

AFCC NEWSLETTER



VOLUME 23, NUMBER 1

Association of Family and Conciliation Courts

WINTER 2004

AFCC Rounds Up Star-Studded Cast for 41st Annual Conference in San Antonio

Make plans to join AFCC in San Antonio, May 12-15, 2004, for **Best Interests Revisited: Challenging Our Assumptions**. The conference features your choice of more than 50 workshops, including special tracks in research, parenting coordination, mediation, custody evaluation, domestic violence, and special programs for judges.

A star-studded cast of plenary presenters will focus on the most critical issues related to the best interests of the child.

Sherri Z. Heller, Ed.D., Commissioner of the Federal Office of Child Support Enforcement (OCSE) in Washington, DC, will kick off the opening session at 7:00 p.m. on Wednesday, May 12. Dr. Heller oversees the OCSE Access and Visitation Grant Program that provides grants to states for the purpose of assisting non-custodial parents in gaining increased access to their children through innovative dispute resolution services. Dr. Heller will address the importance of collaboration between family courts and the Access and Visitation program to provide the most effective services for families.

The issue of marriage and same-sex unions is front-page news. The plenary session on Thursday, May 13, *Civil Marriage and Same-sex Unions: Implications for Family Law Professionals*, features experts presenting their views on how these cases will impact family courts. Panelists include: **Robin M. Deutsch, Ph.D.**, Senior Psychologist and Co-Director, Children and the Law Program and Harvard Medical School, Boston, Massachusetts; and **Martha McCarthy**, Epstein Cole LLP, Toronto, Ontario. The moderator for this plenary is **Wendy Bryans, LL.B.**, Department of Justice, Canada, Ottawa, Ontario.

Friday morning's plenary will be *The Approximation Rule: Are Predictability, Presumptions and Best Interests Compatible?* and features leading experts to address this question. **Katharine T. Bartlett**, A. Kenneth Pye Professor of Law, is Dean of the Law

School at Duke University and teaches family law, gender and law, and contracts. Dean Bartlett served as a reporter for the American Law Institute's *Principles of the Law of Family Dissolution* (2002), for which she was responsible for the provisions relating to child custody. **Andrew Shepard, J.D.**, author of *Children, Courts and Custody*, is the editor of the *Family Court Review* and **Richard A. Warshak, Ph.D.**, author of *Divorce Poison*, is a clinical, consulting and research psychologist in private practice in Dallas, Texas. This plenary will be moderated by **William Howe, III, J.D.**, Gevurtz, Menashe, Larson & Howe, in Portland, Oregon.

A bonus plenary session has been added this year to Friday morning, featuring **Constance Ahrons, Ph.D.**, Emeritus Professor of Sociology and former director of the Marriage and Family Therapy Doctoral Training Program at the University of Southern California. Dr. Ahrons will provide the first international presentation of her 20-year longitudinal study of children of divorce. Dr. Ahron's research focuses on families in today's societies, marriage and family therapy and gender issues. She has been especially interested in understanding the impact of divorce and remarriage on children and families. Joining Dr. Ahrons on the topic, *What Grown Children Say About Their Parents' Divorce*, will be **Janet A. Walker, Ph.D.** as the discussant, and **Hon. Justice Linda M. Dessau** as the moderator.

The **Honorable Charlie A. Gonzalez**, is the featured guest at AFCC's Annual Banquet on Friday evening, May 14. Before being elected to the U.S. House of Representatives, he was a lawyer in private practice, a Municipal Court Judge, an elected County Court at Law Judge and an elected District Judge. As a sitting judge, he was recognized as one of the highest rated trial judges for streamlining court dockets and proposing a system of courts to exclusively handle domestic violence cases.

Congressman Gonzalez is a member of several Congressional Task Forces, including Education, Financial Services, Business and Economic Development, the Civil Rights Task Force, as well as the Missing and Exploited Children Caucus.

This conference offers **continuing education** for psychologists, lawyers, social workers, licensed professional counselors and marriage and family therapists. The program provides opportunities for you to **network** with colleagues from different countries and disciplines, visit and learn from businesses in the exhibitor forum, and participate in the Taste of the Riverwalk (optional) on Thursday evening.

Don't miss AFCC's Sixth Annual **Silent Auction** on Friday evening, immediately preceding AFCC's Annual Banquet. Participants can bid on a variety of items, including original artwork, autographed sports memorabilia, hotel packages, admission to future AFCC conferences, customized stationary and business cards, and many more fabulous items. All conference registrants will be entered into a special grand prize drawing that will be held during the auction. You must be present to win, so don't miss out.

Proceeds from the Silent Auction help support AFCC programs and services and provide support and assistance to AFCC members. If you are interested in contributing an item to the AFCC auction, please contact Peter Salem, AFCC Executive Director, at psalem@afccnet.org.

For **hotel reservations** at the AFCC group rate of \$149, per night, for a single or double room, call Adam's Mark San Antonio reservations toll-free at (888) 623-2800 or direct at (210) 354-2800. The special rate will not be guaranteed after April 20, so make your reservations today!

San Antonio is a great place to visit. For information on activities and things to do in the area, see page 11 of this newsletter. For a conference brochure, call AFCC at (608) 664-3750 or email afcc@afccnet.org.



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AFCC NEWSLETTER

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Editor

Candace Walker

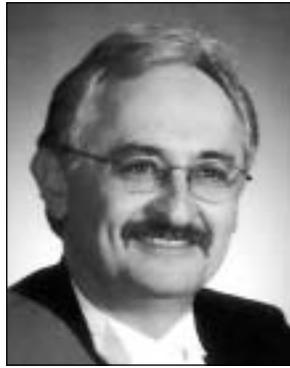
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Tel: (608) 664-3750
Fax: (608) 664-3751
E-mail: afcc@afccnet.org
Web: www.afccnet.org

The AFCC Newsletter is a publication of the Association of Family and Conciliation Courts. The newsletter is published four times a year. Deadlines for news items and advertising are March 1, June 1, September 1, and December 1. Advertising copy must be camera ready and payment made in U.S. funds.

