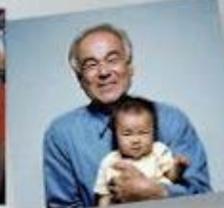




ASSOCIATION OF  
FAMILY AND  
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eNEWS

## President's Message

*Marsha Kline Pruett, PhD, ABPP*

Conflict resolution took on a new meaning for me this summer. I thought I understood a lot about it before my two-week trip to Rwanda. The trip was part of a program funded by the US State Department that brings Rwandan and Ugandan fellows to the US (specifically to Smith College School for Social Work, where I am a Professor) to learn about conflict resolution, violence reduction at home and in the larger community, and tolerance. [Read more.](#)

## December Trainings

Register now for the December trainings, being held December 5-6 and December 7-8. Each training is eligible for up to 12 hours of continuing education.

### **Alcohol and Other Drugs: It's a Family Affair**

Judge Peggy Fulton Hora (Ret.)

Steve Hanson

December 5-6, 2016

MONTHLY E-  
NEWSLETTER  
VOL. 11 NO. 10  
October 2016

### **Upcoming AFCC Conferences**



### **AFCC 12th Symposium on Child Custody Evaluations**

*Abuse, Alienation, and  
Gatekeeping: Critical  
Issues for Family Court  
Professionals*

November 3-5, 2016

## Managing Intractable Issue in Child Custody Disputes

Robin M. Deutsch, PhD, ABPP

December 7-8, 2016

[View the brochure](#)

[Register now!](#)

## Ask the Experts: Tips on Testifying

*David A. Martindale and Timothy M. Tippins*

Many mental health professionals who enjoy their work become apprehensive when they must testify regarding their work. In our 'tips' article, we address the importance of tapping published research, coming to court with well-organized files, offering jargon-free explanations, and anticipating reasonably foreseeable areas of cross-examination. We discuss the problems that arise when witnesses are insufficiently familiar with the facts of the case, fail to respect the role that cross-examination plays in the process, and become involved in churlish interactions with cross-examining attorneys. We close with tips for mental health professionals who testify regarding work product reviews. [Read more.](#)

## Family Court Review

### Call for Submissions

AFCC's quarterly Family Court Review (FCR) is the leading interdisciplinary academic and research journal for family law professionals worldwide. FCR is peer-reviewed and is a forum for the exchange of ideas, programs, research, legislation, case law, promising practices, and suggested reforms. Its articles are directed to judges, attorneys, mediators, and professionals in mental health and human services who are concerned with the operation and improvement of all aspects of the family justice system. FCR's editors are currently accepting articles, notes, comments, and book reviews. Please email submissions to [Matthew.Kiernan@hofstra.edu](mailto:Matthew.Kiernan@hofstra.edu), and visit the [AFCC website](#) for further information regarding the submission and publication process.

Sheraton Atlanta Hotel  
Atlanta, Georgia

### AFCC 54th Annual Conference

*Turning the Kaleidoscope of Family Conflict into a Prism of Harmony*  
May 31-June 3, 2017  
Boston, Massachusetts

### AFCC Chapter Conferences

#### [Ontario Chapter Annual Conference](#)

October 21, 2016  
Toronto, Ontario

#### [Illinois Chapter Annual Conference](#)

November 11, 2016  
Chicago, Illinois

#### [Arizona Chapter Annual Conference](#)

January 27-29, 2017  
Sedona, Arizona

#### [California Chapter Annual Conference](#)

February 10-12, 2017  
Costa Mesa, California

### AFCC Webinar Series

*Challenging Issues in Parenting Coordination*  
Debra Carter, PhD  
December 14, 2016  
1:00pm Eastern

*What Family Law Professionals Need to Know About Self-Represented Litigants*  
John Greacen, JD and Katherine Alteneider, JD  
February 8, 2017 1:00pm

## Family Law Writing Competition

Hofstra Law and the Association of Family and Conciliation Courts (AFCC) are sponsoring the seventh annual Family Law Writing Competition. The competition is run in cooperation with the editorial staff of the Family Court Review. We strongly encourage law students to participate in this competition and hope family law professors urge their students to submit articles.

[More information](#)

If you have questions, please contact the [Managing Editor](#) of the Family Court Review.

[Learn more about the students behind the Family Court Review here.](#)

## AFCC 12th Symposium on Child Custody Evaluations

Only a few days remain to register for the AFCC 12th Symposium on Child Custody Evaluations, *Abuse, Alienation, and Gatekeeping: Critical Issues for Family Court Professionals*, November 3-5, 2016.

[Register now!](#)

## AFCC 54th Annual Conference - Boston Here We Come!

Exhibiting and advertising at the AFCC annual conference are excellent ways to share your products and services with an interdisciplinary community of family law professionals. Commit by **December 5, 2016** to ensure your exhibit or ad space is included in the program brochures, mailed out to over 20,000 family law professionals around the world.

