

# AFCC NEWSLETTER



VOLUME 23, NUMBER 2

Association of Family and Conciliation Courts

SPRING 2004

## AFCC to Put the Ultimate Question on Trial at Nashville Symposium

Should custody evaluators make specific recommendations about custody decisions or parenting plans to the court in disputed custody matters? The so-called "Ultimate Question" has received increasing attention, the most noteworthy being a recent front-page article in the Sunday *New York Times*. AFCC hopes to put the matter to rest with a mock trial, open to all registrants of the **Sixth International Symposium on Child Custody Evaluations**, October 14-16, 2004 at the Sheraton Nashville Downtown, in Tennessee's capital city. Lawyers both in favor of and opposed to the practice of evaluators providing specific recommendations will argue their case and present witnesses.

Many concerns have been expressed about the practice of custody evaluators making recommendations. Some worry about the reliability and predictability of the assessments. Others have concern about potential bias or predisposition of the evaluator or whether they are even qualified to make recommendations.

Participants will include noted New York matrimonial attorney Timothy Tippins, psychologists Jeffrey Wittman and Philip Stahl, and Lorraine Martin, the Coordinator of Social Work for the Ontario Office of the Children's Lawyer.

Custody evaluator Leslye Hunter, who takes over as AFCC President on July 1, 2004, is concerned with settling on an answer to the Ultimate Question, however she expressed some reservations about the process. "AFCC should know better than to rush into an adversarial process," she said. "I want to try to resolve this issue through mediation."

Ms. Hunter announced that well-known mediator Dr. Arnold Shienvold has agreed to work with the parties to try to resolve the issues at the opening night plenary session on Thursday, October 14. Dr. Shienvold, a long-time AFCC member, is also former President of the Association for Conflict Resolution and an experienced custody evaluator.

"If that doesn't work, we'll try other settlement options," said Ms. Hunter. "I would really like a trial to be the last resort." Failing settlement, the trial is scheduled to take place during the closing plenary session, October 16, from 10:30am-12:00pm.

The Symposium on Child Custody Evaluations will also include twenty workshops for beginning through advanced level practitioners, and a series of full and half-day pre-conference institutes.

- **Core Skills** workshops will provide the basics, including interviewing skills, report writing and assessing the data.
- **Advanced Applications** sessions will provide an opportunity for evaluators to grapple with challenges such as violence, addiction and high conflict issues that can plague the process.
- **Professional Practice Issues** workshops provide insights into ethical and other professional dilemmas that evaluators face.

Pre-conference institutes will take place during the day on Thursday, October 14. Half-day institutes will be offered on Psychological Testing with James R. Flens, Psy.D.; and on Working

Continued on page 11

## Parent Education Congress Gets a Makeover for Tenth Anniversary

AFCC's Sixth Congress on Parent Education and Access Programs will have a new look this year, with a stronger focus on an integrated training and networking program. AFCC's inaugural Congress on Parent Education Programs took place in Chicago in October 1994 when 400 participants turned out and began a major movement. Since that time, the number of programs estimated in the United States has grown from fewer than 400 to more than 2,000, and has been accompanied by supportive legislation and court rules.

The Congress will take place October 17-18, 2004 at the Sheraton Nashville Downtown in Tennessee's capital city. The Sheraton is offering a low room rate of \$118 single or double. Combined with low airfares to Nashville (Internet rates on Southwest Airlines as low as \$100 from some cities), the Congress is an affordable and outstanding training opportunity for those involved in educational programs for separated and divorcing parents.

The Congress will begin with a Sunday morning plenary session featuring the authors of two highly acclaimed books on post-divorce parenting. Christine A. Coates, co-author of *Learning from Divorce*, will join Dr. Philip Stahl, author of *Parenting After Divorce* for a look at what is new in divorce literature.

Two workshop tracks will be led by a core training group of Cori Erickson, Wyoming Children's Advocacy Network, Sheridan, WY; Risa Garon, National Family Resiliency Center, Columbia, MD; P. Leslie Herold, Solutions for Families, San Bernardino, CA; Jean McBride, Center for Divorce and Marriage, Fort Collins, CO; Chet Muklewicz, Kids First, Dunmore, PA; and Robert Smith, Fort Collins, CO.

All registrants will be invited to bring materials from their programs for display and share information about their programs during extended networking sessions, lunches and breaks. Additional networking opportunities will include the AFCC Hospitality Suite (open Saturday evening for early arrivals and Sunday evening) and a dine around in downtown Nashville.

For additional information, please check the AFCC website at [www.afccnet.org](http://www.afccnet.org).

### NFL Football Game is in Town Reserve Your Room Early for Nashville

The Tennessee Titans, Nashville's entry in the National Football League, will play host to the Houston Texans on Sunday, October 17, 2004. AFCC members attending the Symposium on Child Custody Evaluations and the Congress on Parent Education and Access Programs will want to make their room reservations early to assure availability at the group rate of \$118 per night. Contact the Sheraton Nashville Downtown at (615) 259-2000 or toll-free at (800) 447-9825 to make your reservations today!



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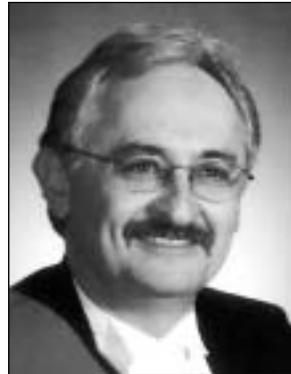
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6515 Grand Teton Plaza, Suite 210  
Madison, WI 53719-1048  
Tel: (608) 664-3750  
Fax: (608) 664-3751  
E-mail: afcc@afccnet.org  
Web: www.afccnet.org

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# PRESIDENT'S MESSAGE



Hon. George Czutrin  
Hamilton, Ontario, Canada

On May 9th, 2004 I flew to San Antonio from Toronto for AFCC's 41st Annual Conference. The flight gave me an opportunity to reflect on my Presidency that ends June 30, and has gone by very quickly. As I perused the thick packet of materials that were prepared for the business meetings to take place that week, it became clear to me that, although the year has gone quickly, the accomplishments during that time have been many. I would like to highlight just a few:

- **AFCC's Conference Committee**, chaired by Michele MacFarlane and Fred Mitchell, put together one of the best programs ever. Until I participated in the process, I never quite understood the delicacy of selecting workshops, speakers and topics from the many fine proposals received. Is there enough content for judges and lawyers? Should we repeat the popular workshop from last year? How can we continue to showcase new speakers and ideas without alienating those who want to present for a second, third, or tenth time? I don't know how they did it, but this year the Conference Committee struck just the right balance.
- **AFCC's Board of Directors** has put in a busy year, taking extra time to participate in the strategic planning process. AFCC Board members make an extraordinary commitment. They travel from Australia, Canada, the United Kingdom and throughout the United States at their own expense. They serve as presenters, hosts and attend meetings throughout the week, before, during and after the conference, beginning at breakfast and often lasting through the end of dinner. Make no mistake about it, it may be enjoyable, but it is work. With a small staff of four, AFCC counts on volunteer leadership to accomplish its lofty goals.