Advertising Rates:

Full page (7 1/2" x 10") \$400
Half page (7 1/2" x 4 7/8") \$300
Quarter page (3 5/8" x 4 7/8") \$175

PRESIDENT'S MESSAGE



*Hon. George Czutrin
Hamilton, Ontario, Canada*

One of the high points of our upcoming Annual Conference in San Antonio will be the opportunity for the AFCC parent organization (or "International AFCC") to recognize the accomplishments of some of our State Chapters. Last fall the AFCC Board of Directors voted to confer chartered status on AFCC Chapters in Texas and Missouri. The Board will consider the New York Provisional Chapter's application this spring. Texas, Missouri and New York will join Arizona, California, Florida, Massachusetts and New Jersey as states with AFCC Chapters, doubling the total number of AFCC Chapters in the last two years.

The growth of our chapters is an exciting challenge for AFCC. Chapters bring an important local dimension to our work. AFCC members consistently tell us that networking with like-minded professionals is one of the greatest benefits of belonging to AFCC. Chapters create AFCC access and networks where none previously existed. They increase opportunities for leadership both locally and with the parent organization. Chapters create a forum where local issues can be discussed, local challenges addressed and local problems can be solved. The opportunity for continuous face-to-face contact is something that only a local component of AFCC can provide its members.

The opportunities presented by chapters are tremendous, and so are the challenges of getting the work done. We know all too well that AFCC members are already the leaders in their communities. Many are well meaning and talented, and they just can't seem to say no to an important cause. Often they are over-committed. The work in creating and leading a chapter can be significant. Organizing meetings, planning conferences, writing a newsletter and tracking members are just a few of the many items on a chapter "to-do" list. It is not unusual for those with the lofty title of President to be the person who is stuffing the envelopes and licking the stamps. I salute our chapter leaders and their efforts.

The AFCC parent organization is committed to supporting chapters. Our administrative office and volunteer leadership

provide administrative support, materials, technical assistance, and peer support to our colleagues. Our challenge is that, while we are thrilled that the number of chapters has doubled, the staff and resources of the association have not.

During my term as AFCC President I will have had the pleasure of participating in chapter conferences in New York and Arizona and our Executive Director, Peter Salem, will have attended chapter conferences in Texas and Massachusetts. We were all fortunate to join our Missouri Chapter for the AFCC Fall Regional Conference and we will, of course, all be together again in Texas for our Annual Conference, May 12-15, in San Antonio. We would like to have representation from the parent organization at all chapter conferences and we are working on ways to make that happen.

In an effort to institutionalize support for AFCC Chapters, our bylaws provide for one member of the Board of Directors to serve as a representative of the AFCC Chapters. The Chapter Representative is elected by the Chapter Council, which has representation from every AFCC Chapter. Linda Fieldstone has done a most remarkable job in this role, facilitating communication directly with Chapters and between the Chapters and our parent organization. Linda works with AFCC's Vice President, Hon. Hugh Starnes, to co-chair the Chapter Committee. They are following up on the leadership efforts of Jan Shaw and Fred Mitchell, present Board members and former presidents of the California and Arizona Chapters, respectively.

There is no question that chapters require strong leadership in order to thrive. Importantly, in order for us to grow together, we need leaders like Linda, Hugh, Fred and Jan who lead on a local and national level and facilitate the links between the parent organization and its Chapters.

AFCC was founded in 1963 in California and it became clear rather quickly that the mission and values of AFCC extend beyond California's borders. California remains AFCC's largest chapter and we now boast more than 2,200 members throughout the United States and Canada and from 15 countries. It is very important and appropriate that AFCC exist as a global organization.

While our mission values are global, there is an enormous value to local participation. I live in Ontario, Canada, where we have no AFCC Chapter. While there is sometimes interest in establishing a chapter here and in many other locales, what is most important is not having a chapter, *per se*, but in developing a local community of AFCC members to join together to communicate, educate and advocate at local levels using their membership in AFCC to provide guiding principles. For me, exchanging information, learning from other jurisdictions, getting together with like-minded professionals who are looking for better ways to

Continued on page 11

AFCC COMMITTEE CHAIR PROFILE

Shelley R. Probber, Membership Committee Co-chair



Shelley R. Probber, Psy.D.

Shelley Probber is a psychologist in private practice in San Antonio, Texas, and a consultant to the Bexar County Domestic Relations Office. Approximately half of Shelley's practice is devoted to conducting psychotherapy with a range of patients, although focusing on children and families. The other half is devoted to working in the forensic area, conducting custody evaluations, evaluations pertaining to parenting plans and assessments regarding child abuse and neglect. Shelley co-chairs the Membership Committee with Leslye Hunter and is also the Local Chair of the 41st Annual Conference in San Antonio, May 12-15, 2004.

Childhood: I was born in Brooklyn, New York—the second of four children—and grew up in the suburbs. My parents divorced when I was eleven, and I think my own experience has helped me to be empathic with children going through their parents' divorces. When I was sixteen, we moved back into the city from the suburbs. That experience helped me become sensitive to the adjustment issues of adolescents.

Education: Graduated from John Adams High School in Queens, New York. Attended City University in New York, the State University of New York at Binghamton and the University of Chicago, originally planning to earn a Ph.D. in English Literature. After some soul-searching, I decided to investigate psychology and attended the Illinois School of Professional Psychology. It took me almost ten years to complete the degree, since I worked during the day as Director of Admissions and Financial Aid at the graduate school while taking classes at night. In 1989, I moved to San Antonio to complete my clinical psychology internship at the University of Texas Medical School. Much to my surprise, I have remained here.

What led to my present career: After completing my internship and my Psy.D., I worked in outpatient and

inpatient settings for children and adolescents, gaining an appreciation of the importance of evaluating the whole system—the milieu environment of the hospital unit, the family interactions and the dynamics of the child and family with their support systems in the community following the child's discharge from the hospital. I decided to start a private practice while working part-time doing diagnostic work with children at an inpatient children's hospital. Soon, I was focusing on working with children within the legal system, and it was a natural extension to begin working toward helping to resolve disputes among parents in the midst of divorce.

Proudest personal achievement: Putting myself through college and graduate school. Although while doing so, I often felt envious of my peers who were able to be full-time students, I now feel a deep sense of pride in my perseverance and tenacity. As anyone who knows me will tell you, once I set a goal, I am determined to complete it.

Favorite book: It is difficult for me to isolate one book that I could call my favorite. *King Lear* by Shakespeare is one of my favorite plays. In fact, I wrote my master's thesis on father/daughter relationships in this play, as well as in two other Shakespeare works: *The Tempest* and *Cymbeline*. It is ironic to me that, at the time of writing this thesis, I did not appreciate my own leanings toward psychological analysis of character development.