[View the prospectus for sponsors, exhibits, and ad space.](#)

Please contact Program Coordinator, [Corinne Bennett](#), with any questions.

## Nominate a Colleague for an AFCC Award

AFCC awards were created to acknowledge the important

Eastern

*Visitation Resistance*  
Matthew J. Sullivan, PhD  
April 12, 2017 1:00pm  
Eastern

*LGBTQ Clients and Family Law in a Post-Obergefell Era*

Allan Barsky, JD, MSW, PhD

June 20, 2017 1:00pm  
Eastern

Are you an AFCC member? [Join](#) or [Renew](#)

The opinions expressed in articles published or linked to in the *AFCC eNEWS* are those of the authors and do not necessarily reflect the positions of the Association of Family and Conciliation Courts.

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### Associate Editor:

Corinne Bennett



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contributions made by individuals and organizations to enhance the lives of children and parents involved in family courts. The act of nominating a colleague helps to highlight the range of achievements in the field and helps to cultivate a culture where we give thanks to individuals and organizations for their contributions.

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Nominations for the following AFCC awards, to be presented at the Annual Conference in Boston, will be accepted online through March 15, 2017.

- **John E. VanDuzer Distinguished Service Award** recognizes outstanding contributions and/or achievements by AFCC members;
- **Stanley Cohen Research Award**, sponsored by the Oregon Family Institute, recognizes outstanding research and/or achievements in the field of family and divorce; and
- **Irwin Cantor Innovative Program Award** recognizes innovation in court-connected or court-related programs created by AFCC members.

[Nomination application, complete award descriptions and list of past recipients](#)

## AFCC Webinar Series

### Challenging Issues in Parenting Coordination

Debra Carter, PhD

December 14, 2016

Registration will **open November 16, 2016** at 1pm Eastern Time.

For the complete schedule and titles of the upcoming webinar series, [click here](#).

Both Robin Deutsch's *Intimate Partner Violence and Child Custody Evaluation: The AFCC Guidelines* and Phil Stahl's *Emerging Issues in Relocation Cases* have been recorded and can be found under the [Member Center](#) of the AFCC

website.

**Chapter News:**

[Meet Stacy Heard](#), President of the **Washington Chapter**

[Meet Michael Aaron](#), President of the **Arizona Chapter**

**Member News:**

**In Memoriam: Ruth Stern**

Ruth Stern, former Managing Editor of Family Court Review, of Sea Cliff, NY, passed away last weekend after a brief battle with cancer. Ruth was an independent legal scholar, and co-authored the book Intimate Associations: The Law and Culture of American Families with her husband, AFCC member J. Herbie DiFonzo. She previously served as a legal researcher for Children's Rights, Inc., in New York, and was Coordinator of Family Law Programs at Hofstra Law School. AFCC sends its deepest condolences to Ruth's friends and family.

**Carly Marco**, our program coordinator, has left AFCC for a new position at Health Care Education & Training Inc. Carly has been with AFCC since 2012. Congratulations Carly, and we wish you the best!



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## President's Message

*Marsha Kline Pruett, PhD, ABPP  
Northampton, Massachusetts*

Conflict resolution took on a new meaning for me this summer. I thought I understood a lot about it before my two-week trip to Rwanda. The trip was part of a program funded by the US State Department that brings Rwandan and Ugandan fellows to the US (specifically to Smith College School for Social Work, where I am a Professor) to learn about conflict resolution, violence reduction at home and in the larger community, and tolerance. I had met three such delegations of fellows in the US; I taught them about domestic violence and worked with them on action plans to implement their learning when they returned to their respective countries six weeks later. I am invited to spend two weeks seeing the program implementation plans I helped develop in action in the Rwandans' home country.

A little history is useful here to create some perspective. Many of you will already know this history. For others, this may be new information. In 1994, a mere 22 years ago, Rwanda experienced a genocide in which former neighbors and friends among the Hutu and Tutsi clans became embroiled in conflict. The Hutus were the majority clan and in power, and they murdered nearly 1,000,000 Tutsis and sympathizers among the Hutu in 100 days. That's 10,000 people a day in a nation the size of Massachusetts, my home state. No one was spared. The deaths were grisly, often a product of machetes, a personal kind of combat that dehumanizes completely. As in all genocides, rape of women and children was frequent and brutal, and many children were removed from their families. I viewed the churches that took in thousands of children, only to have them more effectively lumped together to shoot them or throw them against concrete walls. The blood stains remain. I'll spare you more details, but my point is that if anyone had reason to withhold forgiveness, it was the Tutsi of Rwanda.

