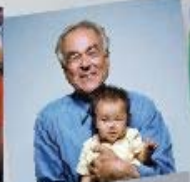




ASSOCIATION OF
FAMILY AND
CONCILIATION COURTS



eNEWS

AFCC 50th Anniversary Conference

Riding the Wave of the Future: Global Voices, Expanding Choices

May 29–June 1, 2013

JW Marriott Los Angeles L.A. LIVE

AFCC Announces Conference Sponsors

AFCC is pleased to announce the sponsors of the AFCC 50th Anniversary Conference in Los Angeles! This year's Platinum Sponsor is OurFamilyWizard.com. Gold Sponsors include [Complete Equity Markets, Inc.](http://CompleteEquityMarkets.com), the [Strauss Institute for Dispute Resolution at Pepperdine University](http://StraussInstitute.com), [Los Angeles Collaborative Family Law Association \(LACFLA\)](http://LosAngelesCollaborativeFamilyLawAssociation.com), [Two Families Now](http://TwoFamiliesNow.com), Law Office of Donald S. Eisenberg, [The Center for Divorce Education's Children in Between Online](http://TheCenterforDivorceEducation.com) and a gold sponsorship in honor of AFCC Presidents. The Silver Sponsors are [Nachlis & Fink](http://NachlisFink.com) and [National Cooperative Parenting Center](http://NationalCooperativeParentingCenter.com), and the Local Sponsor is the [American Academy of Matrimonial Lawyers—Northern California Chapter](http://AmericanAcademyofMatrimonialLawyers.com).

Sponsorship Opportunities Remain

There are still opportunities to support AFCC and have your organization's name associated with this outstanding conference. The deadline for sponsors to be listed in the conference program brochure is December 3, so act fast to get the most out of your sponsorship. There are also quarter, half and full page ad spaces available in the conference program brochure. Be sure to take advantage of special member pricing. Details are available on the [Exhibits and Advertising](#) page on the AFCC website or contact AFCC Program Manager [Erin Sommerfeld](mailto:Erin.Sommerfeld@afcc.org) or call (608) 664-3750.

Conference Program Coming Soon

The conference program is being finalized now and will be available in electronic format on the AFCC website by the end of the year. The AFCC 50th Anniversary Conference offers over 90 sessions, some of which will look at what the future holds and how the AFCC community will influence the constantly evolving family law system. Also look for the January 2013 *Family Court Review*, a special issue for the 50th Anniversary of AFCC.

Conference Scholarships

Scholarships for the 50th Anniversary Conference will include registration to the conference, one full-day pre-conference institute, a certificate of attendance and admittance to all conference food, beverage and networking functions. There are a limited number of travel stipends available to assist in offsetting the cost of travel and hotel. In honor of AFCC's 50th Anniversary, more than 50 conference scholarships will be offered and 18 additional scholarships designated to AFCC Chapters. The Chapter Scholarship application and award process will be managed by individual chapters. Apply for an AFCC conference scholarship online beginning in January. Applications must be received by March 1, and recipients will be notified mid-March.

The AFCC Scholarship program provides access to continuing education, networking and discussion for professionals who may not otherwise be able to attend AFCC conferences. [Please consider supporting this valuable program by](#)

MONTHLY E-NEWSLETTER

VOL. 7 NO. 11

NOVEMBER 2012

Upcoming Conferences

AFCC 50th Anniversary Conference
Riding the Wave of the Future: Global Voices, Expanding Choices
May 29–June 1, 2013
JW Marriott Los Angeles L.A. LIVE
Los Angeles, California
[More information](#)

AFCC–AAML Conference
September 26–28, 2013
Gaylord National Resort
Washington, DC Metro Area

AFCC Regional Training Conference
November 7–9, 2013
The Westin Crown Center
Kansas City, Missouri

AFCC Training Programs

[donating online today.](#)

Family Court Review 50th Anniversary Special Issue Family Court Services: A Reflection on 50 Years of Contributions

By Sharon Press

Sharon Press is the current director of the Dispute Resolution Institute and associate professor of law at Hamline University. Professor Press was director of the Florida Dispute Resolution Center for 18 years where she was responsible for the ADR programs associated with the state courts.

This article examines the evolution of some key family court services over the past 50 years and highlights the role that AFCC played as a catalyst to support and expand the provision of innovative court services to litigants and their families. Specific services highlighted include conciliation services and the evolution of these services to current mediation programs; Parenting Coordination; and Parent Education.

[Read the article](#)

What Else was Founded in 1963?

AFCC was founded in 1963 with the first AFCC conference, held on Saturday, September 7, 1963, in Los Angeles. As we approach AFCC's 50th Anniversary Conference and return to Los Angeles, May 29-June 1, 2013, we will feature trivia or a fun piece related to the upcoming anniversary. This month we explored other things "founded" in 1963.

[Read more](#)

AFCC Training Programs

Intractable Issues in Child Custody Disputes

Parenting Coordination: Working with High Conflict Families

December 3–6, 2012

University of Baltimore School of Law

There is still time to register for two excellent training programs offered by AFCC in collaboration with the University of Baltimore School of Law's Center for Families, Children and the Courts. **December 3–4**, **Mindy Mitnick** will present a two-day training on **intractable issues in child custody disputes** and **December 5–6**, **Christine Coates** will present a two-day training on **working with high conflict families as a parenting coordinator**. Each training is eligible for 12 hours continuing education for psychologists and 12 CE clock hours for national certified counselors. That's 24 hours when you attend both trainings!

[More information](#)

Ask the Experts

Ten Tips for Judicial Officers Dealing with Self-Represented Litigants in Family Court

By Hon. Michael J. Dwyer

Courts in the United States and around the world are seeing an increase in the number of litigants representing themselves. These litigants are often unfamiliar with the legal system and court procedures and can present challenges for court personnel. Hon. Michael J. Dwyer has provided tips for judicial officers on how to best handle self-represented litigants in family court.

[Read more](#)

Intractable Issues in Child Custody Disputes

Mindy Mitnick, EdM, MA
December 3–4, 2012
University of Baltimore, School of Law,
Student Center
Baltimore, Maryland
[More information](#)

Parenting Coordination: Working with High Conflict Families

Christine Coates, MEd, JD
December 5–6, 2012
University of Baltimore, School of Law,
Student Center
Baltimore, Maryland
[More information](#)

Nuts and Bolts of Parenting

Coordination: Helping High Conflict Parents Resolve Disputes

Joan B. Kelly, PhD
March 4–5, 2013
Loyola University Chicago, Philip H. Corboy
Law Center
Chicago, Illinois

When Nuts are Loose and Bolts Don't Fit:

Advanced Practices in Parenting Coordination

Debra K. Carter, PhD
March 6–7, 2013
Loyola University Chicago, Phillip H. Corboy
Law Center
Chicago, Illinois

AFCC Chapter Events

Arizona Chapter Annual Conference

Cultivating Resilience in Children, Families and Professionals
February 1–3, 2013
Hilton Sedona Resort and Spa
Sedona, Arizona
[More information](#)

Louisiana Chapter Annual Conference

Collateral Damage: Addressing the Hidden Costs to Families and Professionals in Chronic High Conflict Cases
March 7–8, 2013
Hampton Inn
New Orleans, Louisiana
[More information](#)

Florida Chapter Annual Conference

Creating Our Future: One Family at a Time
March 15–16, 2013
The Rosen Center
Orlando, Florida
[More information](#)

Washington Chapter Conference

Pinnacles of Practice in Times of Challenge
April 6, 2013
Washington Athletic Club
Seattle, Washington
[More information](#)

Join AFCC

AFCC 10th Symposium on Child Custody Evaluations

Our thoughts go out to everyone affected by Hurricane Sandy. AFCC has been working with those who were not able to attend due to the storm to provide refunds or credit for future conferences. In most cases, AFCC members were able to fill in for storm-affected colleagues scheduled to present sessions. Nearly 400 attendees joined us for an excellent program at the Arizona Grand Resort in Phoenix. Thanks to all who participated: attendees, presenters, exhibitors and special thanks to the conference volunteer shepherds Joy Borum, Kathy Macchione Leggett, Gwendolyn McClure, Eileen Missall, Mercedes Reisinger-Marshall, Rebecca Stahl and head shepherd Chris Jones. AFCC members can listen to the plenary sessions at no cost in the [Member Center](#) of the AFCC website. Audio recording of sessions can be purchased through [Digital Conference Providers](#). AFCC has a few USB drives containing symposium materials available for purchase for \$20 for members and \$40 for nonmembers. To check availability and place an order, please contact AFCC Administrative Assistant [Carly Wieman](#) or call (608) 664-3750.

