

**Minutes**  
**September 10, 2008**  
**Tampa Airport Marriot**

**Adoption/Paternity/Dependency and  
Children's Issues Committee**  
**(Family Law Section - Florida Bar)**

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**MEMBERS IN ATTENDANCE:**

Maria C. Gonzalez	Chantale Suttle
Kim Rommel-Enright	Eric Bruce
Sarah Sullivan	Kim Nutter
Heather Apicella	Tom Sasser
Linda Courtney Clark	Misa Everist
Tay Schwartz	Scott Rubin
David Riggs	Patricia Alexander
Elisha Roy	Calvester Benjamin-Anderson
Judge Raymond McNeal	Laura Davis Smith
Tenesia Hall	Brian Pitts
Patrick MaGill	GM Jon Johnson
Angel Bello-Billini	Joan Montagno
Ingrid Keller	Ron Bornstein
Peggy Senentz	Sheena Benjamin-Wise
Ronald B. Gilbert	Allyson Hughes
Abigal Beebe	Barbara Kelly
Terry Fogel	Jodi Seitlin
Charlotte Karlan	

**I. CALL TO ORDER AND WELCOME BY CO-CHAIRS:**

Co-Chairs Maria C. Gonzalez and Kim Rommel-Enright called the Meeting to Order at: 9:35am.

Welcome: by Kim Rommel-Enright. Discussion regarding the committee, sub-committees and Ad-Hoc Committee (AAL and GAL). Kim explained that issues are always arising which the Committee should address, and may require the establishment of a subcommittee.

Maria asked that all members present introduce themselves.

**II. APPROVAL OF JUNE 18, 2008 MINUTES FROM BOCA RATON MEETING:**

Elisha Roy moved to approve the Minutes from the June 18, 2008 Committee Meeting in Boca. Motion seconded. Maria C. Gonzalez called the vote (asking for "all those in favor state 'I'"). Motion carried. Minutes approved.

### **III. REPORTS AND UPDATES FROM SUBCOMMITTEE CHAIRS:**

#### **A. Aging out of DCF Subcommittee Report:**

Heather Apicella as Chair of this subcommittee gave the report. Heather provided a brief background as to the function of her subcommittee and why the same was formed. Heather explained that she has been in contact with Judge Baumann, Circuit Court Judge in Hillsborough County. Heather stated that Judge Baumann is the Chair of the "Aging Out of DCF" subcommittee, of the "Families and Children Committee" of the "Florida Supreme Court Steering Committee." Heather explained that she believes it is necessary to review the report of Judge Baumann prior to moving forward with her committee (as Judge Baumann's subcommittee may have addressed the same issues which Heather's subcommittee may address). Heather explained that at the June 18, 2008 meeting in Boca she received a text message which advised that Judge Baumann's final report of his subcommittee was not available. Ronald Gilbert discussed the transitional youth project in Miami Dade. Ronald stated that he believes this project has been very successful in Miami-Dade. Kim Rommel-Enight discussed a new program in West-Palm Beach which sounds similar to the Miami-Dade program.

