



# AFCC eNEWS

MONTHLY E-NEWSLETTER  
VOL. 4 NO. 10  
OCTOBER 2009

## It's not too late to register for Reno!

AFCC's Regional Training Conference, *Interventions for Family Conflict: Stacking the Odds in Favor of Children*, takes place November 5-7, 2009 in Reno, Nevada. The conference is just over two weeks away, but there is still time to register to attend.

Conference participants can look forward to 3-hour training sessions in five specialized training tracks for lawyers, parenting coordinators, judges, custody evaluators and mediators. Conference attendees will also have the chance to take part in many networking opportunities. Choose a link below to view the conference brochure or to register online...it's not too late, but the conference *is* just round the corner!

[Reno conference brochure...](#)

[Reno conference online registration...](#)

## Treasures on the AFCC Website

The Appendices for *Innovations in Family Law Practice*, in the Resources for Professionals section of the Resource Center, include extremely useful information and sample forms. Here you will find *Principles and Guidelines for the Practice of Collaborative Law*, *Stipulation and Order for Collaborative Law*, sample agreements for each of the professionals, sample meeting minutes and *Parenting Issue Resolution Language* from Susan A. Hansen and Gregory M. Hildebrand's chapter titled *Collaborative Practice*. You will also find sample participation agreements and *Divorce Cooperation Institute – Principles of the Process* from David A. Hoffman's chapter, *Cooperative Negotiation Agreements: Using Contracts to Make a Safe Place for a Difficult Conversation*; and a limited scope agreement, California's and a state-by-state list of unbundling rules as well as legal check-up questions from Forrest S. Mosten's chapter, *Unbundling Legal Services to Help Divorcing Families*.

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## RESEARCH UPDATE

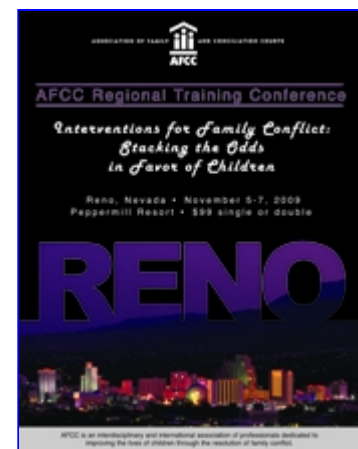
### How Parental Conflict Harms Children

*Courtesy of J.M. Craig Press, Inc.*

We have known for some time that parental distress, particularly depression, has a detrimental impact on children's well-being. This study examines more specific types of parental distress and whether they affect children in different ways.

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## UPCOMING CONFERENCES



### AFCC Regional Training Conference

*Interventions for Family Conflict: Stacking the Odds in Favor of Children*  
November 5-7, 2009  
Peppermill Resort  
Reno, Nevada



### AFCC 47th Annual

## ASK THE EXPERTS

Justice Harvey Brownstone, North Toronto Family Court, shares his Ten Tips for Success in Resolving Parenting Disputes (excerpted from his new book *Tug of War*).

[Read more...](#)

## FEATURED ARTICLE

### **New Approaches To Divorce Settlements In Times Of Recession**

*By Richard Sharp, courtesy of Mediate.com*

Survey results published by The Institute for Divorce Financial Analysts in June 2009, indicate that the ways in which divorce proceedings are being handled are changing, due in part to the current economic climate. With the fall in house prices and pension funds, the two largest assets in a divorce settlement, separating and divorcing couples are looking for more cost-effective and affordable ways of untying the knot and are exploring more creative solutions for resolving their financial issues.

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### **AFCC training programs in Baltimore in December**

*Parenting Coordination: Helping High Conflict Parents Resolve Disputes* will be presented by Joan B. Kelly, Ph.D. on December 7-8, 2009.

*Advanced Issues in Child Custody: The Child's Perspective* will be presented by Mindy F. Mitnick, Ed.M., M.A. on December 9-10, 2009.

[More information...](#)

### **John Haynes Distinguished Mediator Award**

Robert Benjamin is this year's recipient of the John Haynes Distinguished Mediator Award given by the Association for Conflict Resolution to a prominent and internationally recognized leader in mediation who demonstrates personal and professional commitment to finding mediation solutions to conflict while balancing therapeutic and legal perspectives. Past recipients of this award are Peter Salem, Jim Melamed, Arnie Shienvold, Nina R. Meierding, Zena D. Zumeta, Barbara Landau, Donald T. Saposnek and Larry S. Fong – all AFCC members. Congratulations!

