



2005 NEWSLETTER

Issue #3

In this issue:

2006 Texas AFCC
Ballot, page 3

Thank you to our
conference sponsors
pages 4-6

News from around the State:

State Bar of Texas - Family
Law Section posts "Draft
Parenting Plan" at
<http://www.sbotfam.org/>

President's Note

Judge Leta Parks, Texas Chapter President

It's hard to believe 2005 is already drawing to a close. For me it's been an eventful and exciting year. A big part of my time has been spent working on AFCC projects and getting to know members from different parts of our great state as well as bringing in

new members. By far the highlight of the year was the Annual Chapter Conference held in Houston September 30 and October 1. For those of you who were there you know what a great success it was! We had more than 130 registrants in attendance –

an increase of 44% over last year. Not only did we have record participation, the evaluations indicated that the vast majority of the attendees were highly satisfied with the program and intend to continue involvement with AFCC. Many of the

See "President's Note" p. 2

Bexar County moves forward with Parent Coordination training

Anthony Neugebauer, Chapter Director At-Large

On June 23-25, 2005, the Bexar County Domestic Relations Office provided Parent Coordination training to approximately forty attendees, consisting of judges, attorneys and mental health professionals. This training was conducted by Ann Marie Termini, a Marriage & Family Therapist and founder of the

Cooperative Parenting Institute (CPI) and the National Parent Coordinators Association (NPCA). She is also a co-author of The Psychotherapist vs Parent Coordinator in High Conflict: Strategies and Techniques (Haworth Press, 2004). The specifics of the current Texas

Statutes were discussed as well as how Parent Coordination could become a helpful intervention in Bexar County complex family law matters.



What Part of the Elephant Do You "See"?

Aaron Robb, Chapter Secretary

I had a revelation at the State conference this year regarding Parenting Coordination. While listening to the different speakers I recalled the story of the blind men and the elephant. In case you do not remember this parable regarding different perspectives let me refresh your memory: Several blind men are asked to describe how they perceive an elephant. Standing near the trunk one says the elephant is long and thick, like a snake. Standing by a leg another protests that, no, it is like a tree. Yet another near the tail describes it as thin and flexible like a rope. Add more blind men and parts of the elephant to make the point. Once you get over the slightly odd mental image of a group of visually-challenged people pawing over a pachyderm

the lesson is pretty clear: depending on where we are at we "see" things differently, but we may all be missing the bigger picture.

With Parenting Coordination we have many different models to work from. One approach, based in the transformative mediation model, seeks the empowerment and mutual recognition of the parties involved so that they can "move forward" and resolve their own issues.¹ This is a very therapeutically oriented approach that helps parents with tools to communicate and understand each other's points of view, with a secondary effect of helping

See "Elephant" p. 2

“President’s Note” - continued from page 1

participants had been unfamiliar with our organization and were excited and impressed by the unique make-up of our membership and the common goals we share. As we grow in size we also diversify in outlook and belief. Personally I believe this is healthy and necessary for the vitality of any

“Elephant” - continued from page 1

them to resolve the problems at hand. This approach sees the process of PC as one that is “safe” for the participants. The Coordinator cannot be called to testify, nor forced to produce reports or work product. Parents are free to make honest disclosures without fear that they will impact the ongoing litigation.

Helping parents to make decisions is central to other psychoeducational models where confidentiality is not absolute. Thayer & Zimmerman, in describing their PEACE Program approach, state that following each session they provided detailed reports to the parties and attorneys outlining all discussion and decisions reached. They note that Parenting Coordination can help parents build skills necessary to make healthy decisions, and that one of the tools for doing this is ongoing communication with all of the parties.² This approach is consistent with the Texas statute, where Coordinators may urge parents to agree to minor temporary departures from the parenting plan and the Coordinator may reduce this to writing and present to court for approval.³ Written reports are also consistent with other admonishments of Parenting Coordinators to put decisions in writing.⁴ While it seems clear under the new Texas statute that it is the role of the attorneys to formally submit reports into evidence or draft new court orders if needed, there is nothing to prevent the Coordinator from generating written reports to the parties and attorneys so that everyone is advised on the details of the process. Indeed, as long as clients were aware of methods of disclosure at the outset of the process, the Parenting Coordinator could voluntarily provide both attorneys with complete copies of the client files along with a business records affidavit. Coordinators cannot be **compelled** to do so, but certainly if the courts are looking for an accountability or monitoring function from the Coordinator they may agree to do so in advance.

