

Mediation and Collaborative Law Committee
January 27, 2011 - 9:06 a.m.
Disney Yacht & Beach Club

ATTENDEES:

Frank Zilaitis
Elisha Roy
Dr. Deborah Day
Raul Perez-Ceballus
Carl Watkins
Matthew Capstraw
Julia Wyda
Steve Berzner
Robert Merlin
Lucy Espey-Francis
Linda Braithwaite
Jean Westin
Darlene Antonio
France Lopez
Jill Lowe
Judy Hodor
Pam Schneider
Deborah Haataja-Deratany
Joseph Hunt
N. Diane Holmes
Teresa Parnell
Ron Bornstein
Lori Caldwell-Carr

Intro by Frank Zilaitis

Member introductions.

APPROVAL OF MINUTES

Moved to approve minutes
Correction in spelling of name
Passed unanimously

Matt Capstraw- update on Collaborative rule

-Rule with big bar- supreme court will vote- could be effective January 12,
2011

-Presentation on Collaborative CLE Committee by Linda Braithwaite and Dr. Day.

-Linda corrects date issue in brochure (revised copies of brochure were
provided to all members)

-Dr. Day- Richard West will be the primary speaker. It's a basic level course. The goal is to get more people involved in the process.

-Presentation from Thomas Duggar

-update on status of collaborative law bill- in bill drafting. Having a difficult time finding sponsors, but Nelson is meeting today with people to hopefully get sponsors. Policy concerns as to why it's statutory and not rule-based.

-Bob Merlin- Representative Steinberg is interested in sponsoring. Tom will have Nelson look into it.

-Lucy Espey-Francis- Representative Metz would be interested. Tom asks for that information to be e-mailed to him and he'll get it to Nelson.

-Frank Zilaitis emphasizes that you need to go through the proper chains of command. Pass ideas to Tom and gives his contact info: Thomas@duggarandduggar.com or (850) 386-2134.

-Thomas will update Frank after his meeting to go over what's discussed.

-Thomas- background- bill drafting- senate and house have different bill drafting. Senate has contacted us with concerns they have re policy- why isn't it substantive. As of this morning, Nelson is having a hard time finding house sponsors. Have to make it through all committees of house and senate. Most difficult committee- Civil Justice Committee—a bunch of lawyers on the committee. Tough session.

-Matt emphasizes that even if it doesn't go through this year, we always have next year.

-Discussion of Mediation issues

- Pam Schneider says there's no issue with mediation now as it's completely accepted, and hopefully, the same will occur for collaborative law.

-Steve Berzner presents:

-Alan Bookman is the chair of the alternate dispute resolution section. The section had an initial meeting. All members invited to go. Steve and Bob attended. The section is like the entire family law section and will be divided into committees. Steve volunteered to be on Rules and Forms. Steve can see overlap with those rules and our family law rules. At least 50% haven't heard of collaborative law. Steve explained collaborative law briefly and many seemed resistant. Steve explained that it's perfect for family law but may not fit every case. They need to be educated on Collaborative. Jerry Deutch (sp?)- "Divorce Without War". He's also on the ADR section. They've now attended 3 meetings. Can contact Steve Berzner or Alan Bookman for more information.

-Pam Schneider and Bob Merlin thought they joined but haven't heard anything.

-Steve reassures them that it's only because they're in the initial stages

Question on Foreclosure mediation

-Is this the appropriate group to bring it to?

-Chair – Not sure what mediation looks like in a foreclosure setting.

-Sarah – Gives the party an opportunity to speak with the lender rep and that the proper financial affidavits are provided. So many banks are taking government money so it takes quite a period of time to go through.

-Chair – Reason why Big Bar is creating an ADR group because of this area expanding far past family law

STATUS

Chair – where you are and where you are going. Hasn't done anything new in taking a formal collaborative law meeting. Encouraging opposing counsel to use a financial neutral even in contested cases. Had a phenomenal situation where clients met individually with financial neutral and then attorneys met for 4 hours and were able to settle all issues related to children.