Career other than my own that I would like to do: I would like to be a personal trainer or work in some aspect of nutrition and health. I began running while in college, and I have been an avid runner for years. In the past several years, I have completed several triathlons, and I enjoy bicycle riding and swimming as well. In February, I completed a marathon. I have been working on an article that addresses the psychological aspects of training for a goal and how it relates to life's general lessons.

Favorite AFCC memory: During the conference in Ottawa in 2003, I befriended two AFCC members, Elayne Greenberg and Bill Howe. We sat down for coffee and became engaged in a powerful and moving discussion about relationships and the importance of emphasizing a move toward healthy attachments to others. In fact, the three of us are presenting a workshop together in San Antonio. The connections that were forged on that sunny afternoon will remain with me forever.



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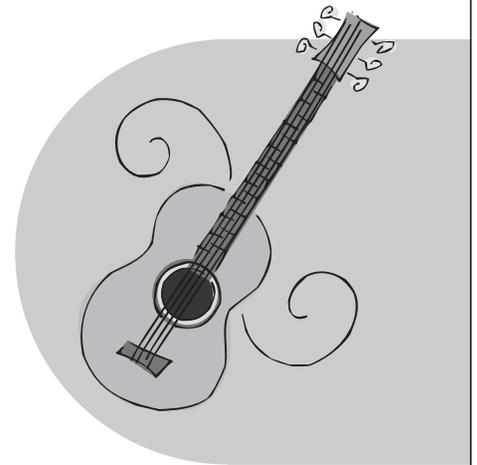
Sixth International Symposium on Child Custody Evaluations

Nashville, Tennessee

October 14-16, 2004

Sheraton Downtown Nashville

AFCC's Sixth International Symposium on Child Custody Evaluations will include a wide range of pre-conference institutes, workshops and plenary sessions addressing practice skills, professional issues and advanced applications. The Symposium is designed for custody evaluators, judges, lawyers, mediators and anyone who works with separated and divorcing families.



Proposed topics may include:

- Assessing Allegations of Child Abuse and Neglect
- Interviewing Skills
- Report Writing
- Innovative Evaluation Models
- Ethical Considerations in Evaluations
- Working with High Conflict Families
- Use of Collateral Information
- Addressing Domestic Abuse
- Alienated Children
- Expert Testimony and Cross-examination

Deadline for workshop proposals is May 21, 2004

AFCC is accepting proposals for ninety-minute workshop sessions including, but not limited to, the topics listed above. If you are interested in presenting a workshop, please send via email (1) a brief one-paragraph abstract; (2) a one-page outline; (3) three learning objectives for your workshop; and (4) resumes and complete contact information for all proposed presenters to afcc3@afccnet.org in Word or WordPerfect. *Electronic submissions via email are preferred*, however you may also send your proposal to AFCC, 6515 Grand Teton Plaza, Suite 210, Madison, WI 53719-1048. Please identify the person who will be coordinating your workshop. AFCC offers a reduced registration fee for conference presenters. AFCC is unable to reimburse travel and related expenses. AFCC is unable to consider late or incomplete proposals.

Adapting the Collaborative Law Process to Manage High Conflict Cases

by Gay G. Cox, Attorney-Mediator
Dallas, TX

The collaborative law process is experiencing growing pains similar to those experienced in mediation. Mediation resolved the question of whether to assist high conflict families in the affirmative, while making room for adjustments to safeguard against concerns. Predictably, collaborative law will follow the same path.

Skillful collaborative lawyers screen a potential case to know whether the matter will be particularly challenging. If it seems beyond the lawyer's skill set or too much trouble for what it is worth, the lawyer should refer the party to other collaborative lawyers assuming that collaborative law is the process chosen by the client. If neither client demonstrates the potential for working collaboratively, then the case is one that should probably not be accepted as a collaborative law matter. The lawyers and other collaborative professionals cannot do it alone.

Normalizing to the parties that conflict is to be expected, while expressing confidence that it can be managed, help the

clients trust the process. The lawyers' readiness for expected non-collaborative behaviors will help them and the healthier spouse to be less reactionary. It is wise to lower expectations about how smoothly the collaborative process may go.

In potentially difficult matters, there should be at least one collaborative coach with a mental health background and/or a neutral child specialist brought into the process from the outset. Whenever a perceived "crisis" occurs during the process, they will be available to provide the parties with effective strategies. Resorting to court is not an option. However, new approaches offered by a communications coach can effectively get the parties back on track.

If the lawyers' personalities, office staff, accessibility or any other factor in the lawyers' control are interfering with the smooth handling of the case, there is a neutral to help them take corrective action. The lawyers should always respond in a non-defensive manner to participants' complaints. The inquiry should be, "How can we make this process work better for the parties?"

It is important to refrain from criticizing the other spouse or his/her lawyer to one's own client. While it may be necessary to factually state what has happened, it is counter-productive to appear judgmental. A good practice is to imagine that whatever one says to one's client about the "other side" is something one would openly say in a four-way. Otherwise, the back-channels of communication will very likely communicate destructive judgmentalism.

The healthier client needs to understand how suspicious the other will be of his or her spouse's lawyer's advocacy. There is danger to the process inherent in the healthier spouse's lawyer appearing to be more competent or more experienced in the collaborative process. It becomes important not to "show up" the other lawyer. It can be beneficial to let him or her take much of the lead in four-way sessions.

Another effective strategy can be to encourage the healthier client to ask the "dumb" questions, because the impaired client will likely not admit a lack of understanding. Both lawyers' answers are heard by both clients and hopefully the points will register at some level. It may necessary to read out loud many of the documents.

It is important to be forthcoming with information and documentation, anticipating what the other side will ask for, so that it never appears the client is trying to hide anything. Make the full and candid exchange of property incredibly easy.

Minutes of the meetings should be disseminated well in advance of four-ways so that the impaired person does not feel unprepared. It may be advisable to assign minute-writing to the suspicious client's

lawyer, so that there will be less blame for any mistakes. Always stick to the agendas to avoid surprises

It may be wise to encourage a party to surrender some control over homework assignments that could just as well be handled by the person who has a need to control.