Despite this, the country taught me a great deal about tolerance and living in harmony. Here are some of the finer points:

- 1) New presidential leadership announced that people were no longer to identify as Hutu or Tutsi, but as Rwandans. Ethnic allegiances exist but they pale compared to national pride and focus on common ground.
- 2) The government created “artificial families;” they gathered people together in groups of 8-12 and called them a family. They were given a place to live, and their responsibility was to care for each other and support each other through University and/or beyond if they so choose. This policy created families where there were none. My Rwandan colleagues don’t introduce each other as “half “siblings or “step” parents or cousins “once removed.” They are uncles and aunts and parents, and brothers. Their language is inclusive, unlike our characteristically distinguishing language that diminishes relationships.
- 3) Many orphans (upwards of 120,000 I believe) were left after the war. Families were asked to take in orphans and they did, so the orphanages operating after the war are no longer part of the fabric of Rwandan culture. They weren’t needed. There is no Department of Children and Families, just a culture of mutual responsibility. I had dinner at a Fellow’s home, where 9-10 people were introduced to me as family or friends living there. It was a tiny home; the nuclear family was a couple with a toddler and a baby on the way. I asked how all 10 people were fed regularly, and our Fellow David looked at me astonished: “I don’t think about it, it is just what we do.” I felt a twinge of guilt thinking about my children with their 4 different cold cereals at home, and their favorite question when they come home from their activity of the day: “What’s for dinner?” What if they never had to ask because they knew the answer would always be rice and beans and maybe avocado?
- 4) The prison system decided to start reconciliation villages rather than put all the perpetrators in prisons. Hutu and Tutsi who agreed to reconcile would be given homes in villages where both clans lived next door to each other. They shared land and their children played together. Fifteen of them came to meet our group. Two older men stood up and explained in Kinyarwanda translated that they had believed the government when they said Tutsis were their enemies. They realized now they had taken unforgivable actions and would have to live with that for the rest of their lives. They said that it was good to live next door and be able to provide support and assistance on a daily basis. Then some victims stood up and explained how they saw their parents and siblings being killed, but they believed the future meant they must all look forward together, not hold onto the past, or the pain would never go away. I asked if there was depression or PTSD among the villagers. I asked if they really forgave or felt they needed to pretend.

They said most really forgave but not all. They shook their heads at my Western questions and I marveled at the directness of their answers.

- 5) The Director of Prison 1935 shared with me that over 900 people were still in prison as criminals from the genocide. He said they should all be freed, so they could be doing the work the community needs, as contributing members instead of useless prisoners.
- 6) Finally, there are programs all over the country – in museums, schools, churches, NGOs – that are dedicated to conflict resolution. The high schoolers take part in active bystander programs; the vocational programs combine clans and include conflict resolution as part of their work while weaving baskets or braiding hair. Investment is made in healing.

I thought about some of the families I have worked with in the past and those I am working with currently. I thought about their intractable conflict, how they dig in on small issues and find it impossible to forgive past grievances that cannot even begin to match up to those experienced in Rwanda. I thought about how our legal system teaches messages opposite of what we hope to achieve, through example, policy, and precedent. And I thought about how my heart and my eyes were opened by a beautiful group of Fellows I had hardly known, whom I now considered to be family. One of them said to me, “I know if my sister ever came to America I could tell her to find you and you would look after her.” My first response was “For how long?!” My immediate second response was “You certainly could, and I know I could send my children to you.”

When I was finished grieving for my floundering country, I thought about how I was changed by only two weeks in a world different from mine, because I did not go as a tourist but as a part of the solution. I was returning home with new skills to teach and a new perspective to bring. I looked forward with anticipation to returning to AFCC, and the new models of conflict resolution I have had a small hand in (e.g., Resource Center for Separating and Divorcing Families and the Center for Out of Court Divorce in Denver; Family Resolution Services Court in Hampshire County, MA). I thought about how to apply what I know about conflict resolution and mediation in new ways. And I renewed my conviction to make headway on intractable conflicts in families and the violence that swirls around them.

I hope to see in my lifetime AFCC’s first Annual Symposium on Conflict Resolution Innovations. Meanwhile, in November, AFCC heads to Atlanta for our 12<sup>th</sup> Symposium on Child Custody Evaluations. I will be there, with open eyes and ears. I hope you will all join me, active bystanders ready to innovate, to stand

up for change. We do make a difference and we can make a bigger difference. I believe that with all my heart.



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eNEWS

VOL. 11 NO. 10  
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## **Ask the Experts: Tips on Testifying** *David A. Martindale, Timothy M. Tippins*

### **The Importance of the Evaluative Task**

Before there is testimony, there is a report; before there is a report, there is a professional task to be performed. Approach the task with an appreciation for the impact that your work will have on the lives of the litigants and others who are affected by the litigation. As you prepare your report, recognize the potential impact of your words.

Read and use the empirical research of your discipline. Anchor your inferences to reliable and valid empirical research that provides the major premise(s) for your conclusion(s) about the case-specific information you have collected. If you want to say, for example, that you observed parental behaviors A, B and C, and that those behaviors increase the probability of child-related-outcome D, then cite the peer-reviewed, published research that supports the relationship between the described behaviors and the described outcome.