#### **B. Minors Signing Paternity Forms:**

Chantale Suttle as Chair of this subcommittee gave the report. Maria explained that this subcommittee was originally created under the Support Issues Committee of the Section during the Annual June meeting in Boca Raton, however, GM Barbara Beilly believed it was more appropriate for this subcommittee to be under the Children's Issues Committee. Chantale explained that her subcommittee addresses the issue that a young man, under 18, can sign an Acknowledgement stating that he is the father of a child. Chantale discussed the problem that not only minor father's are signing these forms; there is no requirement that the minor have a guardian present when signing these forms. The subcommittee believes that there should be a requirement of disclosure to the court; simply, the court must know that a minor father signed the form (rules issue). Chantale stated that according to her research, California and Wisconsin are the only states which speak to this issue of minor fathers and acknowledgment of paternity. In Wisconsin the minor fathers are not allowed to sign the forms. In California the paternity acknowledgments signed by a minor can be rescinded up to 6 months prior to the 18<sup>th</sup> birthday of the father. Chantale looked to comparative law to see if there was any law on this issue. She explained that there may be a dependency issue. Chantale is confident that the adoption laws will not be impacted by this issue. Angel Bello-Bellini had a question regarding whether we are talking about those "legal minors" who are still under the control of an adult? Does the minor walk in by himself and sign the form without a guardian? Chantale and Eric Bruce both confirmed that this is exactly what is happening. Tom Sasser questioned, how can this issue present a problem when an individual cannot legally enter into a contract until they are 18 years old. Patty Alexander questioned, are we saying that we must have the minor understand what he is signing. Chantale explained that when a 16 year old alleged father signs this form they cannot back out of the acknowledgment. Discussion ensued. Angel Bello-Bellini addressed his concern that no one bothers to tell the individual what the legal consequences of signing this acknowledgment. Chantale stated that the court will give the person the option to get DNA testing; the problem is when the person signs this form out of the presence of the court. Sarah

Sullivan stated that the minor lacks capacity to fill out these forms; posing the question that even if we have the requirement that they cannot sign the form requiring a paternity test, who signs off on the paternity testing. Chantale stated that the first problem is that there is no disclosure requirement to tell the judge/hearing officer that this individual signed the form as a minor. Tom stated that we must amend the law to reflect 1) the birth date of the father to be included in any acknowledgement of paternity; and 2) add an additional line to the form requiring that a guardian must sign on the form, if the individual is under the age of 18 years old. Eric Bruce stated that the 60 days to rescind the acknowledgment must be addressed in the statute as well. Peggy Senentz addressed the putative father registry issue and that the father must go to the registry. Chantale stated that there is a concern pertaining to a minor signing the form, but there are glitches in adoption and paternity law. Maria Gonzalez encouraged members of this committee to contact Chantale Suttle if they were interested in volunteering to serve on her subcommittee. Linda Courtney Clark stated that she sees this problem in dependency when DCF is involved regarding the payment of the DNA testing; she suggested that the DNA cost must be considered in the law as well. Chantale will meet with her members prior to our next live meeting in January in Orlando and provide the committee with a full report and perhaps suggested legislative changes to correct the problem.

### C. Ad Hoc Committee on GAL's and AAL's:

Kim Nutter provided the history of the Guardian Ad Litem (GAL) sub-committee. Kim further explained that the GAL subcommittee and the Attorney Ad Litem (AAL) subcommittee have been merged together into one Ad Hoc Committee. Maria Gonzalez explained that the GAL and AAL Ad Hoc Committee, was formed for this fiscal year, by our Section Chair, Scott Rubin. Maria further clarified that this Ad Hoc Committee is not a subcommittee of the Children's Issues Committee. Nevertheless, the committee set aside time for Kim to provide an updated report since most of the members of the Ad Hoc committee are also members of this committee and were also members of the initial GAL subcommittee. Kim Nutter stated that the goals of the Ad Hoc Committee are to:

- 1) create a definition of a GAL and AAL;
- 2) address the issue of how to overcome hearsay objections; and
- 3) create an Order appointing the GAL.

Kim Nutter explained that with regard to the Order Appointing a GAL, she has experienced problems with the current Order, in that the Palm Beach County School Board is having trouble with the Order. In response to this problem, Kim created an Order Appointing a GAL and forwarded the Draft Order to the School Board, she is awaiting approval of the School Board.

Kim stated that in addition to the above tasks of the Ad Hoc Committee, the new big tasks are:

- 1) draft qualifications of a GAL on a state level (because every jurisdiction is different qualifications); and
- 2) develop a training program for the GAL's. With regard to the training program, Kim explained that the Ad Hoc Committee must figure out how, and to whom, the training programs will be managed.