Chapter News

AFCC Welcomes Three New Chapters

The AFCC Board of Directors granted provisional chapter status to chapters in Alberta, Connecticut and Illinois on November 1, 2012. Congratulations to the new chapters and their members! If you would like to join one of these new chapters, contact the [AFCC office](#) or call (608) 664-3750; chapter membership can easily be added to your membership. You can join both AFCC and a chapter on the [AFCC website](#).

Chapter activity is expanding around the world. The Australia Chapter coordinating committee has filed its letter of intent and plans to hold a launch event during the 6th World Congress on Family Law and Children's Rights in Sydney in March of 2013.

AFCC Networks

AFCC is growing and now has 18 chapters with another in the active process of forming. Establishing a chapter requires a minimum of 75 AFCC members in a state, province or country outside of North America. In recognition of the numerous regions, states, provinces and countries that do not reach this minimum, AFCC has established AFCC Networks. Groups of 25 AFCC members who wish to develop a local AFCC organization may form an AFCC Network. The purpose of a Network is to promote AFCC, its mission, culture and organization membership; to disseminate material of interest and to foster communication between members on matters of common interest in the arena of family law. If you are interested in more information about AFCC Networks, please contact AFCC Associate Director, [Leslye Hunter](#).

6th World Congress on Family Law and Children's Rights

Building Bridges: From Principle to Reality

March 17-20, 2013, Sydney Australia

AFCC Members Go Global

Last month we recognized AFCC Board members and leadership who are presenting at the 6th World Congress, as well as members of that conference's planning committee and leadership. This month, take a look at the incredible presence of AFCC members on the program. Almost 50 members will present sessions!

[View a list of AFCC member sessions at the World Congress](#)

AFCC Board of Directors Nominations

The AFCC Nominating Committee is seeking nominations for individuals to serve on the AFCC Board of Directors. Recommended individuals must be AFCC members and have an interest in and knowledge of AFCC and its work. Nominations must be received by January 7, 2013, in order to be considered by the committee prior to the election at the AFCC 50th Anniversary Conference, May 29-June 1, 2013, in Los Angeles. The term is three years, beginning July 1, 2013, and concluding June 30, 2016. If you or a member you know is interested, please send first and last name, contact information, resume and a letter of intent to the AFCC Nominating Committee Chair, Linda Fieldstone, c/o AFCC, 6525 Grand Teton Plaza, Madison, WI 53719; Fax: (608) 664-3751 or email: afcc@afccnet.org.

Are you a member?

[Join](#) or [Renew](#)

AFCC offers member benefits that promote excellence in practice.

[View member benefits](#)

Ask the Experts

Is there a topic you would like to see covered by an AFCC Ask the Experts piece?

[Email your suggestion](#)

About AFCC eNEWS

Readers are welcome to forward this e-newsletter to interested colleagues. All opinions expressed are those of the author and do not necessarily reflect those of AFCC.

Earn AFCC Dollars

Each time a colleague joins AFCC as a first-time member and names you as the referral source on the membership application you will earn ten AFCC dollars to spend on conference registrations, membership renewals and publications. For more information, please contact AFCC at afcc@afccnet.org or (608) 664-3750.

Editor:

Erin Sommerfeld

editor@afccnet.org

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Family Law in the News

Florida Supreme Court Wades Into "Brave New World" of Same-Sex Custody Law

By Jessica Palombo, courtesy of WSFU

The Florida Supreme Court heard oral arguments this week in a child-custody dispute between two women. Legal experts say the case highlights how state law does not reflect scientific advances and the variety of family structures that exist in Florida.

[Read more](#)

Participants Have Positive Reaction to Online Divorce Mediation

Courtesy of the Court ADR Connection from Resolution Systems

A Dutch experiment with online dispute resolution (ODR) for divorcing couples found that the process is perceived as fair by those who participate. The experiment, discussed in "Getting Divorced Online: Procedural and Outcome Justice in Online Divorce Mediation" by Martin Gramatikov and Laura Klaming in *Journal of Law and Family Studies* (2012), surveyed 126 individuals to determine their perceptions of procedural and outcome quality.

[Read more](#)



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eNEWS

Ask the Experts

Ten Tips for Judicial Officers Dealing with Self-Represented Litigants in Family Court

By Hon. Michael J. Dwyer

1. Accept responsibility for the fairness of the process

The overwhelming majority of people who appear in the family courts around the country are self-represented; their numbers are increasing and they are with us to stay. Your primary ethical obligations are to ensure parties the right to be heard according to law and to be impartial. The absence of lawyers challenges us on both of these obligations. The civil litigation system was designed by lawyers to be used by lawyers. When both parties are capably represented, it is reasonable to presume that the design of the system will help to insure that the resulting decision is a fair one. That presumption does not apply when one or both parties lack counsel. In such circumstances, it is your duty to remain impartial while giving each party the right to be heard.

2. Make information about court and its processes available to parties

Self-represented litigants (SRLs) need information about law and procedure. While many jurisdictions have made great strides in this area in recent years, it remains your responsibility to insure that parties have the information they need. The single biggest obstacle to providing needed information to SRLs is the fear of giving legal advice. It is inappropriate for you or your staff to give legal advice, so be certain that the difference is understood. Providing information about the legal elements of a claim, which statutes apply and how to access them, about statutory and local procedures is information, not advice. The hallmarks of legal advice are telling a party what claim to make, what strategy to adopt or what outcome to accept. A great deal of useful information can be provided short of that and it is important that you and your staff to know the difference and freely provide information.

3. Be prepared

Review the file before the hearing. When the parties see that you have read and considered the relevant items they have submitted, they get the unmistakable message that you care about the case and take it seriously. You should also be prepared for these hearings to be mentally and, possibly emotionally, taxing. Take care of your health so that you are up to the physical challenges of the work.

4. Treat parties with respect

This is both obvious and difficult; suffice it to say that some SRLs are easier to work with than others. You are responsible for the tone in your courtroom; patience and a sense of humor are mandatory. You must speak in language that the parties understand; refrain from using legalese. Sarcasm and exaggeration should be avoided and above all, control your temper—has anything good ever come from losing your temper on the bench? Judges have different personalities and styles of interaction; a friendly businesslike manner is the ideal, but it's important to adopt a style that suits you so you will use it consistently.

Remember also, that the case is not about you; intervene with restraint so that ownership of the case remains with the parties.