- **Family Court Review** has signed a five-year contract with Blackwell Publishing to begin publishing the journal in January 2005. Our new partnership will enable AFCC members to access the journal on line beginning next year. It will also allow AFCC to hire an associate editor to assist Andrew Schepard, *FCR* Editor.
- **AFCC Chapters** have made great strides forward under the leadership of Linda Fieldstone, Chapter Liaison to the AFCC Board of Directors. Chapters in Texas, Missouri and New York received their charters in San Antonio, bringing the number of chartered chapters to eight—twice as many as existed just three years ago.
- **International membership** is of ongoing importance. AFCC members learn through exposure to our diverse membership, those from different disciplines and different nations. AFCC recognized the challenges for those from outside North America, and is committed to finding ways to grow internationally. Our next President, Leslye Hunter, has appointed a committee to encourage international components of AFCC conferences, publications and other activities.
- **Developing initiatives** that fill a need for our members and other professionals is a vital role for AFCC. This year we launched a task force to develop parenting coordination standards and another to address the challenges facing court services agencies. We have also planted the seeds for family law education reform and future research initiatives. These initiatives build on AFCC's leadership role in creating new ideas, knowledge and information to help our members and the families they serve.

Sadly, and in spite of our best efforts, we lack resources in the family law field. Those who are prepared to do the required work need better support and should be recognized for their willingness to do the hard miles. I believe AFCC allows all professionals to get together to feel good about the work that they do and the goals that they have.

It has truly been an honour to serve as AFCC President. I thank our Board, staff, committee chairs and other volunteers for their support, tolerance and good humour. Leslye Hunter is a devoted, energetic professional and will be a great President.

If I have added in any small measure to the success of AFCC and in promoting the mission, values and goals of AFCC, I would like to thank you for allowing me this privilege.

# Early Neutral Evaluation

by Doneldon M. Dennis, Supervisor  
Hennepin Co. Family Court Services,  
Minneapolis, MN

One day last spring two parents, who were disputing custody of their children, arrived for their first appearance in family court in Hennepin County (Minneapolis), Minnesota. They weren't there for a formal hearing. Rather, they participated in a judicial management conference during which the judge, the parties and their attorneys discussed the scope of their case and what interventions might help settle disputed issues. Soon it became clear that this custody question turned on just two or three matters, not the up to 19 statutory best interests factors that are addressed in a conventional Minnesota custody evaluation. The attorneys had discussed this with their clients, of course, but the parties still wanted their day in court, with expert witnesses and the whole show.

The judge, with the agreement of the parties and their attorneys, referred them to the Early Neutral Evaluation program at Hennepin County Family Court Services. Later that day, the parties and attorneys met for two hours with two experienced family court services professionals, a man and a woman. At the session, the professionals listened as each side described their position, stated what they wanted and explained why they felt their plan was best for the children. The professionals asked clarifying questions, gave each side a chance for rebuttal, and ensured that each had a full opportunity to present his or her case. The professionals then adjourned to consult with one another. They discussed the merits of each party's case and expressed what they believed to be the critical issues. They then reconvened the session and shared what they had discussed. More important, they explained how they believed an evaluator would view the case and why, complete with predictions of what an evaluator would recommend. This was accompanied by the caveat that the findings were contingent upon the parties being able to verify their claims and allegations. The parties and their attorneys caucused separately and then met again with the professionals to discuss a settlement based on the feedback. An agreement was reached and the custody dispute resolved without a long delay, a formal study, or an emotionally exhausting trial, and at great savings to the parties, the court and court services.

Some cases aren't as clear as this example. When that happens, the court services professionals may take up to a month to

meet with the parties, their children or anyone else who might have valuable information about the family's circumstances. However, a confidential feedback meeting is scheduled within a month. The professionals never tell a judge what they learned or what opinions they formed. All they do is summarize agreements and suggest whether further services are needed. Such a recommendation might focus subsequent services on explicit issues. Should additional services be ordered, the matter will be assigned to different family court services professionals.

This is Hennepin County Family Court Services' Early Neutral Evaluation Program, an effort started by a group of six experienced mediator/evaluators last January. During the pilot program, only one judicial team and these six court services professionals were involved. Cases were hand selected by the judicial officers and everyone had to agree to participate. Consequently, the results may be better than what is seen when a cross section of families is referred. So far, however, more than half of the cases have settled at the first session, and over three-fourths have reached at least a partial agreement about the referral question. The average case requires two staff for about seven hours each (some cases require services well beyond the initial two-to three-hour meeting) as opposed to 30 to 40 hours of staff time for a conventional study.

Why is this so effective? So far we have identified several reasons, and we are still learning. One obvious reason is that only professionals with an average tenure at Family Court Services over 13 years have been involved. Second, the male/female teams help both parties feel understood and heard. Third, the parties welcome the quick read about their case and can often make better use of the feedback from the male-female team of experienced professionals than when they heard the same information from their attorney or someone else. Too, they may feel more confident about an early settlement when it stems from an assessment than if they have only their own instincts to guide them. Fourth, these cases are seen before they are deeply polarized by the adversarial system. Fifth, the workers can be very direct with their feedback. They are not blunt or cruel, but not needing to sustain ongoing rapport gives them greater freedom of expression. And last, of course, the court has specially selected these clients and they have agreed to use this program to try to settle their case quickly.

For additional information, please contact [doneldon.dennis@co.hennepin.mn.us](mailto:doneldon.dennis@co.hennepin.mn.us).



