



AFCC eNEWS

BI-MONTHLY E-NEWSLETTER
VOL. 2 NO. 5
OCTOBER 2007

AFCC and NCJFCJ Domestic Violence and Family Courts Project Update

Outcomes from the AFCC and National Council of Juvenile and Family Court Judges (NCJFCJ) cosponsored Think Tank on Domestic Violence and Family Courts, February 15-17, 2007 at the Johnson Foundation's Wingspread Conference Center are beginning to unfold. A special issue of *Family Court Review*, with articles co-authored by writers from the domestic violence advocacy and family courts community, will be published next spring to address topics including terminology; differentiated approaches to parenting plans; screening; cultural issues; and dispute resolution interventions. AFCC is planning conference sessions at its [45th Annual Conference](#), in Vancouver, British Columbia, May 28-31, 2008. In September, the AFCC and NCJFCJ Regional Training Conference featured a plenary session, *Domestic Violence, Family Courts and Differentiation: A Look at the Future?*, by the project's co-reporters Clare Dalton, LL.M. and Nancy Ver Steegh, J.D., M.S.W. AFCC members can access the audio from this session by logging onto the AFCC Member Center and clicking the link below.

[More information...](#)

Columbus Regional Training Conference Audio Online

Conference audio from the AFCC and NCJFCJ Regional Training Conference, *Applications for High Conflict Families, Domestic Violence and Alienation*, September 27-29, 2007 in Columbus, Ohio, is available online. All sessions can be purchased in CD, CD ROM or MP3 format through Digital Conference Providers, Inc. at www.dcporder.com/afcc. AFCC eNEWS subscribers are invited to listen to free online audio samples of all conference sessions in MP3 format by clicking the link below.

NEW! [Preview conference audio in MP3 format...](#)

AFCC 45th Annual Conference in Vancouver

**Featuring: New Three-Hour Advanced Workshops;
New Programs to Build your Practice Skills;
Breathtaking Coastline and Mountainside Views;
and much more!**

Start planning now for [AFCC's 45th Annual Conference](#), *Fitting the Forum to the Family: Emerging Challenges for Family Courts*, May 28-31, 2008 in Vancouver, British Columbia. The conference takes place at the Westin Bayshore Resort, located along historic 1,000 acre Stanley Park and steps from downtown Vancouver.

In collaboration with
University of Baltimore School of Law's
Center for Families, Children and the Courts

**Parenting Coordination:
Helping High Conflict Parents
Resolve Disputes**
A one-day training for parenting coordinators, mediators, custody evaluators, arbitrators and other professionals who address high conflict families.
Joan B. Kelly, Ph.D.
December 3-4, 2007

**The Battle Between Abuse
and Alienation: Assessment,
Diagnosis and Interventions**
A one-day training for judges, lawyers, custody evaluators, mediators and other professionals who deal with high conflict families.
Leslie M. Drozd, Ph.D.
December 5-6, 2007

University of Baltimore
Student Center and
Business Center
Baltimore, Maryland

Professionals dedicated to improving the lives of children and families through the resolution of family conflict.

Professional Trainings

Parenting Coordination: Helping High Conflict Parents Resolve Disputes

Joan B. Kelly, Ph.D.

December 3-4, 2007

University of Baltimore
Student Business Center
Baltimore, Maryland

www.afccnet.org

The Battle Between Abuse and Alienation: Assessment, Diagnosis and Interventions

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Conference attendees will receive the special room rate of CAD \$178/single or CAD \$199/double. In 2005, Vancouver was named the best city to live in the world, in 2010 it will host the winter Olympic Games-don't miss AFCC's return to Canada in 2008! The next issue of *AFCC eNEWS* will feature a top ten list of Vancouver's best activities and attractions. If you have any questions on AFCC's 45th Annual Conference, please contact AFCC at afcc@afccnet.org or (608) 664-3750.

[Vancouver: Officially the Best City in the World \(video\)...](#)

Don't Forget your Passport

All U.S. citizens traveling to and from Canada are now required to have a valid passport. If you are considering attending the conference, please plan ahead as passports can take up to six months to be processed. Information on applying for or renewing passports can be found at the U.S. Department of State Web site by clicking the link below.

[More information...](#)

Family Court Review Update

Special Issue in January 2008 on International Perspectives

The January 2008 issue of *Family Court Review (FCR)*, features a special issue concerning the international perspectives on including children in family law proceedings. The Guest Editor is AFCC member Dr. Jennifer McIntosh of Victoria, Australia. Dr. McIntosh is a member of *FCR*'s Editorial Board and the Director of Family Transitions in Australia. The issue also features an article by Alastair Nicholson, former AFCC President and former Chief Judge of the Family Court of Australia. AFCC members receive full print subscription and searchable electronic access, dating back to the first issue in 1963. Please click the link below to access *FCR* online.