The role of accountability in Parenting Coordination is also worth mentioning. In many circumstances Parenting Coordination is sought for not only its role in helping parents improve communication but as a monitoring or enforcement function for when communication between the parents does fail.⁵ Boyan & Termini, amongst others with accountability as a feature of their models, note

organization. As long as we continue in the shared goal of making Texas a more child-sensitive forum for families in distress, AFCC will be an organization I am proud to support.

parental compliance as an essential feature of Parenting Coordination.⁶ It is also interesting to observe that Boyan & Termini might view the other models as what they describe as “Co-Parent Counseling” rather than Parenting Coordination (indeed, Thayer & Zimmerman refer to their program as forensic parent counseling).⁷ While Texas has failed to adopt an explicit accountability function in the execution of Parenting Coordination, there are certainly ways in which this can be accomplished via reporting to the attorneys involved, especially if there is an *amicus* or *ad litem* appointed.

Parenting Coordination in Texas also *isn’t* several things. Unlike Kansas, Coordinators do not become case managers, able to make recommendations and create their own temporary orders for changes in custody.⁸ Judges are required to maintain oversight of the PC process and retain “management and control” of the litigation process. PC is also not a “magic bullet” for high conflict cases. Just as a court can not force litigants to co-parent appropriately, Parenting Coordinators cannot force parents to change if they do not want to reduce their conflict. Courts can implement sanctions for inappropriate behavior, and much like an intervention with an alcoholic they can “raise the bottom” for hostile parents – the court has the ability to make it more painful for the litigants to maintain their current behavior rather than investing the time and energy needed to make true and lasting changes.

Certainly each case referred to PC is going to need an individual approach. I would hope judges hesitate to send a case with parents evidencing Personality Disorders or other intransigent pathology to a Coordinator with a transformative approach. At the same time, I also hope that judges refrain from going overboard seeking enforcement/accountability when parents simply have unaddressed grief over the breakup impairing their co-parenting ability. There **must** be clarity from the court regarding the role of the Coordinator and the goals in sending the parents for PC services. There also **must** be clarity from the Coordinator about their philosophy and the interventions they are willing to implement. Once there is clarity regarding which parts of the elephant we are dealing with we can improve our common language and better “see” what Parenting Coordination can be.

We would like to say 'thank you' to all of our generous conference sponsors:

Platinum Level



FULBRIGHT
& Jaworski L.L.P.

Gold Level

Bijoux Custom Gemstone Jewelry

Help Stop PAS.org

A little over one year ago Help Stop PAS (Parental Alienation Syndrome) was born through the tragic death of a father shot by his 10 year old son, which had all the appearances of a severe case of Parental Alienation Syndrome. PAS results when a child is thrown in the middle of a contentious divorce, which proves disastrous for the child's psychological well-being. Our non-profit organization has grown from a website run by 3 people to a nationwide group of concerned volunteers focused on psychological and legal resource referral, awareness, and research into the prevention and treatment of this condition. Our website contains free articles and information related to all aspects of parental alienation. Our main focus is creating a heightened awareness of the devastating effects of parental alienation and reducing incidents of alienation in divorce cases. Please visit our table and our website at www.helpstoppas.org. Find out how you can become listed as a resource on our site!

HHSK – Hill, Schwartz, Spilker, Keller LLC

***Computer Forensics** is one of the fastest growing areas of family law. This relatively new area has changed the landscape of information available to attorneys. Computers we have analyzed in family law cases have revealed evidence of:*

- ◆ Hidden Assets
- ◆ Business Dealings
- ◆ Financial Information
- ◆ Inappropriate Activity
 - ✓ Pornography, Gambling, Excessive Shopping
- ◆ Extramarital Affairs

HSSK's trained and certified computer forensics professionals can guide you through the complicated and complex process of computer forensics analysis and electronic data discovery using sound forensic methodology which preserves the data and the chain of evidence. We are able to effectively communicate technical matters and issues to clients, judges and juries regardless of their technical knowledge.

