PHILADELPHIA BAR ASSOCIATION
FAMILY LAW SECTION MEETINGS

Meeting of March 7, 2011

Next Section Meeting: Monday, April 11, 12:00 p.m., Philadelphia Bar Association, 1101 Market Street, 11th Floor Conference Center.

Next Executive Committee Meeting: Thursday, April 21, 2011, 12:00 p.m., Philadelphia Bar Association, 1101 Market Street, 11th Floor Committee Room South.

The meeting was called to order at approximately 12:08 p.m. by Julia Swain, Esquire, and concluded at approximately 12:55 p.m.

I. WELCOME AND INTRODUCTION

Julia welcomed everyone to the meeting.

II. APPROVAL OF MINUTES

There were no changes to the February minutes and they were approved as written.

III. TREASURER’S REPORT

As of February 28, 2011, the Section’s treasury had a balance of net assets in the amount of $19,491. A copy of the report is attached hereto.

IV. ANNOUNCEMENTS

Julia welcomed everyone, including Judge Pechkurow and Karen Zeitz, Esquire, who were in attendance.

An updated Court Directory was distributed, a copy of which is attached to the minutes.

Julia distributed a copy of House Bill 525, which includes a provision prohibiting the appointment of parenting coordinators. Julia said that the Section will likely pass a Resolution opposing the bill. A copy of the bill is attached to the minutes.

The VIP case list was distributed.

A Diversity Committee has been formed. Lisa Jordan and Kristine Calalang will be the co-chairs. Shanese Johnson will also be involved in the committee. Any other volunteers should contact Lisa or Kristine.
V. PRESENTATION


The program explained what services the Good Shepherd Mediation Program offers, and specifically with the free services they offer through the Custody Master’s Unit in Family Court. A copy of the program materials is attached to the minutes.

VI. COMMITTEE REPORTS

All information relating to Committee reports and meeting dates is disseminated over the List Serve.

VII. GOOD AND WELFARE

Adam Horowitz and his wife welcomed their second daughter, Jocelyn Rebecca.

Respectfully submitted,

Meredith Brennan, Esquire
Secretary

ATTACHMENTS:
Treasurer’s report
Court Directory
H.B. 525
Good Shepherd program materials
### Family Law Section
### Statement of Activities
### For the Two Months Ending February 28, 2011

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<th>Sources of Funds</th>
<th>February</th>
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<td><strong>283</strong></td>
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| Excess/(deficit) of all activities                    | 653      | 3,186    |
| Balance at beginning of period                        | **18,838**| **18,838**|
| **Net Assets**                                        | **$19,491** | **$22,024**|

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2011
Administrative Judge
The Honorable Kevin M. DOUGHERTY
1801 Vine St, Room 314, 19103
215-686-7970 Steven F. Marino, Esq.
(fax) 215-686-4157 Maureen J. Fiocca, secy
(fax) 215-686-9162

Supervising Judge
Courtroom 1 (9129) Gerald Bruyé
The Honorable Margaret T. MURPHY
34 South 11th Street, Suite 209
(FAX) 215-686-9158 Sandra Misko, secy

Courtroom 3 (9131) Jack Junod
The Honorable Ida K. CHEN
27 South 12th Street, Suite 402
215-686-2545 Jean Egler, Esq.
(FAX) 215-686-9302 Bonnie Riley, secy

Courtroom 5 (9135) Tina Artis-Brown
The Honorable Elizabeth JACKSON
27 South 12th Street, Suite 407
(FAX) 215-686-9298 Edna Money, secy

Courtroom 7 (9139) Curtis Jones
The Honorable Joel S. JOHNSON
27 South 12th Street, Suite 402
(FAX) 215-686-9302 Etrusia (Tru) Gibbs, secy

Courtroom 9 (9143) Kathleen Sullivan
The Honorable Edward R. SUMMERS
34 South 11th Street, Suite 220
(FAX) 215-686-9160 George Trotter, secy

Courtroom 11 (9175) Wayne Terry, Jr.
The Honorable Lisette SHIRIDAN-HARRIS
27 South 12th Street, Suite 405
(FAX) 215-686-9298 Nina Moore, secy

Courtroom 14 (9123) The Honorable Robert J. MATTHEWS (Sr. Judge)
27 S. 12th St, Suite 404 215-686-7561 Teresa Terontosi, secy (FAX) 215-686-7560

Custody Masters - 9208 (fax 9286)
Divorce Masters - 9205 (fax 9286)
Support Masters - 8300 (fax 8868)
Support I - 9351 (fax 9198)
Support II - 9336 (fax 9178)
Support III - 9313 (fax 9177)
Enforcement - 4040, 9381 (fax 3826)
Tactical Enforcement - 7742 Robert Teti
Support Compliance - 7270 Deborah Barnes
Financial Services - 8952 Joseph Kaminik, Jr.