5. Clearly explain what will happen at the start of every hearing and explain why

In order for a SRL to tell their story, they must understand the issue that you are deciding on and what that party is required to show to get the result they desire. Parties must also understand the order of proceedings. If you intend to ask questions during the hearing, tell parties in advance and explain why. A sincere assurance given to a party that they will have a chance to tell you their side will go a long way to calming a nervous SRL. If you are comfortable with doing so, and the parties do not object, you can ask initial questions of both parties without compromising neutrality.

6. Remember that 60% of meaning is conveyed non-verbally

A SRL's perception is their reality. Even if you are scrupulously impartial, giving the impression that you are bored, unintentionally skeptical, or impatient, will cause the SRL to not FEEL heard. The importance of tone of voice, posture, eye contact, forms of address, and what you do with your hands cannot be underestimated. Consider videotaping yourself in a hearing to see how you appear to others.

7. Actively seek the facts to insure that cases are tried on the merits while remaining impartial

You need the facts to decide an issue. SRLs do not know what you need to know or how to provide you with that information. You have broad discretion in how you conduct the fact-finding process. The scope of your authority is illustrated by your undisputed ability to, among other things, modify the usual order of procedure, ask questions of witnesses, determine the admissibility of evidence, grant continuances, appoint experts, and even call witnesses. Provided that is done consistently and with restraint, you can fully retain your impartiality and obtain the evidence you need to make your decision. You should not mistake passivity and lack of involvement for neutrality.

8. Do not let the rules of evidence prevent a fair hearing

You have broad discretion concerning the admission or exclusion of evidence. You are the fact-finder in family court and are trained in weighing and assessing the credibility of evidence. There are many exceptions to rules that require the exclusion of evidence, including the catchall rules that allow the admission of evidence found to have circumstantial guarantees of trustworthiness comparable to the many exceptions to the rules of exclusion. It is rare that a SRL will raise an evidentiary objection. The cases that are most challenging to judges are those in which one party is represented and the other is not. In most circumstances, if there is valid objection to a significant item of evidence, explaining the requirements of admissibility, and granting a continuance to allow the party to correct the defect can overcome the objection. Except in the rarest of circumstances, the represented party will not want to pay the lawyer for another court appearance, especially when the evidence is relevant and will be admitted at the adjourned hearing because the proponent now knows what is required. Keep in mind that the purpose of the rules of evidence is to aid in the search for truth and that the rules are vestiges of a fully lawyered system. They should not deprive you of the ability to conduct a fair hearing.

9. Give reasons for rulings and decisions

Parties who believe that the decision making process was procedurally fair are more likely to be satisfied with the outcome, even if they are not successful. Parties must be given the opportunity to understand the reason that you are deciding the way you are. An explanation in plain language of your rulings is required, and if possible, you should obtain confirmation from both parties that they understand the ruling and your reasons for it.

10. Take responsibility for preparation of the order

Perhaps the most surprising feature of civil procedure to a non-lawyer is the practice of having the prevailing party, rather than the court, prepare written orders. SRLs have no idea how to prepare an order, and, while explaining what one is and how to prepare one is information rather than advice, it is the very rare SRL who is capable of using the information correctly. Many courts have changed the traditional practice and begun to prepare their own orders. If you intend that parties follow your orders, it is important that you prepare the order and deliver it to the parties before they leave the hearing room. Doing so concededly puts a burden on the court and staff, but any burden is outweighed by the benefits.

Michael J. Dwyer is a circuit court judge in Milwaukee, Wisconsin. He has been on the bench since August 1997 and is currently assigned to the Children's Court hearing dependency and delinquency cases. He was previously assigned to the Family Division where he was the presiding judge. Before that, Judge Dwyer served as the presiding judge of the probate subdivision, was the small claims judge for a year and served terms in both Family and Children's Court. His current interests include trying to understand what can best be done to mitigate the harm children suffer at the hands of abusive and neglectful parents. His family court interests include insuring the quality of GALs in family cases, addressing the problems presented by self-represented litigants in family court, improving the way family court processes cases by facilitating co-operation at all stages, and improving the family court mediation. Judge Dwyer received his legal education at Georgetown University Law Center, graduating in 1975, and his undergraduate degree from the University of Wisconsin-Madison in 1972. Prior to taking the bench he was a general practitioner in Milwaukee County for over twenty years.



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eNEWS

What Else was Founded in 1963?

The first AFCC conference was held on Saturday, September 7, 1963, in Los Angeles. Conciliation counselors and judges from six counties in California gathered to talk shop. As the 50th Anniversary Conference approaches, each month we will feature trivia or a fun piece related to the anniversary. This month we explored other things “founded” in 1963.

Here are a few of the highlights:

Lamborghini was founded by Ferruccio Lamborghini at Sant'Agata Bolognese in Italy's Emilia Romagna region. "I want to build the perfect car" declared Ferruccio as he launched his ambitious project.

Doctor Who, the BBC television series, debuted on 23 November 1963.

Porsche will celebrate the 50th anniversary of the Porsche 911 and will reveal a special edition to celebrate the car's golden anniversary.

Lands' End was founded by Gary Comer, a former advertising copywriter and sailor.

The **Pro Football Hall of Fame**, the hall of fame for professional football in the United States with an emphasis on the National Football League (NFL), opened in Canton, Ohio on September 7, 1963, with 17 charter enshrinees.

Clifford the Big Red Dog® from the best-selling books by Norman Bridwell will celebrate his official birthday on February 14, 2013. Over a million Clifford books have been printed and there is an award-winning television series based on the books on PBS KIDS.

CVS Pharmacy, now the second largest pharmacy chain in the United States, was founded in Lowell, Massachusetts.

ECCO, the shoe manufacturer and retailer, was founded by Karl Toosbuy in Bredebro, Denmark. Originally a footwear maker only, the company has since added leather production and accessories and now claims to be the only major shoe company in the world to own and manage every step of the production process—from tannery to consumer.

Mary Kay, the cosmetic company was founded by Mary Kay Ash in Texas.

Weight Watchers, the US-based international company that offers various dieting products and services to assist weight loss and maintenance, was founded by Brooklyn homemaker Jean Nidetch.

The Avengers team of superheroes made their debut in in The Avengers #1 (Sept. 1963) published by Marvel Comics. Called Earth's Mightiest Heroes, the Avengers originally consisted of Iron Man (Tony Stark), Ant-Man (Dr. Henry Pym), Wasp (Janet Van Dyne), Thor, and Hulk (Bruce Banner). The original Captain America was discovered, trapped in ice (issue #4), and joined the group after they revived him.



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6th World Congress on Family Law and Children's Rights

Building Bridges: From Principle to Reality

March 17–20, 2013, Sydney Australia

AFCC Members Go Global

Last month we recognized AFCC Board members and leadership who are presenting at the 6th World Congress, as well as members of that conference's planning committee and leadership. This month, take a look at the incredible presence of AFCC members on the program. Almost 50 members will present sessions!

See the full program for further details. Sessions listed may have other speakers; AFCC members who will present are listed below the session title.

Communicating in the Trenches: A Model for Representing Abused and Neglected Children

Edith A Croxen, *Pima County Office of Children's Counsel, United States*

Rebecca M Stahl, *Pima County Office of Children's Counsel, United States*

How Lawyers "see" Children in Child Representation

Nicola M Ross, *Newcastle Law School, University of Newcastle, Australia*

The Children's Lawyer for Ontario: The Challenges of Developing Competency in Representing Children in a Multicultural Context

Lucy McSweeney, *Office of the Children's Lawyer, Canada*

Nancy Webb, *Office of the Children's Lawyer, Canada*

Katherine Kavassalis, *Office of Children's Lawyer, Canada*

Relocation Disputes: Applying Research to Practice

Prof Judy Cashmore, *University of Sydney, Australia*

Prof Marilyn Freeman, *London Metropolitan, United Kingdom*

Prof Patrick Parkinson AM, *University of Sydney, Australia*

Dr Phil Stahl, *Director, Forensic Programs, Steve Frankel Group, LLC, United States*

One Objective Assessment of Parenting Capacity for Child Custody and Child Protection: Is it possible?

