**September 15, 2017 Minutes**

**CBA Family Law Section Executive Council Meeting**

**Wellshire Inn**

Present: Jennifer Feingold; Laura Ammarell; Robin Beattie; Jerremy Ramp; Brian Popp; Danae Woody; Joan McWilliams; Kevin Sidel; Anne Gill; Bill King; Bonnie Schriner; Amy Sreenan; Melissa Nicoletti; Michael DiManna; Richard Zuber; Ben King; John Haas; RoseAnne Landau; Halleh Omidi; Diana Powell; Trish Cooper; Steve Epstein.

On phone: Meredith Cord; Deb Anderson; Ann Gusthurst; Marie Moses; Beth Henson.

Excused: Terri Harrington; David Littman; Laura Page; Jamie Cage; Joe Pickard

Unexcused: Jennifer Rice; Catherine Puttman

1. Minutes of May 2017 Executive Council Meeting approved by all.
2. Officer’s **Reports:**

Chair (Jennifer Feingold):

1. Welcome to the new year on the EC! Introductions of new members.
2. Attended AFCC Conference in Boston. Last year there was a question if it was useful. Overall it was a good experience. Some information was indeed helpful and there were other members from the Section in attendance, and it was a great networking opportunity. Jennifer will disseminate the materials and thanks the EC for the opportunity.
3. CJI Dinner – October 18, 2017, Denver Marriott City Center, 6:00 p.m. We agreed to a FLS table of 10. If you haven’t been, you should go. Show of hands of all people who want to go. Please put it in your calendar and connect with Melissa on your RSVP.
4. Legal Night Assistance Needed. A flyer for this is attached to the Agenda materials. It is the 1st and 3rd Monday of every month. There are the fewest volunteers in family law! We can promote the Section and get in some *pro bono* hours – just go to the link in the flyer to get started and sign up. Once you sign up, you are in their system and they will be in touch. These programs are so important and we as leaders of our community need to participate to show others involvement is important!
5. FLI 2017 Wrap-up. Overall, great feedback from participants and it was a big success thanks to Jerremy and others who worked so hard. Now I’m passing the baton to Robin!
6. Arapahoe County/Douglas County/CCSD CLE – November 17th from 1:00 p.m. to 4:00 p.m. at Arapahoe County District Court - "Parents, Divorce, Decision-Making and Special Education: (Understanding, Navigating and Integrating Parental Decision-Making Authority Under Colorado Law and the IDEA)". Put this on your calendars to attend! We will have our regular counsel meeting and then everyone can leave to attend the CLE- lunch on your own! There will be some education on special needs and will promise to be a nice interdisciplinary discussion. Bonnie brought up advertising to other sections, Family Law List Serve. Great idea!
7. Thank you to Bonnie for the FLLS! Good conversations.
8. Summit meeting; 9/28/17.
9. Danea Woody is chairing the new membership committee. Red stars on nametags. If you see someone sitting alone with a red start on their nametag, please introduce yourself. They are people who are brand new here. We are going to do that starting with today’s luncheon.
10. Discussion of Committee Assignments and protocol for future meetings – if you have a committee report, please email the request to be placed on the agenda at least one week in advance of the Executive Council Meeting. **Not all** committees will be placed on every agenda. About 10 days in advance if the EC meetings, Jennifer F. will be working on the Agenda so be sure to get her the info for the Agenda. That way, if you cannot be at the meeting then at least we can talk about the agenda item.
11. For the official record, Jennifer Feingold, our new Chair of the Section, brought us bagels for the meeting!

Chair Elect (Robin Beattie):

1. Family Law Institute 2018: We are going to do the Trial Practicum the night before. We have met and trying to get some ideas. It will be in Vail. Rebecca Alexander is my co-chair.
2. Expert Directory. Please email me a couple of names of experts you really like. We will do the usual mass email to the section. People don’t really know it exists - maybe announce it at luncheon. Generate more names. Use the list serve per Bonnie. Meredith: don’t know if judges have copies of that. We have a resource list that all judicial officers have a copy of, then if issues come up while on the bench they can refer to it. Melissa: its on the website. JF: If it is accessible, email to SCAO letting them know about the resource list, luncheons, etc. from the section? Meredith: hard copy is better than a link to a website. i.e. really short on good PREs.

