showcase of Parent Education Programs" Featuring select programs from the US & Canada

WORKSHOPS:

- Nuts & Bolts
- Curriculum & Content
- Professional Issues
- Skill Development

FEATURED PRESENTERS WILL INCLUDE: Isolina Ricci, Ph.D., Author, Mom's House, Dad's House

Nancy Humphreys, Dean, Univ. of Conn. School of Social Work, Past-President, NASW

SPECIAL INSTITUTES
Thursday, Sept. 29 • 1:00-5:00 pm
Saturday, Oct. 1 • 1:00-5:00 pm

AFCC Southwest Regional Conference and Arizona Chapter Meeting and AFCC Board Meeting

The Collision of the Best Interests of Children with the Rights of Third-Parties: An Interdisciplinary Debate

November 3-5, 1994

Tucson, Arizona

Westward Look Resort (\$85 single/double)

FEATURING:

George Russ, J.D., Attorney in Gregory K., Baby Jessica and Kimberly Mays cases. "Psychology v. Biology: Are Children Property?"

Richard Victor, Esq., Birmingham, MI, attorney in the Baby Jessica case. "Baby Jessica: What the Press Never Told You."

John E.B. Myers, Professor of Law, McGeorge School of Law. A leading commentator on child witness law, "Children's Rights: Oxymoron or Idea Whose Time Has Come?"

Janet Johnston, Ph.D., The Center for the Family in Transition, Corte Madera, California. "Solomon's Tug: The Many Faces of Parental Alienation."

Dr. Anna Scherzer, M.D. FAAP, a child and adolescent psychiatrist. "Solomon's Tug: The Many Faces of Parental Alienation."

Robert T. Hinds, American Academy of Matrimonial Lawyers. "The Anatomy of a Case of Parental Alienation."

Ann Haralambie, J.D., Author. "The Child's Attorney, A Guide to Representing Children in Custody, Adoption and Protection Cases."

A round table debate (firing line style) will conclude this exciting event.

FEATURED TOPICS TO INCLUDE:
"Parental Abduction of Children:
The Long Journey Home?"
"Blended Families, The Brady Bunch,
Fact or Fiction?"

"Personality Disorders in Parenting: Do Even Difficult Parents Have Inalienable Rights?"

"Parental Alienation."

A Videotape Produced by the Chicago In of Court on the topic "What Ever Happened to Baby Jane?"

First International Child Custody Evaluation Symposium

November 5–7, 1994 Tucson, A*7*

Westward Look Resort (\$85 single or double)

This Symposium will initiate AFCC's comprehensive training program on child custody evaluations. The symposium will provide a practical, in-depth, hands-on, educational experience using an interdisciplinary, core curriculum, including a case study, didactic presentations, demonstrations and "lab sessions."

The course is recommended for both new and experienced custody evaluation staff, judges, lawyers, guardians ad litem and other professionals who are involved with child custody evaluation activities.

Each registrant will receive a certificate of course completion and a copy of AFCC's newly revised *Manual on Child Custody Evaluations* (1994).

CHILD CUSTODY EVALUATION SYMPOSIUM AGENDA: (Partial Listing)

Interviewing Techniques

- the initial session
- interviewing adults
- interviewing children

Relationship Assessment Skills & Techniques

- assessing needs of the child
- parent-child relationships
- assessing parenting capacity

Pulling It All Together

- developing an analytical framework
- analyzing the data

Presenting the Data

- the settlement conference
- report writing
- preparing for trial
- courtroom testimony

AFCC and Center for Policy Research Conduct Survey on Domestic Abuse Screening

Preliminary results from a recent AFCC/ Center for Policy Research survey indicates that most court mediation programs are implementing measures to deal with the domestic abuse found among separating and divorcing parents.

AFCC recently surveyed over 200 courtannexed and court-affiliated programs providing mediation and/or custody evaluation services. Seventy-five percent of those surveyed responded and Center for Policy Research then analyzed the surveys.

The survey found domestic violence training among mediators to be widespread. Approximately 70 percent of all mediation

programs surveyed and 78 percent of mandatory mediation programs reported such training. Training was more likely in larger programs with higher caseloads, and in jurisdictions mandating mediation.

Routine screening of cases for domestic abuse was found to be prevalent (81 percent of programs surveyed), however only half of the programs structured their screening to ask both *privately* and *directly* about domestic abuse.

The survey also examines specific screening questions and techniques used, program responses to reports of domestic violence, the use of special mediation tech-

niques, and policies and procedures used for custody evaluations. A full report will be available from AFCC this spring.

AFCC's latest publication, **Domestic Violence and Empowerment in Custody and Visitation Cases** presents the results of a screening of parents entering Family Court Services in Portland, Oregon and Minneapolis, Minnesota. The report is available from AFCC, 329 W. Wilson Street, Madison, Wisconsin 53703. (608) 251-4001, FAX (608) 251-2231. Please enclose \$12.50 for copying costs plus \$3.50 shipping and handling.