### **Arizona Statute Update**

The Arizona legislature passed legislation in July that provides that licensing board complaints made against psychologists who are judicially appointed in forensic matters must be reviewed by the appointing judges. That statute is now in effect and is posted.

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### **AFCC's 47th Annual Conference**

**June 2-5, 2010, Denver, Colorado**

The AFCC 47th Annual Conference, *Traversing the Trail of*

### **Conference**

*Traversing the Trail of Alienation: Rocky Relationships, Mountains of Emotion, Mile High Conflict*  
June 2-5, 2010  
Sheraton Denver  
Denver, Colorado

### **AFCC Ninth Symposium on Child Custody Evaluations**

October 28-30, 2010  
Hyatt Regency Cambridge  
Cambridge/Boston, MA

### **AFCC 48th Annual Conference**

June 1-4, 2011  
Hilton Orlando Bonnet  
Creek Resort  
Orlando, Florida

## ASK THE EXPERTS

**Do you have a question that you would like answered by an AFCC expert?** Let us know and your question could be answered in the next *AFCC eNEWS*.

[Email your questions...](#)

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## ABOUT AFCC eNEWS

*AFCC eNEWS* is a 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 practice tips, research innovations and international news.

[AFCC eNEWS archive...](#)

### **Web Site Version:**

If you are having trouble viewing this email correctly,

*Alienation: Rocky Relationships, Mountains of Emotion, Mile High Conflict* in Denver will expand upon and build on the January 2010 issue of *Family Court Review*.

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## **FAMILY LAW IN THE NEWS**

### **State best in US for giving children a voice in court**

*Courtesy of Boston.com*

A national report released recently ranked Massachusetts the best state in the nation for giving children a say in their futures should their lives be upturned by allegations that their parents abused or neglected them.

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### **Court says parents in New York cannot contract away obligation to support children until age 21**

*Courtesy of Examiner.com*

In the Matter of Thomas B. v Lydia D. the New York State Supreme Court, Appellate Division, ruled on Thursday, October 1, that parents in New York State cannot contract away their obligation to take care of their children until age twenty-one. The issue before the court was whether or not a child's full-time employment by itself constituted emancipation and therefore released the parents from child support obligations.

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### How Parental Conflict Harms Adolescents

*Courtesy of J.M. Craig Press, Inc.*

*Shelton, K. H. and Harold, G. T. [2008]. Interparental Conflict, Negative Parenting, and Children's Adjustment: Bridging Links Between Parents' Depression and Children's Psychological Distress. Journal of Family Psychology. 22, 712 - 724.*

We have known for some time that parental distress, particularly depression [See Digests: 6, 1 & 5; 7, 1, 6, & 10; 8, 1, 3, 7, & 10; and 9, 1.], has a detrimental impact on children's well-being. This study examines more specific types of parental distress and whether they affect children in different ways.

The authors studied 352 intact families and one of their 11- to 13-year-old children, over a three year period. Thirteen percent of the families were blended while the remainder included natural parents. Ninety-nine percent of the families were Caucasian and of European ancestry. Parents were asked to complete questionnaires regarding their own depressive symptoms, insecurity, their children's behavior, and interparental conflict. Children were asked to respond regarding their own symptoms. Teachers were also asked to rate the children's well-being.

The authors found:

- Wives reported higher levels of depression, while husbands reported higher levels of relationship insecurity.
- Depression and insecurity among the parents led to greater interparental conflict. The more the parents felt depressed and insecure, the greater was the likelihood that the children felt rejected. Both parents and teachers reported knowing that the children were having more adjustment problems.
- When mothers were depressed or insecure, their children felt rejected by them and tended to misbehave more. This result was more likely for girls. When fathers felt depressed, the children did not feel rejected, but their anxiety increased, and they experienced more symptoms of distress. This was especially true for the boys.
- The longer interparental conflict continued, the worse the children felt.
- The authors concluded that as a result of parental conflict, the children felt that their parents were withdrawing from them. This perception prompted their distressed reactions.
- Mental distress increased over the 18 months prior to marital dissolution, but decreased almost an equal amount over the next 18 months.