Courtroom 2 (9130) Eric Lincoln
The Honorable Holly J. FORD
34 South 11th Street, Suite 203
(FAX) 215-686-9545 Suzanne Martorano, secy

Courtroom 4 (9133) Ian Rexach
The Honorable Angeles ROCA
27 S. 12th Street, Suite 403
215-686-7346 Virginia Gutierrez, Esq.
(FAX) 215-686-9298 Elsie Echevarria, secy

Courtroom 6 (9137) Jack Gravely
Honorable Diane THOMPSON
27 South 12th Street, Suite 408
(FAX) 215-686-9298 Alexis Buss, secy

Courtroom 8 (9141)
The Honorable Nina WRIGHT PADILLA
27 S. 12th Street, Suite 406
215-686-7568
(FAX) 215-686-9298

Courtroom 10 (9144) James Kaminiski
The Honorable Barbara A. JOSEPH
34 South 11th Street, Room 225
215-686-7924 Melissa Strair, Esquire
(FAX) 215-686-9172 Dorothy Musgrave, secy

Courtroom 12 (9123) Miriam Cardona
The Honorable Doris PECHKUROW
27 South 12th Street, Suite 401
(FAX) 215-686-9298 Joanne Nutter, secy
AN ACT

Amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for limitations on the use of parenting coordinators, masters and other individuals by courts of common pleas.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Chapter 9 of Title 42 of the Pennsylvania Consolidated Statutes is amended by adding a subchapter to read:

SUBCHAPTER F
COURTS OF COMMON PLEAS INTEGRITY

Sec.

971. Definitions.

972. Parenting coordinators.

973. Protection from abuse.

974. Discovery.

§ 971. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the
context clearly indicates otherwise:

"Action." All proceedings for custody and proceedings for modification of prior orders of any court. 

"Discovery." The pretrial practice utilized in civil litigation by a party to obtain facts and information from the other party in order to assist in the preparation for trial, including, but not limited to, depositions, interrogatories, production of documents or things and physical and mental examinations.

"Parenting coordinator." An individual, including a psychologist, licensed social worker, member of the clergy or attorney, who a judge of a court of common pleas has appointed to assist the parties in implementing custody arrangements and in resolving related issues regarding parenting about which the parties do not agree.

§ 972. Parenting coordinators.

In an action involving custody of a child, the following apply:

(1) A judge of a court of common pleas shall have no authority to appoint a parenting coordinator in an action involving custody of a child. Any decision rendered by a parenting coordinator shall be void.

(2) In an action involving custody of a child, a judge of a court of common pleas may appoint a conciliator, a mediator, an evaluator, a counselor, a hearing officer or conference officer and any other individual authorized by statute.

(3) Nothing in this section shall be construed to prevent a judge of a court of common pleas from appointing an attorney to represent a child in a custody action pursuant to
Pa.R.C.P. No. 1915.11 (relating to appointment of attorney for child, interrogation of child, attendance of child at hearing or conference).

§ 973. Protection from abuse.

The following apply:

(1) Except as provided in paragraph (2), in a matter arising under the 23 Pa.C.S. Ch. 61 (relating to protection from abuse), a judge of a court of common pleas shall have no authority to appoint a master or other individual who is not a judge to hear a matter arising under 23 Pa.C.S. Ch. 61. Exception as provided in paragraph (2), any decision rendered by a master or individual other than a judge appointed by a judge of the court of common pleas in a matter arising under 23 Pa.C.S. Ch. 61 shall be void.

(2) In accordance with 23 Pa.C.S. § 6110 (relating to emergency relief by minor judiciary), a hearing officer or master for emergency relief may be appointed to hear and decide matters involving emergency relief under 23 Pa.C.S. Ch. 61. Orders entered by a hearing officer or master for emergency relief shall be certified to the court of common pleas as provided in 23 Pa.C.S. § 6110.

(3) Nothing in this section shall be construed to prevent the President Judge of the Philadelphia Municipal Court from appointing masters in proceedings under 23 Pa.C.S. Ch. 61 as set forth in section 1126 (relating to masters).

(4) For purposes of this section, the terms "hearing officer" and "master for emergency relief" shall have the meanings given to them in 23 Pa.C.S. § 6102 (relating to definitions).