Maria Gonzalez explained that Kim Rommel-Enright has been in contact with Tallahassee Bar Foundation. Maria explained that this issue crosses over into new business; however, discussion regarding this issue is important at this point in the meeting. Kim Rommel-Enright stated that the Tallahassee Bar Foundation has been recruiting individuals to handle cases in Chapter 61 proceedings. The Tallahassee Bar Foundation created a bill which died, at the last minute, during this past legislation term. Kim strongly believes we will see this Bill again this year. Elisha Roy expressed her concern that the problem with the prior bill was that legal aid was tasked with training the GAL's; yet, the training requirement for GAL's was never fine tuned.

Kim Rommel-Enright stated that Florida Children's First has drafted a proposed bill, amending Chapter 39 to remove the terms as they relate to GALs. Kim presented a copy of the proposed bill to the Committee and requested that anyone who is interested in getting a copy of the proposed statute, to please contact her [kenright@legalaidpbc.org](mailto:kenright@legalaidpbc.org).

Terry Fogel stated that she believes we must work hand-in-hand with Tallahassee. Terry explained that Elisha Roy was very involved last year when the proposed Bill came up and may be a great help in assisting with this issue again. Allyson Hughes discussed that she spoke with the Terry Hill, from the Florida Bar regarding the CLE, and having the same be at no-charge. Elisha Roy addressed the Tallahassee Bar Association's concern, that lay people must be trained and allowed to be GAL's (because there are people who are the wives, husbands, etc., of lawyers who want to be GAL's). Elisha expressed that we need to get something going in draft form, we must provide language for the bill. Terry Fogel stated that we must put the language in the statute that the training will be free. Elisha stated that the problem with the bill was the language which stated: "any person affiliated with a legal aid organization can be a GAL." Elisha suggested during the conversations with Tallahassee and Florida Bar that the fix can be that the Florida Bar will provide the training for these individuals. If we do not have language regarding this issue we will be in trouble, b/c this bill we be brought up again...we must be on the front end of this.

#### **IV. NEW BUSINESS:**

##### **A. Sand Castles Program:**

Maria Gonzalez provided the Committee with a background as to what the Sand Castles Program is about. Explaining that the Sand Castles Program is a 3 ½ hour required program for children who are 6 years old through the age of 17 years old. This program is specifically geared for children of divorcing parents and was developed by Dr. Gary Neuman in Miami-Dade many years ago. Maria stated that the program breaks the children up into age groups. Maria further explained that just like the Certificate of Completion of Parenting Course, the Certificate of Completion of Sand Castles must be filed with the court prior to entry of the final judgment of divorce. At the present time, only 10-12 circuits impose some form of similar Sand Castles program for minor children in divorce cases. Peter raised the issue of perhaps looking into the program throughout the State at the leadership retreat in Marco Island. Maria asked the committee whether or not a subcommittee should be formed to take a look at the program, review what different circuits are doing, and bring the recommendations of the subcommittee to the January meeting? Maria stated that first, she wanted to know whether the committee had any opinion about this program? Terry Fogel stated that she likes the idea of the program and it has been working very effectively in the 11<sup>th</sup> Circuit – Miami-Dade. Sheena Benjamin-Wise stated that she strongly supports this program. Ron Bornstein stated that, although he likes the idea, he

cautions the committee that we must look at parent's rights, and whether or not the state is interfering with parental rights. Abby Beebe questioned, who is going to pay for this program? Terry Fogel stated that the Court can address the payment issue and require the parents to pay for it.

Patty Alexander moved that this Committee look into the Sand Castles program. Abby Beebe seconded the Motion. Maria took vote (by asking that all those in favor state "I"). Motion carried. Sheena Benjamin-Wise volunteered to serve as Chair of this subcommittee and a sign-in sheet was circulated for members to join.

Chantale stated that the constitutional issue has already come up in Miami Dade where a party asked the court to waive the children not have to go through this course.

