

President's Column

Beth Crawford
Chapter President

Happy 2010! The New Year promises to be an exciting one for the Massachusetts Chapter. As you will see in this newsletter, our members have been busy.

The Conference Committee is hard at work on the Massachusetts Chapter's Annual Conference, which will take place April 30, 2010 at Regis College in Weston, Massachusetts. The keynote speaker is Dr. Teresa Ostler, a researcher from the University of Illinois, who will speak about impaired parenting as result of mental illness and substance abuse.

This is a difficult issue many of us address in our professional lives. The conference will be followed up by informal roundtable discussions around the state. Mark your calendar for this opportunity to learn about the most recent research on this important topic.

Many Massachusetts Chapter members will be offering workshops at the 47th annual AFCC conference in Denver, CO June 2-5th. The topic is alienation and high conflict families. I attended my first AFCC international conference in Ottawa in 2003



and have been hooked ever since. I always come away with a renewed sense of energy and optimism, having learned about programs and practices from around

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VISIT OUR WEBSITE:

<http://www.maafcc.org>

Multi-Disciplinary Practice Issues for GALs -- conference

Thursday, March 12, 2010, 9:00 a.m. to 1:00 p.m.
Suffolk University Law School, Boston, MA

Co-Sponsors: MA Chapter of AFCC & MA Assoc. of Guardians ad Litem

Analyzing cases that involve multiple disciplines and a GAL requires the ability to understand the perspectives of all of the professionals involved. What is important to each of the professionals? What is unique about each perspective?

To help you undertake this type of analysis in your cases, we will present two case studies that highlight some of these challenging issues. The program provides you with an in-depth discussion of the various legal and mental health issues raised in these two hypothetical cases from

the perspective of each of the disciplines involved: judge, counsel for each parent, GAL, social worker or other mental health professional and child's attorney.

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The Children's Behavioral Health Initiative (CBHI)



Ilene Mitchell
Case Manager, Admin. Off.
Probate & Family Court

In 2001, a class action suit was brought by the Center for Public Representation on behalf of children in the Commonwealth, challenging the State's failure to provide timely mental health diagnostic assessments and treatment as required by the federal Medicaid Act, and to enable children with psychiatric disabilities to receive appropriate home-based services so they can grow up in their own homes and attend local schools.

The case resulted in a settlement, finalized in July 2007, which mandates reform in the provision of mental health services to children. As part of the implementation of the settlement the state has created the Children's Behavioral Health Initiative. It is an interagency initiative of the Commonwealth's Executive Office of Health and Human Services whose mission is to strengthen, expand and integrate Massachusetts state services into a comprehensive, community-

based system of care, to ensure that families and their children with significant behavioral, emotional and mental health needs obtain the services necessary for success in home, school and community.

Some of the steps required by the settlement are:

- Notice and information to families, providers and the public about Medicaid members' rights to medically necessary services and *Rosie D.* reforms.

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World Congress on Family Law and Children's Rights

Hon. Linda Fidnick
Probate & Family Court,
Hampshire Division

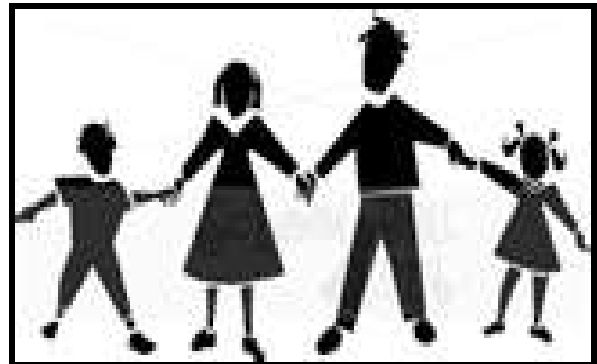
In August, 2009, the 5th World Congress on Family Law and Children's Rights was held in Halifax, Nova Scotia. Co-chaired by Australian Justices Rod Burr and Stuart Fowler, with programming organized by Diana Bryant, Chief Justice of the Family Court of Australia, this was an international gathering of several hundred judges, lawyers, doctors, mental health providers, court personnel, and mediators, most of whom were not American. The theme of this Congress was "Children Caught in Conflict". I was privileged to attend as a plenary speaker sponsored

by AFCC.

The international nature of this gathering mandated an expansion of the definition of "children caught in conflict" well beyond our concept of families in which parents dispute their custodial schedules. Speakers included a Portuguese man who has inaugurated a project to

rehabilitate teenagers who had been conscripted as child soldiers in the Sudan and an Australian doctor who works through Doctors Without Borders to stop female genital mutilation in Somalia. Some of the papers presented will be published in a special issue of the Family Court Review in July.

