

**MSBA Family Law Section Meeting Minutes
October 11, 2008**

Approved as amended November 8, 2008.

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

1. Welcome and Introductions - 26 people attended.
2. Approval of September 13, 2008 minutes as corrected - Motion to Approve, Second, Passed.
3. Report of the Chair – Tami Peterson
 - a. Proposal for Electronic Filing of Court Orders: The Labor & Employment Law and the Civil Litigation Sections are coordinating an initiative to have all final Court Orders filed electronically. For more information or to submit comments, contact the Labor & Employment or the Civil Litigation Section.
4. Treasurer’s Report – Ryan Anderson

The “Financial Activity Report For the Month Ending July 31, 2008” was distributed. The Section Budget is fiscally sound and prepared for the upcoming year.

5. Committee Reports

- a. Amicus: Mary Lauhead

Peterka vs. Dennis (A07-0165): The Committee submitted an Amicus brief in May 2008. Oral argument has not yet been scheduled. The issue relates to quasi-judicial immunity of court-appointed officials.

- b. Domestic Abuse: Loretta Frederick

No report for September. The Committee will meet after today’s Section meeting.

- c. Strategic Planning: Tami Peterson for Cheryl Prince

No meeting in October. Notice regarding the meeting in November will be posted on the website. Members are encouraged to participate. For more information, contact Cheryl Prince.

- d. Publications: Linda Wold

The fall 2008 Family Law Forum topic is: “Children in the System.” Eleven (11) authors submitted articles relating to the nexus between programs and services for children and legal issues (eg., child protection, school programs/services, adoption,...). The first 2009 Family Law Forum will cover public assistance, military, and other government benefits and their nexus with family law matters.

Proposal to Provide One Free Copy of the Family Law Forum to Minnesota County Libraries and Law Schools: Linda presented this proposal to increase public access to the Section’s publications. An additional 100 copies will be produced. The Section budget can accommodate the expense. On-line access is also available for current issues and archived issues for the past 12 months.

MOTION: To approve proposal to provide one free copy of the Family Law Forum to all Minnesota County libraries and the four Minnesota Law Schools

SECOND
PASSED

e. Legislation – Glen Norton

1. MSBA 2008-2009 Legislative Priorities: The MSBA Legislative Committee's top 3 priorities are: 1) Securing and maintaining adequate funding for Minnesota's Justice System (\$54 million); 2) Judicial Selection, and 3) Sales Tax on Legal Services. To participate in advocacy for adequately funding Minnesota Courts, go to: 1000Supporters.org

2. Proposed Change to Rule 308.01 of the General Rules of Practice: The proposal provides a uniform protocol for service of process of the Judgment and Decree, and thereby eliminates uncertainty and cross-serving between parties. The Section decided that this issue should be addressed by the Supreme Court Rules Committee.

MOTION: To send the proposal to amend Rule 308.01 of the General Rules of Practice regarding service of the Judgment and Decree to the Supreme Court Rules Committee

SECOND

PASSED

Abstentions: 2

3. SF 2067 – A Bill Relating to Eliminating the Acknowledgment Requirement in Certain Documents: The proposal resurrects SF 2067 which intended to eliminate the requirement that the parties' signatures on a Marital Termination Agreement in cases where both parties are represented by attorneys must be notarized. Currently, some courts require notarized signatures and others do not. This proposal would create consistency in all Minnesota Courts.

MOTION: To approve the proposal to reintroduce and pass the bill that was originally SF 2067.

SECOND

PASSED

Abstentions: 2

4. Proposed Amendment to 518A.39, Subd 2(e) – Relief From Child Support Orders: Proposal to amend 518A.39, Subd. 2(e) as follows:

Insert: "The court has discretion to reduce the support obligation for a period of up to 90 days prior to the service and filing of a motion to modify support."

MOTION: To approve the above-listed proposal to allow relief from child support orders.

SECOND

PASSED

Abstentions: 2

5. Proposed Amendment to Chapters 518 and 549 – Equal Enforcement of Child Support Orders and Maintenance Orders: Currently, maintenance orders are not enforced as rigorously as child support orders. This proposal would require the same level of enforcement of maintenance orders that is currently utilized for enforcement of child support orders.

MOTION: To approve the proposal that the requirements for the enforcement of maintenance orders and the enforcement child support orders must be the same.

SECOND

PASSED

Abstentions: 2

6. Proposal to Amend 518 and 518A – Re-Insert Definition of Spousal Maintenance: This proposal provides for re-inserting the definition of spousal maintenance into the definitions sections relating to calculating maintenance. The definition of maintenance was originally in Section 518.003, and was inadvertently eliminated

when Chapter 518A, relating to the new child support guidelines, was enacted. The definition of maintenance should be re-inserted to eliminate confusion about what constitutes gross income when calculating maintenance. The Section decided that further discussion is required by the Legislative Committee.

MOTION: To send the proposal to re-insert the definition of maintenance into Chap 518 and/or 518A back to the Legislative Committee for further discussion.

SECOND

PASSED

6. Presumptive Physical Custody Committee Update: Pamela Waggoner

The Committee is reviewing the relevant social science literature and the status of the law in other states. The Committee meets monthly, and meetings are open to the public. The Committee report is due January 15, 2009.

The next meeting is October 27, 2008, 1:30 - 3:30, at the Minnesota Judicial Center, and public testimony will be taken from 3:30 – 5:30. Members are encouraged to attend. Comments for public testimony must be submitted in writing to Mark Toogood no later than October 20, 2008. For a copy of the application for public testimony, contact Mark at: (651) 215-9467.

The Family Law Section opposes a presumption in favor of joint physical custody. Section members who wish to send comments or inquire about the Committee may contact Pamela at: pjwaggoner@pjwaggonerlaw.com

MOTION to adjourn

SECOND

PASSED

Meeting adjourned at 10:58 A.M.

The next meeting is Saturday, November 8, 2008, 9:30 A.M., at the MSBA.

Respectfully submitted,

Kathleen M. Murphy