Secretary (Laura Ammarell):

1. No report.

Treasurer (Jerremy Ramp):

1. Jerremy punted to Kevin Sidel for the budget report. Moving parts: the Bench Book will have more income, and the costs will likely be less. The projected ending balance will in all likelihood be higher and next month will have a better sense of how that will change. Project what we think we want at the end and then be able to figure out the discretionary amounts for things. Melissa: for new people, if you have a suggestion for money requests, send the request to Jennifer a couple of weeks before the meeting to make sure it can get to the budget committee beforehand.

Table approval until the Budget is revised.

The brochures from last year, they were printed and disseminated. They are a big hit and they are all gone. 10,000! Adriene at CLE is going to translate to Spanish; 5K and 5K in English and Spanish; It’s getting out! Thank you Joanie!!!

Immediate Past Chair (Laura Page):

1. No report.
2. Simplified Family Court Committee: No report/Helen Shreves not here to repor
3. **CBA Family Law Section Committee and Liaison Assignments (Chair to Report)**:
4. Amicus: No report.
5. Book Sales/Bench Book: Stay tuned to participate in the update.
6. Budget: See notes above.
7. By-Laws: Bonnie Schriner and Rossane Landeau will look at the By-Laws and report back at the next meeting.
8. Education:

Young Lawyers: Twice-yearly event on 10/18; and Trish Cooper reports on Periodic Brown Bag CLEs and that there will be another coming in November, the third in the series. We will make an announcement about it in the next 2 weeks.

Mentoring: Diana Powell reports 11 mentees and 7 mentors. We always need more mentors.

1. Expert Directory: See above.
2. FLI 2017: See above.
3. Grants: No report.
4. Judicial Liaison: Brian Popp reports: Archuletta Courthouse was closed due to health issues in the buildings. Those cases being handled in La Plata. If in 6th Judicial District, there is a notice/order that talks about what is going on. They will delegate/assign members to judicial districts. Additional information on website.
5. Legislative: Marie Moses and Jerremy Ramp give report. Uniform Law Division considering a new version of the Parentage Act. Marie: Our committee is oversubscribed and more members than allowed by By-Laws. Right now in uniform law season; finding out which ones Colorado wants to consider. First meeting on 9/22; Uniform Parentage Act is first on the agenda. 2002 (11 states, not Colorado); 2012; been revised to deal with surrogacy issues, same sex couples; our committee is just now starting to look at it. In 2002 a similar law was promulgated, it is substantially different than our 19-4; there is a lot of stuff in here we would really wrestle with; i.e. our current Title 19 if you hold child out as your own it can create a presumption of parentage; this says if you live in same house for first 2 years with the child and hold them out as your own child. It’s long. 67 pages. Start talking to the uniform commission.
6. Membership/Family Law Section Listserve: See red star comments above. Otherwise, no report.
7. Newsletter and Website: Report: Jennifer Rice is going to head up the website piece. Ann Gusthurst: we will come up with a deadline; reach out to experts to write one article per newsletter; maybe a “view from the bench”; excited to have help this year!
8. Nominating: No report.
9. Scholarships: No report.
10. Judicial Nomination Committee: Helen Shreves (chair), Deb Anderson, Laura Ammarell None.
11. Board of Governors Liaison: Bonnie Schriner reports. Changing voting structure to just the EC of the Board of Governors; inclusivity and diversity; ambassador out to their members; Bonnie is serving on the BOG/EC for the next two years so we have an inner ear that we will find useful.
12. Colorado Lawyer Liaison: Trish Cooper reports: We have a promising article. In discussions with two people that want to write the same article. Need some hot topics! Running low on people and ideas.
13. AAML Liaison: No report.
14. ICON Award: Michael DiManna reports. This is an Icon year, so we’ve got to get the criterion out. Once nominations submitted, we are going to make our recommendation as a committee; and then vote on those applicants as a Section. Presented at FLI 2018. Don’t know that it is too soon to put it out there. Michael DiManna to send Amy the new criteria; include prior recipients in that notice.
15. Diversity Committee: TBD; going to have one after working more with Bonnie and CBA. Coming Soon!
16. Due Process Committee: Ann Gushurst reports. We have not met, but need to. Would like to put it out on the listserve and see what people are seeing out there.
17. Sorenson Study Committee: Jerremy Ramp reports. David Littman in an emergency as well; expect a rule change?
18. Alternative Solutions:
    1. PALS (Provider of Alternative Legal Services): No report.
    2. CJD Mediator Standards Committee: Bill King reports. BenchBar book on mediation; the draft is now 85 pages long; has lots of things in it. This got going right after Justice Rice said no to rostering and credentialing mediators; two objections primarily from us; gives false confidence to mediators; folks put on list and then it is attached to every CMO that goes out. Free advertising. The real dynamic has been going on: unauthorized practice of law by non-lawyer mediators taking biz from us; word out there is that lawyers don’t help resolve cases, increase litigation, etc. First draft of mediation best practices that is going out. Right now the folks that want to expand this are all in. Members of this committee told us to look at various models across the country. Michigan model. In the materials I sent out: Evaluative Mediation, a phrase. This is a common term we’ve all heard about and all used. Diana: we have a disagreement that we need to describe something to judges that they already know. Mediation is something that if you choose a judge or experienced lawyer, you will hear information about the merits of your case. As a laywer I value that. But you don’t think people should do that. Bill: We hire as a settlement negotiator – the statue says as a legal professional you can look at the facts and suggest solutions, but it does not say that about a mediator. He reads two paragraphs from his materials.

