

MSBA Family Law Section Meeting Minutes
March 14, 2009

IMPORTANT NOTICE: THIS IS A DRAFT VERSION OF THE MARCH 14, 2009 MINUTES AND HAS NOT YET BEEN FORMALLY APPROVED BY THE FAMILY LAW SECTION.

The meeting was brought to order at 9:40 A.M.

1. Welcome and Introductions - 31 people attended. Not all present at time of vote.
2. Approval of February 14, 2009 Minutes - Motion to Approve, Second, Passed.
3. Report of the Chair – Tami Peterson

See Legislative Committee Report.

The Section Meeting in April is cancelled, as is the custom, due to the Family Law Institute.

4. Treasurer's Report – Ryan Anderson

The “Financial Activity Report For the Seven Months Ending January 31, 2009” was distributed. The Section budget is on track. Detailed budget documents are available upon request. Contact Ryan at: ryan@lubovlaw.com

MSBA Proposal to Increase Section Dues: Ryan is corresponding with Tim Groshens, MSBA Executive Director, regarding spending the Family Law Section reserves to cover the proposed increase in membership dues.

5. Committee Reports

- a. Amicus: Mary Lauhead

The Supreme Court has not yet issued its decision re: Peterka v. Dennis. Oral arguments were heard on 12/9/08. The issue relates to quasi-judicial immunity of court-appointed officials.

- b. Domestic Abuse: Loretta Frederick

The Committee continues its work on developing a curriculum for various practitioner groups re: screening and assessment for domestic abuse. The training modules will be tailored to the various practitioner audiences (eg., bar associations, custody evaluators,) The Committee meets monthly immediately after the Family Law Section meeting. Lunch is provided for those who RSVP.

- b. Strategic Planning and Nominating Committee: Cheryl Prince

The proposed slate of Officers for 2009-2010 is:

Chair: Pamela Waggoner
Chair-Elect: Steve Snyder
Vice Chair, Legislative Committee: Glen Norton
Vice Chair, Publications Committee: Linda Wold
Secretary: Margaret Erickson
Treasurer: Ryan Anderson

Greater Minnesota Members: Gary Voegele, Barbara Runchey,
Cheryl Prince

MOTION to approve the proposed slate of Officers for 2009-2010
SECOND
PASSED

d. Publications: Melissa Froehle for Linda Wold, Chair

The Family Law Forum issue on “Benefits,” will be distributed in March 2009. The last issue in 2009, “Swimming with Sharks: Dealing with Deceptive or Difficult Opposing Counsel,” will be distributed this Summer. For more information, contact Linda at: lwold@usfamily.net

e. Legislation – Tami Peterson for Glen Norton, Vice Chair

The Committee met on March 12, 2009. A plan was developed to improve participation and the vetting of legislative proposals. An electronic survey will be disseminated to obtain member input. All Section members are encouraged to respond.

The Committee reviewed the following new proposals:

1. HF 46: Grandparent Visitation: The proposal seeks to modify Minn. Stat. 257C.08 by expanding visitation rights and applying it to a wider range of families, including intact families. Concerns are that the proposal will result in increased legal claims. The Committee recommended that the Section oppose this bill. The bill is also opposed by the AAML-MN Chapter.

MOTION: That the Section oppose HF 46.
SECOND
PASSED
Abstentions: 1

2. HF 1003: Changing the Rebuttable Presumption of Parenting Time: The proposal seeks to modify Minn. Stat 518.175 by increasing the current parenting time presumption of 25% to 40%, and to modify Minn. Stat 518A.36 by adding another percentage range to the adjustment percentages in the child support formula. Concerns are that the proposal perpetuates the one-size-fits all approach to determining parenting time, and that it will also invite more litigation relating to parenting time and child support.

MOTION: That the Section oppose HF 1003.
SECOND
PASSED
Abstentions: 2

3. HF 1183: Removing All Presumptions of Joint Custody: The proposal seeks to modify Minn. Stat 518.17 by deleting the rebuttable presumption of joint legal custody and affirmatively stating that there is no presumption for sole or joint physical or legal custody. The Section generally does not support presumptions as regards custody, and therefore supports this proposal. Caveat: The Section acknowledges that this proposed change will increase the burden on the judiciary and pro se parties because in the absence of presumptions, every case will require more extensive findings. However, the Section’s position is that this is sound social policy because children are better served. Lengthy discussion and debate followed,

including significant concern about the implication of eliminating the current presumption in favor of joint legal custody.

It was noted that because 2009 is a budget session, it is unlikely that any substantive family law legislation will move forward, and thus, it will be re-introduced next year.

MOTION: That the Section support HF 1183.

SECOND

YES: 6

NO: 5

ABSTENTIONS: 9

Further discussion about the result of the vote and the possibility of a minority position.

MOTION by Mary Lauhead: That discussions with the legislature about the Section's position will include disclosure that the vote was closely divided, and that a minority position may be presented.

SECOND

PASSED

4. Presentation by Judge Harriet Lansing, Court of Appeals, re: Proposals by the Commissioners on Uniform State Laws. Judge Lansing attended the Legislative Committee meeting on March 12, 2009, on behalf of the Commissioners on Uniform State Laws (Commissioners), in follow-up to the Section's concerns re: the Uniform Child Witness Testimony by Alternative Methods Act and the Uniform Child Abduction Prevention Act. The Legislative Committee did not revise its recommendation, but the Committee did invite Judge Lansing to the Section meeting for the purpose of continuing the discussion about the Section's concerns.

Uniform Child Witness Testimony by Alternate Means: Judge Lansing explained the history and intent of this proposal, which is to maintain the integrity of children's testimony in civil cases.

Uniform Child Abduction Prevention Act: Judge Lansing explained the history and intent of this proposal, which is to deter pre and post-decree international and domestic child abductions.

Discussion followed re: the Section's concern that there was insufficient coordination with local stake-holders and insufficient time to vet the proposals and prepare a response. All concerned will work on better coordination. Judge Lansing confirmed that legislation re: the Uniform Child Witness Testimony by Alternative Means has been introduced, and will send a copy to the Section. No legislation re: the Uniform Child Abduction Prevention Act has been introduced.

6. New Business

Minnesota State Bar Foundation. Jennifer Eichten, MSBA Pro Bono Development Director and liaison to the Foundation, presented a request for a \$5,000 donation from the Section to support the Foundation's projects for low income and disadvantaged individuals. The projects include family law services. All Sections are being approached because the need has grown significantly and funds are insufficient to meet the demand. Copies of a request letter from the Foundation were distributed. The Section will vote on the Foundation's request at the Section meeting in May. For more information, contact Jennifer Eichten at: 612-278-6308; or Pamela Waggoner, Foundation Board Member, at: pjwaggoner@pjwaggonerlaw.com.

Volunteer Moderator/Mediation Program to Assist Courts During Budget Shortfall.

Mary Lauhead summarized the AAML-MN Chapter initiative to assist the courts with the growing backlog of cases by providing volunteer attorneys to moderate /mediate cases in an effort to work through issues and reach settlements. The process has begun in Ramsey and Hennepin district courts, and may be expanded to Anoka. Case criteria are: both parties must be represented by counsel; there is no domestic abuse involved, and the volunteer attorney must be ADR-certified. The initiative appears to be achieving a high success rate, and is well-received by the judges. ADR-certified attorneys are encouraged to participate.

MOTION to adjourn. SECOND. PASSED.

Meeting adjourned at 11:00A.M.

The next meeting is Saturday, May 9, 2009, 9:30 A.M., at the MSBA. Final meeting for 2008-2009.

Respectfully submitted,

Kathleen M. Murphy