



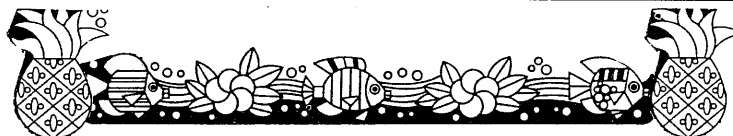
# NEWSLETTER

## Association of Family and Conciliation Courts

An international association of judges, counselors, court evaluators, mediators, and lawyers

Volume 13, Number 1  
Winter 1994

Editor: Peter Salem



## E HO `OPONOPONO I KA `EHA

**A**FCC's 1994 Annual Conference in Maui, Hawaii, will offer an exciting blend of programs, presenters and activities in a setting that can only be described as paradise. Conference coordinator Hon. Doug McNish and his staff have been working throughout the past year to make this conference a special one. The conference takes place from May 11-14, 1994 at Maui's InterContinental Resort. The conference theme is E HO `OPONOPONO I KA `EHA, (Let's Make Right the Pain). People and programs who have made a difference will be featured, including Colorado Congresswoman Patricia Schroeder, Past Chair of the House Select Committee on Children, Youth and Families.

Pre-conference Institutes on Wednesday, May 11 will include sessions on interviewing children, post-divorce parenting models for the 21st century and advanced mediation issues. Among the distinguished group of trainers are Beverly James, author of *Treating Traumatized Children*, Constance Ahrons, Ph.D., author of *The Good Divorce*, and Isolina Ricci, author of *Mom's House, Dad's House*.

This year's Annual Conference will have a distinctly multi-cultural and international flavor. It will offer the opportunity to share in the unique culture of Hawaiian dispute resolution and family services. The Queen Liliuokalani Children's Center will co-sponsor a workshop entitled *Ho oponopono: Using Traditional Hawaiian Methods to Resolve Family Disputes*. An off-site workshop, *Marrying Private Funding, Advocacy and Service to a Public Program*, will offer participants the opportunity to view one of Hawaii's state-of-the-art centers for interviewing children of alleged sexual abuse. A visit to the Maui Farm, a series of children's group homes, will also be available.

Workshops, including *Culture and Ethnicity in Family Dispute Resolution*, *Learning from Non-Western Cultures* and *Multi-Cultural Issues in Mediation*, will provide departures from "traditional" practice.

To unwind from the cerebral activities of the day, the beautiful Maui beach will be at your doorstep. Thursday night features an optional dinner cruise from the Lahaina Harbor. Friday night's AFCC Banquet will take place at the Maui Tropical Plantation.

Judge McNish has arranged for an activities agent to assist those who wish to make plans for tours and other attractions.

The Maui InterContinental Resort is located on 22 acres of beach front property in Wailea, Maui's top spot. The conference room rate is \$119 single or double for reservations made by April 12, 1994. Oceanview and oceanfront are available for \$126 and \$134. The conference rate is available from May 6-17 for those wishing to come early or stay after the conference has ended.

For additional information contact:

Hon. Doug McNish  
2145 Main St.  
Wailuku, HI 96793  
(808) 244-2708  
FAX (808)244-2777

AFCC  
329 W. Wilson Street  
Madison, WI 53703  
(608) 251-4001  
FAX (608) 251-2231

## Post-conference Trip Goes to Australia and New Zealand

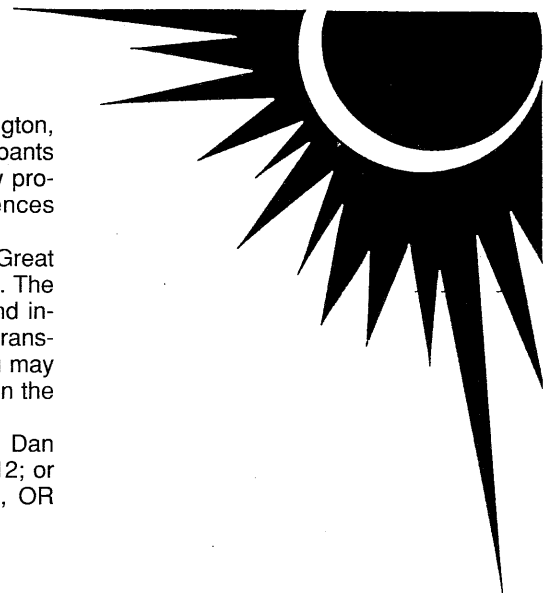
**T**his year's post-conference trip will pick up where AFCC's Annual Conference leaves off: offering further exploration of courts and family court programs in two exciting and beautiful countries. In addition to professional meetings and informal networking with professionals from other countries, tour leader Pat Dixon promises plenty of time for exploration and tourism.

AFCC Vice-President Hon. Alastair Nicholson, of Melbourne, has arranged for participants to attend the Australian Association of Family Law Courts meeting in Cairns and the Family Court of Australia National Family Court Seminar, in Sidney. New Zealand destinations include Auckland, Rotorua, Christchurch and Queens-

town. Hon. Patrick Mahony, of Wellington, has arranged opportunities for participants to meet with New Zealand family law professionals and explore the differences between the systems.

Also available will be trips to the Great Barrier Reef and a tropical rain forest. The 14-day tour will depart from Maui, and includes all air, hotel, some meals and transportation costs for under \$3,000. You may arrange for an increase or decrease in the length of your stay.

For additional information contact Dan Peach at Anza Travel, (800) 668-6612; or Pat Dixon, 358 19th St. NE, Salem, OR 97301, (503) 363-8075.





## President's Message

by Robert Tompkins  
Hartford, Connecticut

On behalf of the Board of Directors of the Association of Family and Conciliation Courts I would like to wish all of our members a happy and healthy new year. And to those who, like myself, may need a little incentive to survive the cold winter months, I would like to suggest directing your thoughts to Maui in May where we will be holding our 31st annual conference. Our host and President-Elect, Hon. Doug McNish, has assembled a collection of impressive presenters and stimulating topics which, combined with the tropical beauty of his home island, make this conference something to really look forward to.

