

**Minutes of the Family Law Section of the Delaware State Bar Association
Thursday, September 22, 2022 at 4:00 p.m. by Zoom**

1. Roll call of participants
 - a. Addie Asay, Nick Beard, Curtis Bounds, Erin Brignola, Shauna Hagan, Alyssa Kelly, Kathryn Laffey, Megan McGovern, Jennifer Mensinger, Dana Reynolds, Kara Swasey, Vernon Vassallo, Tyler Waad, Patricia Weir, Julie Yeager
2. Good and Welfare
 - a. New additions to the DSBA FLS Family! Megan McGovern is expecting. Staci Harpell had her baby in Aug. Michelle Skoranski had twin babies in May.
3. Liaison Issues (Addie Assay)
 - a. Any liaison issues
 - i. Updated Family Court Contact List (Sept. 2022)
 - ii. Question on TPR consents required signing by DE attorney on old form; new form doesn't. Rules do not reflect requiring DE attorney. No statutory change. The form reflects the Code and does not require DE attorney signature.
 - iii. Update on backlog of case processing. Moving target. Far behind and resources are reallocated as needed. Staffing crisis at Family Court continues and no sign of improvement anytime soon. Please continue to be patient with the Court and staff.
 - iv. Best way to handle divorce orders that don't look accurate (ie. name changes, no ancillaries checked, etc). Best practice (email or R.60A motion)? For major changes, need a motion. For minor clerical errors, email Addie directly, NOT the staff member who sent the Divorce Decree.
 - v. Divorce decree paper new look. Paper looks grey and recycled. Times are tough! Addie's looking into this.
 - vi. Considering/suggesting an update to Petition for Divorce/Divorce Decree name change section. Maybe needs more clarity for use in other government offices (eg. middle initials).
 - vii. Unsworn declarations not anticipated to go away in Family Court. Evaluation is happening, but Family Court always intended to use this type of form, so this will likely continue with the advent of e-filing which is in continual development.
 - viii. 4 respondents on guardianship, called to check on service, and only told "no service yet" but no clarification on which of the respondents hadn't yet been served. Non-est letter and dismissal sent. Call center should be able to tell attorneys which of the respondents are still missing service. Call center staff have access to that information but might need more training to pull that information during calls.
 - ix. When publishing on court website, sometimes practitioners get sent a copy of the confirmation of publication on the website, but sometimes it doesn't arrive. Procedure provides that notice of the publication should be sent to

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the Petitioner/attorney (Court should mail signed and certified copy of the publication). Should not be a problem often.

- x. When filing entries of appearance, are the entries being processed in the same department as the pleadings? Sometimes pleadings get processed without the entries (esp. with email filing). Email filings should not be getting separated (but does happen occasionally). Addie is looking into this. Best practice when email filing is entries of appearance as a separate PDF from the pleadings. Reminder that this is not e-filing; these email filings are printed out at the Courthouse and the papers processed by hand.
- xi. Question: why a complete single pdf document of updated rules of procedure hasn't been released rather than disparate updates on website. AOC (not Family Court) responsible for request for single updated rules pdf – Family Court does NOT have such a document at this time. Agreed that a single pdf is needed both for attorneys and for pro se litigants. Family Law Section supports publishing of such a document. Adding the Section's voice to this call may be helpful.
 - 1. Casetext.com has the Family Court updated rules available for free with ability to download pdf of each individual rule. Does require clicking through each rule one by one (not all in one place/one document).
- b. Any liaison announcements –
 - i. The Court has its own committees, and any input should be sent directly to those committees to bring back to the Section.

4. Previous Business

- a. Contact Guidelines Committee – Kathy Laffey
 - i. J. Haskins apologizes for not being able to attend meeting. Suggestions: visitation should not be disrupted due to child's illness unless a medical professional recommends restricting contact in writing (preventing parents from withholding contact).
 - 1. Concerns about getting a Dr appt quick enough and willingness to put that recommendation in writing. Dr note requirement seems unrealistic. Also concerns about child's comfort and wellbeing being forced to attend visitation even when very sick. Leeway should be given and discretion to parents. Suggested that if visitation is cancelled for illness, makeup contact should be provided (which may minimize malicious use of this provision).
 - 2. Suggestion to state that parents are encouraged to cooperate on medical decisions including whether child can attend visits. Sanctions could apply if this provision is misused (including make up time even in excess of time missed).

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3. Plan to meet as a committee to finalize and clean up draft revised guidelines and finally submit to the Court as the section's recommendations. Final version will be sent out for Section vote ahead of October meeting. Any further suggestions should go directly to K. Laffey.
 - ii. "Reasonable" phone contact could be presumed once per day by default.
 1. Committee previously discussed frequency of "reasonable phone contact" and decided that once-per-day may be too often.
 2. Some judges lean towards three times per week.
 - b. Legislative Subcommittee – Leslie Spoltore
 - i. Guardianship legislation – moving through CPAC Committee
 - ii. HB 486 - This Bill changes divorce and annulment property division law to have Family Court consider whether an animal is a service or support animal to a particular party when allocating such an animal to a party.
 1. Bill did not move forward and will not likely be re-introduced in next session. But new committee working on package of new updates.
 - iii. HB462 - This Act permits multidisciplinary team members to share information freely amongst themselves to better protect the welfare of abused children in the State of Delaware. This Act also establishes a framework for parties in Family Court civil proceedings to have access to records created and maintained by a child advocacy center related to forensic interviews it conducts such that the Family Court can utilize those records to avoid retraumatizing children by having to interview them again as part of court proceedings.
 1. Bill passed, but not yet signed by governor.
 - c. Family Court Rules Committee Update
 - i. Amendment to R.6 – 3 additional days for service by electronic too (just like with mail)
 - d. Family Court Practice Guidelines Committee Update
 - i. Committee hasn't met since before COVID. No updates.
 - e. Family Court Technology Committee Update
 - i. Committee hasn't met for a while. No updates.
5. New Business and Announcements:
- a. Family Law Fundamentals – Friday, October 21, 2022 @ DSBA offices (similar style to last year)
 - b. Annual Family Law Update – Friday, December 9, 2022 @ Christiana Hilton (Curtis and team doing case law review again this year)
 - i. Topics and speakers needed! Please send suggestions to Dana Reynolds (reynolds@danareynoldslaw.com).