"There is an important difference between an expert opinion and a personal opinion. When an expert has formulated an opinion, it is reasonably presumed that the expert has drawn upon information accumulated and published over the years. The defining attributes of an expert opinion relate not to the credentials held by the individual whose fingers type the words or from whose mouth the words flow; rather, the requisite characteristics relate to the procedures that were employed in formulating the opinion and the body of knowledge that forms the foundation upon which those procedures were developed. If the accumulated knowledge of the expert's field was not utilized, the opinion expressed is not an expert opinion. It is a personal opinion, albeit one being expressed by an expert" (Martindale, 2001, p. 503).

It should be noted that judges are also expected to exercise care with regard to the possible intrusion of personal perspectives into the judicial deliberation process. In its Decision in *Troxel v. Granville*, the United States Supreme Court noted with disapproval that the Superior Court trial judge had deemed it appropriate to "look back at some personal experiences. . . ." (530 U.S. 57 [2000], at 61).

### **Create and Maintain an Exquisitely Organized File**

Consider the snips that follow, taken from court transcripts. In the first case, the disorganized file belongs to an evaluator. In the second case, an attorney's disorganization elicits disapproval from the court.

Evaluator: I can't seem to locate those notes.

Attorney: But notes were taken, is that correct?

Evaluator: To the best of my ability there are notes. I've kept notes to the best of my ability. I know that I can't find a lot of these April and May notes, but I've kept them to the best of my ability.

THE COURT: Mr. Attorney, you asked if you could take a moment to locate Document X. Though the word 'moment' is imprecise, it seems to me that more than a moment is being taken.

Attorney: I apologize, your honor. I'll move on without it.

Later, during the same proceeding, . . .

THE COURT: I suggest that you present the witness with the document that you are alluding to.

Attorney: Thank you, Your Honor, but I will move on. I don't wish to take the time that would be required for me to locate the document.

### **Do Your Homework**

There is no substitute for doing your homework. The statements that follow appear in a Judicial Decision (available on request to the senior author).

(1) "In order to evaluate the experts' testimony, it is essential to compare their testimony to the facts contained in the record [emphasis added]."

(2) "It is clear that [Dr. M.] had carefully reviewed the record and had a thorough command of the evidence. Consequently, great weight should be attached to his expert opinion."

(3) Dr. W. was "unfamiliar with the record on which she based her opinion."

(4) Dr. S's "opinions, however, did not comport with the factual record. . ." "His conclusion . . . is contrary to the record and must be rejected"

(5) "[Dr. G.] admitted having limited information on what was in the record."

At every step of the process, envision yourself defending your work before a panel of the top forensic experts in the field.

### **Show Up On Time**

You do not want your name appearing in a transcript in this manner: "THE COURT: Does somebody want to call Dr. Z. and just find out where she is? She was supposed to be here at 9:30." Being certain that you will be on time requires reasonable foresight. If you will be traveling a significant distance or traveling in an area that is known for traffic congestion, do not permit yourself to become 'collateral damage' resulting from someone else's vehicle accident on a highway that you must travel. Spend the night before your scheduled testimony in a hotel in the immediate vicinity of the court.

### **The Full Monty: Bring Your Entire File to Court**

If you believe that some item in your file should not be disclosed, keep in mind that the authority to make the decision rests with the court, not with you. Bring the item, and let the court rule on the matter. Similarly, the decision regarding what's "important" is not yours to make. Stating "Oh, I didn't think that was important," is not acceptable.

"What about test materials?," someone asked. There is no basis in law for ignoring that portion of a subpoena that instructs you to bring test materials. Authority to decide how test materials will be handled rests with the Court, not with the witness. There is no "statutory authority precluding a trial court, in its discretion, from ordering the disclosure of the written test questions and answers" (Carpenter v. Yamaha, 141 Cal. App. 4th 249 [2006], at 271).

"But, what about copyright issues?," someone else asked. The Report of the Register of Copyrights on the General Revision of the U.S. Copyright Law cites examples of activities that courts have regarded as fair use. They include "reproduction of a work in legislative or judicial proceedings or reports..."

### **The Really Big File**

Attorney: May I please see your notes from March 7th?

Witness: I don't have them with me.

Attorney: You were served with a subpoena duces tecum instructing you to bring your entire file, were you not?

Witness: Do you know how big it is?

Attorney, to The Court: Your Honor, I ask that the Court direct Dr. Smith to obtain her file and return to court.

The Court: We will recess. I am directing you to go to your office, retrieve your file, and return to court. Though I don't want you to exceed posted speed limits, I further direct that you pay all three attorneys at their customary rate for the time that they will be forced to waste between now and whenever you return.