Employment law matter – Stated can file suit and do interrogatories and deposition and this can go on for three years. Or we can use collaborative skills introduce parties to each other and bring in someone to value.

Ron Borenstein – Member of local collaborative group in Palm Beach County. Group is rolling slowly but surely. Has 2 active collaborative cases. Longest collaborative case that has been going on for 4³/₄ years. Parties took a hiatus from working on dispute. Co-dependent. Beam of light at the end of the tunnel (not a train). Other is straight forward. Both are actively interested in a civil co-parenting relationship after the divorce. Within group they are reaching out to the judiciary. Problem in Palm Beach County is that the bench is NOT welcoming to collaborative practice. Trying to get local rule passed. No administrative order. Chief Judge is on board, but the problem is the family law judiciary. Testing group for Unified Family Court System (UFC). Don't like abating cases--sitting on case load docket so they don't like it.

Chair – Glad to hear that reason Judges not on board is because of docket.

Judy Hoder – Defer to Bob Merlin since he is president of local group. Collaborative Family Law Executive Counsel. Meet once a month by telephone. Members from all of the disciplines. Forming a statewide webpage. Build up collaborative law in the state. Interdisciplinary movement. Practicing collaborative law for over 10 years. Particularly slow in getting collaborative cases right now.

Christie Gray – trying to get certification for mediation. Collaboration sounds interesting doesn't happen in mediation. Susan Deveaux trained her.

Julie Voe – Practices in Naples. Before any temporary relief hearing have to go to mediation. Difficult to get temporary relief. Most cases want presuit settlement before filing law suits. Don't really want to do formal collaborative.

Chair – Are you engaging Neutral Mental Health?

Voe – No. Use parenting coordinators to help the parents work on their parenting plan.

Diane Holmes – Judy and Bob have put tremendous effort into the statewide counsel. Make sure in your community that your collaborative group has a representative on this counsel. Going to be a unifying voice in this state. Slides that Dr. Day talked about you can get from Diane (giving credit for Amy who did them). Our group 1999. Sherry Slogan came in from the ABA. Very slow in getting going, but when Wendy Aikin did Lone Star Training in Brevard it took off with the multi-discipline. Did training two years ago with Lone Star. We have a really big group comprised of lawyers, MH and financial. Divide large group into development groups (3) and those meet at different times. Having small practice group is to get members on a collaborative case. Have done that successfully. Need to meet needs of group meeting. Have meetings every two months. Good way to support each. Big group meets quarterly. There is always a presentation. Put your curriculum vitae. Brought in Liz Ferris to give us a seminar. She was phenomenal. Main focus to support and know each other in our committee. A couple of weeks ago Diane, another lawyer, financial and mental health professionals. Each party spoke about what they did in the process. Get showing and majority did not know about collaborative law. 9:00 a.m. to Noon. Diane is willing to share outline. Feedback was good. Market to other non-family lawyers and mental health professional. Recognize Joe Hood.

Chair – Difference between practice and development group. Like an Inn of Court. Is there anyone in the state that has developed a practice group that actually are in the same building and are in the same location. Like in Minnesota.

Dr. Parnell – Not that she knows of.

Chair – Trained in Minnesota. Training group from Vancouver. The Indiana group. POD of offices. Collaborative Law Group.

Judy – Certain ones that present themselves as a group

Associate of Dr. Kelly – Some areas practice groups that work together

Diane – Like Inns of Court.

Dr. Parnell – Randomly assigned to a group. You do not have to stay in same group. You can work with people in different groups. As you build trust you will have a stronger. Creates a closer connection between individuals

Sarah – Wants to know more about collaborative law. Work for a circuit judge in Seminole County (Alley).