§ 974. Discovery.
A judge of a court of common pleas may not appoint a special trial master, discovery master or any other individual, regardless of title, to monitor the discovery process or make decisions regarding discovery. Any decision rendered by a special trial master, discovery master or other individual who is not a judge shall be void.

Section 2. This act shall take effect immediately.
Regular Session 2011-2012
House Bill 525

Text:

Short Title: Amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for limitations on the use of parenting coordinators, masters and other individuals by courts of common pleas.

Prime Sponsor: Representative REICHLEY

Last Action: Referred to JUDICIARY, Feb. 8, 2011 [House]

Printer's No.

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* denotes current Printer's Number
ACCESSING FAMILY MEDIATION SERVICES IN PHILADELPHIA

Presented by
Cheryl Cutrone, Esq.
Executive Director
Good Shepherd Mediation Program

GOOD SHEPHERD MEDIATION PROGRAM

• GSMP is Philadelphia's only neighborhood justice center
• Incorporated in PA as a 501(C)3 charitable organization in 1984
• Offers a full array of mediation, conflict coaching, facilitated dialogues, restorative justice, and training and consulting services

GOOD SHEPHERD MEDIATION PROGRAM

MISSION
To encourage peace, reconciliation and social justice through the use of mediation and other collaborative problem-solving approaches and empowers individuals to resolve conflicts without resorting to crime or violence.
CURRENT PROGRAMS
- Mediation Services
  - Community Mediation
  - Family Passages Initiative
  - Conflict Coaching
  - Multi-party mediation and group facilitation
  - Restorative Practices
- Juvenile Justice Initiatives
  - Juvenile Offender Diversion Program (conflict resolution, impact of Auto Theft, Effects of Retail Theft)
  - Youth Delinquency and Violence Prevention Program
  - Victim-Offender Conferencing
- Training and Consulting

FAMILY PASSAGES INITIATIVE
Mediation for couples and families in transition
- Pre-marital
- Parent-youth
- Marriage dissolution
- Partnership dissolution
- Senior transitions

PRE-MARITAL MEDIATION
For inter-faith, inter-racial, same-sex and/or previously divorced couples to meet and discuss issues that impact on life together, such as: the marriage celebration, in-laws, blending households and families, boundaries, holidays, rites of passage, parenting, adoption, finances, education, retirement
PARENT-YOUTH MEDIATION
For families to meet and discuss issues such as: communication, school attendance, homework completion, grades, chores, curfews, peer associations, allowance, sibling issues, parenting, moving to a new home, behavioral concerns

MARRIAGE DISSOLUTION
For married couples in the process of separating and/or divorcing to meet and discuss issues such as: terms of separation, child custody, child support, spousal support, alimony, equitable distribution, visits with grandparents and other relatives

PARTNERSHIP DISSOLUTION
For couples who were not married and who are dissolving their life together to meet and discuss issues such as: terms of separation, parenting arrangements, child support, partner support, property distribution
SENIOR TRANSITIONS

A growing number of people have been using
mediation to address conflicts involving older adults,
their families and care providers. These are typically
multi-party mediations or family group conferences
involving issues such as
* Living arrangements
* Driving
* Property maintenance
* Level of care
* Quality of care
* Finances
* Health care matters
* Legal issues (e.g., power of attorney, trusts and
  estates, adult guardianship)
* End-of-life decisions (e.g., living wills)

CUSTODY MEDIATION AT DR COURT

* Part of FPI involves GSMP providing FREE custody
  mediation three days a week in the Custody
  Masters Unit at 46 S. 11th Street, 2nd floor.
* Parties volunteer to mediate after finding out
  that there are mediators on duty to help them
  negotiate their own settlement.
* Each year, on average, GSMP mediates about 125
  couples in DR Court; most of whom are
  unrepresented
* GSMP also mediates divorce and custody disputes
  at the Mediation Center located in Northwest
  Philadelphia and other locations around the City.

WHAT ARE THE BENEFITS OF MEDIATING?
WHAT IS MEDIATION?

Mediation is ...
A process for resolving disputes that is
- Confidential
- Voluntary
- Facilitated by neutral third party
- Predicated on the self-determination of the parties to fashion their own decisions

The Benefits of Mediating may include ...
- Cost savings
- Flexible scheduling
- Confidentiality
- Control over outcome
- Less stress
- Less formality than court
- Win/win agreements
- Party satisfaction: parties are generally more satisfied with and more likely to live up to settlements that they negotiate personally, as opposed to those that are court ordered
- There is nothing lost because if the parties don't reach agreement they can still bring the matter to court
WHAT IS CUSTODY MEDIATION?