### **Be Truthful, Accurate, and Maintain Neutrality**

TRUTHFULNESS includes being aware of and honest about gaps in the knowledge base of the field in which you assert that you have expertise. Being truthful also includes not misusing research, and acknowledging research that is not supportive of positions taken by you.

ACCURACY includes attentiveness to the established definitions of terms that you intend to use. Certain rights held by us as private citizens must be relinquished in certain contexts. As private citizens, we may conceptualize trauma in any manner we wish. When writing reports for courts and when testifying, we operate under the constraints imposed by the DSM-5. Consider the two examples that follow.

Witness: "PTSD is elicited by prolonged exposure to events that pose a cumulative threat to the psychological self, even if none of the events is particularly severe or life-threatening."

Q: What specific events posed a cumulative threat to Mrs. Johnson's psychological self?

A: She was constantly insulted by Mr. Jones.

[The cross-examining attorney then presented the witness with a copy of the DSM-5, and the witness's testimony went downhill from there.]

Witness: "During the observational session conducted with Johnny and his mother, Johnny dysregulated."

Q: What, exactly, did Johnny do?

A: I don't recall.

Q: Please refer to your notes, Doctor, to refresh your memory.

A: My notes only reflect that Johnny dysregulated.

Q: Do your notes reflect how Mrs. Smith dealt with the situation, when Johnny dysregulated?

A: No.

Q: Wouldn't it be important to have that information?

A: It's difficult to take lots of notes during an observational session.

[The term "dysregulated" provides no useful information. Use of the term may suggest to a reader or listener that the child is experiencing a Disruptive Mood Dysregulation Disorder. The symptoms of Disruptive Mood Dysregulation Disorder include chronic negative mood and temper outbursts . . . the severity, frequency, and chronicity of [which] are more severe than . . . those [observed in children with] oppositional defiant disorder" (DSM-5, p. 465). Additionally, disruptive mood dysregulation disorder is characterized by a persistently negative mood state (i.e., irritability, anger) most of the day, nearly every day, between impulsive aggressive outbursts" (DSM-5, p. 469).]

If the glove does not fit, your fingers will be uncomfortable . . . and your credibility will take a hit.

Accuracy also requires taking care not to overreach. Don't engage in testimonial improvisation (Example: The expert declares that "the research shows . . ." when, in fact, the expert, if challenged would not be able to cite any specific published research). Acknowledge errors when errors are brought to your attention. Don't hesitate to say "I don't know" or to concede that the knowledge base of your professional discipline does not include the answer to the question being posed.

NEUTRALITY. Be dispassionate, and don't become defensive.

Consider the statement that follows, appearing in the context of the Court's articulation of the manner in which the Court decided how much weight to attach to the testimony of different witnesses. Dr. W's "objectivity was impaired by her strongly-held views regarding people who criticize psychologists. Consequently, little weight should be attached to her opinion on the quality of [the licensee's] professional practice." (Decision available on request.)

### **Eschew Obfuscation**

An unidentified philosopher whose wisdom often appears on bumper stickers has opined: "If you can't dazzle them with brilliance, baffle them with b-s." We strongly urge testifying experts not to heed this advice. The expert's obligation is to assist the trier of fact. No assistance is being provided when an expert's testimony is replete with professional jargon or is needlessly convoluted. Consider the example that follows.

An expert retained by the mother's attorney views two videos (furnished by the mother) in which a young child expresses distress concerning visitation with his father. Visitation with the father is indisputably uneventful. On direct examination, the expert is asked to consider the fact that the child expresses distress but that, once at his father's house nothing noteworthy occurs. The expert is asked to state her "conclusions." She responds: "At the father's house there's a resignation, and physiologically we would see that the central nervous system collapses. In clinical terms, the dorsal vagus comes up."

The expert has alluded to what is known as dorsal vagal shutdown. It has been described as a failsafe survival mechanism that puts the organism into a state of freeze. [Refer to: Porges, S. W. (2011). *The polyvagal theory: Neurophysiological foundations of emotions, attachment, communication, and self-regulation*. NY: Norton]

### **Think Preemptively**

Offer on direct that which would otherwise be painfully extracted from you on cross.

### **Don't Be Disrespectful of the Process**

Consider the statement that follows, offered by a court-appointed expert in response to an inquiry regarding the manner in which a specified document came into his possession: "I got it from the zoo. It doesn't matter. This is what I got. You're wasting time." This response exemplifies bad behavior by a witness. It also strongly suggests that the witness is unaware of his obligation to make note of and to disclose the sources of information relied upon. This matter is addressed in Guideline 11.03 of the American Psychological Association's Specialty Guidelines for Forensic Psychology (APA, 2013). That guideline reads as follows, in its entirety: "Forensic practitioners are encouraged to disclose all sources of information obtained in the course of their professional services, and to identify the source of each piece of information that was considered and relied upon in formulating a particular conclusion, opinion, or other professional product."