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Scholarship to AFCC Conference

Denver, June 2-5, 2010

A scholarship will be awarded by the Massachusetts Chapter and AFCC to cover registration fees for AFCC's 47th Annual Conference which will take place in Denver, Colorado June 2-5, 2010. Information about the conference is available at http://www.afccnet.org/conferences/afcc_conferences.asp.

Preference will be given to Massachusetts Chapter members who have never attended an international AFCC conference. Personal financial need of the applicant will be considered.

Applications are due on or before March 1, 2010. The scholarship recipient will be notified by April 1, 2010. In order to apply, please send an e-mail to Chapter Administrator, Karen Henell at khenell@verizon.net with the following information:

1. Name
2. Profession
3. Brief description of why you want to attend the conference
4. Information about chapter membership and whether you've attended an international AFCC conference
5. Brief description of financial need



Information about additional conference scholarships offered by AFCC is available at www.afccnet.org/about/resource_committee.asp.



Fall Symposium 2009



Henderson House, Weston, MA

The Massachusetts Chapter's first Fall Symposium took place on October 15, 2009 at the Henderson House in Weston. Dr. Marsha Kline Pruett presented a symposium on "How Father's Parent Differently Than Mothers and Why it Matters." Dr. Pruett emphasized the importance of fathers to child development, identified differences between how fathers and mothers parent and provided information about the myths of father involvement. She helped the audience understand the challenges men face in staying active in their

children's lives after separation and divorce. The symposium was interesting and interactive.

The symposium was followed by an opportunity for members to socialize and dinner. Former Board of Director's Member, Ruth Whitney, was recognized for her many years of service to the Chapter.



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the world. The Chapter recognizes that it is expensive to attend these conferences. For the first time, the Massachusetts Chapter and AFCC are co-sponsoring a special Massachusetts scholarship which will cover registration costs for this conference. (See scholarship article for information about applying.)

In 2010, Massachusetts will host the 9th Annual AFCC Symposium on Child Custody Evaluations in

Cambridge, October 30-31st. We have many talented professionals in Massachusetts who are at the forefront of this work. We hope you will submit a workshop proposal for this Symposium.

AFCC gives us an unparalleled opportunity to meet and learn from professionals around the world. The Massachusetts Chapter offers lawyers, judges, researchers, mediators and mental health professionals an

opportunity on the local level to learn from each other in order to improve the lives of children and families. I look forward to the New Year as we continue this important work. ▣

World Congress, continued from page 2

Many in the U.S. are not familiar with the work of the World Congress on Family Law and Children's Rights. The Convention on the Rights of the Child, a hallmark creation of the Congress, is the most widely ratified treaty in human history, although sadly, the United States has not been a signatory. Children's Rights International (CRI) is an initiative of the World Congress. It is an organization that brings together professionals from all over the world to promote and protect the interests of children everywhere through education, legal and media advocacy. To name just a few of its many programs, CRI is

working with Legal Aid Cambodia to advocate for funding and improvements to its fledgling juvenile justice system, and has provided media advocacy in Africa to support NGOs working with orphans and children with HIV/AIDS.

My role at the Congress was to participate in a panel discussion moderated by AFCC president Justice Emile Kruzick with four other judges from Israel, the United Kingdom, New Zealand and Australia. Our topic was "Children's Voices: a Judicial Perspective". My position, which I believe to be common to many American judges, is that the voice of child is heard directly by the judge on

only rare occasions, and is generally mediated by a Guardian *ad Litem* or attorney appointed to represent the child. I was distinctly in the minority. The Israeli judge, the Honorable Philip Marcus, indicated that he interviews children five to six times a week, and does not believe that the process is traumatizing the children, asserting that such concerns are paternalistic and do not give enough credit to children's intelligence and coping skills. Justice Peter Boshier of New Zealand, as he did at the New Orleans AFCC meeting in May of 2009, also strongly advocated for judicial interviews of children.