1994 is already shaping up as a landmark year for AFCC. With grant funds provided to us through the generosity of the Hewlett Foundation, we are now in a position to provide the administrative and fiscal support to match the spirit of dedicated volunteerism

that has been the backbone of our organization. Our dreams of being able to produce more products and educational opportunities is finally becoming a reality.

In this regard, I have appointed a Task Force to develop a strategic plan for our future educational and training activities. Headed by Tim Salius, Chairperson of the Professional Development and Technical Assistance Committee, the Task Force will meet in March with the task of developing a game plan for a major new step for our organization. The need has always existed. Now we have the resources to make available more quality products and professional development opportunities to our members and beyond. The Task Force will present its strategic plan to the Board of Directors and membership in Maui.

In the meantime we have already begun to take significant steps in this direction. Previous newsletters have announced the First International Symposium on Child Custody Evaluations November 5-7, 1994 in Tucson. This will be the first interdisciplinary and international conference to focus solely on child custody evaluation. This event, which has already generated considerable widespread interest, will debut our newest publication, "Manual for Child Custody Evaluations." A joint effort of our

Custody Evaluation and Publications Committees, the Manual will be a valuable addition to AFCC's products as well as to the field of professional literature regarding custody evaluations. Project coordinators Dorothy Howard, DSW, and Phil Bushard, Ph.D., have developed a comprehensive table of contents and enlisted many of the leaders in this field to author various chapters. We look forward to its debut in Tucson.

Another major step will occur in September in Chicago when AFCC sponsors the First International Congress on Parent Education Programs. An increasing number of jurisdictions are mandating these programs either legislatively or through judicial decree. This will be the first organized forum for people who either present these programs or who are thinking of implementing such programs to learn from each other, to share curriculum, to enhance their skills and to explore program evaluation and research issues.

As you can see, not only will 1994 be a landmark year for our organization, it will also be an active year. I am excited about these new opportunities to enhance the services we provide to our clients and the skills we bring to those services. I hope that you can experience this excitement by participating in one or more of these activities.

## AFCC Is Arizona Bound for Conference and Custody Evaluation Symposium

### Regional Conference Planned for Tucson

AFCC's 1994 Southwest Regional Conference will take place in Tucson, AZ, November 3-5 1994. The theme of the conference is **The Collision of the Best Interests of Children with the Rights of Third Parties: an Interdisciplinary Debate.**

Featured presenters include attorneys George Russ and Richard Victor. Mr. Russ was the attorney for Gregory B, the child who sought to divorce his parents. Mr. Victor was the attorney for the child in the Baby Jessica (DeBoer) case. Both have written and lectured extensively about children in court cases.

The conference will feature a variety of workshops on topics including blended family issues, parental abduction, and parental alienation. Dr. Janet Johnson, Director of Research at California's Center for the

Family in Transition will discuss the impact of divorce and related turmoil on children.

The conference will take place at the Westward Look Resort. Tennis, golf, nature trails and a sports park are among the available facilities. In addition, the Tucson area offers many wonderful attractions. Conference room rates are \$85.00 for single or double rooms.

For additional information contact Kathleen McCarthy, Conference Coordinator, 130 W. Cushing Street, Tucson, AZ, (602) 623-0341, FAX (602) 628-9495.

### First International Symposium on Child Custody Evaluations

AFCC will make history in Tucson, November 5-7, 1994 with the **First International Symposium on Child Custody Evaluations.** The Symposium, presented by AFCC and the Family Law Section of the American Bar Association, will focus on

both skill enhancement and professional issues for custody evaluators.

Preliminary topics include:

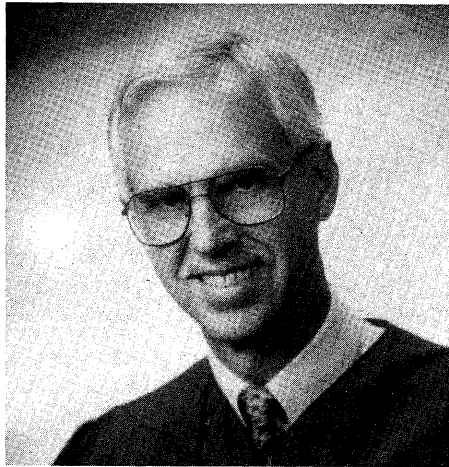
- Assessment of parenting capacity and parent-child bonding
- Mini-evaluations
- Interviewing children
- Qualifications and standards for evaluators
- Family violence
- The lawyer-evaluator relationship

If you are interested in presenting at the Symposium, please send a one page description/outline of your proposed presentation and resume. Send to:

Tim Salius  
Family Division Administration  
225 Spring St.  
Wethersfield, CT 06109  
(203) 529-9655  
FAX (203) 529-9828

# Conversation Corner:

Hawaii Judge Douglas McNish



**H**on. Douglas McNish is beginning his tenth year as Family Court Judge in Maui, Hawaii. Originally from Portland, Oregon, Judge McNish received his B.A. and J.D. from Willamette University. Following two years of Peace Corps service in Peru, Judge McNish moved to Hawaii, passed the bar exam and has remained there ever since. Judge McNish was the co-founder of Hawaii's first mandatory parent-child divorce education program, co-chaired AFCC's Domestic Abuse Committee and is President-Elect of AFCC. Judge McNish is also spearheading AFCC's 1994 Annual Conference in Maui, May 11-14.

## **AFCC: How has being a family court judge changed over the last 10 years?**

**Doug McNish:** The volume of cases has increased dramatically. We used to do all the family court cases in three days of calendar time. Now we have two judges working five days a week. Hawaii has a unified family court—juvenile and family are together. Over the years, the legislature has

been quite attentive to the needs of families. As the legislature addresses new issues and creates new programs, family court picks up the work. The legislature has pushed the system to be more responsive. As a result, we get more business. By increasing staff we have been able to keep up with the increased demand for services. Staff has probably tripled over the last decade. As we provide services, people take advantage of them. Now it's getting tight and we are starting to feel the crunch. The problem is where do you cut?