UPCOMING EVENTS

May 19–23, 1994—St. Louis, MO June 16–20, 1994—Houston, TX July 7–11, 1994—New Orleans, LA July 22–25—Dallas, TX July 29–August 1, 1994—Dallas, TX Basic Family Mediation Course Contact: Texas Woman's University Office of Continuing Education (817) 898-3408

May 1–5, 1994—Atlanta, GA May 9–13, 1994—Chicago, IL June 19–23, 1994—Burlington, VT November 3–7, 1994—Allentown, PA Basic Divorce Mediation Training Contact: Carl D. Schneider, Ph.D. (800) 639-6039

May 5, 1994—Washington, DC Advanced Mediation Training: It's Not Therapy Contact: Peter Maida (800) 397-7231 or (703) 524-5666

May 6, 1994—Washington, D.C. Advanced Mediation Training: Mediating ADA Disputes Contact: Peter Maida (703) 524-5666 or (800) 397-7231

May 6-7, 1994—Honolulu, Hawaii Affairs: Getting the Message Contact: Emily Brown (703) 524-5666 or (800) 397-7231

May 11–14, 1994 AFCC Annual Conference Maui, Hawaii Contact: Hon. Douglas McNish (808) 244-2708 or (808) 244-2700

May 12–15, 1994 June 9–12, 1994 July 14–17, 1994 September 22–25, 1994 Master the Mediation Method Location: San Francisco, CA Contact: John Lemmon, Ph.D (510) 547-8089 May 12–15, 1994—Oklahoma City, OK August 4–7, 1994—San Diego, CA October 8–9, 1994—Dallas, TX November 19–20, 1994—San Antonio, TX 40-Hour Family Mediation Program Contact: Gary J. Kirkpatrick (214) 328-9396 or 1-800-888-8609

May 13–15 & 20–21, 1994—Eugene, OR August 12–14 & 19–20, 1994—Portland, OR Family & Divorce Mediation Contact: Jim Melamed (503) 345-1456

May 18–22, 1994—Washington, D.C. Basic Divorce Mediation—40 Hours Contact: Key Bridge Therapy & Mediation Center (703) 524-5666 or (800) 397-7231

May 19–22, 1994—Washington, D.C. National MultiCultural Institute's Ninth Annual National Conference Contact: Sally Smyser (202) 483-0700

May 29—June 1, 1994—Jerusalem
The Family on the Threshold of the 21st Century:
Trends and Implications
Contact: ISAS 972-2-661356/868124
FAX: 972-2-868165

June 9–10, 1994—Atlanta, GA
Advanced Training in Family Mediation
Advanced—16 Hours
Contact: Carl D. Schneider, Ph.D.
(800) 639-1994

June 17–18, 1994—Lancaster, PA September 29–30, 1994—Beaufort, SC October 6–7, 1994—Chicago, IL Mediation Training & Consultation Institute Advanced Mediation Training Contact: Zena D. Zumeta, J.D. (800) 535-1155 or (313) 663-1155

June 20–24, 1994—Lancaster, PA
August 15–19, 1994—East Lansing, MI
September 23–27, 1994—Beaufort, SC
October 17–21, 1994—Cincinnati, OH
November 7–11, 1994—Chicago, IL
December 5–9, 1994—Edgewood, KY
Mediation Training & Consultation Institute
Basic Divorce Mediation Training
Contact: Zena D. Zumeta, J.D.
(800) 535-1155 or (313) 663-1155

July 18-23, 1994
Academy of Family Mediators
1994 Annual Conference
Public and Private Mediation
Eugene, Oregon
Contact: Academy of Family Mediators
(612) 525-8670

September 29—October 1, 1994 AFCC First International Congress on Parent Education Programs Chicago, IL Contact: Peter Salem (608) 251-4001

November 3-5, 1994
AFCC Southwest Regional Conference
Arizona Chapter Meeting &
AFCC Board Meeting
Tucson, AZ
Contact: Frances Bernfeld
(602) 740-5590

November 5-7, 1994
AFCC First International Symposium on Child Custody Evaluations
Tucson, AZ
Contact: Peter Salem
(608) 251-4001

November 16-18, 1994
Emerging Issues in Mediation
Wisconsin Association of Mediators &
University of Wisconsin
Madison, WI
Contact: Jim Campbell
(800) 442-7107 or (608) 262-7942

May, 17-20, 1995 AFCC Annual Conference Montreal, Canada Contact: Robert Tompkins (203) 529-9655

November 4-6, 1995 AFCC Northwest Regional Conference Portland, OR Contact: Hugh McIsaac (503) 248-3189

Coming to you from AFCC in 1994...

The First International Congress on Parent Education Programs

September 29–October 1, 1994 Chicago, Illinois

Southwest Regional Conference, Arizona Chapter Meeting and AFCC Board of Directors Meeting

> November 3–5, 1994 Tucson, Arizona

The First International Symposium on Child Custody Evalautions

November 5–7, 1994 Tucson, Arizona

AFCC is offering special discounted rates for those who register early and often. See page 10 of the Newsletter for details.

Association of Family and Conciliation Courts 329 W. Wilson Street Madison, WI 53703

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