“Evaluative Mediation . . . . .apply the law.” I think that is the unauthorized practice of law.

JF: What are you asking for from us?

Diana: this is a very preliminary draft. CJI is trying to respond to the bench about having more information about mediation.

Bill: an artificial deadline the first week of November to give a draft to the committee;

JF: Everyone needs time to review the draft from Bill; then section can take a position.

Diana: what we need to be doing is editing. We shouldn’t be saying that we shouldn’t give the judges something they asked to be produced. This is a request from the bench

If November 1st is not useful, too soon, we can put it off.

Bill: this kind of thing won’t be resolved until we have specific comments from The Supreme Court about what exactly is the unauthorized practice of law. This group should suggest that there be a committee to clear up these issues. What can you do and what can’t you do as a mediator and what exactly is the unauthorized practice of law.

1. Gushurst: your concerns about Evaluative Mediation, would you have lesser objection if it were limited to lawyer mediators?

Bill: A lot of us go to mediation because we want someone to tell us about our case. But to do that, there is a specific qualification in the statute that says that the person needs to be a lawyer. What can you draft, what can you not? What can you tell people? Can you forecast what happens at trial?

We need to get some boundaries here.

Justice Gabriel: lets do it fairly and have a state-wide list.

JF: how different than the expert directory? Bill: not sure its much different. We are the ones that pick the experts, not the judge. We are the ones that pick the mediators, not the judge. AG: sometimes judges do pick the expert.

M. DiManna: Bill’s issue is resolveable by making that distinction. If one were to say, look, we are doing EM and you have a law degree, not a problem; Bonnie: If the Evaluation is what is happening at trial, yah, if it is your parenting skills suck you don’t have to be a lawyer to tell them that.

If lawyers screw up a mediation, we are accountable. Greived. Sued. Maintain malpractice insurance, etc.

M. DiManna: to me it’s a definitional issue.

Bill: lawyers should do the EM; on the record, we are agreeing.

R. Zuber: If I have a case with a complex maintenance issue, need a security instrument to collaterize those obligations. Mortgage document vs. a deed a trust; I would use a lawyer mediator because of the complexity. On the other hand, we know that there are mediation classes taught through CBA (Judy Dixon). They don’t give instruction on EM.

Bill: Most ODR will nudge but not go over the line. Last year, I asked members of this committee to send me anecdotes about bad mediation experience and I got a lot.

Is Joan’s the same as Dick Rotole? No. But they both have the skill sets and substantive knowledge. The only difference is style.

Bill sent out draft. Please look at it and get comments to Bill, Helen and Diana.

Fist bump with Bill and Diana concludes the discussion.

If a non-lawyer screws up, no accountability.

Bill wants a book to go out to the judges with definitions; Diana does not.

Back to Bill: J. Haas asked about the LLLT status. Bills says they just died away. Probably couldn’t get insured. 6 or 7 in the state of Washington then went away. Then a similar creature out of New York. Jerremy, not died out just significantly lost steam.

* 1. Simplified Family Court (Navigator/Pilot projects, etc.); No report.
  2. Unbundled Services/Modest Means: No report.

1. **Old Business**:
   1. Child Support formula update? Kevin Sidel reports. Nothing new, but we are headed to identify what needs to be changed and then start work with legislative committee.
2. **New Business/General Announcements/Discussion**: None.
3. **Adjourn**

Robin Beattie moves to adjourn. Brian Popp seconded. Meeting adjourned by JF.

**NEXT MEETING – October 20, 2017**

*Minutes by L. Ammarell*