However, this pattern of conduct is less likely than the impaired client who prefers to allow the other to do all the homework, while expressing suspicion or contempt about what is being disclosed. Obtaining affidavits of fact or attestations to the completeness of documents produced sometimes builds trust. The client can usually be reminded that he/she once trusted the spouse enough to sign joint tax returns. The final documents may divide only the property that is disclosed and reserve their right to have undisclosed property divided later or awarded to the unaware spouse.

If there is a history of a client behaving badly, these behaviors are likely to manifest themselves in this "worst of times." The option of not making an issue of the misbehavior should be explored. One lawyer should never send accusatory correspondence when the other lawyer's client misbehaves. The lawyers should speak in between meetings about the incident(s). The neutral collaborative mental health professional should be consulted. If appropriate boundaries need to be set, they can be set out very factually in the minutes.

It will be very important not to over-react and take any unilateral or retaliatory action. Avoid any transfer of blame to the misbehaving client's lawyer. Basically, let whatever can slide, slide. Don't expect normal empathy. Don't waste time trying to persuade the unhealthy person to understand the perspective of the other participants. There is absolute futility in arguing. The goal of a mutually acceptable solution is the "prize" upon which everything stays focused.

The stakes are too high to ignore threats. All other participants need to be informed if one's client makes a plausible threat of suicide or of unlawful action.

Remember that the client has control of the outcome and makes the decisions. In addressing the other lawyer and party, don't express one's own opinion about how the case "ought" to settle. Let the client speak for him/herself and take ownership of his rejection of certain settlement options. The lawyer should never refer to what he or she will "let the client do."

In high conflict cases, it may help for the lawyers to lay out factually what would be the net expected outcome of a court proceeding with the goal of both lawyers agreeing on a most probable single text for this. The parties may need to see an objective standard for resolution that one or both of

AFCC Gives New Twist to Congress on Parent Education and Access Programs

AFCC's Congress on Parent Education and Access Programs will be held October 17-18, 2004 in Nashville, Tennessee at the Sheraton Downtown Nashville. In response to participant feedback, this year's two-day program will be designed as a comprehensive integrated program featuring leading trainers in the field instead of multiple plenary and workshop sessions.

The program will include both large and small group sessions and will build in substantial opportunities for networking and time for participants to share innovative program ideas and learn from one another.

The Sheraton Downtown Nashville is offering a very low rate of \$118 per night, single or double room. It is located just steps away from a downtown area filled with entertainment, shops and restaurants.

Watch the AFCC website at www.afccnet.org and the *AFCC Newsletter* for additional information about this year's program.

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Twenty Ways to Make an AFCC Connection



Create a Password and Get into the Members Only Section

Creating a password is as easy as 1-2-3. But if you have trouble, call AFCC's Office Manager Dawn Holmes at (608) 664-3750 and she will gladly walk you through the steps.

Have you bookmarked www.afccnet.org yet? If not, you are not making the most out of your AFCC membership. AFCC's website contains information about the association, conferences, training programs, membership, chapters, and much more. The member section of the website provides AFCC members with an up-to-date, on-line membership directory and a downloadable pdf version, archived editions of the *AFCC Newsletter* and will soon feature access to the *Family Court Review*. What else can you do on the site?



Discover AFCC's Roots

Did you know that AFCC was originally founded in 1963? Or that AFCC members did some of the pioneering work in court-based mediation and parent education? You can learn this and more by clicking on **History** and reading about the evolution of the Association of Family and Conciliation Courts.



Take AFCC Home with You

Is your workday too busy to keep up with AFCC news? Check us out from your home computer. The kids won't mind if you use it.



Make a Networking Connection Using the Electronic Membership Directory

AFCC's searchable membership directory is on-line and available to members only. Looking for a member in Missouri? Do you want to know how many members we have in Florida? Did you meet someone at a conference but misplaced their contact information? The AFCC searchable membership directory is a fast and easy way to find someone. *Remember: only active members are listed in the searchable directory.*



Want to Know What's New? Check the Balloons on the AFCC Home Page

If there is something new going on within AFCC you will most likely find a link in one of the three balloons located on the home page at www.afccnet.org. New reports, calls for presenters, conference brochures and on-line conference registration can often be accessed directly from the home page of the web site.



Coming Soon! Review the Review

Many AFCC members loan their copy of the *Family Court Review* to a non-member colleague. In the coming year, AFCC is planning to go on-line with the *Review* so that members will have access electronically *and* in print form for those times when your hard copy is out on loan. (By the way, if you find yourself lending FCR to the same person repeatedly, consider a gift membership. Just click **Join Today** to find the link for a gift membership.)



Save Precious Time!

Perhaps you received a hard copy of a conference brochure, gave it a quick skim and put in the stack of papers you will review more fully at a later time. Now, it is buried somewhere in one of those "get to it later" piles, but you are not sure which one. Instead of spending time looking through all of those piles, just go to the AFCC web site and access these documents on-line. It's quick and easy!



Ask a Question or Give Feedback

AFCC leadership and staff are here to serve you! You can click on the email link to AFCC at the bottom of every page on the site and your question will go directly to the administrative office. If you want to contact a member of the staff or leadership directly, just go to the **Administrative Info** or **Board of Directors** page and click on the email address of the person you wish to contact.



Renew Your Membership: Save a Stamp

Don't leave that renewal notice sitting in your stack of bills to be paid. Use your Visa or MasterCard and click on **Join Today** to renew your membership on-line.

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Order Pamphlets, Publications or Videos

You can order AFCC pamphlets, publications or videos from our on-line publications library. Each product is described and discounts for bulk pamphlet purchases are available!

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Apply for a Conference Scholarship

Did you know that AFCC offers scholarships to conferences? Look for the conference scholarship application on the **Conferences** page.



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Read the AFCC Parenting Coordinator Report

AFCC members have access to the preliminary report *Parenting Coordination: Implementation Issues*, developed by AFCC's Task Force on Parenting Coordination.



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Conduct Research on One of the Electronic Databases

The **Resource** page is linked to *three* on-line electronic data bases courtesy of our colleagues at CRInfo, the University of Indiana Conflict Resolution Institute and the National Child Support Enforcement Association.

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Retrieve Your Favorite Newsletter Article

The *AFCC Newsletter* is archived on the member section of the web site, beginning with the Fall 2001 issue. If you have misplaced your newsletter or are looking for an article, just log on to the member section of the site.

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Check Your Membership Information

Change of address? Phone? Email address? Confirm that we have received this information by checking your membership information on the AFCC on-line membership directory. The directory is updated weekly.

