

President's Message

Nancy Ver Steegh, JD, MSW, St. Paul, Minnesota This year the AFCC Board of Directors has been planning for AFCC's bright future. In addition to other areas of focus, the Board is exploring AFCC's role as a convener of rigorous and open-minded discussions on challenging and controversial topics affecting children and families. While the Board has an important role to play, I believe that our success in this particular endeavor depends largely on you, as members and participants, and the atmosphere of exchange that we create together. Read more

AFCC 51st Annual Conference Navigating the Waters of Shared Parenting: Guidance from the Harbour May 28-31, 2014, at the Westin Harbour Castle Toronto

Register before May 2 to Save

May 2 is the last day to register for the conference at a reduced rate. Register now and make sure your payment is received by (or postmarked by) May 2 to take advantage of the discounted registration rates. AFCC members save even more. Not yet an AFCC member? Join with your registration—save \$10 on your first year's membership AND register at the discounted member rate! <u>Register online and more information</u>

Make the Most of Your Trip

Check out the Deals tab at <u>www.mytorontomeeting.com</u> to find special offers and discounts on Toronto attractions. Tourism Toronto offers a <u>free app</u>, an official visitor's guide for Toronto Mississauga and Brampton for iPhone and Android. MONTHLY E-NEWSLETTER VOL. 9 NO. 4 APRIL 2014

Upcoming AFCC Conferences



AFCC 51st Annual Conference May 28-31, 2014 The Westin Harbour Castle Toronto, Ontario, Canada More information

Conference Diamond Sponsor



Conference Platinum Sponsor

Donate to the Silent Auction

Donate an item and make plans to attend, Friday, May 30, 5:30pm-7:00pm. The AFCC Silent Auction is held each year at the annual conference to raise funds for AFCC's special projects and initiatives, like the Shared Parenting Think Tank and the Domestic Violence in Child Custody Evaluations Task Force. You can help support these projects by donating an item or attending the auction and bidding on items.

Online donation form

Thank You Conference Sponsors

Thank you to the sponsors of the 51st Annual Conference! This year's Diamond Sponsor is <u>OurFamilyWizard.com</u>, and this year's Platinum Sponsor is <u>Devry Smith LLP</u>, <u>Lawyers & Mediators</u>. Please click the link below to see a full list of conference sponsors. Visit their websites and stop by the exhibit forum in Toronto to learn more about their products and services. AFCC is pleased to have their generous support.

51st Annual Conference Sponsors

Exhibit Space and Advertising Opportunities Available

Exhibiting and advertising at the AFCC annual conference are excellent ways to share your products and services with an interdisciplinary community of family law professionals. A very limited number of exhibit spaces remain, rates increase May 1. Registration packet inserts get your marketing piece to each attendee. <u>More information</u>

Ask the Experts Ten Tips for Lawyers When the Other Party is Self-Represented

Annette T. Burns, JD, Phoenix, Arizona

Self-represented parties make up the majority of family court litigants in most jurisdictions. A family case often involves no attorneys at all, and another segment of cases have a lawyer representing one side with no attorney on the other side. The non-represented person is often referred to as the "pro per", shorthand for in propria persona, meaning, literally, "in one's own person". ("Pro se" also means "representing one's self".)

Read more

Member News

patti cross, founder and past president of the Ontario Chapter of AFCC, was crowned the "Mother Moot" for putting together Canada's



AFCC 11th Symposium on Child Custody Evaluations November 6-8, 2014 La Cantera Hill Country Resort San Antonio, Texas Call for proposals

AFCC 52nd Annual Conference

May 27-30, 2015 Hilton New Orleans Riverside New Orleans, Louisiana

AFCC Regional Training Conference

November 5-7, 2015 Hyatt Regency Columbus Columbus, Ohio

AFCC 53rd Annual Conference

June 1-4, 2016 Sheraton Seattle Hotel Seattle, Washington

AFCC 54th Annual Conference

May 31-June 3, 2017 Sheraton Boston Hotel Boston, Massachusetts

AFCC Chapter Annual Conferences

Minnesota Chapter Annual

Conference July 17–18, 2014 The Minneapolis Boulevard Hotel first competitive law school moot in the area of family law. <u>Read</u> <u>more</u>.

Chapter News

The Missouri Chapter presented its 2014 Ellen Cowell Leadership Award to **Kathleen Bird** at its annual conference in St. Louis. The award recognizes leadership, initiative, creativity and dedication to improving the lives of families involved in the Missouri Family Court System.