Business Valuation - The closely held business is often one of the key assets in a community estate. The valuation of this asset is not subject to a simple formula approach. A supportable conclusion requires valuation techniques, real world business experience, access to appropriate databases and sophisticated computer modeling to reach a supportable conclusion. Our professionals have been providing business valuations for community property division for over 30 years and are very familiar with case law precedent with particular expertise in the concept of personal goodwill in Texas. All of our senior staff are professionally credentialed and have been recognized as expert witnesses in family law matters throughout Texas and the U.S.

Asset Tracing and Property Division - *Characterization of assets is crucial for property division in a divorce. All marital assets in Texas are characterized as either separate or community property. The character of the asset is determined by the timing and circumstance of its acquisition. Property acquired before the marriage is considered separate property. Most other property is considered community. Our professionals trace the origin of an asset to its inception to assist in the characterization of the asset and therefore the ownership. Tracing may also uncover assets hidden or previously known to one spouse. We often work with our computer forensics department to find hidden assets and determine their character. HSSK will also guide you during the process of the division of the assets and ultimately as an expert witness regarding the findings.*

Lifetime Planning LLC/Patricia Barrett, CFP, CDEA

Patricia Barrett is a Certified Financial Planner (College for Financial Planning, Denver, Co) and Certified Divorce Financial Analyst who helps individuals establish a plan for the future so they can achieve long-term financial security. First she clarifies their financial situation with a set of comprehensive financial planning tables, analyzing assets, budgets, tax issues and long-term effects of a settlement. Her tables are totally customized for each client and include narrative explanation in easy-to-understand language to explain their options and help them make informed financial decisions. She also evaluates pension plans, QDROs, deferred compensation plans, restricted stock plans and stock options.

Patricia presents seminars to the public, therapist organizations, attorney organizations and divorce support groups to educate them in divorce financial issues. She has published several articles concerning divorce: "Dividing the Small Business during Divorce", "Women and Divorce in Texas", and "Divorcing in Texas". In addition, she is trained as a mediator for the state of Texas through the U of H Law School.

She completed the training and advanced training in Collaborative Law for financial professionals in 2004 and 2005. You can contact her at 281-444-1449 or www.lifetimeplanning.cc

Our Family Wizard.com

The OurFamilyWizard® parenting website was designed by divorced parents with the help of family law professionals to coordinate family schedules and share family information. The website acts as a conduit for parents to plan for the holidays, share insurance cards, keep track of shared expenses, and much more. It has become a tool to help courts eliminate the “he said, she said,” dilemma by making parents accountable and keeping children out of the crossfire.

Parents in forty-nine states and nine countries have made a decision to improve their communication by using the OurFamilyWizard® parenting website. Judges in at least sixteen states and three countries are ordering families to utilize the OurFamilyWizard® parenting website to communicate and share vital family information. The website has seven sections: the Shared Family Calendar, Message Board, Journal, Information Bank, Expense Log, E-Coupons and Resources. While some families utilize all of the site’s life management tools, others benefit from using just one or two of the tools.

Ruth Lavanda Vernier, attorney and counselor at law



Silver Sponsors

Piro & Lilly, LLP

Hattie Thurlow-McKinley, LMFT, LPC - *Family Solutions, Inc.*

Jean Guez, Ph.D.

Randall B. Wilhite - *Looper, Reed, & McGraw Attorneys*

The Alliance of Collaborative Family Law Attorneys

Susan B. Levin, Ph.D.

Houston Galveston Institute, Texas Association for Marriage and Family Therapy

Christina McGhee

Divorce and Children; Redefining Families

IWS Interactive Web Design Multimedia Creation

See our work at: <http://www.texasafcc.org> and see more at <http://www.idiots.com>

Friends of AFCC

Reginald A. Hirsch - *Lipset & Hirsch, LLP*

Koza's Inc.