

Family Law Section Meeting
January 12, 2018

Chair – Jen Brumley

Attendees: Linda Wells, Nancy Anne Wolff, Jen Brumley, Sarah Mello, Jennifer Schindele, Regan Charlton, Renee Karel, Merritt Dublin, Stephen Stokes, Lessie Brown, Jill Musser, Jennifer Roark, Robert Vail, Will Harrington, Clarence Jenkins

1. Roll Call.
2. Review of Minutes from December Meeting. Unanimously approved.
3. Review of Financials. We did not receive December's, so we will review next month.
4. Committee Reports

Seat 1. National Conferences. Jen Brumley reported that she is going to ABA Conference in Nashville, May 9-12. This is open to any members.

Seat 2. October CLE. No report, but the bar is asking that we do not conflict with other events happening that month. 10/4 is New Atty Meeting. Bench Bar has some conferences too.

Seat 3. Other CLEs. Sarah Mello reported that she is working on a proposal for the annual meeting.

Seat 4. Legislative Update. Nothing to report, but it was suggested that we should have a CLE update regarding anything that happens this term, or the new tax law's effect on family law matters.

Seat 5. Publications. Fred is not here to report, but Merritt updated that she and her group had been meeting on their article, and Steve also reported that he received an email indicating the authors approved last time had all been contacted.

Seat 6. Technology. No report.

Seat 7. District Support. No report.

Seat 8. Resources. No report.

Seat 9. Special Projects and Awards. Jennifer Schindele reported that the bar is seeking various nominations, due by 3/23. Can check state bar website. Our section can nominate itself, but we did just receive an award.

Seat 10. Community Service. Jennifer Schindele states that we have not received any requests yet this year. Usually we get requests from U of I and Concordia.

6. Old Business. Renee Karel went over the proposed budget, reflecting some of the suggestions made last meeting. Approved to submit to bar.

7. New Business.

Practice Section Update, Jen Brumley.

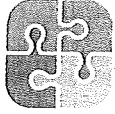
Elections coming up. Need 5 more council members and new secretary treasurer. Suggest that we elect four to a two-year term and one to a one-year term, based upon highest vote getters. Renee to contact Mahmood regarding this.

CFCC and Family Law Rules Meeting 1/26. Sarah Mello or Lisa Rodriguez may attend.

October CLE. We need to get on the calendar. Three Fridays in October.

Renee to contact Mahmood on this.

CLE by Dr. James Davidson: "Gold or Garbage? How to Analyze a Parenting Time Evaluation."



Ada County Family Law Bar
January 12, 2018

Garbage or Gold: How to Review a Parenting Time Evaluation

Key Concepts

1. A Parenting Time Evaluation (PTE) is a *forensic* report. A forensic report is the intersection of a *legal* issue and *behavioral health* issue.
2. Forensic vs Clinical distinctives (because most evaluators start with a clinical background). The PTE should follow the structure for a forensic, not a clinical report. Key differences:
 - a. Forensic focuses on impartial, unbiased information.
 - b. Clinical focuses on treatment, diagnoses, helpfulness.
 - c. Forensic and clinical follow different standards of practice.
 - d. Forensic typically non-confidential; clinical confidential.
 - e. Forensic often has no client while clinical has a client relationship.
 - f. Forensic considers multiple data source; clinical often just the client.
 - g. Forensic often has a written report oriented for testimony; clinical does not.
3. The *purpose* of a PTE is to promote settlement as an ADR. The judge doesn't want to read the report.
4. The *focus* of a PTE is the APA definition of a custody evaluation: APA 3. The evaluation focuses upon parenting attributes, the child's psychological needs, and the resulting fit.
5. The *forensic* leg of the report must be grounded in IRFLP 719 and IC 32-717. The *behavioral health* leg must be grounded in the model standards and guidelines of AFCC, APA and/or AAML.
 - a. The PTE *should not* be a clinical rehash of irrelevant he-said, she-said marital history.
 - b. The PTE *should* focus on the functional behavior related to parenting and the child's needs.
 - c. The PTE must address each factor outlined in IRFLP 719 and IC 32-717.
 - d. The PTE must address the model standards and guidelines of at least one of the following: AFCC, APA or AAML. Top pick: AFCC for its detail and breadth.
6. The PTE should have five major components for information gathering:
 - a. Interview of the parties and child.
 - b. Observation and/or interview of the child.
 - c. Psychological testing (if qualified). Optional for M.A. level evaluators.
 - d. Record review.
 - e. Collateral information (professional and personal references).
7. The opinions must connect the governing law and functional behavior into a sample parenting plan for the Court. The logic should flow into a sound parenting plan.
8. Garbage or gold: A simple structure for review:
 - a. Prepare a formal or informal review rubric using IRFLP 719, IC 32-717, AFCC model standards and APA guidelines.
 - b. Review the evaluator's CV. Any CE listed? Any family law forensic training?
 - c. Request the evaluator's work file. Is the Informed Assent (IA) document adequate regarding the scope of the evaluation, non-confidentiality, fees etc. Is the IA clear or

- gibberish? Was the IA provided to the attorney for review before the start of the evaluation?
- d. Read the report from beginning to end. Note your first impressions (the “smell test”). Is the report clearly written separating the information gathered, observations made, data collected, inferences made and opinions formulated (AFCC 12.2)?
 - e. Prepare a process summary: the parties and key people, start and end date of the evaluation, evaluator’s process and date gathered, marital history, interview and observation order, collaterals (professional and personal), records.
 - f. Review professional role and relationships. Evidence of competence? Order followed? Appropriate communications? Bias? Damaging irrelevant information? No research?
 - g. Analyze data adequacy. Did the report focus on clinical issues recapping the marital issues, diagnoses, etc? Or did the report focus on parenting skills, the needs of the child and the resulting comparative fit. Is there a balance of information and records for each parent? Is collateral information present for each parent and child?
 - h. Analyze connection to IRFLP 719 and 32-717. Are the factors required in each addressed in the report?
 - i. Analyze the inferences and opinions. Is there a foundation for each inference apart from Ipse Dixit (i.e. “I’m the expert and its true because I said so”)? Do the opinions shaping the proposed parenting plan logically follow from the data, or are the opinions a surprise without foundation?
9. My findings? A little gold and a lot of garbage.
- a. Little or no information regarding the child.
 - b. No collaterals.
 - c. No description of parenting skills.
 - d. Inappropriate use of testing.
 - e. Reports that are a clinical rehash of marital issues – who drank too much, who cheated, who yelled. If these issues are tied into parenting through records and evaluator observation, that could be interesting. Otherwise not.
 - f. No research.
 - g. Parenting plans without foundation.
10. A “gold” report usually leads to settlement. A “garbage” report usually leads to trial unless you have a litigant that is demanding their day in court.

Resources:

- Ackermann, M.J. et al (2018) Psychological experts in divorce actions.
 Stahl, P. (2013) Forensic psychology consultation in child custody litigation: Review and case preparation
 Wittman, J.P. (2013) Evaluating evaluations: An attorney’s handbook for analyzing child custody reports.
 Zervopoulos, J. (2008) Confronting mental health evidence.
 Zervopoulos, J. (2013) How to examine mental health experts.
 Zervopoulos, J. (2015) Confronting mental health evidence.