Dr Don Tustin, *Adelaide Psychological Services, Australia*

Infants and Toddlers: Furthering Our Collective Understanding of Their Needs in Post-Separation Parenting Plans

Marie L Gordon QC, *Gordon Zwaenepoel, Canada*

Some Psychological Outcomes for Alienated Children Who, Under Court Orders, Have moved to Live with their Rejected Parent

Dr Jennifer Neoh, *Australia*

Hearing the Voice of the Child in Hague Abduction Cases

Dist Prof Linda D Elrod, *Washburn University School of Law, United States*

International Children's Issues – Legal / Social / Psychological: Towards a Wholistic Approach – About Time!

Dr Ann L Wollner, *International Social Service (ISS) Australia, Australia*

Domestic Violence and the Impact on Children's Lives

Judge Peter Boshier, *Principal Family Court Judge, New Zealand*

Drawing Conclusions for Parenting Plans: Update on the Research

Dr Kathryn F Kuehnle, *University of South Florida, United States*

Dr Leslie Drozd, *United States*

Judith R. Forman, *United States*

Post-separation Patterns of Children's Overnights Stays with each Parent in Australia: A Recent Snapshot

Dr Bruce Smyth, *Australian National University, Australia*

Truancy-The Next Generation

Hon Bryan E Mahoney, *Court of Queen's Bench of Alberta (Canada), Canada*

Bullying In Schools: Is it Against the Law?

Prof Samuel Stein, *University of Bedfordshire, United Kingdom*

The Twists and Turns of Children's Participation in Family Disputes: Oh What a Tangled Web Professionals Weave

Dr Rachel Birnbaum, *King's University College at the University of Western Ontario, Canada*

Dr Francine Cyr, *Canada*

Dena Moyal, *Canada*

Reforming the Regulation of Legal Parenthood: British Columbia's New Family Law Act

Prof Susan B Boyd, *Faculty of Law, University of British Columbia, Canada*

Gender Identity Disorder in Children: The Australian Legal Response

Brigid M Jenkins, *Victoria Legal Aid*

Protecting Children-The Building Blocks for the Bridge

Julie M Jackson, *Legal Aid Western Australia, Australia*

Towards a Convention on Responsibilities and Obligations to the Child

Retired Judge Philip L Marcus, *Israel*

Potential Value of International Family Mediation: Building Bridge over Cultural Diversity

Mikiko Otani, *Toranomon Law & Economic Offices, Japan*

The Effect of Warring Parents on Children's Development

Prof Samuel Stein, *University of Bedfordshire, United Kingdom*

Biological Effects of High Conflict on Children and Consequential Effects on their Social Development

Justice Andrea B Moen, *Court of Queen's Bench of Alberta, Canada*

International Judicial Initiatives Dealing With Cross Border Child Protection

Justice Robyn M Diamond, *International Hague Network, Judge for Canada, Canada*

Justice Victoria Bennett, *International Hague Network, Judge for Australia, Australia*

Justice Donna Martinson, *Deputy Judge of Yukon Supreme Court and Justice of the British Columbia Supreme Court, retired, Canada*
Judge Judith Kreeger, *International Hague Network, Judge for the United States, United States*

What Would CROC Look Like if it were Being Drafted for Children Born in 2013?

Dr Susan A McDaniel, *University of Lethbridge, Canada*
Dr Tom Altobelli, *Federal Magistrates Court of Australia, Australia*

"The DOORS and the MASiC: two state of the art risk screening tools for family law"

Assoc. Prof Jennifer McIntosh, *LaTrobe University, Australia*
Prof Amy Holtzworth Munroe, *Indiana University, United States*

Review of Evaluations of Family Violence and Child Sexual Abuse in Child Custody Disputes

Dr Robert A Simon, *Independent Practice, United States*
Dr Leslie M Drozd, *Independent Practice, United States*
Dr Katherine Kuehnle, *Independent Practice/University of South Florida, United States*

Parenting Coordination in North America

Justice Emile Kruzick, *Superior Court of Justice (Ontario), Toronto, Ontario, Canada*
Linda Fieldstone, *Supervisor, Family Court Services, Dade County, Family Court of Miami, Florida, United States*
Arnold Shienvold, *President, Association of Family and Conciliation Courts, Harrisburg, Pennsylvania, United States*
Moderator: Peter Salem, *Executive Director, Association of Family and Conciliation Courts, United States*



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eNEWS

Family Court Services: A Reflection on 50 Years of Contributions

Sharon Press

In 1963, a family going through divorce would have a very different experience than a family going through a similar situation today. Access to court services would have been extremely limited, both in terms of the number of services available and the scope of each of these services. In order to obtain a divorce in every state in the United States in 1963, establishment of “fault” was necessary. If there were children from the marriage, the legal presumption was that they would live with their mother. In discussing children, courts used the language of custody and visitation, and not the more humane (and now commonplace) terms of parenting arrangements and shared parenting plans. There were no mediators or parent coordinators. The family would not have been referred or mandated to a parent education course.

In the fifty years between 1963 and today, the family court landscape has entirely changed. In many jurisdictions, family court judges have access to a range of court services to refer parents to, from mediation, to parent education, to parenting coordination. Courts are more aware of and sensitive to issues of domestic and family violence and the special needs of non-traditional families. Bound by precedence, courts are generally not considered to be institutions which change rapidly and, in court time, fifty years is quite brief. How can one explain these

changes? Certainly societal changes (e.g., the role of women in the workforce changed significantly since 1963 as did the number of people seeking divorce), overburdened civil court dockets, and legal changes (e.g., abrogation of the tender years doctrine and adoption of joint custody presumptions) all contributed to the need for courts to develop new ways of providing services but one cannot ignore the major role that the Association of Family and Conciliation Courts (AFCC) played as a catalyst to support and expand the provision of innovative court services to litigants and their families. In fact, if one looks at the significant innovations in court services over the years, it is easy to see the correlation between presentations and discussions at AFCC conferences, which then developed into articles or special issues of the *Family Court Review* and ultimately led to the development of guidelines, standards, or best practices either led by AFCC or with AFCC as a major contributor.

In the pages that follow, I will examine these contributions by reviewing them in the context of the major changes in family court services over the past five decades. The article will conclude with some speculation about the future.

Conciliation Services

In the early 1960s (and the early days of AFCC), family court services took the form of conciliation courts. Led by California,¹ the birthplace of the AFCC, conciliation services were provided by mental health counselors who were court employees. The purpose of conciliation court was: “to protect the rights of children and to promote the public welfare by preserving, promoting, and protecting family life and the institution of matrimony, and to provide a means for the reconciliation of spouses and the amicable settlement of domestic and family

controversies.”ⁱⁱ As explained by AFCC founding member, Meyer Elkin, in 1973, the focus of conciliation services went beyond a “reconciliation function.” He noted that, “[i]f in the course of such service a family does not reconcile, this does not mean that the counselor’s concern and responsibility to the family is at an end. In such cases, we still offer a very important and worthwhile service in our counseling efforts to help the family close the book gently.”ⁱⁱⁱ

AFCC’s first conference was attended exclusively by Californians involved in conciliation court functions and the first issues of what later became the *Family Court Review* were similarly targeted to conciliation counselors in California. By the second conference, at which the focus remained on conciliation, participants came from a variety of states. By 1965, nineteen states had developed some form of court-connected counseling services.^{iv} It is from these initial services that the seeds were planted for assisting families in a new way.

