

Minutes
Family Law Section Meeting
September 24, 2015
4:00 pm
Bayard, P.A.

Attendees:

In person: Patrick Boyer, Julie Yeager, Christine Demsey, Addie Asay, Kara Swasey, Leslie Spoltore, Kasey DeSantis, Kathy Laffey, and Curtis Bounds

By telephone: Ellie Torres, Rebecca Truphillis, Carl Heckert, Megan Walstrom, Shawn Dougherty, Steve Kleiner, Rob Kleiner, and George Tsakataras

- I. **Approval of the Minutes:** The minutes from the May 28, 2015 meeting were approved.
- II. **Good and Welfare:** It was Judge Chapman's last day on the bench today.
- III. **Liaison Issues:**
 - Family Court is no longer circulating the phone list for judicial staff to attorneys.
 - o Lucy Casper frequently circulated the phone list in the past. She was directed not to circulate the list this year but no one knows by whom or why.
 - o Section wants the entire phone list but as a secondary option would like the numbers for judges' chambers, commissioners' chambers, and mediators.
 - o Possible issue of access to justice - call center partially addresses this issue.
 - o Addie Asay will address this issue with Chief Judge Newell & provide section with a response.
 - Amendment to section 724 for child interview in PFA hearings.
 - o Statutorily only applies to custody proceedings at present.
 - o Question whether it would apply to allegations of abuse in PFA or just the custody/visitation portion if PFA granted.
 - o Would amending 724 tacitly approve use of PFAs to obtain a quick custody decision?
 - o Judge Buckworth issued a decision that says best interest factors do not need to be applied for custody portion of PFA decision. Child's wishes are not necessarily a factor for consideration.
 - o Child testimony currently required in PFAs, substantiations and criminal matters without party agreement.

- o Possible due process violation.
- o Concern that child could be coached by Petitioner because child will not have seen Respondent for 7-10 days if there is a Temporary Ex Parte Order in place.
- Motion for Contempt of a PFA Order
 - o Is it a motion or a petition?
 - o What is the response period? 10 days or 20 days?
 - o Secondary issue of whether the motion should be sent to party or prior attorney and whether the prior attorney therefore needs to request to withdraw at the end of the PFA.
 - o Should it be changed to a Petition?
- When there are service issues, the Family Court is incorrectly sending delinquency notices to the client instead of the attorney.
- Attorneys are receiving the Divorce Decrees about 10-30 days after the divorce is granted.
 - o Bulk mailing takes about 10 days.
 - o Question whether the Petitioner's 16(c) deadline should be extended to 45 to 60 days or the 16(c) deadlines should be issued by the judge in the scheduling letter. It would require a rule change.
 - o Addie Asay will continue to address this issue with the Divorce Unit. She welcomes specific examples from attorneys.

IV. Old Business:

- Need volunteer to write a scholarly article for the Delaware Law Journal.

V. New Business:

- 16(b)(3) Form for custody mediation
 - o Useful for mediators making a recommendation as to custody/visitation when no temporary or final agreement can be reached.
 - o Should be a sworn affidavit.
 - o Send comments to Shawn Dougherty.
 - o Finalized form to be sent to Addie Asay.
- New Supreme Court case, King v. Booker, finds it is abuse for a former paramour to forcibly enter the other's home and take her personal items, even if the victim is not present.

- Legislation Sub-Committee is recommended
 - o Possibly extend the definition of “marital property” for same-sex couples to address the issue where a couple has been in a committed relationship for years and is now getting a divorce only a year later.
 - o Shawn Dougherty, Kara Swasey, Leslie Spoltore, Chris Demsey, and Julie Yeager volunteered to form a committee.

Next Meeting: The next Section meeting will be held at 4 p.m. on Thursday, October 22, 2015 at Bayard.