

**PHILADELPHIA BAR ASSOCIATION
FAMILY LAW SECTION MEETING
JULY 9, 2012**

**NEXT MEETING: SEPTEMBER 10, 2012; 12:00 P.M.
PHILADELPHIA BAR ASSOCIATION, 11TH FLOOR
1101 MARKET STREET, PHILADELPHIA, PA**

**NEXT EXECUTIVE COMMITTEE MEETING: JULY 19, 2012
12:00 PM, PHILADELPHIA BAR ASSOCIATION, 11TH
FLOOR, 1101 MARKET STREET, PHILADELPHIA, PA**

The Section meeting was called to order at approximately 12:04 PM by Section Chair Megan Watson, Esquire.

I. WELCOME AND INTRODUCTION

Megan welcomed all in attendance to the meeting, including Judges Pechkurow and McLaughlin as well as Master Daniel Sulman.

II. APPROVAL OF MINUTES

June Minutes were approved..

III. TREASURER'S REPORT

There is \$23,014.00 as of June 30, 2012 in the Section account.

IV. ANNOUNCEMENTS

The Family Law Section made a charitable donation with regard to the untimely death of Bob Higgins.

Julie Swain, Esquire spoke about the upcoming Bench-Bar Conference at the Revel Hotel/Casino in Atlantic City, NJ on October 5-6, 2012. The Family Law Section is presenting two programs, as follows:

- a. Legal Custody, on October 5, 2012 at 2:00 PM.. Mark Momjian, Esquire is the Moderator; and
- b. Pre-Separation Dissipation of Marital Assets, on October 6, 2012 at 11:00 AM.. Julie Swain, Esquire is the Moderator.

Megan Watson advised of the untimely death of Madeline Lamb, Esquire.

There is no August 2012 meeting. The next meeting is September 10, 2012 and hopefully members of City Council will be present to speak concerning the proposal for Youth Courts.

Good Shepherd Mediation announced a one day training course on attorneys as mediators. More information is available at www.phillymediators.org.

V. PRESENTATION

There are several proposed Rules changes which were discussed.

Recommendation 120

This deals with the Withdrawal, Discontinuance and Modification of Protection from Abuse Actions. Molly Callahan, Esquire spoke about this proposed Rule change.

Molly indicated that in some Pennsylvania counties, one can file a Praecipe, rather than a Petition, to Withdraw or Discontinue a PFA. No hearing is required. This Rule would require the filing of a Petition in Final Order cases. Molly raised the issue of what would occur if only a Temporary Order was in place?

On July 25, 2012 at Noon, at Women Against Abuse, the DV Committee will be meeting to discuss this more in depth. All are welcome and the Committee would welcome your written comments.

Support Recommendations

These proposed Rules changes were discussed by Support Master Daniel Sulman, Esquire and Dina Ronsayro, Esquire. There are four proposed Rules changes.

Recommendation 116

This is a revision to the Support Guidelines. It increased the Support Self-Reserve to \$931.00. Dan indicated that in low income cases, there is now a dual calculation. The Recommendation states that the Order should clearly state if the Order is allocated and how it is allocated. In higher end support cases, there is a substantial increase in the support obligation to be paid.

The Comment Period ends August 3, 2012.

Recommendation 117

This Recommendation clarifies certain issues.

If the Payor files the initial Support action and the other party does not appear, the case will be dismissed without prejudice.

In calculating monthly net income, items such as taxes and union dues must be mandatory in order for one to receive a credit. Regarding overpayment of support, once the overpayment is in excess of two months, one must file a Petition to address the overpayment. A form Petition is provided in the Recommendation. Once a case is terminated, a party has one year from the date of termination to file for reimbursement of the overpayment.

The Comment Period ends August 15, 2012.

Recommendation 118

This Recommendation identifies that in a Contempt case, a payor's ability to pay is a critical issue and requires a Payor to bring to a Contempt hearing similar items to what one needs to bring to an Establishment or Modification hearing.

The Comment Period ends August 10, 2012.

Recommendation 119

If a party alleges that they have a medical condition which affects their ability to produce income, this Rule establishes a form, to be completed by a Physician, which can be used at a Support Hearing. In order for the form to be admissible at a Record hearing, the form must be completed and served on the opposing party, within 20 days after the Support Conference. The recipient then has twenty days from receipt to object. If there is no objection, the medical form is admissible. If the Support Master's hearing is within the 40 day period, Master's will have the ability to grant a continuance for compliance.

The Comment Period ends August 10, 2012.