Custody and Visitation Mediation

The focus on reconciliation changed by the end of the 1960s as no-fault divorce statutes began to be adopted and the women’s movement brought even greater attention to the fact that marriages sometimes end. Through AFCC, conciliation court counselors and family court judges had already been gathering to discuss how to help parties “terminate the marriage with dignity, minimal trauma, and without the need to strike back.”^v Mediation, with its emphasis on parties exercising self-determination after having had an opportunity to talk, was the next logical development. It provided parents with a time and a place to discuss how to dissolve their marriage, while still attempting to reduce the emotional and economic costs of resolving custody disputes and improving parent-child relationships.

By the early 1970's, experimentation began in the use of mediation through the courts for custody and visitation disputes. As legislation moved from the Tender Years Doctrine, and the primary caregiver presumption emerged, judges became increasingly interested in services such as mediation to help resolve issues related to custody and visitation. In 1980, California became the first state to allow judges, by state statute, to mandate that parents participate in mediation.^{vi}

Interestingly, the adoption of this statute in California followed a pre-conference program at the winter 1979 AFCC meeting entitled "Mediation and Divorce Settlement." As Alison Taylor describes, the event underscored the "considerable confusion" amongst those who were offering mediation services about such things as "the essential characteristics of mediation, the differences between mediation and therapy, and the rights of children to make decisions in the mediation process."^{vii} It is significant to note that the discussion took place at an AFCC gathering, and Taylor's article arguing for the development of "a theory of mediation ... as a consistent, definable process to which all practitioners can ascribe"^{viii} was published in the *Conciliation Courts Review*. In the years that followed, the AFCC would continue to foster discussion of mediation both at conferences and in the pages of the *Conciliation Courts Review* (and later in the *Family Court Review*),^{ix} which enabled courts to take advantage of the experimentation attempted in one court in order to capitalize on the lessons learned. Not surprisingly, by 1995, 33 states had adopted statutes or court rules mandating mediation in contested custody and visitation.^x

Another critical service that the AFCC played in the development of mediation was to secure research grants and to provide a forum for presentation and discussion of research in the context of family services.^{xi} Traditionally, courts are challenged to find the resources to complete research, despite having the advantage of possessing a critical number of events to

study. Given difficult budget decisions, courts inevitably opt to provide services rather than conduct studies. AFCC, through its interdisciplinary commitment, was able to provide a forum for judges, mental health and legal service providers, court administrators, and researchers to meet, review current research, consider research implications, and create new innovations.

Finally, for services to obtain credibility, standards are necessary. Beginning in 1982, the AFCC set the stage for mediation to move to the next level by convening three national symposia, which resulted in the production of the first set of model standards of practice for family and divorce mediators. The AFCC was also responsible for co-convening a broad-based re-examination of the Model Standards of Practice for Family and Divorce Mediation in 1998,^{xii} which “increase[d] public confidence in an evolving profession and provide[d] guidance for its practitioners.”^{xiii} After wide-spread distribution of the drafts and a series of symposia at which comments were considered, the standards were finalized in 2000 and later adopted by the AFCC, the American Bar Association, and the Association for Conflict Resolution.

Over the years, the AFCC has been instrumental not only in supporting the development and use of mediation in divorce and custody situations, but also in expanding the use of mediation to child protection cases, non-traditional families, guardianship, and others. At the same time, the organization has been willing to confront and address the serious challenges relating to the use of mediation, especially in the context of high conflict families and with families for whom domestic violence^{xiv} is prevalent.^{xv}

Advocates who work with survivors of domestic violence have traditionally been critical of mediation in custody and visitation cases because of their concern about the impact of intimidation on a process which relies so heavily on party self-determination. On the other side, proponents of mediation suggest that there is a need for a much greater sense of nuance in

dealing with domestic violence situations, which are not all the same.^{xvi} As part of the 1989 annual conference, AFCC sought to engage in a discussion of these difficult issues at a preconference symposium on mediation and domestic violence.^{xvii} In 1992, the AFCC received a grant from the State Justice Institute to collaborate with The Urban Institute in Washington D.C. to study the impact of mediation on custody disputes involving allegations of violence.^{xviii}

This work culminated in the Wingspread Conference on Domestic Violence and Family Courts held in February of 2007. The significance of that conference and the articles that were written after the conference was the intentional bringing together of family court professionals and domestic violence advocates to collaborate in order to improve court services to families.^{xix} Participants in the conference included “members of the domestic violence advocacy community; family court judges and administrators; lawyers and mental health, dispute resolution, and other professionals working in the family court system; and academics from the fields of law and social science.”^{xx} As a result of this work, the National Council of Juvenile and Family Court Judges and the AFCC committed to continue to work jointly and to engage others to:

- A. Identify characteristics and variables significant for choosing appropriate interventions and outcomes for families, explore the existence of patterns of domestic violence and investigate hypotheses related to them, and develop a shared vocabulary to describe those characteristics, variables, and patterns;
- B. Heighten the cultural awareness of professionals who work with families experiencing domestic violence;
- C. Develop effective and culturally sensitive screening and assessment tools and protocols;
- D. Identify best practices for intervention and provision of services;
- E. Address how to make truly child-centered custody and visitation determinations that provide for children’s safety and security.^{xxi}

The importance of this work is reflected in changes that were made to court services. Many mandatory mediation regimes include exceptions for situations involving domestic

violence.^{xxii} The Model Standards of Practice for Family and Divorce Mediation explicitly address situations involving domestic abuse.^{xxiii} Also, basic and continuing education programs for mediators routinely include learning objectives on domestic violence. While one can still hear voices expressing the extremes on this issue, it is more common for the discussion of mediation and domestic violence to reflect a nuanced understanding that mediation is not appropriate for all family situations and not all situations involving domestic violence are per se inappropriate for mediation.

Parenting Coordination^{xxiv}

Domestic violence is not an issue for all high conflict families for which court services are needed. One of the clearest examples of the critical role that the AFCC has played in innovative court services is found in tracing the development of parenting coordination. Christie Coates, the AFCC President from 1998 to 1999, made the following observation about the AFCC's role in shaping new ideas and attempting to better serve high conflict families, as follows:

In the 1990's, some Colorado colleagues began meeting to study high conflict families based on Janet Johnston's^{xxv} work. We were beginning to realize that mediation wouldn't resolve everything and we thought custody evaluations were not always the answer. I was doing med-arb. In California, they were calling it special mastering. We presented our work in 1994 at the first AFCC Custody Evaluation Symposium. We called it assessment-based parenting coordination.^{xxvi}

Parenting coordination is an alternative dispute resolution process designed to assist high conflict families and the courts by combining assessment, education, case management, conflict resolution and, sometimes, decision-making functions. It is described in the AFCC Pamphlet *Understanding the Parenting Coordination Process* as follows,

A parenting coordinator (PC) is typically appointed by a court order or private consent agreement to help parents implement, modify, and comply with the parenting plan. PCs assist parents by providing: (1) education about co-parenting and parental communication; (2) the psychological and developmental needs of the children; (3) strategies to manage conflict and reduce the negative effects on children; and (4) effective post-separation parenting. To further assist parents and children, PCs facilitate referrals to community providers when necessary and collaborate with other professionals who may already be involved with the family.^{xxvii}