[Read FCR Online Archives \(Member Login | Non-member\)...](#)

New Family Court Review Submission Guidelines

Family Court Review (FCR) has updated its submission guidelines. The new guidelines include a detailed description of the journal and list different categories of articles that are suitable for publication. For more information, please contact *FCR*'s Student Managing Editor Laura Daly at laurabdaly@gmail.com. Please click the link below to view *FCR*'s submission guidelines.

[FCR Submission Guidelines \(PDF\)...](#)

AFCC Members Present at University of Missouri-Columbia Symposium

by John Lande, Director of the LL.M. Program in Dispute Resolution and Associate Professor, University of Missouri-Columbia School of Law

The University of Missouri-Columbia Center for the Study of Dispute Resolution held a symposium on October 12, 2007 entitled, *Innovative Models of Lawyering: Collaborative Law and Other Processes*. AFCC member David A. Hoffman, founder of the Boston Law Collaborative, gave the keynote address, *Colliding Worlds of Dispute Resolution: Towards a Unified Field Theory of ADR*. Comparing mediation, Collaborative and

AFCC NEWS SPOTLIGHT

AFCC Hosts Think Tank on Child Welfare Decision Making

by Bernie Mayer, Ph.D. and Joan Kathol, M.A., (Candidate), Werner Institute for Negotiation and Dispute Resolution, Creighton University

When the use of mediation and related dispute resolution procedures in child welfare decision making was first introduced 25 years ago, it seemed to many a rather outlandish idea. How could mediation, facilitated decision making or other consensus building processes be used for such complicated problems with seriously disrupted families and troubled parents in a system that was overburdened and underfinanced, and where the stakes were so high?

[Read article...](#)

MARK YOUR CALENDAR

AFCC 45th Annual Conference

May 28-31, 2008
Westin Bayshore Resort
Vancouver, BC, Canada
[Save the Date \(PDF\)](#)

AFCC Trainings

Advanced Issues in Parenting Coordination: Functional Co-parenting for High Conflict Families

Matthew J. Sullivan, Ph.D.
February 18-19, 2008
Wyndham DFW Airport North
Dallas/Fort Worth, Texas
www.afccnet.org

The Battle Between Abuse and Alienation: Assessment, Diagnosis and Interventions

Leslie M. Drozd, Ph.D.

Cooperative family law cases in his firm, he found that “the most robust predictor of cost, time and contentiousness is not the choice of process but rather the intentions, skill, and flexibility of the parties and counsel.”

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Uniform Collaborative Law Act Drafting Committee Invites Comments

by Brittany Shrader, Hofstra University School of Law, Hempstead, NY

The National Conference of Commissioners on Uniform State Laws is currently drafting a proposed Uniform Collaborative Law Act (UCLA). AFCC member and Hofstra Law School Professor Andrew Shepard is the appointed Reporter for the UCLA drafting process. The goal of the drafting committee is to develop a statute that defines collaborative law and clarifies its role in modern legal advocacy. In addition, a few states have already independently implemented collaborative law statutes, so a uniform law could help bring consistency to the quality and nature of the process across the United States. Hofstra Law School hosts a Web site that includes a list of committee members; background research on collaborative law; current and past drafts of the UCLA; upcoming events; related links; and a section for comments. The Web site can be accessed by clicking the link below.

[More information...](#)

INTERNATIONAL NEWS

Drops from Down Under: New Research on Less Adversarial Trial and Child Responsive Program

by Hon. Graham Mullane, New South Wales, Australia

In July 2007, a report by Australia's Family Transitions was submitted to the Family Court of Australia, regarding the Child Responsive Program operating within the Less Adversarial Trial. Family Transitions is a clinical research and training center dedicated to the needs of children and parents experiencing family separation. The report, authored by AFCC member Dr. Jennifer McIntosh and Ms. Caroline Long, can be accessed on the Family Court of Australia Web site by clicking the link below.

[More information...](#)

Canadian Department of Justice Features New Resources for Children Section on Web Site

The Canadian Department of Justice released a new resource online to help children cope with separation or divorce. *Resources for Children* is a user friendly database, which lists over two hundred Canadian and international resources in the area of separation and divorce. The Web site is useful for parents and for professionals who work with children affected by separation or divorce. A brief description is provided for each resource which includes books, workbooks, videos, web sites and games. There is also the option to view all resources available for a particular age group. The Web site can be accessed by clicking the link below.