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## PRACTICE TIPS

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

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

*Editor's note: In the last edition of the AFCC Newsletter, Robert Smith shared the first five of his ten practice tips for mediators in Part I of the article below. Since then, the AFCC Newsletter has had several emails asking for the second five tips. Below is Part II of "What to do Next in Mediation." If you missed Part I and are looking for the first five tips, AFCC members can access past newsletter issues on the member section of the AFCC website at [www.afccnet.org](http://www.afccnet.org).*

### 6. Gently explore for the 800-lb. gorilla you haven't recognized is in the room

Sometimes the parents know all too well a family issue or secret that they unfortunately forgot to tell you about, and that issue is so controlling their actions that you can't quite figure out what is happening. If you get the sense that something is being mutually left out, but is wildly important, try calling separate caucuses and confronting each participant in a non-threatening way: "I sense that there's something you both know, but that you haven't told me yet, and it seems to be a big consideration in this mediation session. Is there some important fact that I'm missing?" Occasionally, that's a partner or spouse of one of the participants who is intransigent in working with any plan that involves the other participant. Or it may be a well-guarded family secret, and you may have to gently remind the participants that the mediation is a confidential procedure, and you can't be an effective facilitator without knowing the important things that are going on between them.

### 7. Reflect back on what may be going on psychologically/emotionally

This is fairly dangerous ground, and should not be attempted lightly. Sometimes, however, it becomes fairly obvious that one or both of the participants have strong emotional feelings that are hampering the mediation. An example: in a divorce mediation with attorneys present, Father was oblivious to Mother's thinly-veiled statements that indicated she didn't feel he appreciated her abilities as a parent. When I began a caucus with Mother, she talked about Father always criticizing her for having placed a child for adoption before they met. When I met with Father, I asked him what he felt Mother's strengths were as a parent, and he went on at some length about how good a mother she was to their children. Then I asked him, "Have you ever mentioned that to her?" When he said no, his attorney then asked to talk to him alone about this; and the mediation turned a bit smoother after we returned to the session and Father found an appropriate way to let Mother know he felt she had been doing a great job as a parent.

### 8. Make sure both sides have something they value that they can say they "won"

Saving face is important in nearly every culture, and sometimes it takes the mediator to reflect upon what each side is gaining that meets their interests for the parties to fully understand that they can hold their head up when they leave the mediation. Fathers many times strongly want to believe that they have been a significant part of their children's lives, and will continue to be, even though they may have spent much more time working outside the home than in caring for or playing with the children. Colorado changed its statutes in 1999 to rename "custody" as "parental responsibility" and to allow for the division between parents of various major classes of decision-making for the child (e.g., religious, educational or medical major decisions). I try to suggest, when appropriate, that perhaps each parent's individual expertise may play a part in their division of decision-making responsibility. I then give the example of a

mother who is a physician and a father who is a teacher—perhaps it would be appropriate for Mother to have primary responsibility as to medical decisions, for Father to be primary as to educational decisions, and both of them to share the responsibility as to religious decisions (again, stressing that only major decisions are at stake here). This provides more options, based upon each parent's abilities and expertise, and seems to allow the parents to begin to look more critically at how they can appropriately share in major choices in their children's lives, rather than the parents seeing legal custody as only a win/lose designation.

### 9. Looking at realistic time lines, including how long their decision must last

Sometimes, participants try to fashion a decision that either looks too far into the future, or doesn't consider it; with the result that their decision—while perhaps appropriate now—may not be later on. The other aspect of this too-limited thinking is that their decision may be premature for the many factors that are actually unknown at the time. Where this appears to happen most is in family law mediations where the parents are working out a parenting time plan for an infant. What needs to be done is not a formulaic determination of, say, "brief and frequent" parenting times forever—which might possibly be appropriate right now—but a slightly broader understanding of how things would and could change as the child grows older. What I have found to be helpful is to encourage the participants to focus their decisions on a relatively short time line (perhaps this school year, or until the child turns a certain age), and then ask if they are willing to commit to returning to mediation when more data become available.

A variation of the above is to remind the parties how long their decision must last. Sometimes, parents get bogged down with intricate parenting time schedules, totally forgetting that their child is entering her/his teen years and will likely want to spend more time with his/her friends at the mall than with either parent. In one mediation, I was able to quickly refocus two parents on reality when I reminded them that they only had to deal with planning out one more summer before their daughter turned 18, when she could legally decide on her own where she wanted to be all of the following summers.

### 10. Recognize the "negative dance of intimacy," and concentrate upon the most important issues at hand

I once mediated a parenting time issue with a couple who were highly vocal about their absolute distaste for each other. They sniped and verbally exploded at each other from the very first moment they met in the hallway before the mediation. Their need to negatively interact with each other became more apparent when I had finished the mediation—during which they had finally agreed to a reasonable parenting time approach. I tried to conclude the session by saying to them that I was glad to have met them, and that I wished them and their children good luck in the future. They both suddenly looked horror-stricken—then Mother brought up, out of the blue, a charge she had about Father unfairly keeping some of her property.

They were at it again, verbally sparring and denouncing each other as totally unfit to inhabit the planet, until they finally came to a reasonable agreement about the minor piece of property. I again told them they had done well in the mediation and wished them good luck in the future. Of course, this time the horrified looks were shorter until Father opened his bomb bay doors upon Mother for some relatively minor reason. Suddenly realizing what was going on, when we finished successfully mediating this minor crisis I changed my parting words to indicate that I was very ready to help them mediate other things in the future, and that I had another scheduled appointment now, but that they should call me to set up another session. They never did call back for another probably unneeded session, but at least I succeeded in getting them out of the office—yelling at each other about inconsequential things all the way down the hallway.

# AFCC's 41st Annual Conference: *Best Interests Revisited* called "Best Ever"

"Best ever" were the words of many attendees in describing AFCC's 41st Annual Conference in San Antonio, Texas. Outstanding plenary sessions, pre-conference institutes, workshops and wonderful interdisciplinary networking opportunities gave more than 600 enthusiastic attendees an opportunity to recharge their batteries and enjoy everything that San Antonio had to offer.

Pre-Conference Institutes provided participants with the opportunity for in-depth discussions on a variety of important issues including attachment, communication in mediation, parenting coordination, effective courtroom practices, divorce reform and developmental needs of children. A special International Institute, organized by AFCC Board Member Janet Walker, featured a team of presenters from Norway and Canada presenting on the latest initiatives in their countries.