**AFCC:** What are the trends—both positive and negative—you have seen?

**DM:** On the positive side, there seems to be a greater awareness in the community and society in general of the impact of divorce, violence and conflict on children and families. People have started to make more demands for corrective action by the system. The down side is that while the need for services seems to be constantly growing, the money seems to be less available.

**AFCC:** What is the most frustrating part of your job?

**DM:** I don't know. Maybe knowing that we are not always addressing people's needs. They come to the courthouse hoping to find a solution and we sometimes send them away in worse shape than when they came.

**AFCC:** You must have made a lot of difficult decisions. Is there one which really sticks with you?

**DM:** One of the hardest things I did was the first time I sent a girl to the detention center; this was way back in the beginning. She was about 16 years old. Her father had taken a golf club and beaten her until the shaft broke, then picked up a fishing spear and hit her with that. She ran away and went on a major crime spree—a number of bur-

glaries. Her mother said she had been beaten too—there were really no other options. It was really the safest environment, and she had done so much that there was really no choice. That was a difficult realization for me. It was hard coming to the recognition that we expect a lot and don't offer kids much. I still have problems with juvenile cases.

**AFCC:** What do you like most about being a family court judge?

**DM:** I think it's that I get to work with people who are struggling to make things better. The commitment on the part of the family court staff, the director, probation officers, adult services workers, mediators, custody evaluators, people who help out with restraining orders, is tremendous. The whole crew has a level of commitment that is heartening.

**AFCC:** You have been putting a lot of work into AFCC's 1994 Annual Conference in Maui, May 11-14. What do you have planned?

**DM:** It's going to be a terrific and varied conference, including programs on divorce education, guardian ad litems, visitation enforcement, therapeutic interventions and comprehensive dispute resolution models. There will be a real international and multicultural flavor to the program. The presenters will include some of the top names in the field from the U.S., England, New Zealand, Canada, and Australia. Congresswoman Patricia Schroeder from Colorado will be there as will Constance Ahrons, Hon. Leonard Edwards, Isolina Ricci, Joan Kelly, Janet Walker, Hon. Peter Boshier and Janet Johnston. The setting is wonderful, of course. There are all kinds of ocean activities. The hotel is right on the beach and the island is beautiful. We're inviting people to come out early or stay after the conference. It's going to be great!

## Parent Education Congress Planned for September

**I**n response to the rapid growth in parent and divorce education programs, AFCC's Professional Development and Technical Assistance Division will convene the first International Congress on Parent Education Programs. The Congress will take place in Chicago in September of this year and AFCC invites all those interested in parent education programs to attend.

According to Tim Salius, Chair of AFCC's Professional Development and Technical Assistance Committee, the Parent Education Congress will bring together professionals in the field to begin thinking about the many issues involved in this emerging

area of practice. "These programs are being initiated all over the world. AFCC wants to offer those involved an opportunity to meet with one another to share information, address concerns, and discuss the many practical and ethical issues involved," Mr. Salius said.

As Director of the Family Division of Connecticut's Superior Court, Mr. Salius was active in leading Connecticut to what is believed to be the first statewide parent education program, mandated by statute. The statute went into effect on the first of the year. Among the many issues to be addressed, Mr. Salius cited quality assur-

ance, program curriculum, selection of service providers, cultural sensitivity, program evaluation and the need for professional guidelines.

AFCC continues to build a database of programs offering parent education. If you offer such a program, or if you are interested in presenting at the Congress, please contact:

**AFCC**  
329 W. Wilson St.  
Madison, WI 53703  
Tel: (608) 251-4001  
FAX (608) 251-2231

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## Member News

**Michael J. Albano** of Independence, MO, has been elected president of the American Academy of Matrimonial Lawyers. Mr. Albano was named one of the "Top 43 Divorce Lawyers in America" by the *National Law Journal* and one of the best divorce lawyers in the United States by *Town and Country Magazine*. He has written numerous articles on the subject of family law and has spoken at many family law conventions.

**Christie Coates**, AFCC Board Member from Boulder, CO, has joined with attorney Steven Mains to form Cadence Group, an association of dispute resolution professionals offering mediation, arbitration and a full range of dispute resolution services. Cadence Group's offices are at 900 28th Street, Suite 202, Boulder, CO 80303.

**Hon. Betty Barteau**, Past President of AFCC from Indianapolis, IN, has created an innovative new Adopt-A-Judge program. Marion County judges lend their assistance to schools throughout the Indianapolis area to create a person-to-person opportunity to educate young people about the judicial system. Judge Barteau is on the Court of Appeals of Indiana.

**Pat Dixon**, AFCC member from Salem, OR, and **Hugh McIsaac**, AFCC Past President of Portland, OR, have been appointed by Oregon Governor Barbara Roberts to the Oregon Task Force on Family Law. The Task Force's mission is to make divorce less adversarial and more constructive. Ms. Dixon was appointed Vice-chair, of the Task Force and Mr. McIsaac was appointed Secretary.

**Hon. Kenneth A. Rohrs**, AFCC Board Member of Napoleon, OH, has been appointed by the Ohio State Bar Association to the Board of Governors of the newly formed OSBA Section on Women In the Profession. The section was created to address the special concerns and interest of the Association's 300 female members and to deal with gender-related issues in the civil and criminal justice systems.



## AFCC Welcomes New Staff...



AFCC is pleased to welcome two new staff members, Peter Salem and P.J. White, to the Executive Director's office in Madison, WI. Peter joins AFCC as full time Associate Director after nearly five years of service as Director and mediator at Rock County Mediation and Family Court Services in Janesville, WI. Peter formerly served as AFCC's Project Director for the research project, "The Effective Resolution of Custody and Visitation Disputes Involving Domestic Violence", and as Co-Editor of the AFCC Newsletter.