Welcome to new Chapter Presidents!

California: Mary Lund Florida: Jack Moring Massachusetts: Kelly A. Leighton Missouri: Art Nissenbaum New York: Karen Rosenthal and Jane Pearl Oregon: Kathleen Gillis

Submit a Proposal for the Symposium on Child Custody Evaluations

AFCC is accepting proposals for 90 minute workshop sessions to be presented at the 11th Symposium on Child Custody Evaluations, Examining Unintended Consequences, November 6-8, 2014, at the La Cantera Hill Country Resort in San Antonio, Texas. The Symposium is designed for custody evaluators, judges, lawyers, mediators and any professional who works with separating and divorcing families. The deadline to submit a proposal is May 12, 2014. <u>More information</u>

Help More Professionals Attend AFCC Conferences

Our Annual Appeal to AFCC members to support the scholarship program is doing well, but your help could put us over the top! Thank you to the members who have already donated for their generosity. We urge those of you who have not yet contributed to do so today. Every gift helps put us closer to being able to offer another scholarship. AFCC extends an extra thank you to those who made donations in memory of Richard Salem, a pioneer in the field of mediation (and father of the AFCC Executive Director), who passed away March 22, 2014.

Donate today Thank you to 2013-2014 contributors

Membership Notice of AFCC Board Nominations

Brooklyn Center, Minnesota More information

Australia Chapter Annual Conference

Children as a Starting Point: Assessing Families for Family Law Disputes August 15, 2014 Grand Hyatt Melbourne, Australia <u>More information</u>

Wisconsin Chapter Annual Conference

Understanding and Managing the Challenges of Relocation: A Factor Based Approach September 26, 2014 Country Springs Hotel and Conference Center Pewaukee, Wisconsin More information

Florida Chapter Annual Conference

October 16–18, 2014 The Wyndham Tampa Westshore Tampa, Florida <u>More information</u>

Ontario Chapter Annual Conference

Special Issues Facing Family Courts October 16-17, 2014 Marconi Club London, Ontario More information

Arizona Chapter Annual Conference

February 6–8, 2015 Sedona, Arizona More information At the AFCC membership meeting on May 31, 2014, the following individuals will be nominated to serve on the Board of Directors for a three-year term beginning July 1, 2014 and concluding June 30, 2017: Milfred Dale, PhD, JD; Hon. Dianna Gould-Saltman and Stacey Platt, JD. The AFCC Executive Committee is elected by the Board of Directors. For informational purposes, the following individuals have been nominated for positions on the Executive Committee: President: Magistrate Richard Altman; President Elect: Hon. Peter Boshier; Vice President: Marsha Kline Pruett; Secretary: Annette Burns; and Treasurer: Matthew Sullivan.

Conferences of Interest NACC 37th National Child Welfare, Juvenile, and Family Law Conference

Registration is now open for the National Association of Counsel for Children conference, *Meeting the Challenge: Child and Family Advocacy in a Changing World* in Denver, Colorado, August 17-20, 2014. The top leaders in child welfare, juvenile justice, and family law are coming to Denver. Join the national community of child and family advocates who work together to make this country a better place for kids and parents. More than 37 years of experience have gone into developing this premier three-day training, during which you will receive the most current information and advanced tools to advocate for your clients. Workshop topics range from emerging issues in kinship care law, to practical trial skills, to ensuring youth are meaningfully engaged in court. <u>Click here</u> to check out the program and speakers and register for the conference.

NCJFCJ's 77th Annual Conference, July 13-16, 2014

Join the NCJFCJ in Chicago for our 77th Annual Conference, which will feature a wide range of juvenile and family law topics focusing on the theme *From Surviving to Thriving: Healthy Families; Healthy Courts*. This year, NCJFCJ is hosting sessions on a variety of juvenile and family law topics including child abuse and neglect, trauma, custody and visitation, judicial leadership, juvenile justice, sex trafficking of minors, family violence, drug courts, psychotropic medications, children testifying in court, detention alternatives, substance abuse, and the adolescent brain. This conference is judicially-focused and open to all those interested in the improvement of juvenile and family justice. To view a tentative conference schedule and to see a list of select faculty, please <u>click here</u>. For more information, please <u>click here</u>, or contact the Conference and Travel Management department at 775-784-6971.