[More information...](#)

February 20-21, 2008
Wyndham DFW Airport North
Dallas/Fort Worth, Texas
www.afccnet.org

AFCC Chapters

Florida Chapter Annual Conference

Moving from Conflict to Harmony: A Medley of Opportunity

November 2-3, 2007

Wyndham Hotel
Orlando, Florida

www.flafcc.org

New York Chapter Annual Conference

December 7, 2007

City Bar Association
New York, New York

www.afccny.org

Arizona Chapter Annual Conference

February 8-10, 2008

Hilton Sedona Hotel & Spa
Sedona, Arizona

www.azafcc.org

California Chapter Annual Conference

February 8-10, 2008

Sheraton Delfina
Santa Monica, California

www.afcc-ca.org

Massachusetts Chapter Annual Conference

April 11, 2008

Regis College
Weston, Massachusetts

www.afccnet.org

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EMAIL UPDATE

Austria Holds First Divorce Fair

Courtesy of the BBC NEWS

Austria is to host the world's first "divorce fair" this month, aimed at helping couples untie the knot as painlessly as possible. The event, taking place in Vienna, then Linz and Graz, will allow would-be divorcees to consult lawyers about their rights and seek advice. The divorce rate in Austria hit an all time high of 50% in 2006, with 66% of marriages in Vienna ending in divorce.

[Read more...](#)

RESEARCH UPDATE

Parents See Child Support and Visitation as Connected

Courtesy of J.M. Craig Press, Inc.

This study addressed the question of how parents viewed their responsibilities toward their children and former partners. The authors examined this question using the two concepts: Equity meant that "rewards/outcomes should be allocated in proportion to one's inputs" [p. 383]. For example, a father's right to see and make decisions about his child should be related to his financial contributions; and Equality suggested that, "rewards/outcomes and inputs should be independent of one another" [p. 383]. That is, fathers should have the right to see their children and be involved in decision making regardless of their financial contributions.

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CASE LAW UPDATE

Inter-American Commission on Human Rights Finds Domestic Violence Police Response Case Admissible

by Barbara Glesner Fines, Ruby M. Hulen Professor of Law, University of Missouri-Kansas City

For the first time, the Inter-American Commission on Human Rights has declared that the United States is responsible under the American Declaration on the Rights and Duties of Man for protecting victims of domestic violence from private acts of violence. The Commission found the case of Jessica Lenahan's (Gonzales) admissible. In *Castle Rock v. Gonzales*, the United States Supreme Court held that Jessica did not have a property interest in prompt police response to enforce her domestic violence restraining order. Ms. Lenahan (Gonzales) has since then pursued this action before the Inter-American Commission on Human Rights.

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FEATURED ARTICLES

FAQs About Mediation To Stay Married

by Laurie Israel, courtesy of Mediate.com

What is Mediation to Stay Married? Mediation to Stay Married (also known as Marital Mediation) is a method of helping couples who are experiencing marital problems and who would prefer to stay together rather than get divorced.

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ABOUT AFCC eNEWS

AFCC eNEWS is a bi-monthly e-newsletter published by the Association of Family and Conciliation Courts (AFCC).

AFCC eNEWS provides professionals with time sensitive and up-to-date topics including case law updates, research innovations and international news.

[AFCC eNEWS archive...](#)

Web Site Version:

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Balkan heartbreak a hit in Berlin: A travelling exhibition devoted to the theme of failed relationships is proving a hit in Berlin.

Courtesy of the BBC NEWS

The Museum of Broken Relationships asks people in the cities it visits to donate mementos of everything from short flings to painful divorces. Originating in Croatia, the show has visited Bosnia-Herzegovina and Slovenia and has amassed more than 300 exhibits. Berliners have donated more than 30 objects, including a wedding dress and an axe used to break an ex's furniture.

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version by [clicking here](#).

Editor:

David Vigliotta

AFCC welcomes your comments, questions or feedback. Please email the editor by [clicking here](#).



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Professionals dedicated to improving the lives of children and families through the resolution of family conflict



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AFCC Members Present at University of Missouri Columbia Symposium

by John Lande, Director of the LL.M. Program in Dispute Resolution and Associate Professor, University of Missouri-Columbia School of Law

The University of Missouri-Columbia Center for the Study of Dispute Resolution held a symposium on October 12, 2007 entitled, *Innovative Models of Lawyering: Collaborative Law and Other Processes*. AFCC member David A. Hoffman, founder of the Boston Law Collaborative, gave the keynote address, *Colliding Worlds of Dispute Resolution: Towards a Unified Field Theory of ADR*. Comparing mediation, Collaborative and Cooperative family law cases in his firm, he found that "the most robust predictor of cost, time, and contentiousness is not the choice of process but rather the intentions, skill, and flexibility of the parties and counsel."

