

PHILADELPHIA BAR ASSOCIATION  
FAMILY LAW SECTION MEETING MINUTES  
MARCH 4, 2019  
Chair, Kristine L. Calalang, Esquire

- I. WELCOME AND INTRODUCTION: Kristine called the meeting to order at 12:11 p.m. and welcomed everyone.
- II. APPROVAL OF THE MINUTES: The minutes from the February meeting were approved with no amendments or objections.
- III. NEWS/UPDATES:
  - A. Kristine recognized Clay Cauley, Esq. as being approved by the FLS Executive Committee to be a Co-Chair of the Juvenile/Dependency Committee with Janice Sulman.
  - B. Kristine also noted the start of our Section's Blanket and Pillow Drive which is for the benefit of Philadelphia families living in shelters. She noted that the Section has challenged other Bar Association Sections to compete in their donations, with even the employees of the Bar Association agreeing to participate in this fun charity competition. She advised the Drive will last from today through May 6, 2019. Kristine also recognized the Chair of the Outreach Committee, Nadège Tandoh, Esq. as the point person for the Drive and asked **that all receipts for new blankets and pillows purchased be sent to Nadège ([ntandoh@clcphila.org](mailto:ntandoh@clcphila.org))**, so our Section can receive credit for our donations.
  - C. Kristine also noted Jim Cushing, Esq. will be placing case law updates on the Family Law Section website.
  - D. Court Relations Committee report: Kristine reported that the Attorney Line in the Clerk of Court's Office is almost ready to open, and asked that everyone ensure their offices honor the rule that the line is for attorneys only and not for paralegals or couriers. There will be a sign for the line, and it will be to the far-left part of the counter at the Clerk's Office on the 11<sup>th</sup> Floor of the courthouse.

Also, the cashier hours at the courthouse are noted to be officially from 8:00 am to 3:45 pm. The court is looking into the possibility of accepting cash payments, but that decision is still pending.

Witnesses for matters on the 12<sup>th</sup> and 13<sup>th</sup> floors of the courthouse must wait on the 2<sup>nd</sup> floor until the case is called.

As for the Custody Master's Unit, Kristine advised that if a Master is suddenly out due to sickness, the court will try to find another Master to hear the case that same day before rescheduling the matter. If the absence of a Master is known in advance and another Master cannot cover the hearing, the Master's Unit will call to reschedule the hearing in advance of the court date.

Kristine also reported that Dan Sulman, Esq. has stepped down from his position as a Master to run for Judge and that Joseph Steward, Esq. is now holding pre-trial conferences for relocation cases (with other Masters being trained to do so, too).

Judge Mark Cohen was noted as being back on the bench.

Kristine also noted that the prior local Philadelphia rules were rescinded as relates to parent coordinators. The new Parenting Coordination rules are being finalized with the courts attempting to have uniform rules for Philadelphia and the nearby counties. Judge Murphy will be a presenter for our April CLE program which will examine the new rules and procedures for Parenting Coordination in Philadelphia. Other presenters will be Nanci Weber, Cheryl Cutrona, Shabrei Parker, and Susan Pearlstein, Esqs. The Moderator will be David Steerman, Esq.

- E. Board of Governors meeting: Kristine reported that the ABA is now offering free law student memberships. She also reported that the PBI is being rolled into the Pennsylvania Bar Association. Also, there had been a unanimous approval of a Resolution to keep the federal courts open and running during government shutdowns.
  
- F. Help Center: Please contact Lee Schwartz to volunteer at the Help Center on Mondays and Wednesdays from 12:00 pm to 3 pm (las@leeaschwartz.com).
  
- G. Upcoming Important Dates:
  - Executive Committee Meeting 3/14
  - Outreach Committee 3/18
  - Custody Committee 3/20
  - Support/Divorce CLE 3/21
  - Diversity Committee 3/26 (via teleconference)

Monthly Section Meeting 4/1 (with Parenting Coordination CLE)

IV. CLE PRESENTATION – REPRESENTING CLIENTS IN DOMESTIC VIOLENCE MATTERS: A PRIMER ON PROTECTION FROM ABUSE ACTIONS AND LEGAL UPDATES

PRESENTERS: Hon. Christopher Mallios, Jr., Eleni Belisonzi, Esq., Eileen Horgan, Esq.

MODERATOR: Kathleen O'Malley, Esq.

Eileen Horgan –

A. Introduction

1. Understand who can file, where to file, and related rules and changes to rules
2. Defined abuse, including stalking and harassment.
  - a. If a child victim is involved, Judge Mallios advised His Honor considers himself a mandated reporter and will contact DHS if His Honor has a reasonable belief that a child is being abused.