### **Yes or No, Doctor?**

Provide "Yes" or "No" responses when instructed to do so. If you believe that a question cannot be answered "Yes" or "No," make that statement. Save explanations for re-direct, but 'signal' the desire for inquiry on re-direct. An example follows.

The expert being cross-examined, responds to an inquiry: "No, that is not my position. Would you like me to explain my position?" The cross-examining attorney replies: "Thank you, Doctor, but that will not be necessary." The expert has signaled that he wishes to be provided with an opportunity to articulate his position. A reasonably alert attorney will hear the signal.

### **Dealing with Hypotheticals**

In the absence of a sustained objection, the premises contained in hypotheticals must be accepted, even if you question their accuracy. When presented with new information, incorporated in a hypothetical, acknowledge that the new information might lead you to reconsider opinions that have previously been conveyed in your report or in your testimony. Example: "Assume that father orally abused the mother in the presence of the children."

### **Listen and Correct**

Consider the following example, taken from a deposition transcript.

Q: What literature supports your assertion that an authoritative parenting style is necessary - is essential?

A: I'm not sure how to respond, because you've used terms that I have not used.

Q: What terms?

A: You've used the terms 'necessary' and 'essential.' I'm testifying regarding a best interests evaluation. I'm not addressing necessity. I'm opining regarding parenting styles that are generally viewed as likely to serve the best interests of children.

### **Don't Model Bad Behavior**

When the actions of a cross-examining attorney are aversive (loud, sarcastic, insulting), don't respond in kind. Attorneys who have at their disposal the information needed to challenge you effectively will do so. They will focus on substantive issues. It is likely that the attorney whose tool of choice is the sarcastic jab has few other tools from which to choose.

The tips that follow are related specifically to testimony offered by retained work product reviewers. [Refer to: Martindale, D. A. (2015). Commentary on work product review testimony. Association of Family and Conciliation Courts' eNews 10(6).]

### **Review Your Review**

Carefully assess the strengths and deficiencies of the testimony that you are considering offering. Discuss those strengths and deficiencies with the retaining attorney, and, utilizing your expertise, explore reasonably foreseeable areas of cross-examination. Do not deceive yourself or the retaining attorney regarding the applicability or usefulness of the pertinent research literature. Specifically, as you review the pertinent literature, do not focus on those findings that support the

position being taken by the retaining attorney, while ignoring those findings that conflict with the position being taken by the retaining attorney.

### **Inordinate Fees Adversely Affect Your Credibility**

Dr. L. was "a witness paid handsomely for his time. As Dr. L/ testified, he was paid by E. the sum of \$6,000.00 per day to testify — this despite the fact that his regular hourly rate charged to patients was \$275.00. In other words, Dr. L. would have to see approximately 22 patients in a 24 hour day in order to earn the equivalent sum paid by Plaintiff for his testimony." (Decision available on request.)

No matter what your fees are, provide detailed time logs that show how much time was expended in rendering the various elements of your task.

### **Avoid Opining on the Issues**

"[T]he Court notes that [testifying reviewer] inappropriately gave opinions about the minor child without ever having interacted with the child. The Court was stunned that she would render opinions [regarding the child]. [Reviewer] stepped outside the acceptable parameters for an expert doing a record review and the Court finds her testimony, therefore, not credible." (Decision available on request).

### **Emphasize the Record**

Example: "Based upon Dr. X's record, it does not appear that the criteria for PTSD that are specified in the DSM-5 have been met. I want to remind the court that I have not evaluated Y, so I am not rejecting Dr. X's diagnosis, and will not be proposing an alternative diagnosis. My opinion, simply, is that the diagnosis assigned to Y by Dr. X is not supported by the entries in his record."

David Martindale, board certified in forensic psychology by the American Board of Professional Psychology, is the Reporter for the AFCC's *Model Standards of Practice for Child Custody Evaluation*. He has testified as a therapist, as an evaluator, and as a reviewer. At the 12<sup>th</sup> Symposium on Child Custody Evaluations, in Atlanta, David will offer a workshop entitled "Developing your skills as a testifying expert." David offers forensic psychological consulting services to psychologists, attorneys, and licensing boards. Additional information may be found at [www.damartindale.com](http://www.damartindale.com)

Timothy M. Tippins is an Adjunct Professor of Law at Albany Law School. He serves on the faculty of the American Academy of Forensic Psychology and the Affiliate Faculty for Post-Doctoral Forensic Psychology at St. John's University. He is Past-President of the American Academy of Matrimonial Lawyers, New York

Chapter, and Past Chair of the NYSBA Family Law Section. He is the author of the three-volume treatise *New York Matrimonial Law & Practice*, published by West Publishing Co.