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Act Globally and Locally Discover an AFCC Chapter Near You!

AFCC Chapters has eight State Chapters and you can link to chapter websites or email representatives for more information by clicking on **Chapters**. Chapter websites are full of information on chapter events, including conferences, meetings and membership information.



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Register for a Conference

You can register for AFCC conferences on-line and save the hassle of those paper registration forms.

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Save Money by Making Travel Plans Early

Check out AFCC conference dates by clicking on **Conferences** so you can make your plans to attend conferences early, get low airfares and ensure availability of lodging at the conference hotel.

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Check Out Standards of Practice

AFCC members frequently call the administrative office asking for a copy of the Standards of Practice for Mediation and Custody Evaluation. Both are available at **Resources** and in the coming year look for additional standards to be posted.



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Check the Training Schedule

AFCC is developing a series of training programs on custody evaluation, high conflict families and other important topics. Just go to **Training and Consulting** to find a training coming to a city near you!



What to Do Next in Mediation: Ten Tips to Consider—Part I

by Robert M. Smith, M.Div., J.D., Colorado Judicial Branch
Ft. Collins, CO

An article written by California attorney and mediator Chip Rose a couple of years ago addressed the situation when mediators suddenly realize that they don't quite know what to do next. He provided five questions that were considered "drop-dead questions"—the ones to ask when there was that awkward pause. Chip encouraged mediators to identify their own questions or strategies, so that they can "stare uncertainty in the face and know you won't blink first."

Chip's challenge has been very helpful to me in my mediation practice, for it has caused me to think through how I mediate, and to reflect upon techniques that have been of help to the parties in past mediation sessions. The following points may be helpful to consider when you feel stymied in a mediation—and when you feel that you're working harder than the clients are, and that they are looking to you to bail them out.

1. Look for the "hook"

I usually try to find the "hook" that captures their interest and helps them proceed. Sometimes that hook is focusing upon the best interests of their children, and sometimes it is discussing the dynamics of simple apologies. A recent newspaper article talked about an historic agreement about water use in Colorado, in which Western Slope ranchers and Front Range cities finally reached an agreement—and the first point they agreed upon was that the Front Range urban representatives apologized for the great need for water that had arisen from almost unchecked development. Once you find the appropriate hook—hopefully the same one for all parties—then you can focus on meeting that interest.

2. Teach the parties how to brainstorm

One of the key elements in brainstorming, of course, is not to automatically reject proposed answers, just because they look silly on their face. Two examples: in training one group of medical personnel in the mountain states, the complaint arose that rural clinics didn't have enough doctors to service the intense need of the people on a regular basis. While brainstorming, someone wistfully pointed out that "we need docs to fall out of the sky". I dutifully wrote that on the whiteboard while others were chuckling—and then stepped back to ask, "how could this work?" The resolution of the problem was the realization that many physicians loved to fly and a significant number had their own aircraft—and they needed regular flight time to remain current under FAA regulations. The rural clinics set up a program where they would get the community to sponsor a "fly-in clinic" day once a month, in which a rotating group of physicians would enjoy a bountiful, homemade lunch and dinner, and have their aircraft fully serviced, in return for them seeing the medical cases from the community on their one-day trip. Everyone's interests were served by this simple arrangement occasioned by a "silly" brainstorming statement.

The second brainstorming example came in a parenting time mediation in which both parents were frustrated with the Court-ordered arrangement for Father to have time with the child every other weekend. Mother was a teacher and Father was a logger, and the order was that Father would drive two hours to Mother's location to pick up the child by 5:00 pm on Friday, and Mother would drive two hours to pick up the child by 6:00 pm Sunday. The problem was that Father was always late picking up the child on Friday, since he had to quit his logging job early, drive home to clean up, then race up to Mother's. Following up on a brainstorming suggestion, they decided to simply reverse the driving—Mother, as a teacher, could leave with the child at 3:00 to get to Father's without either one taking off work; and Sunday was a non-work day for them both, so Father had no problem getting the child back to Mother on

time. They had been so focused upon the problem that they had never considered a fairly obvious resolution.

3. Use of the imaginary child (or other person)

Pioneer mediator John Haynes came up with this powerful intervention in a videotaped roleplay. He reportedly claimed afterward that he did it spontaneously, and had not thought through how it would work. John was mediating with two parents who lived in California, but both of whom were relocating to opposite ends of the earth—Mother to England (her original home) and Father to Australia (where he was considering taking a job). When they seemed to be coming to an impasse, and were clearly focused upon their own considerations, John set the stage for them to briefly roleplay how they would tell their children their decisions. He looked down to his left and asked the parents to describe their five-year-old son, whom John imbued with an imaginary life by chatting briefly with him. Then John asked them to do the same thing with their 8-year-old daughter, whom John imagined was on his right. He then asked each parent in turn to talk directly to their (imaginary) children and tell them why they were choosing to take the course of action that they had previously expressed. John had to gently remind each parent at times to stay in the roleplay, but the result was that both parents gained a radically new view of how their actions might affect their children—something they could not fully understand until they went through the brief roleplay in the mediation.

4. Know when to stop

I have facilitated family law mediations which were hard-fought, but which were resulting in a number of partial agreements—until at some point one of the participants begins to dig in their heels over a position. At that point, I have found that doing something else is fairly critical, since the prior agreements tend to begin to unravel as both parents start to focus upon their positions, rather than the interests they previously were meeting. In some cases, I have called for a caucus with each parent; and in others—particularly where the parties were almost to a full agreement—I have suggested that we take a break and meet shortly thereafter, when each parent has had some time to discuss the situation with their attorney (and to cool off).

5. Ask (in caucus) reality-testing questions

Sometimes, participants are so focused upon positions and expectations of what they have heard from their friends that they should insist upon, that they begin to spout demands that are fairly dubious. One such situation actually came up in my law practice, but could have easily been a part of a mediation. A young man, probably just 20, came into my office asking me to represent him in his pending divorce. During the initial conversation, I asked him if there were children involved, and he replied that they had a four-month-old boy who was currently living with Mother. Almost immediately, he said that his friends had all been talking to him, and they all told him not to accept anything right now less than parenting time with his son every other weekend, from Friday at 6:00 pm until Sunday at 6:00 pm, and every Wednesday evening after school until 7:00 pm to take their son to dinner. Realizing he had not really thought this through himself, I gently asked him whether the child was being breast-fed, and he said yes. I then asked him how he was going to handle that over the two-day weekends, and he blanched. Yes, he could have made arrangements for a bottle; but the very fact that he was being asked to think through his buddies' "standard" position made him realize that parenting time was a little more involved than it looked, and he began questioning himself as to whether he was prepared for that responsibility. At that point he became more receptive to some brief education on current attachment theory and suggestions for possible parenting plans for young infants.