In 2000, the American Bar Association Section of Family Law and the Johnson Foundation convened an interdisciplinary conference to address the issues embedded in high conflict custody cases.^{xxviii} The stated goal of the conference was “to develop recommendations for changes in the legal and mental health systems to reduce the impact of high-conflict custody cases on children.”^{xxix} Recognizing the importance of collaboration between the bench, bar, and mental health professionals, the conference report identified operational principles for each group that could “form the basis of policy and procedural changes.”^{xxx} Among the services which the group identified that “should be available to all families... through the court or referrals”^{xxxi} were “[p]arenting monitors, coordinators, or masters who are trained to manage chronic, recurring disputes, such as visitation conflicts, and to help parents adhere to court orders.”^{xxxii}

By 2001, fourteen states had implemented some form of parenting coordination. Despite this interest, parenting coordination was not without its critics. Specific concerns include those related to the jurisdiction of the court to appoint a PC after the case has technically concluded,^{xxxiii} inappropriate delegation of judicial duties,^{xxxiv} and the amount of access PC’s should have to non-parties, children, and privileged information.^{xxxv} To ensure the careful consideration of concerns so that parenting coordination would develop as a process with integrity, AFCC President Denise McColley appointed a Task Force on Parenting Coordination

^{xxxvi} in 2001. The Task Force discussed creating model standards, but given the relative youth of the programs, decided that a more useful outcome would be the identification and publication of implementation issues along with “the manner in which jurisdictions that [had already adopted] parenting coordination [had] resolved those issues.”^{xxxvii} In 2003, the Task Force published *Parenting Coordination: Implementation Issues*.^{xxxviii} Subsequent to this publication, AFCC President, Honorable George Czutrin, appointed a new task force and charged it with developing model standards of practice for parenting coordination. These guidelines were published in 2005^{xxxix} and reflected the Task Force’s determination that it still was too early to set standards. Instead, the document provided “very specific and detailed recommendations for training and best practices”^{xl} with a clear understanding that in order for parenting coordination “to be accepted as a credible professional role, certain minimum guidelines of conduct and best practices must be articulated and followed.”^{xli}

As a result of the intentional work that AFCC accomplished, first as an incubator for new ideas, then collecting and disseminating implementation assistance, and finally by offering both minimum guidelines and guidance in best practices, parenting coordination has developed as an important service option for assisting high conflict families. Given the interdisciplinary nature of the parenting coordination process, it was appropriate that AFCC - whose mission makes clear that it is “an interdisciplinary, international association of professionals dedicated to improving the lives of children and families through the resolution of family conflict,”^{xlii} - stepped forward to take on this task. The rapid growth and acceptance of parenting coordination is attributable to AFCC’s work in this area.

Parent Education

At the same time that courts began to experiment with mediation of custody and visitation disputes, attention was focused on how best to prepare parents for the consequences of parental conflict and the divorce adjustment process.^{xliii} Operating under a variety of names and in a range of manners, these activities are generically known as parent education programs.^{xliv} Similar to its involvement with other court services, AFCC set out to provide structured opportunities for providers to share their experiences and to learn about the latest research. From 1994 to 2008, AFCC convened a bi-annual International Congress on Parent Education and Access Programs. Held at the same time, but separately from AFCC's International Symposium on Child Custody Evaluations, the Parent Education Congresses featured plenary sessions on the latest research.^{xlv} Sessions at the Congress included opportunities to build or improve skills, such as working with Latino Parents (2008) and Non-Traditional Families (2006), and ways to expand services, such as Parent Education as Part of a Thriving Practice (2008) and Maintaining a Quality Program (2006).

By 2001, parent education had achieved sufficient recognition such that twenty-eight states had established parental education programs statewide and an additional seven states had local court rules governing these programs.^{xlvi} Unlike mediation and parenting coordination, however, parent education providers did not develop into a cohesive practitioner group with an interest in developing standards or other quality control mechanisms. In fact, after the initial proliferation in the 1990s, "the surge of enthusiasm, innovation and activity of the parent education movement has diminished over the past decade."^{xlvi}

A complete discussion of the possible reasons for this apparent contradiction (widespread use accompanied by a lack of interest in research, refinement and advancement) goes beyond the scope of this article, but, the parent education experience is an example of the importance of having an interested, willing group to partner with the AFCC. As a convener, the AFCC was not in a position to demand continued involvement of the practitioners. Instead, the AFCC provided the venue (the conferences), the evaluative opportunities (through the *Family Court Review*), and the resources to explore developing guidelines and standards until they were no longer desired. In 2008, the AFCC discontinued hosting the Congress on Parent Education and Access Programs.

The Future

Broadly speaking, services can be offered solely via the court's budget, in a public-private partnership (with the provision of services shared between full-time or contract court employees and private individuals paid by the parties), or exclusively via the private sector. In light of the severe budgetary constraints courts have been under for the last several years, these alternative sources of funding are highly significant in terms of which services remain viable and available. Court services that rely exclusively on state court funding have been limited or in some cases eliminated entirely. Data on the current status of state courts is sketchy at best. According to the National Center for State Courts staff researcher, Nora Sydow, there "appears to be a gap in the data surrounding the current state of family court services."^{xlvi} She underscored that funding remains a hurdle for family court services, particularly today given the

current funding crisis in the courts, and believes that many courts are relying on volunteers [or other alternative methods] for their family court services.^{xlix}

While it is unclear what services will survive and how they will be offered, there is no doubt that families will continue to need family court services and a return to a 1963 type of experience is both undesirable and unlikely. There also is wide consensus that not all families are the same and thus a range of possible interventions is required.

One option gaining some traction is “triage” or “differentiated case management” in family court services. The notion is that it is both more efficient and better for families to be referred to appropriate services on the front end, rather than to require all families to participate in “tiered services” beginning with mediation and only moving on to more “intrusive” processes if mediation is unsuccessful. Peter Salem makes a compelling argument in his 2009 article, *The Emergence of Triage in Family Court Services: The Beginning of the End for Mandatory Mediation?*¹ asserting that the assumptions which spurred the growth and acceptance of mandatory mediation for families are no longer true. Specifically, court-connected mandatory mediation is no longer able to fully deliver on its promise of party self-determination and secondly, the alternatives to mediation are both more numerous and are not nearly as negative as they once were.^{li} Salem notes that the development of collaborative law, cooperative law, and unified family courts have changed the nature of the litigation process.^{lii} With respect to mediation’s promise, Salem says:

If mediators lack sufficient time to conduct mediation, it is not possible to honor, protect and nurture parties’ self-determination; to conduct a mediation process in which parties can fully express their views and develop their own agreements; to help parents work together; and to help them understand the impact of conflict on their children. And there is little disagreement about the lack of resources.^{liii}

Salem's thesis is not universally embraced. But that is not what is significant about the thesis. What AFCC has demonstrated over the past fifty years is that what is important is that new ideas have a place to be considered, debated, and explored. Many will then be piloted, discussed, and evaluated. Some will then be discarded; others will evolve into other ideas, which will in turn be piloted and evaluated. Some will even survive to be the subject of improved standards. For the past fifty years, the AFCC has been the incubator of new ideas, convener of critical discussion, publisher of research, and developer of guidelines, best practices, and standards. We all will benefit if the AFCC continues to serve that important function for the next fifty years.

This article is to be published in January 2013 Family Court Review and is subject to revision before final publication.