Join AFCC Are you a member? Join or <u>Renew</u>

AFCC offers member benefits that promote excellence in practice. <u>View member benefits</u>

AFCC Chapters

Network and share your interdisciplinary view of family court matters on a local level. There are currently chapters in the following states and provinces:

Australia Alberta Arizona California Colorado Connecticut Florida Illinois Indiana Louisiana **Massachusetts** Minnesota Missouri **New Jersey New York** Ontario Oregon Texas Washington Wisconsin Add an AFCC Chapter to your membership

AFCC Networks New Zealand

Ask the Experts

Is there a topic you would like to see covered by an AFCC Ask

Family Law in the News Study Claims People Who Frequently Use Twitter May Be More Likely to Cheat and Get Divorced

By Olivia B. Waxman, courtesy of Time

People who are active on Twitter are more likely to get involved in the types of confrontations that may eventually lead to infidelity and divorce, according to a <u>study</u> published online in the journal of Cyberpsychology, Behavior, and Social Networking. <u>Read more</u>

When Divorce Leads to a Happily Ever After for a Small Business

By Yuki Noguchi, courtesy of NPR

Married couples in America co-own 3.7 million small businesses, according to the Census Bureau, and the arrangement can be fruitful when both marriage and business are going well. But what happens when it doesn't? Most of the time, when the love dies, the business relationship ends, too. But that's not always the case. Read more

the Experts piece? Email your suggestion

About AFCC eNEWS

Readers are welcomed and encouraged to forward this enewsletter to interested colleagues.

The opinions expressed in articles published or linked to in the *AFCC eNEWS* are those of the authors and do not necessarily reflect the positions of the Association of Family and Conciliation Courts.

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Erin Sommerfeld editor@afccnet.org



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COLLABORATING ORGANIZTIONS

Ontario Bar Association • American Academy of Matrimonial Lawyers Association for Conflict Resolution • International Academy of Collaborative Professionals National Association of Counsel for Children

Special thanks to the Sponsorship Committee for the AFCC 51st Annual Conference: Steven Benmor, Barbara Fidler, Fareen Jamal, Michael Kleinman and patti cross



Ten Tips for Lawyers When the Other Party is Self-Represented *Annette T. Burns, JD, Phoenix, Arizona*

Self-represented parties make up the majority of family court litigants in most jurisdictions. A family case often involves no attorneys at all, and another segment of cases have a lawyer representing one side with no attorney on the other side. The non-represented person is often referred to as the "pro per", shorthand for *in propria persona*, meaning, literally, "in one's own person". ("Pro se" also means "representing one's self".) The self-represented person is as likely to be male as female; for purposes of this article and for ease, I will refer to my hypothetical self-representing person as "Mr. SR."

A Google search for "self-represented litigants family court" turns up countless websites created to help Mr. SR navigate various family court systems. Maricopa County (Phoenix) Arizona led the way with the creation of its Self-Service Center in the 1980's. Long before internet access was widely available, a room in the Maricopa County Courthouse provided people like Mr. SR with packets of forms and instructions for family court actions. Those forms allowed him to fill out initial filings, motions and responses on his own, and included instructions on how to file things at the courthouse. Jurisdictions across the country expanded resources for self-represented parties, and internet use later allowed the forms to be delivered via links and PDFs, and expanded the self-represented litigant's access to electronic filing. It's fortunate that court systems recognized long ago that self-represented persons in family court were not going away and that systems must be created to serve them.

Have lawyers' abilities to work with self-represented litigants kept pace? The American Bar Association's *Model Rules of Professional Conduct*, Rule 4.3 covers, only in the most general of terms, some ethical obligations for dealing with self-represented parties:

Rule 4.3 Dealing with Unrepresented Person

In dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding. The lawyer shall not give legal advice to an unrepresented person, other than the advice to secure counsel, if the lawyer knows or reasonably should know that the interests of such a person are or have a reasonable possibility of being in conflict with the interests of the client. Presumably most ethical attorneys already knew, without the aid of the ABA, that one should not give legal advice to the opposing party, and one should advise a self-represented party that seeking independent legal advice is a smart thing to do. Practical advice can expand on the limited guidance we get from the ABA. The attorney who finds himself dealing with Mr. SR can take certain actions to make the experience more pleasant for everyone. The following suggestions were compiled after recent discussions with several attorneys in Phoenix and Yuma, Arizona.

