

Minutes
Family Commission
October 6, 2010

The Family Commission met in courtroom 5A at the Middlesex Judicial District Courthouse located at 1 Court Street, Middletown, CT on October 6, 2010.

Those in attendance: Hon. Lynda B. Munro (Chair), Hon. Holly Aberly-Wetstone, Hon. Jon M. Alander, Hon. Sandra Sosnoff Baird, Attorney Michael Blanchard, Hon. John D. Boland, Attorney Steven Dembo, Attorney Constance Frontis, Johanna Greenfield, David Iaccarino, Attorney Maureen Murphy, Attorney Thomas Parrino, Hon. Elliott N. Solomon.

Also in attendance were Attorney Joseph Del Ciampo and Attorney Nancy Porter from the Judicial Branch's Legal Services Unit.

The meeting was called to order at 2:06 PM by Judge Munro.

I. Review and approval of minutes

The minutes of the meeting held on August 25, 2010 were approved by the members of the Commission who were in attendance.

II. GAL protocol to bring matters to the court's attention and the duration of the GAL's appointment

The members of the Commission agree that a Guardian Ad Litem should be able to bring something to the court's attention. The two questions addressed revolve around their authority to file motions and pleadings, and their authority to obtain counsel. A motion for advice was raised as perhaps being the best vehicle. It was noted that a number of non-attorneys have been attending the GAL training.

Judge Munro will obtain the draft template designed by a different group led by Judge Winslow. That template could, perhaps, become a form that would track a new proposed rule, and that would set forth the scope of the GAL appointment.

It was raised that perhaps the Commission should examine how the process works in juvenile matters with the understanding that the circumstances are not necessarily comparable. A look at how the Appellate Rules address GALs was suggested as well, and so was looking at other states and perhaps some case law.

This item will remain on the agenda for the next meeting.

III. Self-represented parties filing appearances “in lieu of” attorneys

The concern for the court is that if this happens right before trial that it will cause delay.

Some of the questions are (in the context of family matters only): Why does it happen? Is it most often a money issue? Should there be a hearing? Is a rule necessary? What is the right way to handle this? Should it be that any “in lieu of appearance” that is filed X days before trial requires a hearing? Should it also apply to attorneys filing “in lieu of” appearances within the same timeframe? Could there be a check box on the Appearance form for when the “in lieu of” appearance is being filed X days before trial? Should the same procedures apply to court events other than trials? Is there data available on cases where a self-represented party appearance replaced an attorney appearance just prior to trial? Are there any constitutional issues? Could the filing of a new appearance if there is a scheduled event trigger a flag in the computer system? Is there going to be some kind of “broadcast” noticing capability in the system?

It was generally thought that perhaps the issue could be addressed in the trial management order. Judge Munro will come up with some draft language.

IV. Appellate Court and automatic orders

It was discussed that the automatic orders are no longer in effect once a decision is issued after trial. This poses some issues while an appeal is pending. Attorneys Parrino and Dembo will draft a proposal addressing this issue and bring it back to the Commission.

V. *Ex Parte* Motions for Custody

There is some disagreement as to whether the law currently allows for *ex parte* motions for custody.

The members of the Commission agree that there should be such a remedy under certain circumstances and unanimously voted to have proposed statutory language drafted. Judge Boland and Attorney Parrino will draft proposed language in accordance with the discussion that took place at the Commission meeting and will circulate it to the other members for the next meeting.

VI. Revisions to Financial Affidavit form

The issue was raised that the financial affidavit form needs to be revised. Some of the concerns raised included that it needs to be easier for self-represented parties to complete, that it looks backward when the orders to be entered look forward, and that weekly figures are difficult to calculate.

A suggestion of two forms was raised along the same lines as the 1040 and the 1040EZ. Judge Munro was going to look for feedback from the CBA Family Section. Feedback will be solicited from the Court Service Centers in terms of what self-represented parties find easy and what they find more difficult on the form. Feedback will be sought from Family Relations and Support Enforcement Services as well.

It was generally agreed, however, that orders should continue to be weekly, and it was presumed that the Guidelines would continue to be weekly.

Attorney Murphy and Magistrate Sosnoff Baird will work on getting information from other states with the help of David Iaccarino to get access to the National Center for State Courts.

VII. Such other matters that may come before the Commission

1. Judge Munro indicated that the proposed rules put forth by the Commission were approved unanimously by the Rules Committee with some language improvements. They will go to public hearing for comment and then, if passed, be published in the Law Journal. Judge Munro will send out the proposals to the Commission members with the language changes when she receives the revised versions.

2. Fee waiver standards are something that Judge Munro would like to address. There are some uniformity issues. The matter was raised, but not addressed at this meeting. There could be implications for civil matters as well.

3. Attorney Parrino raised the issue of when a restraining order is used strategically in a case rather than for its intended purpose, and suggested the possibility of a counteraffidavit. There were concerns that this might inadvertently undermine the statute and at this time, no change is being proposed.

VIII. Next meeting

The next meeting date is November 17, 2010.

Judge Munro adjourned the meeting at 4:24 p.m.