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ⁱ The California Conciliation Court Act was enacted in 1939 and was first implemented in Los Angeles County.

ⁱⁱ FAMILY CONCILIATION COURT LAW, 1939 CAL. STAT. 2261-62 codified as CAL. FAM. CODE §1731 (1939) (Repealed in 1980).

ⁱⁱⁱ Meyer Elkin, *Conciliation Courts: The Reintegration of Disintegrating Families*, 22 FAM. COORDINATOR, 63, 64 (1973).

^{iv} Assoc. of Family & Conciliation Courts, *History*, AFCCNET.ORG (2012) <http://www.afccnet.org/About/History> (last visited July 26, 2012).

^v CAL. FAM. CODE §1731.

^{vi} CAL. FAM. CODE §3170(a) (West 2002) (originally enacted as CAL. CIV. CODE § 4607 (West 1983)).

^{vii} Alison Arnold Taylor, *Toward a Comprehensive Theory of Mediation*, 19 FAM. & CONCILIATION CTS. REV. 1, 1 (1981).

^{viii} *Id.*

^{ix} In the early 1980s, articles were aimed at describing mediation services and implementation strategies. See Jessica Pearson, Maria Luchesi & Ann Milne, *A Portrait of Divorce Mediation Services in the Public and Private Sector*, 21 FAM. & CONCILIATION CTS. REV. 1 (1983); Elizabeth J. Koopman & E. Joan Hunt, *Divorce Mediation: Issues in Defining, Educating and Implementing A New and Needed Profession*, 21 FAM. & CONCILIATION CTS. REV. 25 (1983); Elizabeth A. Comeaux, *A Guide to Implementing Divorce Mediation Services in the Public Sector*, 21 FAM. & CONCILIATION CTS. REV. 1 (1983); Hugh McIsaac, *Court-Connected Mediation*, 21 FAM. & CONCILIATION CTS. REV. 49 (1983); Maxine Baker-Jackson, Vahan Hovsepian & George Ferrick, *Common Problems in the Mediation of Child Custody Disputes*, 22 FAM. & CONCILIATION CTS. REV. 21 (1984); Kendall D. Johnson, *Factors Predicting the Outcome of Divorce Mediation*, 22 FAM. & CONCILIATION CTS. REV. 31 (1984). Later exploration included research findings and more critical pieces. See Donald Saposnek, Joanna Hamburg, Claire D. Delano & Hila Michaelsen, *How Has Mediation Fared? Research Findings of the First Year's Follow-up*, 22 FAM. & CONCILIATION CTS. REV. 7 (1984); Elizabeth J. Koopman, E. Joan Hunt & Virginia Stafford, *Child Related Agreements in Mediated and Non-Mediated Divorce Settlements: A Preliminary Examination and Discussion of Implications*, 22 FAM. & CONCILIATION CTS. REV. 19 (1984); Margaret Little, Nancy Thoennes, Jessica Pearson & Robin Appleford, *A Case Study of The Custody Mediation Service of the Los Angeles Conciliation Court* 23 FAM. & CONCILIATION CTS. REV. 1 (1985); Eleanor Lyon, Nancy Thoennes, Jessica Pearson & Robin Appleford, *A Case Study: The Custody Mediation Services of the Family Division; Connecticut Superior Court*, 23 FAM. & CONCILIATION CTS. REV. 15 (1985); A. Elizabeth Cauble, Nancy Thoennes, Jessica Pearson & Robin Appleford, *A Case Study: Custody Resolution in Hennepin County, Minnesota*, 23 FAM. & CONCILIATION CTS. REV. 1, 15, 27 (1985). By the late 1980's, articles continued to focus on empirical research and the development of standards. See Amiram Elwork and Mervin R. Smucker, *Developing Training and Practice Standards for Custody Mediators*, 26 FAM. & CONCILIATION CTS. REV. 21 (1988);- Melanie Trost, Sanford L. Bauer & Russell Schoeneman, *Mandatory Mediation: Encouraging Results for the Court System*, 26 FAM. & CONCILIATION CTS. REV. 59 (1988);-Muriel Brotsky, Susan Steinman and Steven Zimmelman, *Joint Custody Through Mediation – Reviewed: Parents Assess Their Adjustment 18 Months Later*, 26 FAM. & CONCILIATION CTS. REV. 53 (1988); Howard H. Irving & Michael Benjamin, *Divorce Mediation in a Court-Based Fee for Service Agency: An Empirical Study*, 26 FAM. & CONCILIATION CTS. REV. 43 (1988); Alison Taylor, *Shared Parenting – Is It Working? Reflections by a Court Service Mediator*, 27 FAMILY AND FAM. & CONCILIATION CTS. REV. 7 (1989). If one were to look at the more recent editions of the *Family Court Review*, there are fewer articles written about mediation. Instead special issues have focused on Children of Incarcerated Parents (2012), Alienated Children in Divorce and Separation (2010), Substance Abuse and Addiction in Family Court (2009), and Child Protection in the 21st Century (2003), to name a few.

^x Peter Salem & Ann L. Milne, *Making Mediation Work in a Domestic Violence Case*, 17 FAM. ADVISOR. 35 (1995).

^{xi} See e.g., Peter Salem & Ann Milne, *The Association of Family and Conciliation Courts: Forty Years of Leadership and Interdisciplinary Collaboration*, 41 FAM. CT. REV. 147, 150 (2003) (showing the effects of mediation on custody and visitation disputes in courts in Connecticut, Los Angeles, and Minneapolis).

^{xii} Additional convening organizations included: The Family Law Section of the American Bar Association and the National Council of Dispute Resolution Organizations, which, in turn, included: The Academy of Family Mediators, The American Bar Association Section of Dispute Resolution, the Conflict Resolution Education Network, the National Association for Community Mediation, the National Conference on Peacemaking and Conflict Resolution, and the Society of Professionals in Dispute Resolution. Participants in the symposia included representatives from each of these organizations, as well as the American Academy of Matrimonial Lawyers, the American Bar Association Commission on Domestic Violence, the California Administrative Office of the Courts, the Colorado Council of Mediators, the Connecticut Council of Mediators, the Delaware Federation for Dispute Resolution, the Family Mediation Council of Louisiana, the Family and Divorce Mediation Council of New York, the Florida Association of Professional Family Mediators, the Florida Dispute Resolution Center, Hofstra University School of Law, the Indiana Association of Mediators, Inc., the Mediation Association of Northwest Ohio, the Mediation Association of Tennessee, Mediation Council of Illinois, Montgomery County Mediation Center, New York State Council on Divorce Mediation, the New York State Dispute Resolution Association, the Pennsylvania Council of Mediators, the Tennessee Superior Court ADR Commission, the State Bar of Wisconsin ADR Section, the Supreme Court of Ohio Dispute Resolution Program, the Agreement Zone, and the Wisconsin Association of Mediators. The symposia resulted in the final version of the Standards.

^{xiii} ASSOC. OF FAMILY & CONCILIATION COURTS, MODEL STANDARDS OF PRACTICE FOR FAMILY AND DIVORCE MEDIATION at ii (2000). These standards were meant to replace the 1984 Model Standards of Practice for Family and Divorce Mediation and the ABA Standards of Practice for Lawyer Mediator in Family Law Disputes.

^{xiv} Domestic violence includes a variety of behaviors, but in the family court context it generally is considered to include, “a pattern of coercive behavior aimed at the control and intimidation of an intimate partner.” ANDREW I. SCHEPARD, CHILDREN, COURTS AND CUSTODY: INTERDISCIPLINARY MODEL FOR DIVORCING FAMILIES 90 (2004).