P.J. joins AFCC as an Administrative Assistant. For the last six years P.J. worked as Executive Administrative Assistant at the



Wisconsin Association of Life Underwriters. Previously, P.J. managed a retail clothing store in Elk City, Oklahoma.

## ... and Bids Adieu

Shani Handel left AFCC in December to pursue travel and other interests. Shani has been filling pamphlet and video orders, staffing the phones and helping out wherever she has been needed for the last year. When last heard from, Shani had travelled to Cuba and was on her way to Mexico. AFCC wishes Shani all the best in her travels.



## AFCC Committee News

Submitted by Phil Bushard, AFCC Committee Coordinator

Committee work is an opportunity for members to become involved in AFCC. There is a wide range of committees which attend to the Association's needs — as well as providing professional growth and networking opportunities for members. AFCC committees attend to administration and membership issues, products and services, and professional issues and practice. This Committee News column focuses on two of AFCC's professional practice committees: please consider **your** place among them.

The **Custody Evaluation Committee** is chaired by Dorothy Howard. The committee is engaged in two major projects; *Standards for Custody Evaluations* has been presented to the AFCC Board of Directors for action and a revision of the *Manual for Court Connected Custody Evaluations* is underway. Dorothy Howard encourages all custody evaluators to attend the **First International Symposium on Child Custody Evaluations** November 5-7, 1994 in Tucson.

The **Private Practice Committee** is international in nature; co-chaired by Californians Phil Stahl and Jeanne Ames and Canadians Gerry McNeilly and Bob McWhinney. The committee is for all professions—lawyers, mediators, and mental health practitioners. The objective of the

committee is to promote ethical work in all areas of private practice. Interested AFCC members can contact any of the chairs to discuss becoming involved in committee activities. The most immediate project is an institute at the Annual Conference in Maui entitled *Ethical Issues: Private Practice and the Courts*. This will be an open forum to consider ethical issues which arise in all professional disciplines within the Courts.

Committee News will continue to look at activities and functions of some of the many other AFCC committees in future issues of the Newsletter.

### AFCC Newsletter Advertising Rates

Advertising copy must be received by the 15th of the month preceding publication. Send your camera-ready advertising copy and payment in US funds to:

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## Commentary

# To Promote the Best Interest of the Child—For Goodness' Sake

Submitted by Professor Marvin W. Berkowitz, Marquette University, Milwaukee, Wisconsin.

*This is the third in a series of articles submitted by members of the ABA Family Law Section Interdisciplinary Project to Promote the Best Interest of the Child. This commentary provides some prescriptive measures for raising good children.*

"... a child is the only known substance from which a responsible adult can be made."

—Tom Lickona, *Raising Good Children*, 1983

Lickona offers the above statement to help parents focus on children's moral development. It is important to note the significance of adult morality in two ways. First, responsible adulthood is the overt goal of the formation of children; that is, Lickona argues that "raising good children" should be done so as to eventually produce "responsible adults." While not stated directly, it may be inferred that the justification for desiring responsible adults as the long term outcome of optimal parenting is to produce a more just world. Thus, we may add a corollary to Lickona's thesis: "responsible adults are the only known substance from which a just world can be made."

The second point concerning responsible adults is that they are also the "raisers" of these "good children." In other words, the undefined producers of these good children must be good adults. Our second corollary then is that "the only known agents who can make responsible adults from children are themselves responsible adults."

If, indeed, a just world requires that children be raised to become responsible adults, and that only responsible adults are likely to succeed in raising good children, we have a strong argument for structuring our society so that this process is maximized. In doing so, we need to rely heavily on developmental psychology and its knowledge concerning the moral development of children.

Developmental science reminds us that something is vulnerable when it is forming. Furthermore, the earlier one is in the human life cycle, the more formative development is likely to be. So we must be careful in how we raise children (although we clearly have

other justifications for nurturing people throughout their lives). We can bolster this argument with two further points. First, self-sufficiency tends to decrease and dependency increase as age decreases. Second, how one raises a child, to a large degree, produces the legacy for that child's entire life-span.

Is there a recipe for making a moral child? With the significant caveats that no recipe is foolproof and that people and families vary immensely, we can nonetheless present some useful guidelines.

- 1) Parents need to care and want the best for their children. They must love them and love parenting them. This needs to be a priority.
- 2) Parents need to respect their children as human beings with their own intrinsic rights. Respect must be a two-way street. All too often we demand respect and offer none in return.
- 3) Parents need to be good people before they can be good parents. Our professional morality cannot be completely separated from our personal morality. We are who we are. And the kind of model we set for our children is a critical ingredient in what kind of people they become.
- 4) We must work at raising good children. We need to think about how we treat our children and why. We must devise creative strategies to manage our children and to help them grow and understand. We must set standards for ourselves and our children; and we must help them and ourselves meet these standards.

- 5) We must welcome our children into family life, family discussion and family decision-making. They must feel that they are welcome participants in the life of the family in both celebrations and struggles. They must feel that their voices are welcome and powerful; that they could and should be participants in the workings of the family.
- 6) We must teach our children what is good and what is bad. We must nurture good habits in even very young children. And we must tell them. And in telling we must explain. We cannot just say "no". We must explain why not.
- 7) We must always remember that they are children. We must understand the stages that children develop through and the limits and opportunities unique to each stage in the life-span.
- 8) We must have a sense of ingredients that constitute a moral child. We must nurture rationality, for morality is rational. We must nurture habit, for our acts are both the measure and origin of our morality. We must nurture values, for our morality is indexed and guided by what we hold dear.
- 9) Doing what comes naturally is not enough. There is an art and a science to parenting, and both can be acquired. Parent training should be a national priority, perhaps even a legal requirement for having the awesome privilege of shaping a child's and a society's future.