B. Who can file? – defined by statute and case law

- a. Note – just being roommates is not necessarily enough, as persons must be related by “affinity” or “consanguinity.”
- b. Cases are very fact specific re: standing. If Petitioner is a minor, petition must be filed “on behalf of” the minor by a parent or guardian.
- c. If a minor needs someone to represent him/her, a GAL may be needed.

C. Protection of Victims of Sexual Violence and of Intimidation Act (PSVI)

- a. Intimidation – Conduct constituting a crime under either of the following provisions between persons who are not family or household members:

18 Pa.C.S. § 2709(a)(4), (5), (6) or (7) (relating to harassment) where the conduct is committed by a person 18 years of age or older against a person under 18 years of age.

18 Pa.C.S. § 2709.1 (relating to stalking) where the conduct is committed by a person 18 years of age or older against a person under 18 years of age.

- b. Sexual Violence – Conduct constituting a crime under any of the following provisions between persons who are not family or household members:

18 Pa.C.S. Ch. 31 (relating to sexual offenses), except 18 Pa.C.S. §§ 3129 (relating to sexual intercourse with animal) and 3130 (relating to conduct relating to sex offenders).

18 Pa.C.S. § 4304 (relating to endangering welfare of children) if the offense involved sexual contact with the victim.

18 Pa.C.S. § 6301(a)(1)(ii) (relating to corruption of minors).

18 Pa.C.S. § 6312(b) (relating to sexual abuse of children).

18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

#### D. Where to file?

- a. CJC if Family Court not open.
- b. Tell petitioners to come in early to complete in one day.
- c. Differences between day and night filings should be considered.
- d. Attorneys should prepare documents for clients if possible.

#### E. Ex Parte process

- a. Petition is reviewed by a judge; there can be a temporary order that day.
- b. *Ex Parte* hearings are held during the day between scheduled cases.

#### F. Service

- a. In Philadelphia, the police will assist
- b. Otherwise, anyone over the age of 18 can serve.
  - i. In either case, the officer or individual must fill out an affidavit of service.
  - ii. Petitioner can serve, but there is a safety issue.
- c. Can request additional time for service
  - i. Note: If there is a companion criminal case, tell the Petitioner to bring the documents to the criminal hearing and the sheriff will serve.
  - ii. Probation or parole officer can serve if already involved.
- d. The court will grant alternate service in some cases.

#### G. Relief

- a. Protection only
- b. Eviction/exclusion
- c. No contact
- d. Relinquishment of weapons
- e. Temporary custody, financial support and/or reimbursement

#### H. Custody in PFA

- a. Pick up/Drop off of child at a police station is common.

- b. Electronic communications with children (text, email, etc.) is a reasonable accommodation
- c. Custody if PFA is on behalf of a child – depends on the case.
- d. The court prefers to do custody on the custody docket.

#### I. Hearings

- a. No discovery unless by court order
- b. Medical records are admissible
- c. Police reports – need an officer to authenticate but can admit via stipulation or as an exception to hearsay (offered to show report was made)
- d. Evidence – texts, emails – give date, time and substance, phone numbers
  - i. Print out exhibits and come with copies
  - ii. Show link to sender
- e. Possible outcomes –
  - i. Continuance
  - ii. Agreement without admission
  - iii. Trial

Note – the Court also encourages 3 month status listings but is not willing to put ancillary issues into a PFA
- f. Child as Witness –
  - i. If O/B/O – court will conduct child testimony in chambers
  - ii. If child is witness in adult case – can either do testimony in court or in chambers
- g. General Notes –
  - i. A Temporary PFA Order must have been served on the Respondent to be in force;
  - ii. Update to the Federal Gun control act “Brady Act” in PA – In a final PFA, weapons must be relinquished. If it’s a stipulation, weapons may be relinquished. If Respondent says no weapons, they must go to the sheriff’s office and sign an affidavit that there are no weapons.
  - iii. Courtrooms are open to the public.
- h. Violations
  - i. Civil vs. criminal
    - 1. Civil – imprisonment, fine, modification or extension of existing order
    - 2. Criminal – imprisonment, fine, counselling, or restitution.
    - 3. This discussion depends on the behavior of the Respondent.
  - ii. Note that Fifth Amendment issues are Respondent’s and not Petitioner’s. Also note that if there is a valid Temporary Order, there can be a conviction for violation of same even if no permanent Order;

- iii. Criminal Contempt
  - 1. Alert police; have a report prepared by arresting officer
  - 2. Have Petitioner also speak with detectives; they can preserve evidence and speak with witnesses;
  - 3. Criminal case should go forward first
- i. Extensions
  - i. Can file and request prior to expiration but must show on-going abuse, harm
  - ii. Consider changes to extension rules – if Respondent is being or has been released from prison within 90 days of request.

The meeting was concluded at 2:01pm

Respectfully submitted,

Kathleen M. Tana, Esq.  
Secretary