#### Critical Analysis

This study has a number of advantages. First, it was longitudinal in nature. Following the participants as they did increased the reliability of their findings. A second advantage is that the authors included ratings from teachers. This is helpful as it adds observations from neutral parties. Third,

this study specifically examined the roots of children's reactions based on their parents' distress. On the other hand, there were a number of drawbacks. First, the study was conducted in the UK with a sample of nearly all Caucasian participants. We do not know if their findings would be similar with a diverse U.S. sample. A second limitation is that the authors did not break down the results based on whether the children were living with their natural parents or with a step-parent. While we presume that this is because there were no differences between these families, the authors did not tell us so. Finally, the study is restricted to 11- to 13-year-old children. We do not know what, if any, differences there would be if the authors had studied a broader age range of children.

### **Recommendations**

A major finding of this study is that both the parents and teachers knew that the children were distressed when their parents were in conflict. While teachers can do little about this, the parents certainly can. The unfortunate finding from this study is that they did not. The situation for children can only be worse when their parents divorce. We often tell divorcing parents that when children misbehave, it is necessary to impose more discipline and structure and to remain involved with them so that they will feel more secure. This study reinforces the wisdom of this advice and tells us that doing so is particularly important for mothers. Finally, parents often tell clinicians that they stay together for the benefit of their children. This study represents yet another reason why this is not the case [See Digests: 5, 1; 6, 1; and 8, 6]. While no one looks forward to divorce, doing so may be the better course in cases where parents' chronic conflict cannot be resolved.

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

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#### Ten Tips for Success in Resolving Parenting Disputes

*By Hon. Harvey Brownstone, Toronto, Ontario, Canada*

##### **1. Be child-focused.**

Parents must learn to love their children more than they dislike each other. Children need peace more than their parents need to win. Make your child's well-being the focal point of every discussion you have with your ex-partner. Before taking a position on any issue, ask yourself, How will this affect my child? Ask your ex-partner to do the same. Never let a discussion with your ex-partner be about your needs or his/her needs; it should always be about your child's needs. If you cannot agree on which solution would best meet your child's needs, ask yourself how you and your ex-partner would have decided this issue had you remained together as a couple. In most cases, the answer would be to consult an expert. For example, if you and your ex-partner have a disagreement about your child's health, or educational needs, or extracurricular activities, you should both be meeting with your child's doctor, school, a family counsellor, or parenting coach. There are many professionals with special expertise to help parents resolve their disputes in a child-focused way. The first step to being a mature, responsible co-parent is to always put your children's needs ahead of your own.

##### **2. Learn to distinguish between a bad partner and a bad parent.**

The fact that your ex-partner was a bad partner does not necessarily mean that he/she is a bad parent. In my experience, most people who have been unfaithful to their spouses have actually treated their children very well. The way that a person treats his/her spouse in an unhappy relationship when no children are present may not be a good indication of how that person treats his/her children. It can be extremely difficult for a parent who has been mistreated by the other parent to accept that the child might see that parent differently and have a good relationship with him/her. Your child is entitled to get to know the other parent in his/her own right and to have a relationship with the other parent that is independent from your own. Even if the other parent is flawed, and even if restrictions or limitations must be placed on his/her contact with the child, your child can still have a safe and beneficial relationship with that parent. If your feelings about the other parent are standing in the way of your child's relationship with him/her, you should seek help from a counsellor or therapist.

##### **3. Never speak negatively to the child about the other parent.**

Your child has a right to a loving relationship with each parent, free of any influence or brainwashing. Moreover, your child needs and deserves emotional permission from you to enjoy his/her relationship with the other parent. It is unfair and cruel to place your child in a conflict of loyalties and make him/her choose between you and your ex-partner, as this deprives the child of an important relationship. Keep your thoughts and opinions about the other parent to yourself; never share them with your child. Never draw your child into your disputes with the other parent. And while I'm at it, you should never criticize the other parent's family, new partner, or friends in front of your child. Nor should you tolerate your relatives, new partner, or friends denigrating or berating the other parent in front of your child. Make it clear to them that your child is to be shielded and protected from adult conflicts. Besides, it makes absolutely no sense to criticize



people that your child is going to have a lot of contact with — what exactly do you want a child to do with this information? Most of the time a child will go right to the person who has been criticized and repeat everything you have said! Trust me, I've seen it happen thousands of times. One thing I have trouble understanding is why parents criticize each other's new partners. If you were attracted enough to your ex-partner to have a child with him/her, why does it surprise you that someone else finds him/her attractive? In most cases, a new partner had nothing to do with the breakup and is going to have considerable contact with your child. You gain nothing by making an enemy of that person.