The conference opened with an entertaining and informative keynote address by Dr. Sherri Z. Heller, Commissioner of the Federal Office of Child Support Enforcement. Dr. Heller's discussion of the latest

directions in child support enforcement, sprinkled with liberal doses of wit and her own humorous observations about working in Washington, D.C., provided a perfect kick-off for the conference.

Thursday's plenary session, *Civil Marriage and Same-Sex Unions: Implications for Family Law Professionals*, highlighted this highly-charged and important topic by featuring AFCC members who have led the way. Presenters included Martha McCarthy, Canada's leading legal advocate for same sex marriages, Justice Harvey Brownstone of Toronto, and Robin Deutsch, Ph.D.

Friday morning's plenary featured a no-holds barred discussion on the American Law Institute's Approximation Rule featuring ALI Co-Reporter, Dean Katharine Bartlett of Duke Law School. Responding to Dean Bartlett were AFCC members Professor Andrew Shepard and Richard A. Warshak, Ph.D.

Friday also included a bonus plenary session, featuring Constance Ahrons, Ph.D., presenting data from her new book and two-decade study, *What Grown Children Say About Their Parents' Divorce*.

The AFCC Awards Luncheon honored the accomplishments of AFCC members (please see page 8) and Friday's Annual Banquet featured an engaging talk by Hon. Charlie A. Gonzalez, United States House of Representatives, and musical entertainment by Christopher Tabor, who performed his one-man show, *Parents*.

AFCC wishes to thank members of the AFCC conference committee, conference shepherds and others for their hard work, which made the 41st Annual Conference possible:

Fred Mitchell  
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AFCC is pleased to welcome new members of the Board of Directors, with terms beginning July 1, 2004: Philip M. Stahl, Ph.D., Danville, California and Wendy Bryans, LL.B., Ottawa, Ontario, Canada.

AFCC thanks the following members who have completed their service on the Board of Directors: Robert L. Barrasso, J.D., Tucson, Arizona and Larry S. Fong, Ph.D., Calgary, Alberta, Canada.

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## AFCC Members Write On



**Constance Ahrons**, AFCC member from San Diego, California, has a new book, *We're Still Family*, published by Harper Collins. The book reports on her 20-year follow-up with adult children of her bi-nuclear study in the 1980s that culminated in her book *The Good Divorce*. Dr. Ahrons presented the findings of her study at AFCC's 41st Annual Conference in San Antonio.

**Jay Folberg, Ann Milne and Peter Salem**, AFCC Executive Directors past and present, have co-edited *Divorce and Family Mediation: Models, Techniques and Applications* published by Guilford Publications. The book contains chapters authored by leaders in the field of divorce mediation including AFCC members Allan Barsky, Connie Beck, Emily Brown, Stephen Erickson, Lynn Carp Jacob, Janet Johnston, Bernie Mayer, Marilyn McKnight, Nina Meierding, Forrest (Woody) Mosten, Marsha Kline Pruett, Isolina Ricci, Don Saposnek, Andrew Schepard and Arnold Shienvold.

**Larry S. Fong**, AFCC member from Calgary, Alberta, has completed the English version of his book *Mediation* (SUNY Press, April 2004) with **Gretchen Haynes** that includes the wisdom of the late **John M. Haynes**. The book not only covers a range of mediation cases, but also includes the exploration of the clients' thoughts, helping readers to incorporate successful organizing principles into their own mediation practices. The first translation of the book, *La Mediazione*, was published last year in Italian. In 2004 it was also published in German, *Mediation—Vom Konflikt zur Lösung*.

**Andrew Schepard**, AFCC member from Hempstead, New York and editor of *Family Court Review* has authored a new book published by Cambridge University Press. *Children, Courts and Custody* provides an overview of the evolution of family courts and ADR practices over the last three decades.

**Nancy Ver Steegh**, AFCC member from St. Paul, Minnesota is the co-author (with Robert E. Oliphant) of two new books published by Aspen Publishers. *Family Law: Examples and Explanations* provides comprehensive coverage of twenty-six topics in family law including mediation, domestic violence, and professional responsibility. *Work of the Family Lawyer* is a casebook that allows instructors to design their own family law courses. A detailed teacher's manual includes teaching ideas, PowerPoint presentations, and quizzes. The book is supported by an author website.

*Have you written a book? We want to let others know about new books in the field by AFCC members. Send information on your book to Candace Walker, Editor, AFCC Newsletter at [cwalker@afccnet.org](mailto:cwalker@afccnet.org).*



## Record Number of AFCC Scholarships Awarded for 41st Annual Conference

AFCC's Awards and Scholarships Committee, in collaboration with the Resource Development Committee, provided six scholarships for AFCC's 41st Annual Conference in San Antonio. Scholarships covered registration fees for the conference and one full-day pre-conference institute. Scholarships were awarded to:

**Elba E. Cera**, bilingual in Spanish and English and interested in becoming a *guardian ad litem*; previously the Project Coordinator of Community United for Health at the University of Nebraska Medical Center, from Omaha, Nebraska.

**Laura Czepiel**, a Licensed Chemical Dependency Counselor and university student whose goal is to become a family court mediator, from Round Rock, Texas.

**Joan D. Muleady**, in private practice and appointed several times as a Special Advocate, with a goal to continue training

and train others as a special advocate, custody evaluator or any role that benefits the health of children, from Grand Junction, Colorado.

**Steven D. Vogl**, a mediator and former attorney, working to bridge the two communities of lawyer and mental health service provider that will provide the best services to the public, from Exeter, New Hampshire.

**Jo-Ellen Watson**, a *guardian ad litem* and interested in promoting parenting coordination in her community, from Kirkland, Washington.

**Shannon D. Webb**, a law student who has mediated small claims and CJ cases and juvenile and parent/teen cases, planning to practice in the family law area with an emphasis on mediation and conciliation, from Oklahoma City, Oklahoma.