When the ABA Interdisciplinary Project to Promote the Best Interest of the Child considers the best interest of the child, it is ultimately considering the best interest of society. We can have no justice without moral agents. And we can have no moral agents without raising good children. It is clear enough what raising bad children can produce, as chronicled daily in our newspapers, courts and streets. It should be equally clear what we shall harvest if we raise good children. But to do so requires a national prioritization of the best interest of the child, including advocating, legislating and budgeting for children.

*Research Update:*

## AFCC Study Finds a Majority of Family Court Clients Claim Abuse

**E**ighty percent of mothers and 72 percent of fathers participating in an AFCC study reported having been abused by their partner through intimidation, physical abuse, severe physical abuse, or threats or injury with a weapon during the course of the relationship. The study was conducted in family court services programs in Portland, OR and Minneapolis, MN as a part of the State Justice Institute funded research project, *The Effective Resolution of Custody and Visitation Disputes Involving Domestic Violence*. Project staff included Lisa Newmark and Adele Harrell of The Urban Institute and Peter Salem of AFCC.

Parents entering family court services were asked about history of abuse, perceptions of empowerment in working with the other parent and with the court system, past patterns of decision-making and power, and perceived likelihood of future harm. Among the study's findings:

- Women reported higher levels of abuse than men;
- Men reported higher levels of perceived empowerment when working with the other parent to resolve their disputes than they anticipated having going through the courts;
- Women anticipated they would have higher levels of empowerment by going through the court system to resolve their disputes than when dealing with the other parent;
- Relatively few respondents of either gender reported high levels of fear or anticipated harm from their partners, although more women had safety concerns than men.

"The study points to the enormous amount of abuse going on," said Dr. Newmark. "It confirms the need for courts and court-connected services to devote attention toward domestic abuse training and education for those working with parents in custody or visitation disputes."

Among the study's recommendations are training for court personnel and the implementation of effective screening protocols for court-connected mediation and custody evaluation programs. AFCC recently surveyed 250 such programs about existing screening policies and procedures. Results from this study will be available this spring through AFCC.

Copies of *Domestic Violence and Empowerment in Custody and Visitation Cases*, are available from AFCC, 329 W. Wilson Street, Madison, WI 53703. (608) 251-4001, FAX (608) 251-2231. Please enclose \$12.50 for copying costs, plus \$2 shipping and handling.



## ADVANCE NOTICE

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JAY FOLBERG

Dean of Law

University of San Francisco, School of Law

MALCOLM WEST, PH.D.

Associate Professor of Psychiatry

### JOINT CUSTODY HOW DO WE KNOW IT WILL WORK?

March 4, 1994

Calgary, AB

Delta Bow Valley Hotel

Have joint custody decisions become too much of a bandwagon? A "popular" compromise deal in parents' interests, but not in the child's? How does joint custody work if a child feels little security or comfort from a parent? What happens when the child is doing most of the parenting?

Attachment and Enmeshment are not just fancy terms. They can explain and predict the workings of joint custody. In a meeting of theory and practice, Jay Folberg and Malcolm West address these issues, and more, with one theme in mind: the prediction of "successful" joint custody.

JAY FOLBERG, Dean and Professor of Law at the University of San Francisco School of Law, is past president of the Academy of Family Mediators, and of the Association of Family and Conciliation Courts. He has recently edited the 2nd Edition of *Joint Custody and Shared Parenting*.

MALCOLM WEST is an Associate Professor of Psychiatry. He has published extensively in the areas of Attachment and Parentification of the Child. He has recently co-authored *Patterns of Relating in Adults: An Attachment Perspective*.

*For more information, or for registration kits, please write or call:*

Dr. B. Shustack #315, 908 - 17th Ave. S.W.,

Calgary, AB T2T 0A3

Phone: (403) 245-8787 • Fax: (403) 228-4901

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## LEGISLATIVE ROUNDUP

# Wisconsin's New ADR Rule Includes Arbitration of Divorce Disputes

**B**inding arbitration of divorce and parenting disputes is included in an amendment to Wisconsin's Rules of Civil Procedure, ordered by the Wisconsin Supreme Court on December 6, 1993. Effective July 1, 1994, Wisconsin judges may, upon determining that an action or proceeding is appropriate, order the parties to select a settlement alternative. Settlement alternatives may include binding arbitration, direct negotiation, early neutral evaluation, focus group, mediation, mini-trial, moderated settlement conference, nonbinding arbitration and summary jury trial.

In actions affecting the family, all settlement alternatives are available except focus group, mini-trial and summary jury trial. Parties must voluntarily consent to binding

arbitration. If parties agree to binding arbitration, the court must confirm the arbitrator's award and incorporate the award into the judgment or postjudgment modification order with respect to property division, maintenance, attorney fees and postjudgment orders modifying maintenance.

The guardian ad litem, if appointed, shall be a party to any settlement alternative regarding custody, physical placement, visitation rights, support, or other interests of the child.

The parties and the guardian ad litem for the child may agree to resolve the following issues through binding arbitration: (1) custody and physical placement, (2) visitation rights, and (3) child support.

## Pennsylvania Parents Must Pay For College

Pennsylvania's acting Governor, Mark S. Single, has signed a bill that requires divorced, separated, and unmarried parents to help pay their children's tuition. The law nullifies the effects of a 1992 state Supreme Court decision that relieved parents of responsibility for paying the college costs of adult children. After the Supreme Court ruling, hundreds of non-custodial parents—most of them fathers—petitioned lower courts to overturn orders requiring them to help pay tuition.

The new law authorizes courts to order divorced parents to pay college or postsecondary vocational school costs until a child is 23. Courts would have to consider several factors, including the parent's financial status, the child's willingness and ability to succeed in college, and whether the child has caused an estrangement from his or her parents.