^{xv} See the article by Janet Johnston and Nancy Ver Steegh, *Historical Trends in Family Court Response to Intimate Partner Violence: Perspectives of Critics and Proponents of Current Practices*, 51 FAM. CT. REV. 67-77 (2013), for a more detailed discussion of the evolution of how cases with domestic violence have been handled. An abbreviated discussion is included here because of the importance of this topic to the development of court services.

^{xvi} At the Wingspread Conference, attendees discussed the following categories, but acknowledged that the lack of common vocabulary made it impossible to reach complete consensus: violence used by a perpetrator in the exercise of coercive control over the victim; violent resistance or self-defense; violence driven by conflict; separation-instigated violence; and violence stemming from severe mental illness. Nancy Ver Steegh & Clare Dalton, *Report from the Wingspread Conference on Domestic Violence and Family Courts*, 46 FAM. CT. REV. 454, 458–59 (2008).

^{xvii} Salem & Milne, *supra* note 11, at 151.

^{xviii} The research study proposed to compare the use of mediation and custody evaluation procedures in custody and visitation disputes involving domestic abuse in Portland, Oregon and Minneapolis, Minnesota. For a variety of reasons, the number of cases was smaller than had been planned, so the study was modified to examine the characteristics of those who completed a screening instrument. Lisa Newmark, Adele Harrell & Peter Salem, *Domestic Violence and Empowerment in Custody and Visitation Cases*, 33 FAM. & CONCILIATION CTS. REV. 30, 33-34 (1995).

^{xix} Peter Salem & Billie Lee Dunford-Jackson, *Beyond Politics and Positions: A Call for Collaboration between Family Court and Domestic Violence Professionals*, 46 FAM. CT. REV. 437, 439 (2008). It is worthwhile to note that the authors of this piece were the Executive Director of the AFCC (Peter Salem), and Billie Lee Dunford-Jackson, who practiced family law for 16 years in private practice, helped found a shelter for battered women and their children, represented domestic violence victims in civil and family court, and worked as co-director of the Family Violence Department of the National Council of Juvenile and Family Court Judges (FVD/NCJFCJ). Ms. Dunford-Jackson is now retired.

^{xx} Ver Steegh & Dalton, *supra* note 16, at 455.

^{xxi} *Id.* at 469.

^{xxii} See, e.g., FLA. STAT. §44.102(2)(c) (2005) (“A court under rules adopted by the Supreme Court: In circuits in which a family mediation program has been established and upon a court finding a dispute, shall refer to mediation all or part of custody, visitation, or other parental responsibility issues as defined in s. 61.13. *Upon motion or*

request of a party, a court shall not refer any case to mediation if it finds there has been a history of domestic violence that would compromise the mediation process”) (Emphasis added).

^{xxiii} Standard X of the Model Standards of Practice for Family and Divorce Mediation states, “A family mediator shall recognize a family situation involving domestic abuse and take appropriate steps to shape the mediation process accordingly.” Note, *Model Standards of Practice for Family and Divorce Mediation*, 39 FAM. & CONCILIATION COURTS REV. 121, 132 (2001). The standard goes on to suggest that mediators have appropriate training and that some cases are not suitable for mediation because of “safety, control or intimidation issues.” *Id.* In addition, the standards enumerate measures a mediator should take if domestic abuse “appears to be present,” which ranges from establishing appropriate security arrangements, conducting the mediation entirely in separate sessions, encouraging a representative and support person to participate with the victim at mediation, to suspending or terminating the mediation session if necessary. *Id.*

^{xxiv} The umbrella term parenting coordination includes processes which go by a variety of names, “including: ‘special master’ in California, ‘med-arbiter’ in Colorado, ‘wiseperson’ in New Mexico, ‘custody commissioner’ in Hawaii, and ‘family court advisor’ in Arizona.” *Parenting Coordination: Implementation Issues: April 30, 2003 AFCC Task Force on Parenting Coordination*, 41 FAM. CT. REV. 533, 533 note 3 (2003) (hereinafter “Task Force”).

^{xxv} Researcher, former associate editor of *FCR*.

^{xxvi} Peter Salem, *Reflections of Leadership: The Association of Family and Conciliation Courts*, 51 FAM. CT. REV. 10 – 19 (2013).

^{xxvii} PAMPHLET, ASSOCIATION OF FAMILY AND CONCILIATION COURTS, UNDERSTANDING THE PARENTING COORDINATION PROCESS, (2011) available at <http://www.afccnet.org/ResourceCenter/ResourcesforFamilies/ProductID/10>.

^{xxviii} Am. Bar Assoc. Family Law Section & Johnson Found., *High Conflict Custody Cases: Reforming the System for Children-Conference Report and Action Plan*, 34 Fam. L.Q. 589 (2000).

^{xxix} *Id.*

^{xxx} *Id.* at 590-591.

^{xxxi} *Id.* at 596.

^{xxxii} *Id.*

^{xxxiii} *Task Force*, *supra* note 24, at 541.

^{xxxiv} *Id.* at 543-44.

^{xxxv} *Id.* at 547.

^{xxxvi} Initially, the Task Force was named the AFCC Task Force on Parenting Coordination and Special Masters, but Special Masters was dropped from the name in favor of using the more generic term Parenting Coordination. *Id.* at 533.

^{xxxvii} *Id.*

^{xxxviii} *Id.*

^{xxxix} *Guidelines for Parenting Coordination*, AFCCNET.ORG,

<http://www.afccnet.org/Portals/0/PublicDocuments/Guidelines/AFCCGuidelinesforParentingcoordinationnew.pdf>. (last visited Sept. 13, 2012).

^{xl} *Id.* at 3.

^{xli} *Id.*

^{xlii} Assoc. of Family & Conciliation Courts, *Mission, Vision, and Values*, AFCCNET.ORG (2012),

<http://www.afccnet.org/About/MissionVisionValues> (last visited Sept. 13, 2012)

^{xliii} According to Andrew Shepard, one of the first court-affiliated educational programs was founded in Kansas in 1978. ANDREW SHEPARD, *CHILDREN, COURTS AND CUSTODY*, 68 (Cambridge University Press 2004).

^{xliv} See *id.* at ch. IV: Parents Are Forever III.

^{xlv} For example, 2008 Congress plenaries were entitled: “Domestic Violence Differentiation: The Impact on Parent Education Program” and “Stripped Down or Fully Loaded: Can Courts Deliver Parenting Programs that Change the Impact of Divorce on Children?” The 2006 opening plenary featured “The Research on Children of Separation and Divorce.”

^{xlvi} Solveig Erickson & Nancy Ver Steegh, *Mandating Divorce Education Classes: What Do the Parents Say?*, 28 WM. MITCHELL L. REV. 889, 895-96 (2001).

^{xlvii} See Peter Salem et. al., *Taking Stock of Parent Education in the Family Courts: Envisioning a Public Health Approach*, 51 FAM. CT. REV. 135-151 (2001). (noting that parent education programs are still operating in forty-six states.

^{xlviii} E-mail from Nora Sydow, Staff Researcher, National Center for State Courts, to Sharon Press, Associate Professor of Law and Director of the Dispute Resolution Institute at Hamline University School of Law (May 1, 2012) (on file with author).

^{xlix} *Id.*

¹ Peter Salem, *The Emergence of Triage in Family Court Services: The Beginning of the End for Mandatory Mediation?*, 47 FAM. CT. REV. 371 (2009).

^{li} *Id.* at 376.

^{lii} *Id.* at 379.

^{liii} *Id.* at 377.