# AFCC 2004-2005 Committee Chairs

## Awards and Scholarships Committee

Hon. Emile Kruzick, Chair  
Superior Court of Justice  
10 Louisa Street  
Orangeville, ON L9W 3P9 Canada  
P: (905) 456-4835  
F: (905) 456-4834  
E-mail: emile.kruzick@jus.gov.on.ca

## Chapter Committee

Linda Fieldstone, Co-chair  
10305 SW 68 Ct.  
Miami, FL 33156  
P: (305) 665-5412  
F: (305) 349-5634  
E-mail: fieldston6@aol.com

Jan A. Shaw, MPA, Co-chair  
Orange County Superior Court  
341 The City Drive  
Orange, CA 92868 USA  
P: (714) 935-6459  
F: (714) 935-6310  
E-mail: jshawAFCC@aol.com

## Conference Committee

Fredric Mitchell, Ph.D., Co-Chair  
Family Center of the Conciliation Court  
Pima County Legal Services Bldg.  
32 N Stone Ave, Ste. 1704  
Tucson, AZ 85701-1403 USA  
P: (520) 740-5590  
F: (520) 624-4034  
E-mail: fmittchell@sc.co.pima.az.us

Denise Herman McColley, M.Ed., J.D.,  
Co-Chair  
Henry County Common Pleas Court  
660 N. Perry  
Napoleon, OH 43545 USA  
P: (419) 592-5926  
F: (419) 599-0803  
E-mail: denise.mccolley@henrycountyohio.com

## Development Committee

Hon. Arline Rotman (ret.), Chair  
95 Douglas Road  
Norwich, VT 05055 USA  
P: (617) 724-9575  
F: (617) 724-2808  
E-mail: arliner@aol.com

## Finance Committee

Mary Ferriter, JD, MPA, Chair  
Packenham, Schmidt & Federico, P.C.  
Ten St. James Ave., 16th Fl.  
Boston, MA 02116-3813  
P: (617) 695-0021  
F: (617) 695-0665  
E-mail: mary.ferriter@psflaw.com

## Human Resources Committee

Hon. William C. Fee, Chair  
Steuben Superior Court  
55 S Public Square  
Angola, IN 46703 USA  
P: (260) 668-1000 ext. 2600  
F: (260) 668-4453  
E-mail: wfee@co.steuben.in.us

## International Committee

Janet Walker, Ph.D., Co-chair  
Newcastle Centre for Family Studies  
18 Windsor Terrace  
University of Newcastle  
Newcastle Upon Tyne, NE1 7RU  
England  
P: 44-191-222-7644  
F: 44-191-222-7871  
E-mail: j.a.walker@ncl.ac.uk

William J. Howe III, JD, Co-chair  
1875 Skyland Drive  
Lake Oswego, OR 97034 USA  
P: (503) 277-1515  
F: (503) 243-2038  
E-mail: billhowe6@comcast.net

## Nominations Committee

Hon. George Czutrin, Chair  
55 Main Street West  
Hamilton, ON L8P 1H4 Canada  
P: (905) 645-6254  
F: (905) 645-6265  
E-mail: george.czutrin@jus.gov.on.ca

## Professional Development and Technical Assistance Committee

Kelly Browe Olson, Co-chair  
U.A. L. R. Bowen School of Law  
1201 McMath Ave.  
Little Rock, AR 72202  
P: (501) 324-9452  
F: (501) 324-9911  
E-mail: kbolson@ualr.edu

C. Eileen Pruett, Co-chair  
Supreme Court of Ohio  
65 S. Front Street  
Columbus, OH 43215 USA  
P: (614) 387-9420  
F: (614) 387-9009  
pruette@sconet.state.oh.us

## Publications Committee

Doneldon Dennis, Co-chair  
Hennepin County Family Court Services  
Family Justice Center  
110 S. Fourth Street, Suite 200  
Minneapolis, MN 55401 USA  
P: (612) 348-3614  
F: (612) 348-6332  
E-mail: doneldon.dennis@co.hennepin.mn.us

Phil Bushard, Co-chair  
Family Mediation Program  
1 S. Sierra Street, 3rd Floor  
Reno, NV 89501 USA  
P: (775) 328-3556  
F: (775) 328-3129  
E-mail: pbushard@mail.co.washoe.nv.us

# AFCC Development Committee Thanks Contributors

The AFCC Resource Development Committee extends its thanks to all of those who contributed to this year's Annual Appeal. The appeal raised more than \$12,000 to support scholarships and projects that benefit the field of practice. A special thank you to AFCC Chapters from Arizona, California, Florida and Massachusetts for their contribution, and to AFCC members Doneldon Dennis, Arline Rotman and the Suzie S. Thorn Family Foundation for their exceptionally generous donations.

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## Contributors

Joan Anderson  
Sharon Bjork  
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# AFCC Awards Presented

AFCC members were honored for their accomplishments at the Annual Awards Luncheon at AFCC's 41st Annual Conference in San Antonio.



## **DISTINGUISHED SERVICE AWARD Linda Hahn, Former AFCC President**

Linda Hahn, former AFCC President and long-time Board member, was honored with AFCC's Distinguished Service Award. Ms. Hahn served on the AFCC Board of Directors for more than a decade, serving as President in 1996-97, helping to lead AFCC during the Second World Congress on Family Law and the Rights of Children and Youth in June 1997. Ms. Hahn served as AFCC Treasurer and was instrumental in the growth of AFCC during the 1990s. She served as a counselor, then manager of Dallas County Family Court Services and subsequently as District Court Administrator for Dallas County.

## **STANLEY COHEN DISTINGUISHED RESEARCH AWARD Dr. Marsha Kline Pruett, Yale University School of Medicine**

Dr. Marsha Kline Pruett was presented with the Stanley Cohen Distinguished Research Award. Dr. Pruett is on the faculty and is a research scientist at the Yale University School of Medicine in New Haven, CT. She has conducted extensive studies on young children and divorce, co-edited a special issue of the *Family Court Review* on Fatherhood, and was instrumental in developing the track of research workshops for AFCC's 41st Annual Conference in San Antonio. The award is sponsored by the Oregon Family Institute in honor of the late Dr. Stanley Cohen, former *Family Court Review* Co-Editor, AFCC Executive Director and a founding member of AFCC.

## **IRWIN CANTOR INNOVATIVE PROGRAM AWARD Dr. Sherri Z. Heller, Access and Visitation Grant Program, Federal Office of Child Enforcement**

The Irwin Cantor Innovative Program Award was presented to Dr. Sherri Z. Heller, Commissioner of the Federal Office of Child Support Enforcement. Dr. Heller oversees the Access and Visitation Grant Program, funding innovative programs to support parental

access in courts throughout the United States. The program has helped to make regular, safe and appropriate child-parent contact a reality for thousands of families nationwide.

