

**MSBA Family Law Section Meeting Minutes
February 14, 2009**

Approved March 14, 2009.

The meeting was brought to order at 9:38 A.M.

1. Welcome and Introductions - 18 people attended.
2. Approval of January 10, 2009 Minutes - Motion to Approve as amended, Second, Passed.
3. Report of the Chair – Cheryl Prince (for Tami Peterson, Chair, & Pamela Waggoner, Chair-Elect)

MSBA Proposal to Increase Section Dues: The MSBA proposes an increase in all Section membership fees (except the New Lawyers Section) by \$6 to help balance the MSBA budget by increasing Sections' contributions to the costs of administrative services provided by the MSBA. Discussion followed regarding the feasibility of spending the Family Law Section reserves as an alternative to increasing membership dues. Ryan Anderson, Treasurer, will follow-up with the MSBA Executive Director.

4. Treasurer's Report – Ryan Anderson

The "Financial Activity Report For the Six Months Ending December 31, 2008" was distributed. The Section Budget is on track. Detailed budget documents are available upon request. Contact Ryan at: ryan@lubovlaw.com

5. Committee Reports

- a. Amicus: No report.
- b. Domestic Abuse: Loretta Frederick

The Committee through their seat on the Hennepin County Family Violence Coordinating Committee is involved in a discussion about the handling of Harassment Restraining Orders (HROs) in Hennepin County in relation to domestic violence victims. The Committee is also discussing issues and concerns that have been raised with parenting time or custody being granted in HROs. Committee member Ellen Abbott reported that the Hennepin County Fatality Review Team continues to look at systemic issues relating to DV fatalities. The Committee meets monthly immediately after the Family Law Section meeting. Lunch is provided for those who RSVP.

- c. Strategic Planning: No report.
- d. Publications: Linda Wold

The Family Law Forum issue on "Benefits," (eg., public assistance, other government benefits,...) contains 10 articles, and will be distributed in March 2009. The Summer 2009 issue, "Swimming with Sharks: Dealing with Deceptive or Difficult Opposing Counsel," has generated a high level of interest. Ten articles and 4-5 attorney interviews are in progress. Including the judicial perspective on this topic is also being developed. Members are invited to submit written questions for the bench. Responses will be included in the judicial perspectives article. To submit a question for the bench, e-mail Linda at: lwold@usfamily.net

- e. Legislation – Glen Norton

The Committee met on February 5, 2009, and reviewed the following new proposals:

1. DHS Proposal to Amend the Statute Relating to Medical Assistance Estate Recovery: The proposal seeks to assure recovery of costs paid by Medical Assistance after the demise of the second spouse where the first spouse was enrolled in Medical Assistance for long term care. The Committee tabled any action until the DHS representative presents the proposal at the next meeting.
2. The Commissioners on Uniform State Laws “Uniform Child Abduction Prevention Act:” The Committee reviewed and discussed the proposed legislation, and determined that due to concerns about potential unintended consequences, further vetting by the Legislative Committee and by the Section’s Domestic Abuse Committee was indicated before taking a position. MSBA lobbyist Lloyd Grooms requested a response as soon as possible. Lengthy discussion by the Section ensued.

There was concern that the Section was being asked to comment in a relatively short period of time, given the importance of the proposed legislation. Concerns included: the proposed legislation assumes that a petition can be filed in a court that has jurisdiction, without addressing the concept of venue; it assumes that it can be docketed in a state where the child is merely visiting; it may have disproportionate application; there is no specific need for such legislation in Minnesota; it may have unintended consequences on victims of domestic violence; there is no definition of "parent;" it is unclear when an act becomes 'wrongful retention.'

The Section would like more time to consider the implications of the legislation. However, because the bill has been introduced, the Section decided to take a position on the legislation as it has been proposed. Therefore, the following motion passed:

MOTION by Michael Dittberner: The MSBA Family Law Section opposes the Uniform Child Abduction Prevention Act as drafted and as submitted due to several areas of concern and without sufficient opportunity for review and input by the Family Law Section prior to being implemented.

SECOND by Ellen Abbott

PASSED, Abstentions – 1

Further discussion regarding the importance of communication/coordination to be initiated by the Commissioners on Uniform State Laws well in advance of introducing high-impact legislation in Minnesota.

MOTION by Bruce Kennedy: That the Chair of the Family Law Section Legislative Committee send a letter to the local representative of the Commissioners on Uniform State Laws (Commissioners) explaining that the Section is not endorsing their proposed legislation because of several concerns, and also requesting that the Section be provided with sufficient advance notice of legislation the Commissioners intend to introduce that may impact family law. Specifically, the Section requests notice not later than the Fall prior to the legislative session of relevant legislative proposals the Commissioners intend to introduce, so that the Section has sufficient opportunity to review and provide input. Senator Mee Moua, author of the Commissioners’ current proposal is to be copied.

SECOND

PASSED – Unanimous

3. The Commissioners on Uniform State Laws “Uniform Child Witness Testimony by Alternative Methods Act:” Requires further study prior to taking a position. Currently no legislation has been introduced in Minnesota. The Committee will continue discussion at the next meeting.

4. The Commissioners on Uniform State Laws “Uniform Interstate Family Support Act:” The Commissioners on Uniform State Laws plan to address this proposal next year. No action to be taken by the Committee at this time.
5. MSBA Task Force on the Rights of Unmarried Couples: Intended to address disparities in the law that negatively impact same-sex couples and unmarried heterosexual couples with paternity and property issues. The Task Force has 60 volunteers, including several members of the Family Law Section. The Task Force Family Law Subcommittee will review certain statutory provisions and if indicated, recommend changes in five areas: De Facto/Third Party Custody; Access to Medical Records; Consolidating Custody and Partition Actions; CHIPS/Foster Care, and Assisted Reproductive Technology. The Task Force will submit a report and recommendations to the MSBA Assembly by April 1, 2009. If approved, the Task Force will submit specific legislative proposals to the appropriate Sections for further vetting. For more information or to volunteer, contact David Ahlvers, Task Force Chair: dahlvers@lindquist.com; (612) 371-6222.

6. New Business

It was noted that Judge Peterson is having a meeting about the “Reconciliation Track” that he is interested in pursuing.

MOTION to adjourn. SECOND. PASSED.

Meeting adjourned at 11:10A.M.

The next meeting is Saturday, March 14, 2009, 9:30 A.M., at the MSBA.

Respectfully submitted,

Kathleen M. Murphy