*From The Chronicle of Higher Education*

## Alaska Judicial Council Studies Dispute Resolution Organizations in Rural Alaska

*Submitted by Susanne DiPietro, Staff Attorney, Alaska Judicial Council*

**F**or the past four years, the Alaska Judicial Council has studied how residents of rural Alaskan villages create and maintain their own local dispute resolution processes. Village residents, who are mostly Alaska Natives, have implemented local dispute resolution forums prompted, in part, by the isolation from state court facilities and personnel, the desire to resolve disputes in what they view as culturally appropriate ways, a desire for more local control over community disputes, and in some cases as an expression of tribal sovereignty. In total, residents of over one hundred villages rely on local village councils and tribal courts to help resolve or conciliate at least some of their disputes.

Tribal courts in rural Alaska differ dramatically from state courts. For example, the tribal courts are seldom structurally distinct from tribal or village governments. The typical village or tribal council, often composed of elected or appointed village elders, performs legislative, executive and adjudicative functions. Procedures followed when performing legislative or executive functions may be similar or identical to those used when performing adjudicative functions. When performing judicial functions, councils typically meet as a group to consider the appropriate response to a situation brought to the members attention. Resolutions range from counseling by court members to recommendations for substance abuse treatment to imposition of fines or community services.

Most of the tribal courts' and councils' dispute resolution activity focuses on Indian

Child Welfare Act (ICWA) cases, child abuse/neglect, traditional adoptions, alcohol control, and relatively minor criminal matters. Although tribal courts typically are low-cost, volunteer-staffed organizations, many receive some financial and technical support from the nonprofit corporation serving the region, and from the federal government (Bureau of Indian Affairs).

Tribal dispute resolution organizations successfully interact with state justice system agencies despite the State's official position that Alaska Native villages do not possess tribal sovereignty for purposes of operating tribal courts. While interactions tend to be informal and are often negotiated on a case-by-case basis, they have involved state judges, law enforcement officers, prosecutors and public defenders, and the state Division of Family and Youth Services.

Examples of informal interaction include efforts by state and tribal social workers to exchange information about appropriate foster care placements and related issues in child neglect cases. Tribal courts and councils assist state social workers by securing the cooperation of the affected family, monitoring the family's progress and reporting problems to the social worker. In the criminal justice arena, one judge has arranged for a tribal court to monitor probationers and parolees in the villages, enabling offenders to return to their homes. Normally, probationers and parolees are not permitted to return to their villages, because probation officers are posted only in the larger communities.

## Florida Family Law Revisions

Among several revisions to Florida Family Law adopted in 1993:

- Section 61.13 F.S. has been expanded to indicate that evidence of either spousal or child abuse is evidence of detriment to the child when a parent is attempting to establish sole parental responsibility. The same statute, under subsection (3)(j) has recognized parental alienation syndrome as a factor in determining primary residential responsibility status.
- Section 61.13(7) F.S. has been added, guaranteeing visitation rights to grandparents even though there may be an intact family.
- Enforcement remedies against parents who do not pay their child support have been increased to include the refusal to grant or renew licenses, including driver's licenses, professional licenses and teacher's licenses until support obligations are paid.

*From the Florida Dispute Resolution Newsletter*

**The AFCC Newsletter** is published four times a year in January, April, July and October. News items should be sent by the 15th of the month preceding publication to Newsletter Editor, Peter Salem, 329 W. Wilson St., Madison, WI 53703, (608) 251-4001.

## In Memory of Irwin Cantor

**A** FCC extends sympathies to the family and friends of longtime AFCC member Hon. Irwin Cantor, retired Maricopa County, AZ, Superior Court judge. Judge Cantor, considered the father of the modern divorce court in Arizona, died November 25, 1993 in his Phoenix home.

Judge Cantor was first appointed to the bench in 1963 and served until his retirement in 1990. In 1973, in what he described as his proudest achievement, Judge Cantor

testified before both houses of the Legislature for the passage of "no-fault divorce." He served AFCC as President in 1978, as Chair of the Awards Committee and hosted several AFCC conferences in Phoenix. Judge Cantor was presiding judge of Conciliation Court for 12 years.

Judge Cantor is survived by his wife, Alena, a retired lawyer, three children, two grandsons, a sister, brother, stepsister and stepbrother.

## Irwin Cantor Mediation Program Established

**T**he Domestic Relations Division of the Maricopa County Superior Court, Conciliation Services, the Family Law Section of the Maricopa County Bar, and the Alternative Dispute Resolution Section of the Maricopa County Bar announce the establishment of the Irwin Cantor Mediator Program which will provide mediation, education and training for attorneys. The program will train attorneys to co-mediate for Conciliation Services, mediation of property and support disputes. The program trained its first fifty attorney members during January, 1994 and will commence co-mediations with Conciliation Services in February. Graduates and continuing participants in the training program will be known as Irwin Cantor Fellows.

## AFCC Establishes Irwin Cantor Award

**A** FCC announces the establishment of the Irwin Cantor Award, to be awarded for innovative programming by family court programs. The award will be presented each year at AFCC's Annual Conference. Court programs with creative educational or orientation programs, innovations in service delivery, research projects, or other noteworthy programs or projects may qualify. For nomination and additional information, please contact:

Hugh McIsaac, Director  
Multnomah County Division  
of Family Services  
1021 S.W. 4th Avenue  
Portland, OR 972004  
Tel: (503) 248-3198

## News From Nevada

### Nevada Judges Must Take Family Violence Education Course

**T**he Nevada Supreme Court recently ordered all Nevada judges to attend a one-day seminar on family violence. "When a woman or child cries out for help, we want the police and our courts to be there with the necessary assistance. To effectively address escalating violence in our communities, the Nevada judiciary is dedicated to working together to develop the best solutions to this insidious problem," said Chief Justice Bob Rose. Nevada is the first state to have a Supreme Court order requiring all judges to attend a one-day seminar on family violence.