## **PRESIDENT'S AWARD Linda Fieldstone, Miami, FL**

AFCC President George Czutrin presented the AFCC President's Award to Linda Fieldstone, AFCC member from Miami, FL. The award is presented for exemplary service to the Association. In the past year Ms. Fieldstone has served as Chapter Liaison to the AFCC Board of Directors, working to coordinate the efforts of AFCC Chapters. She has also served as Secretary of the AFCC Task Force on Parenting Coordination and as President Elect of the AFCC Florida Chapter.

## **AFCC Honors Chief Justice Alastair Nicholson**

AFCC recognized the accomplishments of Justice Alastair Nicholson at the Awards Luncheon at the 41st Annual Conference in San Antonio. Justice Nicholson, a former AFCC President, will retire as Chief Justice of the Family Court of Australia this summer. He was AFCC's first President from outside of North America from 1997-98, also serving as Chair of the Second World Congress on Family Law and the Rights of Children and Youth. Justice Nicholson has continued to serve AFCC as a frequent presenter at conferences and by ensuring a continuing presence of Australian representatives among AFCC leadership, conference presenters and contributors to the AFCC journal, *Family Court Review*.

AFCC congratulates Justice Nicholson on his many significant accomplishments as Chief Justice and as AFCC President, and wishes him well in retirement.

# Sixth Annual Silent Auction is a Winner

AFCC's Sixth Annual Silent Auction was held May 15, 2004 at AFCC's 41st Annual Conference in San Antonio. More than \$11,000 was raised for the AFCC Resource Development Fund and everyone was a winner. Proceeds from this year's auction will support scholarships and special projects funded by the AFCC Resource Development Committee.

Bidders selected from a variety of books, designer clothing, original artwork, jewelry and sports collectibles, including the ever-popular bobble-head dolls (Rafael Palmero) autographed baseballs from hall of fame baseball players, and an authentic Australian Rules-Football, courtesy of AFCC Board Member Linda Dessau of Melbourne.

A very special thank you to auction organizers John Harper and Dick Altman, and their assistants Mary Ferriter, Perri Mayes, John Polanski, Mike McColley and Marty Riewaldt and to all of those who contributed to this year's auction.

### **Organizations**

Starwood Hotel and Resorts  
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AFCC Missouri Chapter  
AFCC New Jersey Chapter  
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# After the Grant is Over: Saving High Quality Mediation Programs in Tough Economic Times

by C. Eileen Pruett, J.D., Supreme Court of Ohio, Columbus, Ohio

You had the perfect grant, a great program and an excellent evaluation! What happens to your program when grants dry up, budgets get tight and services are being cut all around you?

Two Ohio child protection mediation programs provide some answers. Both the Hamilton County Juvenile Court (Cincinnati) and the Lucas County Juvenile Court (Toledo) completed successful grant projects that demonstrated high success rates, significant value and cost savings through mediation of termination of parental rights cases. What happened next is all too familiar to court programs of many kinds.

In Hamilton County the Department of Jobs and Family Services was poised to take over funding of the program that used contract mediators to mediate these important and difficult cases. Unfortunately, the Department had to withdraw its offer when funding was cut. The program shut down for seven months and then began again on a smaller scale. During further budget cuts the program lost its administrative manager. The program is now "under the wing" of Deputy Chief Magistrate Carla Guentner who notes, "to revitalize the program we brought it in-house and began referring cases to contract mediators already mediating parenting time cases for us. This cut our costs and had the added advantage of giving us access to mediators with a wealth of experience." The program also changed its operating procedures. Cases are referred by the magistrates or the attorneys and include any kind of child protection case, not just termination of parental rights cases. Also, the cases may, if all the parties and attorneys agree, go to mediation without the attorneys participating in the session. There have been a relatively small number of such cases, but there have been no negative impacts reported. Between May and August, 2003 there were 14 mediations. Thirteen cases resulted in full or partial agreement.

The Hamilton County Juvenile Court uses funds received as a five-dollar fee added onto court costs to fund its mediation programs. The program did not "just go away" because it received significant judicial support from both magistrates and judges. Education and training for stakeholders, including magistrates, was a critical component of the original grant and has paid off in the court's commitment to maintaining the program.

The Lucas County Juvenile Court mediated 52 cases with agreement in 59.6% of the cases during the evaluation of its program for mediation of termination of parental rights cases. Ten dollars is added to court costs for every delinquency, traffic and contributing case to fund the child protection mediation program. After grant funding ended, the court eliminated the random referral component that was part of the grant project. The decision to limit referrals to those coming from magistrates and attorneys impacted the number of cases mediated. In 2002 the number of mediations dropped to 14, 11 of which settled (92% settlement rate). In 2003 there were 7 mediations held and 4 settled (57% settlement rate). Although referrals to the termination program dropped, it is interesting to note that referrals and settlement rates among early intervention mediation cases remained high. There were 92 mediations in 2002 and 86 cases mediated in 2003. The average settlement rate for early intervention cases has held steady at 74%. The early intervention cases are selected by the program coordinator and involve the same magistrates and attorneys as those in the termination phase.

Although the grant project and evaluation demonstrated time savings, the primary motivation for continuing the mediation program is to meet the needs of citizens. Magistrate Brenda Rutledge noted, "even if mediation doesn't result in settling the case, it is a more meaningful process that gives citizens what they need." She added "although this is a real luxury in a time of fiscal constraints, our court has looked beyond cost to provide a service that really meets the needs of citizens." Training has also played an important role in developing court culture that supports mediation. Because all of the attorneys who practice in the court have had mediation training they are actively involved in the mediation process.

Funding cuts can devastate programs, these two examples demonstrate that courts can downsize and maintain services. Although downsizing limits the number of people and cases assisted by mediation, it does maintain mediation as a viable part of court services. Fiscal constraints move programs back to an initial start-up phase; programs must think big, start small and stay the course until resources become available. With educated judicial officers and mediation participants who refer appropriate cases and participate in the mediation process, high quality services will continue to be available.

# Nominations Sought for Exemplary Practices

The work of the AFCC Court Services Task Force commissioned by Justice George Czutrin in 2003 is underway. The Exemplary Practices Subcommittee of the Court Services Task Force has begun to identify court and community programs that demonstrate exemplary practices in the family law area (also including juvenile delinquency, child dependency, and domestic violence). The intent is to share a wide range of program information among the courts and AFCC's multidisciplinary membership, with the goal of promoting exemplary approaches to meet the critical needs of the court and the people it serves. An AFCC publication will highlight selected programs, and the compendium then can offer guidance and support to implement such programs.