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- ii. If anyone has case law they want in the update, please send to Chantel Rhoades. Also volunteers to summarize cases are needed. Please contact Chantel (CRhoads@bayardlaw.com).

- 6. Calendar of Upcoming Events:
 - a. Next Section Meeting – 4 p.m. Thursday, October 27, 2022
- 7. Food for Thought
 - a. Case Law Report
 - b. Cases of Interest
- 8. Adjournment

Meeting Minutes
Family Law Section of the Delaware State Bar Association
Thursday, October 27, 2022 at 4:00 p.m. by Zoom

1. Roll call of participants: Addie Assay, Nick Beard, Dean Betts, Curtis Bounds, Erin Brignola, Bonnie Copeland, Melissa Dill, Shauna Hagan, Jennifer Hartnett, Alyssa Kelly, Gretchen Knight, Kathryn Laffey, Chief Judge Michael Newell, Jaevan Owens, Dana Reynolds, Kara Swasey, Eleanor Torres, Vernon Vassallo, Tyler Waad, Patricia Weir, Julie Yeager
2. Good and Welfare
 - a. Last week Fundamentals of Family Law went well. Recording available soon.
3. Liaison Issues (Addie Assay)
 - a. Any liaison issues
 - i. Question on chat feature on Court website unavailable/down for past 2 days. Addie looking into this.
 - ii. Some Petitions taking 2 months to process (RTSC in ancillary matters case given as example). Addie clarifies that Divorce Unit has been especially backlogged.
 - iii. Filings getting lost in Kent County specifically; not being docketed. J. Newell states that resources are being directed to Kent to assist with case management including new training and staff; improvements are expected soon. Leeway may be given to attorneys calling for information on cases (esp. with recent issues with entries of appearances being processed); staff will be instructed accordingly.
 - b. Any liaison announcements
 - i. Rules on website: Lexis has provided Word versions of Civil and Criminal Rules from September 2022. These will be uploaded soon and kept updated by the Court.
 - ii. Pilot project to allow litigants to bring cell phones into courthouses. Expanded to Sussex county in July. One or two incidents with litigants leaving phones on in courtroom, but overall no major incidents or issues. Program has been proposed to extend to the entire judicial branch and all courthouses in January. Findings show that waiting rooms are calmer and public demeanor is better when people have their phones in the courthouse.
 - iii. Domestic violence initiatives about to be underway: “DV Aware” program prepares for the eventuality of an incident in a courthouse, preparation and planning. Community involvement and resolution, speaking to the community. Grant applied for and received – pilot funded and planned to start next year.

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- iv. DV Compliance Calendar pilot program – beginning week of November 18th. PFAs entered now are being put on the calendar for “batterer intervention.” Child Inc likely to be provider. Participation and enrollment will be reported at these hearings – litigants need not return for future hearings if enrollment and participation is confirmed.
- 4. Previous Business
 - a. Contact Guidelines Committee – Kathy Laffey
 - i. Wasn’t able to schedule a committee meeting to finalize. Plan to schedule for next week. Anyone interested in joining the committee can participate. Only a few minor revisions still in discussion. The next meeting should be the final committee meeting. Meeting likely to be 4pm next Tuesday or Wednesday (8:30am also being considered). DLR will release the meeting information through the ListServe.
 - b. Legislative Subcommittee
 - i. Guardianship legislation – 10/18/2022 Final Draft Circulated 10/18/2022
 - 1. Final draft was circulated, and final comments period has closed as of 10-26-22.
 - 2. Recent Supreme Court case re. TPR and guardianship – has been reported to Leslie and incorporated into draft.
 - c. Civil Rules committee recently met and is considering rules specifically for PFA matters. Suggestions for rule changes can be sent to Gretchen or Addie.
- 5. New Business and Announcements:
 - a. Annual Family Law Update – Friday, December 9, 2022 @ Christiana Hilton
 - i. Update will be all in-person (no hybrid option this year)
 - ii. If anyone has cases to include in the Case Law Review, please send them to Chantall Rhodes at Bayard Firm.
 - iii. Volunteers requested to summarize cases for the Review.
- 6. Calendar of Upcoming Events:
 - a. Next Section Meeting – 4 p.m. Thursday, November 17, 2022 (via Zoom)
- 7. Food for Thought
 - a. Case Law Report
 - b. Cases of Interest
 - i. Meeting with S. Hagan and AG’s office to discuss issues regarding legislation around parentage after overturning of Roe v. Wade.
- 8. Adjournment