#### **4. Never argue or fight in front of your children.**

No exceptions. If you and your ex-partner cannot behave civilly in front of your child, then don't be together in front of your child. It's that simple. I cannot understand why so many parents have trouble pretending to get along with each other for the few minutes it takes to pick up or return a child at access exchanges. It's called acting, and it's not that hard to do! Parents — even those who live together — pretend in front of their children all the time. It is even more important to do this after separation, because children need to be reassured that their lives will be happy and stable even though their parents live apart. Why are parents able to behave well in a courtroom in front of a judge (at least the vast majority do) but not in front of their own children? Don't they love their children enough to say "hello," "good-bye," and "have a nice day," and make small talk for the sake of keeping things peaceful and pleasant? Apparently not. This is shameful. There are lots of ways for parents to communicate with each other without the children being present: they can meet in person, or use telephones, faxes, letters, e-mails, and, of course, they can communicate through their lawyers. There is absolutely no good reason for parents to expose their children to their conflict. Parents who continually fail to heed this advice should be prepared to welcome the child protection authorities into their lives. (See Chapter 11.)

#### **5. Listen to the other parent's point of view even if you don't agree with it.**

If you are going to communicate directly with your ex-partner, remember that communicating with maturity starts with listening. You must learn to really hear what your ex-partner is saying, and understand his/her point of view. In any disagreement, try repeating back to your ex-partner what his/her position is, and the reasons why he/she is taking that position. I often do this in court and am frequently amazed by many people's inability to correctly repeat back to me what their ex-partners have just finished telling me only a few seconds before! For that matter, I am equally amazed at how often I am accused of saying things I did not say — thank heavens we have transcripts in court that record exactly what was said! The point I am making is that you cannot decide whether you agree with someone if you have not clearly understood what he/she is saying. You must put your emotions aside and listen with your brain. Even if you end up disagreeing with the other parent, you should at least be able to convey to him/her that you have understood his/her point of view. Many times I find that once two people have clearly understood the other's position, they are not as far apart as they first thought they were. Good listening skills are not acquired overnight, but post-separation counselling can be very helpful in speeding up the learning process.

#### **6. Consider mediation before giving the decision-making power to a judge.**

Too many parents react in a knee-jerk way to each other's conduct by running to family court without first getting legal advice or considering the impact of starting a court case. It is essential to consult a family law lawyer before taking any steps to resolve a conflict with an ex-partner. Your lawyer will explain your options and advise you on which one will best fit your situation. It may not be necessary to turn the decision-making power over to a judge. With the right help, you and your ex-partner may be able to arrive at compromises that will be better for your family than a court-imposed decision. Many thousands of parents have found mediation to be a beneficial problem-solving mechanism, so it is definitely worth exploring. For all the reasons given in Chapter 2, going to court should be a last resort, except for the special circumstances set out in Chapter 3.

#### **7. Separate your financial issues from your parenting issues.**

In any family breakdown, there are two types of issues to be resolved: financial issues and parenting issues. These are completely separate matters and should be dealt with that way. With the exception of the intersection that might occur between access and child support (see Chapter 9), you should not allow your discussions and disagreements over property and money to enter into your co-parenting relationship. Your

relationship with your children should have nothing to do with financial transactions or property transfers. Even if your ex-partner's conduct regarding financial matters is making life difficult for you, this should not interfere with his/her role in your child's life. It can certainly be a challenge to behave civilly with someone whom you think is trying to cheat you financially, but the ability to keep parenting issues separate from financial matters is a hallmark of maturity.