Joe Hunt – from Tampa. Member of collaborative group in Tampa. Have to go to mediation prior to temporary matters. Started in 2006. Basic training in Lone Star group advanced training last year. Affiliate members of financial and mental health members. Language of mental health. Calling them team facilitators. Recently developed brochures for our group. Second group in Tampa Area. Hillsborough and Pinellas county. On second collaborative law case. His partner has done 25 cases or more and is writing treatise on collaborative law. At lunch yesterday, state of court (trial lawyers) underfunding of court system. Washington Economic Group. Economic impact 17.4 billion. 120,000 jobs are lost. Whole ADR. The limiting of economic impact with collaborative. Member of statewide committee. Rosemarie Roth deserves a lot of credit. Florida psychological association on collaborative.

Carl Watkins – Financial Neutral – WPB- in same group as Ron Borenstein. Been brought in as consultants, but not so much in collaborative cases. Took training in Miami. Trying to think of ways to get collaborative to take off. Not gaining traction in that area.

Chair – Do you feel you have a good relationship with lawyers in your area.

Carl – Yes. We have a website with lawyers and mental health people we work with.

Chair – Is there a network.? Sporadic attendance of financial neutrals

Carl – Not really

Chair – Will be ones doing protocols and a true interdisciplinary

Dr. Parnell – Extremely lucky that we have such a good local group. Our leadership is good. Support of judges. Our executive committee is interdisciplinary. Many are waiting to have first case and are hanging in there. Finding best way to market.

Lori – Why it is hard to get collaborative cases right now?

Judy – Economy and afraid of neutrals.

Bob – Looking to create a collaborative law center in Miami. A building where multiple disciplinary professionals can rent a floor of a building. Concept exists in New York and New Jersey. Could be created where you have a one-stop shop. Multiple attorneys, MH and financials. Everyone doesn't have to be in on the meeting. Interesting concept.

Status of the Rules – Is the ethical rule going to SC. Two rules committee. Judy on big bar family law committee. We have a Rule. Big bar was ahead of the family law rule. Went out to comments revisions were made. Published in Oct in Florida Bar news. No additional comments. That phase approved. Just sent to SC. SC has a committee on Rules committee. The BB rule says there has to be a participation

agreement. Disqualification of professional. One procedural and one ethical. Family law rules are far behind. May end up being combined. Had conversations with Magistrate Kirigin. BB rule is in with the SC. Next wave is 2012 for that package.

What is going on in Miami – training in November over 80 people at University of Miami. Talking about doing it on an annual basis at University of Florida. Practice group got 8 new members. Lunch yesterday with 8 of new members. Infusing life and questions. Have over 80 members. Don't have space for everyone to meet.

Dr. Parnell – On board. Brand new. We rent a space at a hotel with dues. Development group that has space. Takes a lot of time and effort.

Diane – Develop friends of collaborative. Not financial neutral.

Dr. Parnell – Trainings in Orlando. There are often ancillary services as PC or counselor. Don't sabotage the process. Helps referral base. Don't want to be neutral. Believe in the process. Very reasonable membership fees.

Bob – groups are very similar. Huge number of mental health professionals. May not be the neutral but may be referred other cases. Use someone in our group even in non-collaborative cases. Just starting to talk about involving non-collaborative people as friends. Likely to do that. Other groups that do that. Bring in an estate planner. Because we are getting so big and people complaining about not getting cases Bob created a system of committees in our group. Huge amount of enthusiasm. Come join a committee on Education, Mentorship, Bylaws, Social Networking. 9 committees. Feel a buzz in Miami even though don't have the cases. More people who buy into the process. Member of his group wants to know about Bob doing his divorce collaboratively. Practice groups are critical. Gainesville has a really good practice group. Palm Beach is a pet project for Bob. Worked for over a year to go to lunch last week. Not one member of leadership showed up. Well received. People there were enthusiastic, but mostly mental health professionals. Frank's group in Melbourne is not active. Want everyone active. Will come up and talk to people. Palm Beach has two different groups. North Palm Beach and South Palm.