CUSTODY MEDIATION IS ...

A process for parents to design their own parenting arrangement which may include:

- Physical and legal custody preferences
- Parenting schedule
- Transportation responsibilities
- Holidays and vacations
- Guidelines for telephone and internet access
- Notice requirements for schedule changes
- Visits with grandparents and/or others
- Anything else the parties wish to include

WHO ARE THE MEDIATORS?

The GSMP mediators at DA Court are staff members and volunteers who have completed the eligibility requirements listed in the PA Court Rule 1940.4 for custody mediators including:

- A or practical experience in law, psychology or other related fields
- At least 40 hours of approved Divorce and Custody Mediation training
- Experience including a minimum of four mediations totaling 10 hours under the supervision of a mediator who is approved by the Court to supervise other mediators
- Continuing mediation education
WHEN IS CUSTODY MEDIATION NOT APPROPRIATE?

- When the parties self report abuse or threats of abuse including:
  - Physical
  - Sexual
  - Emotional control
  - Intimidation
- When parties are seem afraid to express their concerns openly
- When parties can’t be in the same room with each other or speak to each other

DV SCREENING

- Prior to each custody mediation, each party is interviewed privately by the GSMP mediator to determine whether mediation is appropriate
- Cases are screened out when:
  - Domestic Violence: If there has been a PFA within the last 24 months
  - Child Abuse: If DHS has been involved with the family
  - A criminal check determines that one of the parties has a history of offenses that would preclude having custody of a child (as enumerated in 23 § 3303(b))

CUSTODY MEDIATION AT FAMILY COURT

Statistics for FY 2009-2010

- # of mediation intakes: 163
- # inappropriate for mediation: 38 (23% of 163) (e.g., DV, DHS, Criminal record, etc.)
- # of cases appropriate for mediation: 125 (77% of 163)
- # of agreements reached: 106 (85% of 125)
- # of cases that did not reach agreement: 19 (15% of 125)
CUSTODY MEDIATION AT FAMILY COURT

Participant Demographics - AGE
- Under 20 - 8%
- 20-30 - 49%
- 31-40 - 19%
- 41-50 - 16%
- Above 50 - 8%

CUSTODY MEDIATION AT FAMILY COURT

Participant Demographics - RACE
- African American - 73%
- Asian American - 0%
- Caucasian - 14%
- Hispanic-American - 11%
- Other - 3%

CUSTODY MEDIATION AT FAMILY COURT

Participant Demographics - MARITAL STATUS
- Married and separated - 23%
- Married and divorcing - 0%
- Were married and are already divorced - 0%
- Never married, but lived together for more than a year - 30%
- Never married, but lived together for less than a year - 13%
- Never lived together - 33%
CUSTODY MEDIATION AT FAMILY COURT

Participant Demographics - ANNUAL INCOME
- under $15,000 - 38%
- $15,000-$25,000 - 24%
- $25,000-$35,000 - 15%
- $35,000-$50,000 - 18%
- $50,000-$75,000 - 3%
- More than $75,000 - 3%

*Self reported*

CUSTODY MEDIATION AT FAMILY COURT

Participant Demographics - HIGHEST LEVEL OF EDUCATION
- Grade 0-11 - 11%
- High School Graduate - 41%
- GED - 14%
- Some College - 24%
- College Graduate - 0%
- Post-Graduate degree - 11%

CUSTODY MEDIATION AT FAMILY COURT

Participant Demographics - Legal Representation for this custody matter
- no attorney - 95%
- private attorney - 5%
CUSTODY MEDIATION AT FAMILY COURT

Participant Satisfaction (self-reported)
- I was very satisfied (94%) somewhat satisfied (6%) somewhat dissatisfied (0%) very dissatisfied (0%) with the mediation session.
- The mediation process was very fair (97%) somewhat fair (3%), somewhat unfair (0%) unfair (0%).

CUSTODY MEDIATION AT FAMILY COURT

Participant Satisfaction (self reported)
- If another custody dispute arises in the future we definitely will (67%), maybe will (26%) maybe will not (8%) definitely will not (0%) be able to work it out.
- I felt the mediator(s) helped (100%) didn't help (0%) me communicate with the other party.

CUSTODY MEDIATION AT FAMILY COURT

Participant Satisfaction (self reported)
- I felt (5%) did not feel (95%) pressured to agree to terms I didn’t like by the mediator.
- I felt (100%) did not feel (0%) respected in expressing my needs as a parent or caregiver.
- The mediator(s) helped (100%) did not help (0%) us keep focused on the children's interests.
CUSTODY MEDIATION AT FAMILY COURT

Participant Satisfaction (self reported)
- I would (82%) would not (18%) be willing to go back to mediation if problems arise later.
- I would (95%) would not (5%) recommend mediation to friends as a way to resolve custody and visitation issues.