Looking for the next five tips? This article will continue in the spring issue of the AFCC Newsletter.

Chapter Council Report

by Linda Fieldstone, Co-Chair, AFCC Chapter Council
Miami, FL

Did you know that there is an AFCC Chapter Council that consists of a representative from each AFCC Chapter as well as each provisional Chapter? The Chapter Council meets on a quarterly basis to discuss the growing needs and issues of our individual Chapters and to dialogue with the AFCC Executive Director and others in AFCC about our joint efforts and goals. This gives the Chapters a forum in which we can collaborate with our AFCC parent to meet the needs of our growing membership. This also provides AFCC the information it needs to be most responsive to each Chapter. For instance, in response to the Chapters' requests for membership information, AFCC has now created Chapter membership reports that can be retrieved by the Chapter designee on a regular basis, at their convenience, at any time of the day! Our collaboration has also fostered discussion of such topics as Chapter events, conference scheduling, newsletter and website development, and the issues of both membership development and sustenance. AFCC has been an invaluable resource and guide as we continue to grow in our individual statewide efforts.

AFCC Chapter Update

California

AFCC-Cal hosted a very successful conference in February, *21st Century Solutions for 21st Century Families*, in downtown Los Angeles. The information presented at this well-attended conference truly was for the new millennium, demonstrating a paradigm shift in the way we view families. Featured speakers were Joan B. Kelly, Ph.D., Richard A. Warshak, Ph.D., Garrett C. Dailey, J.D., Judge Robert Schneider, Judge Roy L. Paul, Commissioner Ann Dobbs, Judge Katherine Lucero, and Judge Jerilyn Borack. The two pre-conference institutes, Collaborative Family Law and Anatomy of a Parenting Plan, were also well attended. Audio tapes from the sessions are available through www.vwtapes.com by clicking on the AFCC-Cal Conferences logo and then selecting Workshops, Pre-Conference Workshops or Plenaries.

Attendees at the conference had the optional opportunity to hear the Los Angeles Philharmonic at the Disney Concert Hall (truly a 21st Century structure), and to participate in an evening dine around with conference presenters. The conference also kicked off the two-year term of Los Angeles Psychologist Jane Ellen Shatz as president of the California Chapter.

AFCC-Cal is now focusing on strategic planning, member development and its Winter 2005 conference in San Francisco.

Florida

The Florida AFCC Chapter announces its 2004 Officers and Board of Directors:

President: Hon. Hugh Starnes, Fort Myers

President-Elect: Linda Fieldstone, M.Ed., Miami

Vice President: Mercedes O. McGowan, Ph.D., Jacksonville Beach

Secretary: Marsha Freeman, Esq., Orlando

Treasurer: Robert P. Matheson, CPA, CFP, CDP, Naples

Past-President: Gregory Firestone, Ph.D., Tampa

Debra K. Carter, Ph.D., Bradenton

Deborah O. Day, Psy.D., Winter Park

JoAnne C. Holt, CPA, CDP, CFM, Fort Myers

General Master Norberto Katz, Orlando

Hon. Raymond T. McNeal, Ocala

Sharon Press, Esq., Tallahassee

Cynthia A. Schuler, Lakeland

The Florida Chapter continues to involve Interest Groups to promote dialogue and collaboration throughout the state. Hon. Hugh Starnes meets quarterly with Family Court Coordinators to address subject areas such as court security, the role of the clerk and funding issues, and case management. These representatives are able to share information from their circuits and bring back new and innovative responses to their court communities. For anyone interested in initiating this type of forum, contact Judge Starnes at Hstarnes@ca.cjis20.org.

The Florida Chapter has appreciated learning about innovative ideas from the other AFCC Chapters. Following the Missouri Chapter lead, the first "Lunch & Learn" was held in Miami-Dade County at the end of February. Parenting coordinators, judiciary, attorneys and other interested professionals gathered to discuss issues regarding the implementation of parenting coordination in their circuit. The discussion was stimulating and several constructive ideas, such as developing future training for attorneys, resulted. Linda Fieldstone is available at Lfieldstone@jud11.flcourts, if you would like more information.

Missouri

Kansas City Area

Thanks to Peter Schloss and Hugh O'Donnell for presenting a reprise of their workshop, *Emotions Revealed*, which they had offered at the AFCC Regional Conference in St. Louis, November 2003. This well attended, brown bag lunch was held at the end of January in Kansas City, Missouri. Pete Schloss and Hugh O'Donnell demonstrated with the use of multi-media how to better recognize signs—including voice, body language and facial expressions, that are cues to clients' emotional states. For more information on future events in the Kansas City area, please contact Kathleen Bird, (816) 792-7681 or email: kbird@osca.state.mo.us

2004 St. Louis Area Lunch and Learn Series:

March 10, 12:00pm-1:30pm: *A Typology of High Conflict Couples: Is it Really Unresolved Grief?* Nancy Williger, Ph.D., Alan Freed, J.D., and Judge Ellen Siwak.

May 5, 12:00pm-1:30pm: *Parenting Plans that are Sensitive to Teens:* Commissioner Victoria McKee, Mark Kiesewetter, J.D., and Jeannine Lamb, M. Ed, LPC.

July 14, 12:00pm-1:30pm: *Showcase of High Conflict Parent Education Programs.* Mary Ellen Capriglione, LCSW "Cooperative Parenting and Divorce," Baker Symes, LPC "Cordial Parenting," and Tom Conran, Ph.D., Family Therapy Associates.

For more information on the St. Louis area AFCC work group or the Lunch and Learn Series, contact Andrea Clark, (314) 615-8094, email: aclark@stlouisco.com; or Ellen Cowell, (314) 615-8752, email: ecowell@stlouisco.com.

Springfield Area

A round table discussion will be held at 12:00pm, March 12, 2004, in Commissioner Winston Davis' courtroom. Discussion will be the roles of Guardians *ad Litem*, based on the August 2003 American Bar Association Standards. The panel will consist of a Juvenile Office attorney, the CASA Director and three attorneys who are experienced Guardians *ad Litem* in Juvenile and Domestic work. Commissioner Davis is to moderate the meeting. The Springfield Area AFCC work group holds continuing education events at the Greene County Courthouse. Contact Lisha Masters for more information at (417) 883-8200 or pratfos@alltel.net.