Angel Bello-Billini stated that parents can do whatever they want with regard to their children, so long as it is not to the detriment of the children, the constitutional issues can be addressed on a case-by-case basis. We already order people to go through various courses. Tenesia Hall stated that we must address this issue in paternity cases as well. Maria stated that this will be further discussed in January.

## **B. Legal Guide For Pregnant Teenagers:**

Ingrid Keller explained that the Legal Guide for Pregnant Teens is funded in part by Florida Bar Foundation and underwritten by ACLU. Ingrid explained that many people have had their hands in this guide to make sure that this is a good product. Ingrid Keller and Raymond McNeil were tasked to look at the Guide and provide their recommendation with regard to same. Ingrid explained that the concerns are: 1) the new parenting bill removes the term custody; however, the guide still uses the terms custody. Ingrid stated that possibly we can have a new subcommittee to look at this guide. Ronald Gilbert asked, how do the teenagers find out about the guide? Ingrid stated that she does not know exactly where the guide would be distributed.

Abby Beebe stated that one of her interns at legal aid was working with something like this. Sarah Sullivan moved to form the subcommittee to look at the guide to make sure that this is legally sufficient. Abby seconded. Kim called the vote. Motion Carried.

Ingrid agreed to chair the subcommittee. Chantale asked how quickly this must be done? Allyson Hughes stated that she had a conference call with the proponent of the guide and explained that this will not be a quick process of review, in light of the parenting bill.

## **C. Ronald Gilbert requested that his issue be added to the Agenda:**

Ronald Gilbert discussed his proposed bill which deals with the issue of those children who do not know who their legal father is. Ronald explained that without any information the Department of Children and Families must search for Fathers of the children. Ronald proposed that some thing should be in place in the statute at the time of the child's birth where the Mother lists all the possible fathers. Notice would then be provided to all the alleged fathers. General Magistrate Jon Johnson stated that although he is emphatic about this issue, there is a significant affect as to the permanency of this issue when the case is heading towards a TPR hearing. Abby

Beebe stated that a new case just came out and stated that he goal is to promote permanency and stability for the children. Kim Rommel-Enright stated that because this is a fairly large change in legislation we should probably ask the Chair, Scott Rubin, if he wants to look at this issue. Judge Raymond McNeill stated that although he does not believe we necessarily need another subcommittee...there is no uniformity as to what constitutes a diligent search. Two things that bother Judge McNeill: 1) you are not required to furnish the last known address of the absent parent; and 2) you are not required to publish in the county at the last known address, where the absent parent is believed to reside. Legislation is needed to get uniformity with this issue.

Maria Gonzalez called for a concept vote as to whether or not Chapter 382.013(2) should be amended to require the mother give all the addresses of the alleged fathers? Concept vote taken and 22 out of 23 members present voted against the concept or need of amending 382.013. Next, there was discussion as to whether the issue raised by Judge McNeill should proceed to a concept vote. Maria Gonzalez asked whether the committee believed this is a very different issue from that raised originally by Ronald. The committee stated that they believe that Judge McNeill's issue was very different.

Maria Gonzalez suggested tabling this issue for the January meeting as the meeting was already past its deadline to conclude. Maria moved to table this issue to January. Vote taken (all those in favor state "I"). Motion carried. Ronald's issue will be addressed at the January live meeting in Orlando.

Ronald next raised and discussed the issue regarding adequate notice to foster parents of hearings affecting the children. Jodi Sietlan stated that there is a new rule enacted July 1, 2008 this year which addresses this issue. Again, time constraints require that this issue be further discussed at the January live meeting.

#### **IV. FOR THE GOOD OF THE ORDER**

#### **V. ADJOURN:**

Kim Rommel-Enright moved to adjourn. Sarah seconded. Maria called for the vote (all those in favor state "I"). Motion carried. Meeting adjourned at 11:23pm.

Submitted by,  
Heather Apicella,  
Secretary