By use of the nomination forms, (available on AFCC's website at [www.afccnet.org](http://www.afccnet.org), or from the AFCC office at (608) 664-3750), please tell us about or put us in contact with programs you think work really well. Also, please feel free to self-nominate. *These programs can not only be court-connected programs but also community based programs that provide services valued by the court.* Criteria for inclusion in the publication as exemplary programs include:

- Creative
- Innovative
- Effective
- Accountable

Please tell us about exemplary programs in the areas of **Access to Justice**, i.e., services for unrepresented parties, interpreter services; **Children's Services**, i.e. court appointed special advocates, specialized support groups; **Parenting Plan Services**, i.e., supervised visitation, visitation enforcement, custody evaluations; **Dispute Resolution**; **Parenting Support**, i.e. assisting families in coping with divorce, parent education, interventions with high conflict families; **Specialty Courts**; **Creative Use of Information Technology**; **Other**.

Please contact David Hodges at (206) 296-9410 or [david.hodges@metrokc.gov](mailto:david.hodges@metrokc.gov) if you have any questions in regard to this request.

## Save the Dates!

May 18-21, 2005

AFCC's 42nd  
Annual Conference

Sheraton Seattle  
Seattle, Washington

# From Sydney to Cape Town: The Evolution of the World Congress

by the Honourable Justice Rodney K. Burr, Judge, Adelaide Registry, Family Court of Australia

In 1990, Sydney solicitor Stuart Fowler and I were invited to Hong Kong to address the council of LAWASIA, an association that represents lawyers and lawyers' organisations in some 21 countries in the Asian and Pacific region. We thought we would be invited to establish a Family Law Section having had considerable experience doing so in Australia.

LAWASIA did indeed issue such an invitation but then delivered a challenge that was intimidating in the extreme. The Council of LAWASIA asked us if we would accept a brief for the human rights of families and children in the Asian and Pacific region. Members of the Council then individually and collectively regaled us with tales of the utmost horror. They told us of:

- The plight of some 140,000 children under the age of 14 years sold into prostitution in one small Asian country alone;
- The potential decimation of several generations by the spread of AIDS through child prostitution;
- The appalling conditions in child labour camps and factories in several countries in the region;
- The deliberate mutilation of children in order to use them as beggars;
- The forced removal of children's organs for sale in the organ transplant trade;
- The abduction for adoption of many children; and
- The appalling poverty and health problems of millions of children.

Our instinctive reaction was, "It can't be done." What could a couple of unknown lawyers do about generational problems of the most severe proportions? It seemed impossible.

However, it also became impossible to ignore. No longer was the education and care of our own families and the pursuit of a comfortable retirement the only priorities. There had to be something that could be done. If someone did not accept the challenge, then it certainly would be impossible.

And so, the First World Congress on Family Law and Children's Rights was conceived and ultimately born in Sydney, Australia in July 1993. It was the product of three years of very hard but very rewarding work. The more people we told of the problems and told of our hopes, the more offers we received and the more volunteers "sprang from the woodwork".

From its inception, the World Congress was designed and promoted to be result oriented. It was to achieve outcomes. It was not simply to be a "talk fest" and a gathering for the exchange of views and ideas that would be quickly forgotten once the departure tax had been paid at the airport.

Over 850 delegates from 54 countries of the world answered the initial challenge and worked hard throughout the Congress to educate and inform others from their own

experience and expertise, but more importantly to draft solutions and remedies and to establish the momentum for change.

The First World Congress did achieve results and significant results at that:

- The enactment of laws imposing criminal sanctions for the abuse and exploitation of children committed extraterritorially;
- The generation of a climate of international condemnation of the exploitation of children;
- Significant exchange of information leading to new developments in family law, family courts and alternative dispute resolution;
- The creation of a LAWASIA Children's Trust to fund projects consistent with the resolutions of the Congress; and
- The promotion of a protocol to the UN Convention on the Rights of the Child designed to bolster international sanctions for the prevention of trafficking of children;
- The formation of the Lawasia Family Law and Family Rights Section.

Delegates left the conference with an enormous sense of satisfaction but an awareness that a very long journey had only just begun. It was essential that an organisation be found in one of the larger countries of the world that had the capacity to lead by example, to continue and to expand upon the humble beginnings of the First World Congress.

Fortunately Stuart Fowler and I were introduced to the Association of Family and Conciliation Courts in the USA, which warmly embraced the World Congress and agreed to serve as Secretariat for the Second World Congress, held in San Francisco June 3-7, 1997.

The energetic and enthusiastic contributions of the AFCC representatives on the organising committee drawn from many and varied professions ensured the success of the Second World Congress.

Then First Lady, Hillary Rodham Clinton, embraced the project and served as Honorary Chair of the Second World Congress, which attracted 1600 delegates from some 60 countries.

By then it was clear that the momentum could only be carried forward by the continuation of World Congresses on a regular basis. Not only were we encouraged by the results of the first two Congresses but also by the growing body of international support for its aims and objectives amongst the legal profession and related professions worldwide. The enormity of the task of preparing such World Congresses meant though that they could not be held any earlier than each four years. Subsequently, another very successful Congress was held in Bath, England in September 2001.

In the intervening years leading up to each Congress and subsequent thereto the work continues in securing international support for the aims and objectives of the World Congress in addressing human rights abuses of children. The World Congress has

been successful in securing support at a Governmental level from the Australian, New Zealand, Canadian, United Kingdom and Irish Governments. Support has also flowed from numerous other individuals, foundations and organisations from around the world, including the United Nations and its various agencies.

As stated, the second Congress in San Francisco attracted the very public support of the First Lady, Hillary Rodham Clinton. For the third Congress, the patron was H.E. Mary Robinson, United Nations Human Rights Commissioner and Former President of the Republic of Ireland.

Palpable benefits were also achieved at the second and third Congresses including:

- The drafting and promotion of voluntary codes of conduct for multinational corporations employing children in their manufacturing operations off shore
- The building of two schools in Central America
- The establishment of the International Children's Rights Protection Network (now Children's Rights International) using voluntary advocates to embrace specific cases or general causes for disadvantaged or abused children
- The receipt of "report cards" on the performance of the world's nations in seeking to implement the resolutions of the World Congress
- The successful continuation of a drive to get as many nations of the world as possible to pass laws mirroring Australia's child sex tourism laws in imposing criminal sanctions for the abuse and exploitation of children committed extra-territorially.