Diane – putting money in to do a website. Get in on calls. Look for spaces at schools, colleges and community colleges.

Bob – University of Miami has a therapeutic jurisprudence. Pam at University of Florida teaches collaborative law as a specific class. Linda Piff has a collaborative law center and wants to teach.

Cynthia Devose – Stetson family law teacher there is going to look at doing a collaborative law group.

Deborah H. – Work in Court Administration in Brevard County. Judges supportive. First circuit in state to AO. Have collaborative professional on website. Collaborative directory. Stan Wolfman constructed a definition of collaborative law.

Updating right now. Contact information. Could we please have a listing put on the website. Sorted by discipline. Outreach to the public. The public does NOT know what collaborative is. Brevard does divorce classes to the public. What to expect when filing for divorce? Several times a year on a Tuesday evening at courthouse. Coordinator – 20 to 50 years. Dr. Robin Seebold. Has talked about collaborative many times. Get extremely good evaluations. Hungry for this information. Public is missing out.

Financial professionals. Team mediations. Regular mediation where you draw into other professionals into mediation. What about a financial neutral in mediation. Have come to next mediation. We can do this. We can work together. Working for them efficiently. Consumers are hungry to know there are options.

Did have a collaborative group in Brevard for 4 years. It has fizzled away. Political. Nothing in place right now.

Chair – Family Law Network – Jennifer Taylor (Judge) – has arrangement with local holiday inn. Come in for 12.50 get local CLE and lunch. Financial Ethics.

Deborah – rent space at court reporting.

Darlene Antonio – Took training couple of years ago. No collaborative case in central Florida.

Pam – teaches collaborative law at UF. 2 credit hours. Mostly third year students. Limited to 18 students. Class that allows them to do a lot of simulations. The students are high on collaborative law. Fills instantly. Can't let more people in. Popular that in family law class they talk about collaborative law. Very active practice group. Retreat 6 months ago. Some changes. This is how we do it here? If you want a collaborative divorce in Gainesville this is how it will go? Costs you less money. More efficient. Somewhat less, but certainly not more than traditional divorce. Usually done outside of court process. Two active cases. Two people in last week that they are going collaborative. In process. Going on for about a year at the clients choice. Other one just getting started. Schedule meeting but may not use them. Tell people that this is a coach. Steve Spurrier said you have to coach them up for the game. That is what your divorce coach does.

Jean – 125 members. Meet third Monday of each month for lunch. Dues pay for it. Do meet once a month on a consistent day. Quite a few cases in Gainesville. Small community. Word is out. Session presented to mental health community and still get referrals. All equal.

Cary Stamp – Financial planner – works with Carl – Divorce planning for women going through divorce. Members of divorce team in Palm Beach County. A lot of training, but no cases.

Chair – Common problem. Law Degree. MBA and 2 engineering degrees. Size up lawyers. Compare notes about lawyers. Getting referral from opposing counsel spouse.

Deborah H - Divorce and recovery.

Jean – present a course with community college. Divorce 101 and Collaborative.

Cynthia Devose – PLEASE ADD TO DISTRIBUTION LIST – Full time professor in St. Petersburg. Full time faculty. Get students heads turned around the right way. Teach family law and family law mediation. Some students say this is a marshmallow class. Affilliate of Bar.

Bob Merlin – Charge a lot more for membership. Attorneys and Financial \$350.00. MH are \$250.00. Spending money on marketing. Marketing professional for \$2,000.00 a month. Rebranded themselves. Created a logo and brochure. www.collaborativefamlaw.com totally redone. Reach out into the community with speaking arrangements. FLAFICC. Association of Family and Conciliatory Courts. Florida Chapter of that organization. Promote Collaborative. Should join it. Interesting higher level organization. International conference June 1 through 4. A lot about parenting coordinators.

11:11 Meeting adjourned by chairman

Seconded by Bob.