*From Juvenile and Family Justice Today*

### Neighborhood Justice Center Receives National Association of Counties Award

**C**lark County Social Service Neighborhood Justice Center (NJC) recently received the National Association of Counties Achievement Award for innovative programming and the unique placement of a neighborhood justice center within a social service setting. The Clark County NJC was created by Nevada Legislature in 1991. The program was developed and implemented by AFCC member and NJC Director Ruth Pearson Urban. NJC provides mediation for community and small claims disputes, runs a growing school mediation program and is in the process of finalizing plans for a head start conflict resolution program entitled "Peace Begins in Pre-School."

## Mediators Meeting in Southern Nevada

**T**he Mediators of Southern Nevada (MSN) held its first Annual Membership Meeting last fall. MSN's inaugural year included the presentation of a series of

workshops and several membership meetings. MSN's President is AFCC member Charlotte Kiffer. For information about MSN, call (702) 225-3421.

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## MEMBER PROFILE

### An AFCC Mediator From the Great Northwest: Pat Dixon



When confronted with satisfying both her desire to travel and her devotion to AFCC, Pat Dixon did what any good mediator would do: she found a "win-win" solution. As a result, Pat is leading AFCC's post-conference tour following this spring's AFCC Annual Conference in Maui, May 11-14. She promises an exciting opportunity to explore Australia and New Zealand and to interact with our AFCC counterparts and others in those countries.

An AFCC member for over a decade, Pat has made a career of helping families. She served on the AFCC Board of Directors for six years, and was the Southwest Regional Coordinator. "I like AFCC because of the people," Pat says. "Each time I go to a conference it's like having a family reunion." Pat graduated from Central Michigan University with degrees in psychology and home eco-

nomics. Following college, Pat became a military wife, living at Fort Lee, Virginia, Fort Ord, California, and ultimately landing in Salem Oregon. She returned to school at Western Oregon State College to get her Master's degree in counseling.

Even before she had completed her degree Pat was hired as the Social Service Director for a program providing services for teen-aged mothers. She proudly points out that the program expanded from serving 25 to 175 mothers while she was involved. Pat subsequently accepted a position as a custody evaluator/marriage counselor/mediator with Marion County Conciliation Services, where she worked for eight years. Following her decision to move to Phoenix, she was offered a similar position with Maricopa County Conciliation Services where she worked for six years.

In 1992 Pat and her husband Bill decided to return to Salem, where Pat took the plunge and went into private practice. Pat offers counseling and mediation and reports that her practice is thriving. She was the first mediator to be referred cases under her county's new mandatory mediation program. In addition, she was recently appointed Vice-chair of the Governor's Task Force on Family Law.

Pat is also active with her family. Michelle, Pat's oldest child, has apparently caught the AFCC bug, having attended both the New Orleans and Toledo conferences with her mother. Daughter Debbi lives in

Portland and seven months ago gave birth to Pat's grandchild, Kaylee, and Mark, her son, is married and a finance manager in Oakland, OR. Pat also has two step children, Phoebe, a college student in California and Chloe, a high school junior in Oregon. Pat's hobbies include photography, reading, both downhill and cross county skiing, and of course, travel. And although Pat confesses that her travel plans are often dictated by AFCC destinations such as Maui and New Orleans, for some reason she doesn't seem to mind.

## Job Announcement

**Court Management Analyst II.** Administrative Office of the Courts, State of North Carolina seeks professional with a Master's Degree in psychology, social work, family counseling or a comparable human relations discipline to provide on-site administrative support to judicial districts establishing new or operating existing custody and mediation programs. Experience with alternative dispute resolution techniques and processes is required. Experience with court processes, adult education and program development is desirable. Send resume to: Personnel Services, Administrative Office of the Courts, P.O. Box 2448, Raleigh, NC 27602.

## Holy Toledo! Northcentral Conference Pack(o)s Them In

AFCC's 1993 Northcentral Regional Conference brought together nationally recognized leaders in the field of family and divorce, and the Ohio legal and mental health communities as over 150 participants attended *Negotiating Troubled Waters: The Professional's Role in Helping the Family*. The conference was co-sponsored by the Ohio Continuing Legal Education Institute, October 7-9 in Toledo, Ohio.

The many conference highlights included:

- Dean Nancy H. Rogers, The Ohio State University College of Law, keynote speech on the state of research in mediation;
- Ohio Supreme Court Chief Justice Thomas Moyer's luncheon address on judicial support of alternative dispute resolution;
- Stephanie Coontz, author of *The Way We Never Were*, debunking the myth of the typical "Ozzie and Harriet families" of the 1950's;

- Role plays depicting the adjudication and the mediation of allegations of child sexual abuse in a post-divorce case, featuring Hon. Ronald Solove, Franklin County, OH, as judge and Robert Benjamin of St. Louis as mediator;
- AFCC's excursion to the celebrated **Tony Packos** for the quintessential Toledo experience (and the reason M\*A\*S\*H's Corporal Klinger yearned to return to Toledo).

Special thanks go to AFCC members Denise McColley, Beth Kerns, Michele MacFarlane, Ron Rimelspach, Sue Smitley and Hon. Kenneth Rohrs for all of their hard work on the conference.

Additional thanks go to Karen Darby of the Ohio Continuing Legal Education Institute, to David Ward, a Toledo attorney/mediator for his role in program development, and to the anonymous corporate donor which provided the Godiva Chocolates for the conference staff and presenters.



## THE SUPERVISED VISITATION NETWORK

is an international association of agencies and individuals involved with supervised visitation or "access" services. SVN members include direct service providers, judges, attorneys, mediators, guardians, and other agencies and individuals who refer clients for services. SVN convenes annual membership conferences. For information on services or membership contact

**TIM BALLEW**  
SUPERVISED VISITATION NETWORK  
222 SOUTH DOWNEY STREET, RM 260  
INDIANAPOLIS, IN 46219  
PHONE: 317-351-2761

# Supervising Visitation: Supervised Transfer Services

*Submitted by Tim Ballew, Manager, Family Dissolution Program, The Family Connection Center, Indianapolis, IN.*

**P**revious visitation columns have examined historical alternatives to supervised services, establishing court orders for supervised visitation, and a recent federal legislative initiative to create supervised visitation programs throughout the United States. This column looks at supervised transfer services offered by many supervised visitation agencies.