New York

AFCC-NY Co-Presidents Leonard Florescue, Esq. and Steven Demby, Ph.D. invite you to join them on Wednesday, April 21, 2004 for *Overnight Schedules for Young Children: Old Controversies, New Data*, presented by Marsha Kline Pruett, Ph.D. The presentation is from 7:00-8:30pm and will be preceded by light refreshments and networking from 6:00-7:00pm. For more information or to register, contact Steven Abel, Esq. at (845) 634-4700.

AFCC Member News

Judge Patrick Mahony, Principal Family Court Judge for New Zealand, received the award of Distinguished Companion of the New Zealand Order of Merit (DCNZM) from Her Majesty the Queen in the New Year Honors. New Zealand has abolished knight-hoods and this is the modern equivalent. Only four of such honors were conferred this year; therefore, it is a most significant national recognition of Judge Mahony's career and contributions. Judge Mahony has been a strong supporter of AFCC and the Family Court of Australia and has made a distinguished contribution to family law in New Zealand, Australia and internationally.

Forrest (Woody) S. Mosten, Mediator and Certified Family Law Specialist in Los Angeles, was recognized by the American Bar Association's Standing Committee on the Delivery of Legal Services for his career-long dedication to and achievement in enhancing legal services. The honor was in observance of the 10th Anniversary of the ABA Louis M. Brown Award for Legal Access. Mr. Mosten is the author of *Unbundled Legal Services: A Guide to Delivering Legal Services a la Carte*, published by the ABA Law Practice Management Section. His other books include *Complete Guide to Mediation* (ABA, 1997) and *Mediation Career Guide* (Jossey-Bass, 2001). (For his article on some of unbundling's current developments, see *Unbundling 2004* in the fall 2003 *AFCC Newsletter*.)

Thank you, Members!

In the AFCC Summer 2003 Newsletter, we announced an opportunity for members to earn "AFCC Dollars" by referring new members. For each first-time member who lists a current member as a referral source, the current member earns ten AFCC Dollars, which can be used toward the cost of conference registrations, membership renewals, or publications. So far, a total of 73 current members have been listed as the referral source by new members, for a total of 89 new members! AFCC would like to thank members who have helped AFCC grow through the recruitment of new members. Below are the names of members who have been listed as the referral source on the applications of new first-time members. Lauren Alexander and Christine Coates had the largest number of referrals, followed closely by Mary Ferriter and Leta Parks. Special thanks to all!

Lauren Alexander
Mimi Amondson
Charlene Anaya
Paula Andrews
Robert Berlin
David Bernstein
Judith Blanchard
Christy Bradsha
Emily Brown
Robin Brown Walton
Phil Bushard
Cynthia Cambell
Linda Cavallero
Christine Coates
Kathryn Cooper
Ellen Cowell
George Czutrin
Winston Davis
Betsy Duvall
Nancy Eade
Jeanne Erikson
Mary Ferriter
James Flens
Larry Fong
Geri Fuhrmann

Carla Garrity
Thomas Geisz
William Heimbuch
William Howe, III
Leslye Hunter
Sharon Iannacone
Steven Jacobson
Lisa Johnson
Lena Jones
Patricia Jordan
Norberto Katz
Phil Knox
Ellen Koblitz
Jill LeClair
Mary Ann Locklin
Mary Lund
Roger McDonald
Raymond McNeal
Marion Menzel
Ann Milne
Lee Monday
Woody Mosten
Susan Myres
Virginia Nager
Carren Oler

Nancy Olesen
Gerri Olin
Leta Parks
Shelley Propper
Linda Rio
Emily Ruben
Olivia Ruel
Andy Schepard
Brian Seltzer
Jan Shaw
Marietta Shipley
Phil Sobel
Barb Steinberg
Bruce Steinfeld
Mary Ann Stokes
Sue Tate
Scott Terhune
Betsy Thomas
Karen Van Beyer
Jeff Von Kohorn
Marjorie Walters
Joan Ward
David Woodbury

ICCFR Conference in Estonia

The International Commission on Couple and Family Relations will hold its 51st International Conference June 13-16, 2004 in Tallinn, Estonia. The conference theme is *Never the Same Again—Families and Their Relationships: Ten Years After the Year of the Family*. The Commission will offer a forum in which legislators, policy makers, legal experts, researchers, and those responsible for the delivery of front-line services to families from countries throughout the world can join in an examination of influences affecting couples and family life today.

The tenth anniversary of the International Year of the Family is taken as an opportunity to examine how today's societies are valuing, supporting and enriching family life and the couple relationships around which families are established. The conference program makes room for both philosophical perspectives and the practicalities of the services being shaped to support family life in the future.

Information about the Conference:

- Website: www.iccfr.org
- ICCFR Secretariat:
4 Barnfield Wood Close, Beckenham,
Kent BR3 6SY
Tel/Fax: 020-8663.0445 or
Fax: 020-8313.3247
E-mail: secretariat@iccfr.org

What are You Doing Now?

AFCC Newsletter's Member News Column wants to know! AFCC members are interested in keeping up with what their colleagues are up to and the *AFCC Newsletter* wants to help. If you have written a book, earned a promotion, accepted a new job, earned an honor or other distinction or have some other exciting news to share, please let us know. Simply email Candace Walker, AFCC Program Director and Newsletter Editor at cwalker@afccnet.org, fax to (608) 664-3751 or send your notice to AFCC, 6515 Grand Teton Plaza, Suite 210, Madison, WI 53719-1048.

Ten Great Reasons to Visit San Antonio!

It's no wonder San Antonio is Texas' top tourist attraction: awe-inspiring history, charm, and unique attractions are combined in a big city with a small-town feel. The fact that many sites here are free as well as easy to get to (via downtown streetcars or a river taxi) makes San Antonio an incredible destination. Listed below are ten of the activities awaiting you in San Antonio:

1 The Riverwalk. There is nothing like the Riverwalk! The atmosphere can't be beat: shops, restaurants, and cafes line three miles of winding pathway, fifteen feet below street level. Walk or take the river taxi directly from the Adam's Mark Hotel and explore to your heart's content.