The first panel of speakers used different lenses to compare a variety of lawyering models. Using the "unbundling" concept that he pioneered, AFCC member and California practitioner and teacher Forrest S. "Woody" Mosten described variations of Collaborative Practice models, varying based on the arrangements with other professionals involved. University of Colorado Prof. Scott R. Peppet identified numerous structures of Collaborative Law agreements and he argued that use of certain structures creates greater risks that lawyers will be found to violate lawyers' ethical rules. AFCC member and University of Missouri-Columbia Professor John Lande presented the results of his study of Cooperative Lawyers in Wisconsin and he distinguished Cooperative Practice from both traditional and Collaborative Practice.

The second panel discussed innovative models of lawyering in non-family contexts. California lawyer Jeanne M. Fahey described the history and challenges of trying to apply Collaborative Law in non-family contexts. Kathleen A. Bryan, President and CEO of the International Institute of Conflict Resolution and Prevention, identified a variety of innovative techniques that civil lawyers can use. Washington, DC, lawyer Thomas C. Collier described his practice as a settlement counsel in major civil cases, where he is retained by a client solely for the purpose of negotiation, without a reciprocal commitment by other parties.

Discussions at the symposium centered around two general themes. First, theorists and practitioners should continue developing dispute resolution processes and be sensitive to ethical and practical problems that arise from them. Dispute resolution professionals should appreciate the value of offering parties different processes and models. Innovators need to develop strategies to overcome unwarranted skepticism and resistance. Second, promoting good party decision-making should be a fundamental goal in dispute resolution. Although it is easy to agree with this principle, achieving it in practice is a challenge and it is important to develop effective ways of doing so.

Next year, the University of Missouri-Columbia's Journal of Dispute Resolution will publish articles based on presentations at the symposium as well as contributions by Julie Macfarlane, Lawrence P. McLellan, Andrew Schepard, Angela Burton, Brittany Shrader, Richard W. Shields, Pauline

Tesler and Nancy Welsh. For more information, please [click here](#) or email John Lande at landej@missouri.edu.

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AFCC NEWS Spotlight

This article was originally published in the Fall 2007 issue of AFCC's quarterly print newsletter, the AFCC NEWS. AFCC members can access this issue along with the archives dating back to the Fall of 2001 in PDF format by logging onto the [Member Center](#) of the AFCC Web site.

AFCC Hosts Think Tank on Child Welfare Decision Making

*by Bernie Mayer, Ph.D. and Joan Kathol, M.A. (Candidate)
Werner Institute for Negotiation and Dispute Resolution, Creighton University*

When the use of mediation and related dispute resolution procedures in child welfare decision making was first introduced 25 years ago, it seemed to many a rather outlandish idea. How could mediation, facilitated decision making or other consensus building processes be used for such complicated problems with seriously disrupted families and troubled parents in a system that was overburdened and underfinanced, and where the stakes were so high? Just getting child protection agencies and service providers to consider trying it was no easy task. But the reasons for using dispute resolution processes in child protection and permanency planning were also compelling. Bringing parents and extended families into the decision making processes, obtaining their genuine agreement to intervention plans, creating a greater sense of teamwork among all the many players involved in these processes, and allowing much more extensive dialogue among parties who need to cooperate but are set up to be adversaries is critical to the effectiveness of child protection. Therefore, slowly but surely, more and more child welfare systems began to introduce some form of cooperative decision making procedures.

Today, the use of mediation, family group decision making, facilitated case planning and placement review, and related procedures is widely recognized as a valuable service by child welfare systems around the world. The questions we have to ask now are not whether these procedures are a good idea (although every time they are introduced somewhere new, the case still has to be made), but how best to provide them. During the past 25 years, much has been learned about how to make child welfare mediation and related processes work in different settings. What we have not been able to adequately accomplish, however, is to create a mechanism for consolidating and disseminating the best wisdom these programs have to offer about effective alternative approaches.

In response to this need, AFCC, along with the National Council of Juvenile and Family Court Judges (NCJFCJ), the Werner Institute for Negotiation and Dispute Resolution at Creighton University School of Law, and the National Center for State Courts, has undertaken a project to better understand the best practices, lessons, challenges, and opportunities of child protection conflict resolution. In order to obtain data from programs across the United States and Canada, a survey of leading child welfare dispute resolution practitioners was conducted last summer and followed up by a series of intensive interviews. The survey and interview included questions regarding the basic functioning of the particular program, the factors that contribute to a successful conflict resolution, the obstacles to

success, the program's major successes and challenges, and the program's attempts to deal with those obstacles.