One service frequently made available by visitation agencies is commonly referred to as supervised transfer, exchange supervision or transition monitoring. As these names suggest, supervised transfer services involve monitoring only the transfer or exchange of children between parents rather than the entire visit period.

Families participating in supervised transfer services generally have good parent-child relationships and children are not considered to be at risk when spending time with a parent in an unsupervised setting.

Supervision is made available for those families which may experience difficulties when parents come into contact with one another during the exchange of children. These problems may range from verbal hostilities to physical confrontations or assaults with weapons.

In addition to deterring open hostilities at the time of transfer, supervised exchanges may help discourage lack of compliance with court orders, such as last minute cancellation of scheduled visits, or late pick ups and returns of the children.

Supervised transfer services can play a crucial role in addressing the concerns noted here. Typical services may allow for:

- **Complete separation of parents** during transfer periods. The supervisor in these cases may bring the children from one parent to the other. This service may be helpful when there is a no-contact order between the parents but visitation is ordered.
- **Documentation and reporting** of all parties' compliance with the court order. This may include cancellations and late arrivals or returns.

• **Scheduling of all visitation arrangements.** Third party assistance can often prevent problems that accompany the need to alter a visit schedule due to illness, vacation, holidays, etc. It also gives parents an opportunity to suspend their own telephone contacts between visits.

In many circumstances, parents participating in supervised transfer services are recently separated and simply require a cooling off period to adjust to their new relationship. These parents are often able to progress to the point where services are not needed. Other parents, who are more deeply enmeshed in conflict, may continue services for an extended period of time. For families with a history of domestic violence, supervision of exchanges can be an essential ingredient in reducing the risk of additional abuse. In these and many other situations, supervised transfer services can be an effective means of reducing family tension surrounding visitation.

*For additional information on supervised visitation services contact: Tim Ballew, MSW, Family Connection Center, 222 S. Downey Ave. Indianapolis, IN 46219.*

## UPCOMING EVENTS

### **March 24-26, 1994**

Mediation Training  
Contact: Northern California  
Mediation Center  
100 Tamal Plaza, Suite 175  
Corte Madera, CA 94925  
(415) 927-1422

### **March 4-6, 1994—Dallas, TX**

**March 18-20, 1994—Phoenix, AZ**  
24-Hour Advanced Programs  
Contact: Gary J. Kirkpatrick  
(214) 328-9396 or 1-800-888-8609

### **March 10-13, 1994—Salt Lake City, UT**

**May 12-15, 1994—Oklahoma City, OK**  
40-Hour Family Mediation Program  
Contact: Gary J. Kirkpatrick  
(214) 328-9396 or 1-800-888-8609

### **March 10-13, 1994**

**April 7-10, 1994**  
**May 12-15, 1994**  
**June 9-12, 1994**  
Master the Mediation Method  
Location: San Francisco  
Contact: John Lemmon  
(510) 547-8089

### **March 18, 1994—Portland, OR**

**May 5, 1994—Washington, DC**  
Advanced Mediation Training—4 Hours  
It's Not Therapy  
Contact: Peter Maida  
(800) 397-7231 or (703) 524-5666

### **April 15, 1994—Portland, OR**

Children's Post-Divorce Adjustment  
Contact: Jim Melamed  
(503) 345-1456

### **April 16, 1994—Portland, OR**

Advanced Custody Mediation Training  
Contact: Jim Melamed  
(503) 345-1456

### **April 22, 1994**

Advanced Mediation Training  
Power Issues and Emotions in Mediation  
Cleveland, Ohio  
Contact: Phyllis Hulewat  
(216) 292-3999

### **May 6-7, 1994—Honolulu, Hawaii**

Affairs: Getting the Message  
Contact: Emily Brown  
(703) 524-5666 or (800) 397-7231

### **May 11-14, 1994**

AFCC Annual Conference  
Maui, Hawaii  
Contact: Hon. Douglas McNish  
2145 Main Street  
Wailuku, HI 96793  
(808) 244-2700

### **May 13-15 & 20-21, 1994—Eugene, OR**

**August 12-14 & 19-20, 1994—Portland, OR**  
Family & Divorce Mediation  
Contact: Jim Melamed  
(503) 345-1456

### **May 29 - June 1, 1994—Jerusalem**

The Family on the Threshold of the 21st Century:  
Trends and Implications  
Contact: ISAS 972-2-661356/868124  
FAX: 972-2-868165

### **November 3-5, 1994**

AFCC Southwest Regional Conference  
Arizona Chapter Meeting &  
AFCC Board Meeting  
Contact: Frances Bernfeld  
(602) 740-5590

### **November 5-7, 1994**

First International Child Custody  
Evaluation Institute—Tucson, AZ  
Contact: Tim Salius  
(203) 529-9655

### **May, 17-20, 1995**

AFCC Annual Conference  
Montreal, Canada  
Contact: Robert Tompkins  
(203) 529-9655

### **November 5-6, 1995**

AFCC Northwest Regional Conference  
Portland, OR  
Contact: Hugh McIsaac  
(503) 248-3189

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Qualifications & Standards for Evaluators ☐ Family Violence: Process & Assess-  
ment Considerations ☐ Alternative Lifestyle Issues ☐ The Lawyer-Evaluator  
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Techniques for Examining & Cross-Examining the Evaluator

Attendance will be limited to the first 250 registrants.

*Call for Presenters:* If you are interested in participating in this Symposium, please  
send a one page description/outline of your proposed presentation; include length  
of presentation and a resume.



**Send to:**

Tim Salius  
Family Division  
Administration  
225 Spring St.  
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(203) 529-9655  
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