I stated in my presentation that extreme caution should be exercised by a judge in deciding whether to interview

a child. One of the other speakers at the Congress, a pediatrician, described the brains of children, right up through adolescence, as being "under construction." This was a shorthand way of saying that their prefrontal lobes are not mature, and as a result, key functions controlled by that part of the brain such as organization, planning, judgment, problem solving and impulse inhibition are not necessarily reliable. (This will come as no surprise to anyone who has lived with a teenager.) Combined with this biological reality is the psychological reality that a child whose parents are seeking for the child to be interviewed by a judge is likely a child who has

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Practice Issues for GALs, continued from page 1

Attend and Learn:

- How cultural awareness/cross-cultural sensitivity can assist you as a GAL
- What leads a judge to discount a GAL opinion or recommendation
- How to handle cases with special circumstances like mental health, physical/sexual/substance abuse
- What happens when a GAL report goes beyond the scope established by the judge
- What informs the perspectives of various professionals involved in a case
- How to handle issues of privilege and confidentiality
- How to conduct a GAL deposition
- What are areas for direct examination
- What are areas for cross-examination
- Use of collateral witnesses
- What you need to know about analyzing reports

Presenters:

- **Christine L. Butler, Esq., Co-Chair**
Suffolk Univ. Law School
- **Professor Ilene Seidman, Co-Chair**
Clinical Prof., Family Advocacy Clinic, Suffolk Univ. Law School
- **David Aptaker, Esq.**
Somerville, MA
- **Cheryl Azza, LICSW**
Social Worker Supervisor, Juvenile Justice Center, Suffolk U. Law Schl.
- **Andrew P. Cornell, Esq.**
Cambridge, MA
- **Honorable Linda S. Fidnick**
Probate & Family Court, Hampshire Division
- **William M. Levine, Esq.**
Lee & Levine, LLP, Boston
- **Paula F. Mangum, Esq.**
Mangum Law Office, Boston
- **David Medoff, Ph.D.**
Assoc. Prof, Suffolk U.; Private Practice, Wellesley Hills, MA
- **Honorable Maureen H. Monks**
Probate & Family Court, Middlesex Division

Date & Time:

Thursday, March 12, 2010
9:00 a.m. to 1:00 p.m.

Location:

Suffolk University Law School
120 Tremont Street, Boston

Tuition:

\$199.00; \$159.00 for Suffolk Alumni, attorneys admitted to the bar after 2007 and members of MAGAL and AFCC.

Scholarships:

Available to any attorney or professional employed in public service, or for whom attendance would otherwise present a financial hardship. For more information, call 617-573-8627.

Credit:

Approved for CLE Credit in RI, NH, VT & ME. GAL and Social Worker credits are pending.

Contact:

- Carole Wagan
Center for Advanced Legal Studies, Suffolk University Law School
120 Tremont Street, Suite 160,
Boston, MA 02108
Phone 617.573.8627; Fax 617.305.3099
- Or to register on-line visit www.law.suffolk.edu/als

Massachusetts AFCC

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already been damaged by the effects of parental conflict.

Another speaker at the Congress was an attorney from Canada who is part of a group that specializes in the representation of children. By their own internal guidelines, they will not take a position on behalf of a child without having *at least* three meetings with the child to determine if the views and stated preferences of that child are consistent and realistic.

Based on this, I raise the question, should judges be required to conduct more

than one interview with a child? If so, how many? When during the course of litigation should these interviews take place? The Canadian children's counsel explained that he and his colleagues were trained in child interview techniques. Shouldn't judges receive similar training before they begin interviewing children?

Due process considerations also arise. If the child is interviewed by the judge, the child is a witness in the case. Due process requires that the parents have access to the interview. How? To what extent should the child be

subjected to cross examination?

I raise these questions because unlike any other litigation, a child custody case is a fight between the two people who the child loves, trusts and depends upon for his very survival. Before we bring the child into the courthouse as a participant in that battle, we need to know what we, as members of the legal community, are doing to him, why we need to do it, and if we, who are charged with protecting the best interests of that child, are causing him significant harm by involving him so directly. ▣

Children's behavioral health initiative, continued from page 2

- Improved mental health screening procedures with primary care providers
- More standardized mental health assessments with specialized training
- Provision of medically necessary, intensive home-based behavioral health services.

In Spring 2009, the Massachusetts Behavioral Health Partnership (MBHP) in conjunction with the

MassHealth managed care entities, selected provider agencies to serve as Community Service Agencies (CSAs) providing Intensive Care Coordination (ICC) and Family Support, based on the wraparound model ordered in the case. These services began June 30, 2009.

There is a CSA for each of the 29 geographic areas of the Department of Children and Families (DCF) as well as three

CSAs, not limited to a single DCF area, that were chosen for their expertise in serving specific linguistic and cultural communities (African-American, Latino, Deaf and Hard of Hearing).

While the Court's order in the *Rosie D* case is limited to children enrolled in MassHealth (the Commonwealth's managed Medicaid Program), implementation of the remedy is viewed as the first phase of the broader

Children's Behavioral Health Initiative (CBHI).

Information that focuses on the new service system and ongoing implementation efforts is available at the website: www.RosieD.org and on the mass.gov (search for Children's Behavior Health Initiative) website. ▣