2 The Alamo. You'll definitely "remember the Alamo" after touring the site of Davy Crockett's last stand. The Mission San Antonio de Valero, The Alamo's official name, is a unifying spiritual center for what it must mean to be Texan. Tour the mission, and don't forget to take a stroll through the lovely gardens located behind this historic building.

3 Market Square. Enjoy *El Mercado*, the largest Mexican marketplace outside of Mexico! Buy Mexican candies and *pan dulce* at the famous 24-hour Mi Tierra Cafe & Bakery, and shop for authentic crafts and regional products found in the many colorful stores.

4 The Missions. The Alamo is just one of San Antonio's Missions. Mission Concepcion, Mission San José and its ruins of Convento, Mission San Juan, and Mission Espada are also fascinating attractions.

5 La Villita Historic District. The "little village" is the site of the first Spanish settlement in San Antonio, and still boasts several 19th century Spanish homes. You'll see its Spanish, Mexican, German and French influences as you stroll among upscale stores and shops.

6 The Tower of the Americas. Ride up to the observation deck of this 750-foot tall tower for a magnificent panoramic view of San Antonio. Enjoy a meal at the Tower Restaurant while you're at it!

7 King William Historic District. When German entrepreneurs and merchants moved to San Antonio in the 19th century, this is where they settled, and their gracious, Victorian-style homes have been lovingly maintained.

8 Sunset Station. Want nightlife? You'll find it in this restored, 1902 train station, along with restaurants, shopping, and live music.

9 Buckhorn Saloon & Museum. Capture the essence of the Old West! Here, Pancho Villa discussed plans for the Mexican revolution of 1901, and Teddy Roosevelt recruited Rough Riders. Get a drink at the 120-year old bar and shop in the curio store, once dubbed "The Oddest Store in the World."

10 The Institute of Texan Cultures. No visit to Texas would be complete without a tour of this museum dedicated to enhancing the understanding of cultural history, science, and technology and their influence upon the people of Texas.

President's Message

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serve the children and families who come to us to resolve their disputes is the major attraction for AFCC. This can happen locally or at the international level. In my experience, it is most effective when there is a connection between the two.

AFCC wants to support local networking efforts among members, whether or not they are chapter related. If you are interested in communicating with colleagues in your area, you can search on the on-line directory or contact our administrative office for assistance. AFCC's list of 20 Ways to Activate Your Local Membership

provides a variety of ideas for getting a group of colleagues together.

Family law is different from other areas of practice. It is inherently interdisciplinary, it is rapidly growing and changing and AFCC members are at the heart of this change. Whether we communicate locally, nationally or internationally, and whether it is in person, on the Internet, on the telephone or in print, it is critical that we continue to do so. Through our chapters, our local membership groups and our parent organization we are striving to make AFCC an accessible and valuable organization for all of our members. I want to thank all of our members and their leadership for their commitment and hard work.

I look forward to seeing you in San Antonio.

Collaborative Law Process

continued from page 5

them rejects as not being the best possible solution in order for them to become more reasonable in their analysis. This is done without the threat of going to court. The emphasis is on their power to make a different solution by agreement.

If it is a client's nature to be non-collaborative, there will likely be threats to terminate the process. The lawyers should admonish their respective clients not to make such threats and should never be the conduit of threats. Each should ignore the "threats to go to court" spoken out of emotion. Remind the threatening spouse and his/her lawyer that threats are not a part of the process and only a decision to terminate the process will be heeded.

It will be necessary to be creative about over-coming roadblocks to settlement erected by the unhealthy person. It helps to

find interim solutions. The normal collaborative process of looking at each set of issues, developing options and considering their consequences can still be productive. In difficult cases, whenever the parties reach an agreement on issues, it may be wise to memorialize a partial settlement agreement. Often the best strategy is to defer minor "hot button" issues until the critical issues are resolved.

Negotiation approaches may need modification. There are some clients who simply have to have the last word. On the other hand, a disturbed client may have great difficulty making an offer and the other party will feel like he/she is bidding against him/herself as new options are generated. It may help the process to offer choices in the healthier client's settlement offers. One may finally have to set the boundary that no further suggested solutions will be posed until the other party proposes something that would be acceptable to him/her.

The process itself may need to be

modified. Who attends meetings or how they are conducted may require adaptation. A mediator may facilitate resolution. It is important to allow adequate deliberation time and not set artificial deadlines about when offers must be accepted.

Remember, the collaborative law process is flexible and may be the process of choice for a client who wants to avoid the chaos and crisis mentality that can flourish in litigation. If it becomes necessary to abandon collaborative procedures in order to force a resolution with a spouse who will not make a decision, each side will have informally completed much of the discovery and "bought time," so that the divorce occurs at a more appropriate juncture in the grief process. Collaborative law is something one can "try" and if it doesn't work, then one can proceed to litigation where the concept of "trying" is a completely different paradigm.

Gay Cox will present on Collaborative Law at AFCC's 41st Annual Conference, May 15, 2004, in San Antonio.

Upcoming AFCC Conferences and Trainings

AFCC Massachusetts Chapter Conference

April 8, 2004
Regis College
Weston, Massachusetts
Contact: Jeff.Stein@umassmed.edu

AFCC 41st Annual Conference

May 12-15, 2004
Adam's Mark on the Riverwalk
San Antonio, Texas
www.afccnet.org

AFCC Training Program Conducting Child Custody Evaluations

Featuring Philip M. Stahl, Ph.D.
June 1-2, 2004
Loyola University
Chicago, Illinois
www.afccnet.org

AFCC Training Program Parenting Coordination: Helping High Conflict Parents Resolve Disputes

Featuring Joan B. Kelly, Ph.D.
June 3-4, 2004
Loyola University
Chicago, Illinois
www.afccnet.org

AFCC Sixth International Symposium on Child Custody Evaluations

October 14-16, 2004
Sheraton Downtown Nashville
Nashville, Tennessee
www.afccnet.org

AFCC Sixth International Congress on Parent Education and Access Programs

October 17-18, 2004
Sheraton Downtown Nashville
Nashville, Tennessee
www.afccnet.org

AFCC Florida Annual Chapter Conference

November 12-13, 2004
Airport Marriott
Tampa, Florida
www.FLAFCC.org

AFCC 42nd Annual Conference

May 18-21, 2005
Sheraton Seattle
Seattle, Washington
www.afccnet.org