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Association of Family and Conciliation Courts  
present the eighth annual  
**Family Law Writing Competition**

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Hofstra Law and the Association of Family and Conciliation Courts (AFCC) are sponsoring the seventh annual Family Law Writing Competition. The competition is run in cooperation with the editorial staff of the *Family Court Review*, which is the academic and research journal of AFCC. The *Family Court Review* is an interdisciplinary and international journal published quarterly by Wiley and in cooperation with the Center for Children, Families, and the Law at Hofstra Law. The *Family Court Review* contributes to and facilitates discourse among the judicial, legal, mediation, mental health and social services communities.

### Topics for Submission

The subject of entries may be within any area of family law, although topics that focus on international or interdisciplinary subjects of family law are especially encouraged. Articles should concentrate on a current legal issue and must have a strong foundation in legal research. Use of interdisciplinary sources may also be appropriate for many topics.

Entries will be judged on the quality of legal analysis, originality, depth or research, timeliness, creativity and format. The *Family Court Review's* editors and a subcommittee of editorial board members will evaluate all articles.

### Authorship

Submissions must be the work of one person. No joint authorships will be accepted, except articles written jointly by a law student and mental health, social science or other relevant graduate student. Submissions must be originally argued and researched legal papers. Hofstra Law students are ineligible to participate. Law students can be from any country. Advice and input from professors, judges and professionals in the field is allowed, but the author must research and write the entire article. Entries cannot be more than 25 double-spaced pages in length, including footnotes. Articles must be in Times New Roman, 12-point font, with 1-inch margins. Authors from the United States must comply with *The Bluebook: A Uniform System of Citation, 20<sup>th</sup> Edition*. Authors from outside the United States must conform to the relevant legal-citation format commonly used in that country and must indicate the citation format used. The submitted article cannot be published elsewhere.

### AWARDS

#### First Prize

- \$500 cash prize courtesy of the Center for Children, Families and the Law at Hofstra Law.
- Certificate of recognition as first-place winner.
- Consideration for publication of the article in the *Family Court Review*
- Letter to the dean of the student's law school.
- One-year complimentary AFCC student membership, including a one-year subscription to the *Family Court Review*

OR

- Complimentary conference registration to AFCC's 54th Annual Conference, held May 31-June 3, 2017, in Boston. (Does not include hotel, transportation and food).

#### Honorable Mention (Up to two)

- \$250 cash prize courtesy of the Center for Children, Families and the Law at Hofstra Law.
- Certificate of recognition as the honorable-mention winner.
- Consideration for publication of the article in the *Family Court Review*
- Letter to the dean of the student's law school.

### SUBMISSION PROCESS

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All submissions must be emailed as a Microsoft Word or PDF document to the *Family Court Review* at [fcr@hofstra.edu](mailto:fcr@hofstra.edu). Hard copies are not permissible.

### DUE DATE

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Submissions must be received by February 1, 2017. The winners will be notified no later than April 15, 2017.

### CONTACT INFORMATION

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If you have questions, please contact the Managing Editor of the *Family Court Review* at [fcr@hofstra.edu](mailto:fcr@hofstra.edu).

### RELEVANT LINKS

Association of Family and Conciliation Court (AFCC): <http://www.afccnet.org/>

Hofstra Law's Center for Children, Families and the Law:  
[law.hofstra.edu/CenterForChildren](http://law.hofstra.edu/CenterForChildren)

Hofstra Law's L.L.M. Program in Family Law: [law.hofstra.edu/LLMFamilyLaw](http://law.hofstra.edu/LLMFamilyLaw)

*FamilyCourtReview*: [law.hofstra.edu/FCR](http://law.hofstra.edu/FCR)

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***FAMILY COURT REVIEW, Volume 55***  
**Student Senior Staff 2016-2017**

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Hello AFCC:

Since you've all been introduced to the *Family Court Review* (FCR) senior staff in the last newsletter, I wanted to take this opportunity to introduce our new junior staff members to you all! Each one of these students demonstrated outstanding qualities and were selected to be on FCR out of a pool of about two hundred twenty (220) writing competition submissions at the Maurice A. Deane School of Law at Hofstra University. Without further adieu:

Ian Bergstrom is a second year law student. He graduated magna cum laude with a B.S. in Business Administration from Adelphi University. Ian wants to help families in crisis and wishes to pursue a career in family law.

Estrella Cedillo is a second year law student. She graduated from Saint Mary's College of California with a B.S. in psychology. She is a Child Advocacy and Family Law Fellow at Hofstra Law.

Dominique Chin is a third year law student. She graduated from Rutgers University with a B.A. in Political Science, Labor and Employment Relations, and Philosophy. Dominique wishes to pursue a career in medical malpractice litigation and also has a passion for disability rights.

Natalia Coppola is a second year law student. She graduated from the University of Albany with a B.A. in criminal justice. Natalia spent two years working as a legal assistant before returning to law school. She wishes to pursue a career in litigation and is participating in Hofstra Law's Moot Court competition.