#### **8. Be flexible and reasonable in making access arrangements.**

By far the greatest area of conflict between separated parents is that of organizing, carrying out, and enforcing access visits. Family courts everywhere are swamped with parents complaining of each other's frequent cancellations, lateness, and a myriad of other misbehaviours. In a great many of these cases, a little common sense and fairness from both parents would have gone a long way toward resolving the problem. Do your best to follow the four simple tips about access given in Chapter 12. Be flexible and reasonable in accommodating your ex-partner's work schedule and travel concerns, as well as changes in your child's routines. Be considerate when dealing with access on special occasions and during vacation periods. You never know when you might need your ex-partner to extend the same consideration to you. Remember that access schedules must be adjusted to accommodate changes in the parents' and children's lives. This is not only normal but is to be expected, so go with the flow, don't make a big deal out of every minor deviation from your access schedule, and be willing to make compromises for your child's sake.

#### **9. Your children still see you as a family, so communicate!**

As I have mentioned, you can be an ex-partner, but you are never going to be an ex-parent. If you truly accept that your children are innocent and bear no responsibility for your separation, then you know that they are entitled to be part of a family and to have their parents behave like family members, even though they live apart. Children who have contact with both parents need them to communicate with each other. I have had situations in which a child's health suffered because one parent didn't tell the other about the child's medical problem, so the child didn't get the proper medical attention in the other parent's care. This is unforgivable. When a child is going frequently from one parent's home to the other's, it is vital that each parent know about anything important that has happened to the child while in the other parent's care, especially an illness. It is also important for parents to have each other's addresses and telephone numbers, unless there is a very good reason to not disclose this information — and even in that case, there must be some way for parents to contact each other (for example, through a third party) in the event of an emergency. Parents should have equal rights to obtain information about their children from schools, doctors, and other service providers. Parents should have equal rights to attend important meetings such as parent-teacher interviews or key medical appointments. Both parents should be able to attend special events in the children's lives such as religious ceremonies, school events, sports tournaments, and music recitals. Even if there is a restraining order (or criminal court no-contact order) prohibiting contact, speak to your lawyer about the possibility of amending the order to permit at least some minimal form of communication regarding your child, even if it is in written form (for example, by using a communication book), or through a third-party intermediary. Your children need you to know what's happening in their lives even when they're with the other parent. If possible, find a safe and legal way to make this happen.

#### **10. Don't hesitate to get help.**

Family breakdown is one of the most stressful and painful experiences anyone can go through. The challenge of overcoming a failed partnership while at the same time developing a good working relationship with an ex-partner can be overwhelming. You do not have to do this alone. There are specialized counsellors and therapists who can help you, your ex-partner, and your child. Many community organizations offer excellent programs to help separated parents and their children make the necessary transition from ex-partner to co-parent. There are social workers and parenting coaches with the expertise to help you and your ex-partner develop a workable parenting plan. There are many books that offer great ideas (see "Suggested Reading"). Speak to your family doctor about a referral to a counsellor or therapist. It's worth attending one meeting just to find out what services might be available to you and your family. Finally, remember that your family law lawyer is there to help you and can refer you to a number of community resources. Family law lawyers, like family court judges, know only too well that post-separation parental disputes are about much, much more than the law. Don't let the legal aspects of your



dispute interfere with the critically important human aspects. If you do, you may be doing a disservice to your children.

*From Tug of War: A Judge's Verdict on Separation, Custody Battles, and the Bitter Realities of Family Court by Harvey Brownstone © 2008 by Harvey Brownstone. All rights reserved. Published by ECW Press Ltd.*

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### **AFCC's 47th Annual Conference, June 2-5, 2010, Denver, Colorado**

AFCC is gearing up for another stellar program for the 47th Annual Conference. The conference theme is *Traversing the Trail of Alienation: Rocky Relationships, Mountains of Emotion, Mile High Conflict* and will expand upon and build on the forthcoming January 2010 issue of the *Family Court Review* special issue on alienation: *Alienated Children in Divorce and Separation: Emerging Approaches for Families and Courts*.

Plenary sessions will include Richard Warshak, Ph.D., Robin Deutsch, Ph.D., and Janet Johnston, Ph.D. and moderator Nicholas Bala, Ph.D. discussing innovative interventions and points of controversy when helping families with children who reject parents.

A second plenary session will discuss what judges go through when examining cases involving alienation and estrangement and will be presented by Hon. Donna Martinson, Hon. Tom Altobelli and Hon. Paula Carey with moderator Barbara Fidler, Ph.D.