The planning for the fourth Congress is already underway and is to be held in Cape Town, South Africa from 20 – 23 March 2005.

The World Congress is now a truly international event recognised as one of the most significant events on the world calendar in promoting the protection of children. The World Congress has received a United Nations Award for services to the family. As its work continues, many new and energetic people, too numerous to mention, have asked to be involved to increase the reach and effectiveness of the World Congress. Its future seems assured and hence the hope of achieving beneficial change for many of the world's children, attainable.

For further information, please visit our website: [www.lawrights.asn.au](http://www.lawrights.asn.au)

To be placed on the mailing list, contact:

Gail Fowler, Project Manager  
Capital Conferences  
PO Box 253  
Church Point  
NSW Australia 2015  
Tel: +61 2 9999 6577  
Fax: +61 2 9999 6733  
Email: [gail.fowler@capcon.com.au](mailto:gail.fowler@capcon.com.au)

The congress is held under the auspices of the Board of the World Congress on Family Law and Children's Rights Inc.

## Massachusetts Chapter Mourns Loss of Founding Member

The Massachusetts Chapter of AFCC and the entire family court community of Massachusetts suffered a great loss with the recent untimely death of Ken Herman, Ph.D., J.D.

Ken was a founding member of the Massachusetts chapter and the driving force behind Massachusetts' vibrant interdisciplinary community. He was a dedicated and gifted teacher, a skilled clinician, an empathic, incisive and disciplined custody evaluator, an indefatigable champion of children's welfare, and above all, a wonderful human being who always had time and a kind word for everybody.

Ken received his Ph.D. in Clinical Psychology from the George Washington University in 1974 and his J.D. from Boston College Law School in 1981. While serving as a United States Public Health Service Fellow in 1973-74 at Children's Hospital in Boston, he began working in the area of child welfare and troubled parent/child relationships where he provided both direct service and evaluation. He was a founding member of the New England Resource Center for Protective Services, a federally funded consultation group in child welfare service delivery systems. That focus led him to law school. In 1982 he co-founded the Children

and the Law Program at Judge Baker Children's Center. Children and the Law is a direct service (evaluation, consultation) as well as a teaching program. Ken taught at Boston University Law School for ten years.

As Director of the Children and the Law program, which moved to Massachusetts General Hospital in 1992, Ken trained a legion of forensic child psychologists, including his co-director Robin Deutsch. He gave generously of his time to teach lawyers, child welfare workers and judges about child development and family functioning in the context of forensic and public policy issues. He was a favorite presenter at Massachusetts AFCC conferences. In addition to his work on extremely difficult custody evaluations, he took on very complex and challenging parenting coordination cases and was very involved in the drafting and lobbying for Massachusetts' pending parenting coordinator legislation. He was the recipient of numerous awards for his outstanding contributions to the field.

A fellowship is being established in Dr. Herman's name. Further details will be provided in future editions of the *AFCC Newsletter*.

## AFCC Charters Three Chapters

AFCC Chapters from Texas, Missouri and New York received their Chapter Charters at AFCC's 41st Annual Conference in San Antonio. The process of becoming a Chartered AFCC Chapter is a lengthy and difficult process, involving significant activity in membership recruitment, planning continuing education programs, administration, financial planning and member communication.

Accepting the Chapter Charters were Lynelle Yingling, President, Texas Chapter; Winston Davis, former President, Missouri Chapter; and Elayne Greenberg, Member, Board of Directors, New York Chapter.

AFCC congratulates its newest chapters!



## Nashville Symposium

continued from page 1

with Drug and Alcohol Addicted Parents with Claude Schleuderer, Ph.D. Full-day institutes will be presented on Risk Management with David A. Martindale, Ph.D.; Domestic Abuse, Child Abuse and Alienation with Leslie Drozd, Ph.D., Katherine Kuehne, Ph.D. and Nancy Olesen, Ph.D.; and Expert Testimony and Cross-Examination with Andrew Schepard, J.D., Philip Stahl, Ph.D., R. John Harper, LL.B., and others.

The Sixth International Symposium on Child Custody Evaluations is an affordable conference for custody evaluators, judges, lawyers and others who work with children and families. The Sheraton Nashville Downtown is offering a low AFCC rate of \$118 per night, single or double rooms, and many airlines are offering airfares into Nashville at rates below \$200 round trip.

The conference brochure will be mailed to AFCC members and posted on the AFCC web site in the late summer. For further information watch future editions of the *AFCC Newsletter* and the AFCC website at [www.afccnet.org](http://www.afccnet.org).

## Upcoming AFCC Conferences and Trainings

### AFCC Training Program Advanced Topics in Child Custody Evaluations

Featuring Jonathan Gould, Ph.D.  
September 8-9, 2004  
University of Wisconsin,  
Madison, Wisconsin  
[www.afccnet.org](http://www.afccnet.org)

### AFCC Training Program Parenting Coordination: Working with High Conflict Parents

Featuring Robin Deutsch, Ph.D.  
September 28-29, 2004  
University of Wisconsin,  
Madison, Wisconsin  
[www.afccnet.org](http://www.afccnet.org)

### AFCC Sixth International Symposium on Child Custody Evaluations

October 14-16, 2004  
Sheraton Nashville Downtown  
Nashville, Tennessee  
[www.afccnet.org](http://www.afccnet.org)

### AFCC Sixth International Congress on Parent Education and Access Programs

October 17-18, 2004  
Sheraton Nashville Downtown  
Nashville, Tennessee  
[www.afccnet.org](http://www.afccnet.org)

### AFCC Florida Annual Chapter Conference

November 12-13, 2004  
Airport Marriott  
Tampa, Florida  
[www.FLAFCC.org](http://www.FLAFCC.org)

### AFCC Arizona Chapter Conference

February 4-6, 2005  
Hilton Sedona Resort and Spa  
Sedona, Arizona  
[www.azafcc.org](http://www.azafcc.org)

### AFCC 42nd Annual Conference

May 18-21, 2005  
Sheraton Seattle  
Seattle, Washington  
[www.afccnet.org](http://www.afccnet.org)



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- E. James Anthony, M.D., FRCpsych.  
Clinical Professor of Psychiatry & Behavior

I wish all of the families that come into my courtroom could have the benefit of the wisdom that is contained in this book.

- Judge Deborah L. Richardson

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