1. Recognize that Mr. SR has very possibly gotten in over his head, and will react to your attempts to communicate or "help" accordingly. The attorney should try to recognize that Mr. SR's anger, rage, failure to communicate or refusal to speak with the attorney likely comes from a position of fear. Remembering this will help the professional deal more effectively with the problem. The massive amount of online help for Mr. SR—blogs, websites, forums, listservs, self-help centers and links—might initially have misled him into thinking it's easy to self-represent. It's likely that Mr. SR was quickly overwhelmed by the time and effort that is really required. Always remember that the forms, rules and procedures we take for granted look like a foreign language to someone not skilled in family court.

2. Provide Mr. SR with articles and court documentation showing what great tools mediation and ADR provide. Anyone who is self-representing needs to hear, from as many sources as possible, how important settlement discussions are to a family case. If only opposing counsel is promoting mediation, Mr. SR may naively think that means the attorney feels her case is weak. Someone who spends substantial time in family court systems knows that neither litigant is likely to be happy with the ultimate result of a family court trial, but Mr. SR doesn't know this.

3. Having promoted mediation, choose the best mediator you can find who is skilled in working with self-represented persons. If you, as the attorney, believe your case is strong and Mr. SR's positions are unreasonable, then he needs to hear this from a skilled, neutral third party. Ask Mr. SR to research and suggest several mediators, and do your best to try and agree to someone that he has suggested. Mr. SR must be permitted to do his own research to alleviate his fears, often justified, that the mediator and opposing attorney are friends. Even if you are acquainted with the mediator, the waiting room at mediation is not the place to chat and be friendly. Attention to professional protocols is never more important than when Mr. SR is involved.

4. Whenever possible, treat Mr. SR like you'd treat a client. He is not a sub-class of humanity just because he's either chosen not to hire an attorney, or can't afford to. Respectfulness to Mr. SR will pay off during the case and after. Mutual respect in the case is good for your client and your client's finances, and preserving any kind of decent relationship between the parties is crucial if they are parents together. Attorneys have reported to me that they get later referrals from former opposing parties because of the respect they showed to the party during the case. And if Mr. SR isn't making it easy to treat him with respect, try harder. It can be challenging and enjoyable to show a great deal of respect to show respect to those who make it a challenge.

5. Protect your own client by getting out a Request for Production and basic family case interrogatories early in the case. Point out to Mr. SR in a letter that your client is going to

answer (and produce) the same information and that the disclosure requirements work both ways. Explain to him that your client is going to fulfill her duties of disclosure, and he is expected to fulfill his duties as well. Propose in writing to Mr. SR that you get together to personally exchange the documents and information on a specific date. If you end up having an uncooperative opposing party, by sending these requests out early, you leave yourself time to request that the Court later compel disclosure.

6. Send Mr. SR a respectful letter of introduction with a general explanation of how the entire process works. You can construct a basic outline about exchanging information, getting each other's questions answered, establishing what property and issues are to be dealt with, and establishing what time parameters are expected of each party. (Your client will appreciate this basic outline too.) If your jurisdiction has specific disclosure statutes or rules, or forms that must be filled out in every family case, enclose a copy of the rule(s) and forms. Mr. SR will either realize that he is expected by law to provide certain information (as opposed to you just being nosy), or he will ignore your requests, and you will have documentation to show the judge later that you tried to make things easier on him, but he declined to cooperate.

7. Do everything in writing so there is no issue later that you possibly gave Mr. SR legal advice or led him astray. If Mr. SR shows himself to be problematic, set written guidelines for communication with him, such as how many of his emails you will respond to in a week, and when and how you agree to exchange information. Don't be naïve; there are certainly self-represented parties who feel they can spend all of their spouse's money by insisting on unreasonable and frequent communications with the spouse's attorney. You, as the attorney, have the responsibility to be proactive and set boundaries to prevent that from happening.

8. Jettison the legalese whenever possible. If a disclosure statement or settlement letter needs to cite the law, include a copy of the statute with the letter. Try to use normal, layman's language whenever possible. Referring to a "continuance" means nothing to a non-attorney; it's more understandable to say "postpone this until sometime later." Asking Mr. SR to "provide disclosure in accordance with the rules" can be better stated as, "We need to exchange bank statements and other information so that you have the each other's information."

9. Your introductory letter can give Mr. SR the links to your state's self-help or online forms website. Mr. SR is likely to realize that you personally didn't set up those sites and therefore he might be wise to review them and figure out what to do.