Custody Recommendation

Michael Bertin, Esquire spoke about the Custody Recommendation. There is one proposed Rule and it is a modification of 1915.4-4. It is **Recommendation 115** and has to do with the pre-trial process.

The proposed Rule states that within 60 days of the initial in-person contact with the Court or not later than 30 days before trial, the trier-of-fact must conduct a pre-trial/status conference. One question raised was whether this would apply to Master's Hearings?

Not later than 5 days before the pre-trial/status conference, the parties must file a Pre-Trial statement. The Recommendation lists what must be in the Pre-Trial statement. One must include a proposed Order.

If one doesn't file the Pre-Trial statement, the Court is empowered to enter an "appropriate Order" and/or to bar testimony. One can amend the Statement up to 7 days before trial.

Michael mentioned that the Custody committee believes that the penalty provisions are contrary to current custody law in that the Best Interest standard is thwarted if persons are denied the opportunity to testify. Also, the Court's requirement to make a full record can be severely compromised. The Committee believes that the preclusion sections should be stricken.

Judge Pechkurow commented on the practical problems with the Recommendation in Philadelphia County.

Margy Klaw, Esquire commented on whether the Rule would include child witnesses in the requirement that lawyers communicate with witnesses before trial?

Julie Swain, Esquire indicate that if a person is going to submit comments to the DR Rules Committee, don't just criticize the Recommendation; offer constructive commentary with proposed language.

Megan indicated that the Section would produce "talking points" for Members to incorporate in any comments a Member makes to the DR Rules Committee.

The next meeting of the Custody Committee is July 17, 2012 at 12:30 PM at Obermayer, 19th Floor, to discuss this issue. All are invited.

The Comment Period ends August 3, 2012.

VI. COMMITTEE REPORTS

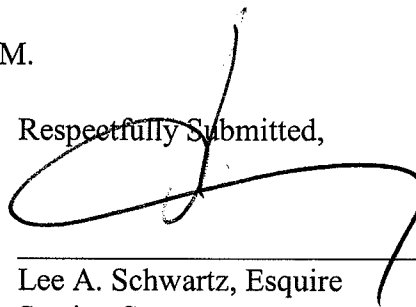
Committee meeting dates continue to be disseminated over the List Serve.

VII. GOOD AND WELFARE

None.

Meeting adjourned at approximately 1:16 PM.

Respectfully Submitted,



Lee A. Schwartz, Esquire
Section Secretary

ATTACHMENTS:
Slip Opinions
Treasurer's Report

RECENT PA. APPELLATE COURT FAMILY LAW SLIP OPINIONS

July 2012

Summarized by David I. Grunfeld, Esquire

1. **Kimock v. Jones**, Northamp., 1577 EDA 2011
(Pa. Supreme 6/19/12)

Father appealed denial of petition to terminate child support. Affirmed - custody order giving him limited contact and giving mother sole legal and physical custody did not "effectively terminate" his parental rights. Opinion by Gantman joined by Shogan and Wecht.

2. **Orfield v. Weindel**, Berks, 1760 MDA 2011
(Pa. Super. 6/29/12)

Father appealed child support civil contempt order. Affirmed as to contempt finding, but vacated and remanded for reconsideration of ability to pay in setting purge number. Opinion by Stevens joined by Bowes. Concurring opinion by Strassburger, who would have had trial court find criminal contempt in failure to appear, with no purge factor.

Copies of Pa. Supreme and Superior slip opinions may be downloaded from the Internet on the homepage of the Administrative Office of the Pa. Courts, address www.aopc.org.

**Family Law Section
Statement of Activities
For the Six Months Ending June 30, 2012**

	June	YTD 06/30/12
Sources of Funds		
Dues	\$20	\$6,570
Annual Dinner	0	0
Cocktail Party & Special Events	1,030	3,025
Section Lunch Meetings	104	1,080
Miscellaneous	0	0
Total Income	\$1,154	\$10,675
Application of Funds		
Annual Dinner	\$0	\$3,763
Cocktail Party & Special Events	(40)	810
Committees/CLE Programs	0	0
Postage	0	0
Section Lunch meetings	179	1,721
Reproduction	0	28
Newsletter	0	0
Telephone	0	0
List Serv/Website	0	0
Miscellaneous	50	1,933
Total Application of funds	189	8,255
Excess/(deficit) of all activities	965	2,420
Balance at beginning of period		20,594
Net Assets	\$965	\$23,014

Committees		
Custody	\$0	\$0
Custody and Divorce Mediation	0	0
Dependency	0	0
Divorce/Equitable Distribution	0	0
Domestic Violence	0	0
Support and Alimony	0	0
Support and Alimony	0	0
Total Committee	\$0	\$0