The results of this effort became a working paper that informed the discussion of thirty leading practitioners who gathered for a two-day Think Tank on child welfare conflict resolution held in conjunction with the [AFCC and NCJFCJ Regional Conference](#) in Columbus, Ohio on September 25-26, 2007. Professionals from across the United States and Canada attended this gathering, including judges, program directors and coordinators, and researchers. Picking up on the themes that emerged from the survey, participants tackled the broad range of issues that child protection mediation and family group decision making programs face. Of particular importance to everyone was how to balance the pressure to obtain agreements in a timely and efficient manner with the importance of empowering families, giving them a powerful voice at the table, and creating family centered and family driven processes. Lively discussion occurred about the appropriate role of professionals, particularly lawyers in this process, about the fundamental purpose of these efforts, about how to define and measure "success" and about how to obtain professional support, particularly in view of the initial resistance many programs face.

Participants also grappled with the way child protection mediation and family group decision making processes could be integrated into an effective spectrum of child welfare decision making services. But, perhaps the most significant benefit of this process was the opportunity it provided for a group of passionate professionals to network and come together to learn from each other, to understand the many different ways that mediation and conferencing processes could be structured, and to build a supportive network for future collaboration.

This was very much a first step in what is to become an ongoing effort. The group created the beginning of a communication infrastructure and plans to hold further discussions in the future, including a meeting in conjunction with the AFCC 45th Annual Conference in Vancouver, Canada. The January 2009 *Family Court Review* will be devoted to child welfare conflict resolution and decision making. Hopefully these efforts will lead to a viable, ongoing forum for continued communication among child welfare mediation and family group conferencing programs, mediators, facilitators, and the community of stakeholders that participate in these efforts.

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Parents See Child Support and Visitation as Connected

Courtesy of J.M. Craig Press, Inc.

Lin, I-F. & McLanahan, S.S. [2007]. Parental Beliefs About Nonresident Fathers' Obligations and Rights. *Journal of Marriage and Family*, 69, 382-398.

This study addressed the question of how parents viewed their responsibilities toward their children and former partners. The authors examined this question using the two concepts: Equity meant that "rewards/outcomes should be allocated in proportion to one's inputs" [p. 383]. For example, a father's right to see and make decisions about his child should be related to his financial contributions; and Equality suggested that, "rewards/outcomes and inputs should be independent of one another" [p. 383]. That is, fathers should have the right to see their children and be involved in decision making regardless of their financial contributions.

The authors hypothesized that there would be a difference between mothers who received child support versus those who were entitled to it but did not get it. The participants included 3,414 fathers and 4,304 mothers. Thirty-three percent were Caucasian, 27% were African-American and 33% were Hispanic. Their average age was 28 and their educational level ranged from high school to college. All were asked about the financial obligations and rights of nonresident fathers shortly after their children were born.

The authors found that:

- Over 90% of the participants agreed that a nonresident father should support his child regardless of whether either parent had repartnered.
- Even when fathers could not pay child support, 87% believed that a father should still be able to see his child and 67% said that he should still be involved in decision making.
- When fathers could afford to support their children but did not do so, 39% of mothers felt that the fathers had a right to see their child, but only 23% felt he should be involved in decision making.
- Of fathers who could afford to support their children but did not do so, 31% of fathers and 39% of mothers felt the father had a right to see the child. With regard to decision making, 21% of fathers and 23% of mothers still felt that the father should be involved in decision making.

Critical Analysis

This is the first study we have seen that examines the question of parental rights in relation to one's financial obligations, and as such it is a significant contribution to the literature. Additionally, the sample size was quite large thus strengthening the applicability of the study. Also, the participants were a diverse group. Finally, this is the first research we have seen that

examines these questions in the context of repartnering. In terms of limitations, this was a survey that offered little specific information regarding the reasons for the participants responses.

Recommendations

As a legal issue, child support and parental possession and access are entirely separate matters. Unfortunately, this distinction is often misunderstood outside the family law community, as this study confirms. The authors found that fathers, who, for example, did not pay child support but could have, should not have the right to visit their children. On the other hand, the participants did not feel that fathers had a right to see their children when they were unable to pay. This is the first study we have seen that verifies this common, albeit inaccurate, assumption.

For this as well as other valuable research visit J.M. Craig Press online at www.jmcraig.com or call (877) 960-1474. **AFCC members receive a 25% discount on all J.M. Craig Products.**

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