

**MINUTES
FAMILY LAW SECTION
MEDIATION AND COLLABORATIVE LAW COMMITTEE
THURSDAY, FEBRUARY 4, 2010 AT 9:30 A.M.
DISNEY'S YACHT CLUB RESORT • FAMILY AND MARITAL
LAW REVIEW COURSE**

ATTENDEES:

Frank Zilaitis
Rosemarie S. Roth
Elisha Roy
Ron Bornstein
Matt Capstraw
Sheila Furr, Ph.D
Deborah Haataja-Deratany
Jean Westin
Avonelle R. Mackerell
Barbara Kelly
Judith Hodor
Julia Wyda
Cynthia Tiano
Pam Schneider
Diane Holmes
Linda Braithwaite
Robert Rodriguez
Jack Mooring
Steve Berzner
Cynthia Hawkins-Leon
Robert Merlin
Cindy Harari

I. CALL TO ORDER: WELCOME, SIGN IN

II. CO-CHAIR REPORT OF FRANK ZILATIS

- Intro by Frank Zilaitis - Frank expressed his appreciation for Mark Becker's years of service on the committee.

-Member introductions.

-Frank Zilaitis- Introduces Elisha Roy. Legislation Committee wants us to be ready with a collaborative law statute for 2011.

-Elisha Roy- Scott Rubin was chair of subcommittee to review collaborative law rule to assess why it hadn't passed. What came back was an opinion that we scrap what had already been prepared and instead go with NCCUSL. At September meeting, Scott's committee moved to scrap the prior version. It didn't pass. Went back to Scott's subcommittee for them to report back at October meeting. At October meeting, there was much discussion of whether NCCUSL version or prior version made more sense. Tom had been in Canada the week before in Canada. He listened to the debate at the ABA regarding NCCUSL. Tom expressed that NCCUSL is both procedural and statutory, and Florida doesn't do that. Issues raised about NCCUSL applying to areas outside of family law. Only two people voted for the prior version to go forward. Most voted against moving forward with a bill so we could assess what we actually wanted to do. Sent back to this Committee to decide if we want to use NCCUSL and speak with them about how we would divide out the procedural and statutory aspects. What will need to be reported to the Legislation Committee in June is what version of the statute we want to proceed with. Need to present a united front.

- Matt Capstraw- Draft came directly out of NCCUSL. Did the work to separate out procedural aspects. Matt recommends that we take the statute and collaborative rule and compare them with NCCUSL and see if there's anything in NCCUSL that is not in these two that we would want. It's Matt's opinion that there won't be anything in NCCUSL not included in these two that we'd want to add. Need a subcommittee to review.

- Elisha Roy- present the highlights to the Legislation Committee. Have someone present that is well-spoken with great knowledge of the subject. Possibly appoint a key person or persons that will educate EC, Nelson, Edgar, and the Legislature.

- Steve Berzner- Presented the statute one year ago to a Senate subcommittee. It was tabled. Questions dealt with confidentiality and withdrawal. Had a meeting in September, where Tom spoke about his experience at the ABA meeting. He was swayed by Tom's remarks regarding FL being one of the first states to pass the UCLA. He thinks we should now get back to our statute as originally drafted. Thinks our statute with the collaborative rule is better than going forward with UCLA.

- Matt Capstraw- Talked to a law professor at Hofstra. If we prepared a revised draft, we can ask Andy to write a letter backing it. Can bring that letter with us to the Legislation Committee.

- Jack Mooring- Collaborative Rule is now part of 3-year cycle. Will go to the Supreme Court early next year. Depending on what this Committee does, and if there's a statute that may affect it, the Rule may need to be revised during the 3-year cycle.

- Robert Merlin- Motion to proceed with statute as previously drafted.

- Steve Berzner and Rosemarie Roth seconded.

- Comment

- Elisha Roy- not ready yet. Need to know more about material.

- Robert Rodriguez-Differences: (1) NCCUSL - mediation is privileged. In Florida, it's confidential; (2) Collaborative Participation Agreement- our statute doesn't have it, but it's been thrown into the rule. Emphasizes education. Whatever gets passed, we can quickly amend rule. If it goes for years, there may be a rule before the statute.

-Robert Merlin- what is the exact action that results if they vote to approve the statute. Elisha Roy responded that Elisha must be contacted in June, and there would be a presentation with the Legislation Committee (recommends a side-by-side analysis with NCCUSL and possibly 2 presenters) and it will be voted on and then it goes to EC.

-Matt Capstraw- People can make motions to have other subcommittees review it. We need a simplified, precise presentation. Elisha responds that there will be no subcommittees for this statute.

-Vote

-Unanimously approved

-Abstentions- 1

III. Motion to appoint someone to take the lead on collaborative proposal.

-Second

-No discussion

-Unanimously in favor of appointing someone.

-Nominations

-Robert Merlin

-Mapp Capstraw

-Frank Zilaitis appoints Matt Capstraw

- IV. Group that will assist Matt:
- Frank Zilaitis, Rosemarie Roth, Lana Stern, Robert Merlin, Julia Wyda, Barbara Kelly, Dr. Robin Siebold, Cynthia Harari, Steve Berzner.
- V. APPROVAL OF MINUTES
- Moved to approve minutes
 - Passed unanimously
- VI. NEW BUSINESS
- Robert Merlin- Lana and Robert and Brenda Shapiro put on a 3-hour seminar regarding collaborative law. 114 people attended. Passed around materials to all committee members.
- V. CLOSING REMARKS AND ADJOURNMENT
- Meeting adjourned at 11:00 a.m.