10. Get the assistance of the judge through a management or settlement conference. Ask for straightforward instructions about the exchange of information as early as possible in the case. Family court judges are used to having self-represented litigants in their court and will appreciate that this self-represented case includes an attorney on the other side (you) who is conscientious and respectful. Use your next self-represented case as a chance to enhance Mr. SR's opinion of attorneys and the court system while also honing your skills in dealing with people in difficult situations.





2nd Annual Walsh Family Law Moot: History Is Made...Again

Steven Benmor, Treasurer of the Ontario Chapter of AFCC



Saturday, March 15, 2014, was an early day for the 27 law students from Ontario's six law schools who descended upon Osgoode Hall to showcase their oratory skills at the 2nd Annual Walsh Family Law Moot.

patti cross, founder and past president of the Ontario Chapter of AFCC, was crowned the "Mother Moot" for having orchestrated Canada's first ever competitive law school moot in the area of family law. For the second year, patti assembled a working group who created a trial decision to be appealed, enlisted professor/coaches from every Ontario law school who formed the teams, generated sponsorships to underwrite the cost of the moot and attracted volunteers including justices of every Ontario court to preside over each moot.

By 9:00am on this chilly Saturday morning, every mooter, coach, judge and volunteer had arrived at Osgoode Hall. Each team of two mooters was assigned an opponent. The judges had read the facts and had hard-hitting questions ready for the mooters. The mooters were geared up to deliver their very best oral arguments. Each mooter was allotted 15 minutes to impress their appellate panel of three judges with oratory excellence. By 12:30, each team had completed two rounds of moots before two separate panels who riddled each mooter with unexpected and challenging questions. Each panel scored the mooters in three separate categories: best overall mooter, best mooting team and best factum.

Each law school presented their very best talent. The quality and calibre of advocacy was exceptional. The students showcased their strong grasp of the trial decision and the grounds for appeal. Each and every student made their law school proud.

Before announcing the winners, patti introduced the keynote speaker, Lucy McSweeney, Ontario's Children's Lawyer. Lucy delivered an inspirational call to action to the next generation of family law advocates by giving them five reasons to choose a career in family law. This was followed by warm greetings from the Honourable Mr. Justice George Walsh, the moot's namesake. As the suspense grew, patti approached the podium with the results...

Best Factum: University of Toronto Respondents: Colleen McKeown and Paloma van Groll Second Place Oralist: University of Toronto, Colleen McKeown First Place Oralist: Osgoode Hall, Karina Pylypczuk Winning Team for Walsh Cup: University of Toronto

patti is to be recognised for her leadership, innovation and philanthropy in family law. patti's passion for family law, commitment to the next generation of lawyers and tireless work ethic are just some of the ingredients that have brought us the Annual Walsh Family Law Moot, a first in Canada.



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President's Message Nancy Ver Steegh, JD, MSW, St. Paul, Minnesota



This year the AFCC Board of Directors has been planning for AFCC's bright future. In addition to other areas of focus, the Board is exploring AFCC's role as a convener of rigorous and open-minded discussions on challenging and controversial topics affecting children and families. While the Board has an important role to play, I believe that our success in this particular endeavor depends largely on you, as members and participants, and the atmosphere of exchange that we create together. In the past, these conversations have been most productive when we remain cognizant of what I think of as our communications values.

- *Emphasizing listening over persuasion*. Never leave an AFCC conference without changing your mind about something!
- Separating people from their work. Support and value all members, whether or not we agree with their views.
- *Cultivating inquiry*. All of our expertise is a work-in-progress. Asking insightful questions may ultimately benefit the field more than attempting to make definitive statements at a particular point in time.

The Toronto conference program is packed with opportunities to learn, discuss and debate. For example, the plenary sessions on shared parenting, and developing parenting arrangements in domestic violence-related custody cases, will enlighten us and serve as sure conversation-starters. It's not too late to register for the AFCC 51st Annual Conference, *Navigating the Waters of Shared Parenting: Guidance from the Harbour*, May 28–31, 2014. I hope to see you there!

Thank you for the opportunity to serve as President this year. It has been both an honor and a pleasure. Please join me in welcoming Magistrate Richard (Dick) L. Altman as the next AFCC President. He's an able leader who is already fully engaged in planning an exciting and productive year.





An interdisciplinary and international association of professionals dedicated to improving the lives of children and families through the resolution of family conflict.

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