Safia Fasah is a second year law student from Oakland, California. She graduated from Columbia University with a B.A. in psychology. Safia is passionate about education policy and environmental law. She plans to pursue a career that will positively change lives for under resourced youth.

Alexandra Faver is a second year law student. She graduated from the University at Albany, SUNY with a major in criminal justice and double minor in psychology and sociology. Alexandra is also a member of the moot court honors board and looks forward to having a legal career involving litigation.

Lisa Fenech is a second year law student. She graduated from Adelphi University with a B.S. in Business Administration. Lisa is passionate about litigation and wishes to pursue a career in white collar crime.

Dina Foerster is a second year law student. She graduated from Hofstra University with a B.A. in Banking and Finance. Dina is also a researcher in Hofstra's Law Logic and Technology Lab and is interested in corporate and family law.

Najeen Guest is a third year law student. She graduated from West Virginia University with a B.A. in English. Najeen is passionate about the securities industry and wishes to pursue a career in the field.

Erika Jefferson is a second year law student. She graduated from Marquette University with a B.A. in sociology. Erika aspires to pursue a career in family law.

Marissa Joseph is a second year law student. She graduated from John Jay College of Criminal Justice with a B.A. in Criminal Justice. Marissa wishes to practice immigration law.

Seth Kornfeld is a second year law student at the Maurice A. Deane School of Law at Hofstra University. He graduated from Syracuse University with a B.S. in broadcast and digital journalism. Seth is passionate about helping veterans and is involved in the Veterans Legal Assistance Program at Hofstra Law School.

Samantha Lollo is a second year law student. She graduated from St. Joseph's College with a B.A. in speech communications. Samantha is very passionate about family and matrimonial law and wishes to pursue a career in the field.

Lea Moalemi is a second year law student. She graduated from Hofstra University with a Bachelor's degree in Rhetoric and minored in Legal Studies in Business and Fine Arts. Lea is passionate about family law and wishes to pursue a career in the field.

Gregory Myers is a second year law student. He graduated from the University at Albany (SUNY) with a B.A. In Economics. Gregory plans to be a matrimonial lawyer.

Dylan Nesturrick is a second year law student. He graduated from the University of Central Florida with a B.S. in legal studies. Dylan is passionate about litigation and wishes to pursue a career in criminal law as a prosecutor.

JeTuan Russell is a second year law student. She graduated from The George Washington University with a B.A. in criminal justice. Jetuan is interested in pursuing a career in criminal law.

James Wighaus is a second year law student. He graduated from Hartwick College with a B.A. in political science. James is passionate about elder law and wishes to pursue a career in the field.

Jennifer Windlow is a second year law student. She received her B.A. in political science from Stony Brook University. Her philanthropic activities include multiple mission trips and volunteering in her community. She intends to pursue a career in healthcare or education law.

Reza Yassi is a second year law student. He graduated from SUNY Oneonta with a B.S. in political science. Reza is passionate about sports and entertainment and wishes to pursue a career in the field.

Mishal Pahrand, Managing Editor



ASSOCIATION OF  
FAMILY AND  
CONCILIATION COURTS



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### **Meet Stacy Heard, President of the Washington Chapter**

Stacy Heard has over 20 years of family law experience as an attorney and paralegal in Seattle, Washington. Her experience includes cases involving complex parenting plan/child custody issues, relocation, international child abduction, restraining orders, child support, complex financial issues, and post-decree matters.

Stacy started her own practice in 2005 and is a member of the ABA Family Law and International Law sections, AFCC (current Washington State Board President), both the Washington and Oregon state bars, The International Bar Association, and a volunteer attorney for the U.S. State Department Hague Convention cases. She also volunteers as an attorney for Lawyer's Fostering Independence through the Center for Children and Youth Services in Seattle.

Stacy has presented on numerous topics at various conferences in the ABA and AFCC, including complex Parenting Plans and working with Parenting Evaluators.



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### **Meet Michael Aaron, President of the Arizona Chapter**

Michael is currently serving his second term as the President of the Arizona Chapter of AFCC. He is a family law practitioner in Tucson, AZ and serves as a Pro Tem in Arizona Superior Court, as an Arbitrator for Arizona Superior Court and a Pro Tem for Town of Marana, AZ.

In addition to serving on the AZ AFCC Board, Michael enjoys fishing, his Harley, and cooking as well as being in-house pro bono counsel for the Primavera Foundation. He is the Chair for the Executive Council of the Family Law Section of the State Bar of Arizona and sits on Board of Directors for the Pima County Bar Association.

Michael is trained and practices in Family Law Mediation and Collaborative Law and serves as a Parenting Coordinator and Mentor. He is named in Top Rated Lawyers in Family Law in Arizona and AV rated by Martindale-Hubbell, and is a frequent speaker at conferences and seminars.