CUSTODY MEDIATION AT FAMILY COURT

Selected comments from the Exit Surveys
- "It's a reasonable thing for both parties and should be offered to everyone for custody."
- "Mediator helped us get over personal issues and focus on the child."
- "It was fast, easy and courteous."
- "[The mediator] was very professional and helpful. I would recommend mediation to all families before going to court."

WHO REFERS PARTIES TO MEDIATION?

- Self referrals
- Public interest legal service providers
- Private attorneys
- Community organizations
- Religious organizations
- Schools
- Marriage counselors and therapists
MEDIATOR’S ROLE
- Convene and facilitate the mediation session
- Help the parties set and enforce ground-rules, when desired
- Encourage communication by ensuring that all participants have an opportunity to be heard
- Clarify the issues
- Identify common ground, when appropriate
- Help the parties generate creative options
- Serve as a neutral sounding board, helping the parties to evaluate possible solutions through reality testing and, at times, playing devil’s advocate
- Help the parties refine possible solutions
- Write down points of agreement for the attorneys to use in drafting the settlement document

ATTORNEY’S ROLE
- Explain mediation to client
- Prepare client for mediation
- Answer legal questions that may arise during the mediation
- Coach the client outside the mediation session
- Review the progress summaries and the mediated settlement document
- Incorporate the mediated settlement into the Divorce (and/or Parenting) Agreement

WHEN IS MEDIATION APPROPRIATE?
FACTORS TO CONSIDER
- The relationship between the parties
  - Level of hostility
  - Level of emotionality
  - Willingness to participate in mediation
  - Capacity to be in the same room with each other
  - Ability to communicate effectively
WHEN IS MEDIATION APPROPRIATE?
FACTORS TO CONSIDER
- The issues involved
  - Would litigating benefit the public?
  - Is there likelihood of settlement?
  - If they don’t settle, would mediation adversely impact future litigation?

WHEN IS MEDIATION APPROPRIATE?
FACTORS TO CONSIDER
- What are the parties’ process needs?
  - Cost effectiveness
  - Desire to avoid an adversarial process
  - Confidentiality

WHEN IS MEDIATION NOT APPROPRIATE?
- History of abuse
- History of intimidation
- One (or both) parties not willing to mediate
- Power imbalance too great to overcome
- Capacity to mediate (different than legal capacity)
SHOULD THE ATTORNEY ATTEND THE MEDIATION SESSIONS?
- It depends on your client's wishes
- Is the other side bringing an attorney?
- Does your client have the capacity to communicate & negotiate?

KEEPING ATTORNEYS IN THE LOOP
- All divorce mediation participants are urged to have outside legal representation
- When necessary, mediation participants should consult experts (e.g., pensions, valuation)
- Mediator (or client) sends the attorneys a progress summary after each session
- Mediator drafts MOU outlining the points of agreement and sends it to the attorneys (or client does) to review and incorporate into the Divorce Agreement

WHAT HAPPENS WHEN A CASE IS REFERRED TO MEDIATION?
- When one person asks to mediate, the Mediation Coordinator notifies the other party by mail or phone and invites that party to participate (unless the initiating party prefers to contact the other person)
- The process is voluntary so both parties must agree to mediate before a mediation is scheduled.
- The Mediation Coordinator assigns co-mediators and schedules the mediation at the parties' convenience.
WHAT HAPPENS IF THE PARTIES DON’T REACH AN AGREEMENT?
- If an agreement is not reached, the mediator will assist the parties in determining the next steps.
- If the case is mediated in the Custody Masters Unit at Domestic Relations Court and the parties don’t settle, the parties keep their scheduled appearance before the Custody Master.
- If the case is mediated at GSMP, the parties are referred back to their attorneys.

IS MEDIATION BINDING?
- Mediator helps the parties draft a “Memorandum of Understanding” outlining the decisions they reached in mediation.
- The MOU is not legally binding until it is approved by the court.
  - At DR Court, the mediated settlement is signed by a Master and sent to a judge. Once the judge signs it, the mediated settlement becomes a Court Order.
  - If the parties mediate at GSMP, the parties obtain legal counsel to review the MOU and file the appropriate paperwork with the court.

GOOD SHEPHERD MEDIATION PROGRAM
5356 Chew Avenue
Philadelphia, PA 19138
www.phillymediators.org
215-843-5413
215-843-2080 (fax)